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CASE ANALYSIS: AAMIR KHAN PRODUCTIONS PRIVATE LTD & OTHERS VS UNION OF INDIA & OTHERS

[2010 SCC OnLine Bom 1226] [(2011) 1 Bom CR 802] [(2010) 6 AIR Bom R 80]

Authored By - Aditi Agarwal

AN INTRODUCTION TO THE BACKGROUND OF THE CASE

Where there is innovation there is competition. Innovation and Competition conjointly affect the market economy, growth and development. Intellectual Property Law is a budding area and thus has a monopolistic environment. Competition law aims to develop social and economic welfare. It creates a dynamic business environment which promotes efficiency and enhances the competition in the market. Intellectual Property law is Anti-Competitive in nature and Competition Law is by the name itself can be understood it creates competition.

Historically, there have been two different legal systems: competition law and intellectual property rights (IPRs). Because both strive to promote innovation and economic growth, there is a lot of overlap in the purposes of the two legal systems. The primary goal of competition legislation is effective and accessible market access, but the primary goal of IPR is monopoly over a creation. There have been constant challenges in regards to the jurisdictional power enjoyed by the Competition Commission of India in respect of the cases involving the Intellectual Property laws. At a juncture, the Competition law provides provisions for dealing with matters concerning Intellectual Properties, however, the conflicting ideologies between the two legal philosophies tend to create disputes when cases come up before the Court. One such case wherein the jurisdictional dispute arose upon the Competition Commission of India was that of **Aamir Khan Productions Private Ltd & others vs Union of India & others.**

In this case, the Intellectual Property enjoyed over a movie was questioned as being anti-competitive for the market economy. However, the main concern was whether the Competition Commission had the jurisdiction over the matter or not.

The **Bench** for the aforesaid case in the **High Court of Bombay**, consisted of:

1. Mohit S. Shah, C.J.
2. S.C. Dharmadhikari

Citation of The Case: [2010 SCC OnLine Bom 1226] [(2011) 1 Bom CR 802] [(2010) 6 AIR Bom R 80]

FACTS OF THE CASE AND PROCEDURAL HISTORY

The Federation of Indian Chambers of Commerce and Industry (FICCI) filed a complaint against the United Producers/Distributors Forum (UPDF) and others in the instant case for creating a film market cartel against multiplexes. In order to boost their earnings, UPDF has refused to negotiate with multiplex owners. Because the multiplex industry is entirely dependent on films, this transaction falls under the heading of refusal to trade and anti-competitive. The UPDF and others control nearly all of the Bollywood film industry. By refusing to negotiate with multiplexes, UPDF has limited and regulated the supply of films on the market, in violation of Section 3(3) of the Competition Act of 2002.

Competition Commission of India determined that there is an anticompetitive agreement in place, as well as an abuse of dominant position. As a result, Competition Commission of India directed the Director General (DG) to look into the matter. The DG investigated the situation and determined it to be a cartel. Competition Commission of India served a show-cause notice on the defendant. Instead of responding to the show-cause notice, the complainant went to the Bombay High Court. UPDF claimed that films are protected by copyright. As a result, the Copyright Board has jurisdiction over the dispute. Furthermore, it was argued that the only remedy for exclusive licence was a forced licence provided under the Copyright Act. As a result, the petitioner disputes the Competition Commission of India's action on the grounds of lack of jurisdiction.

The parties involved in the matter were as follows:

PETITIONERS –

- Aamir Khan Productions Private Limited,
- Aamir Hussain Khan

RESPONDENTS –

- Union of India through Ministry of Company Affairs

- The Competition Commission of India
- The Director General Competition Commission of India.

RULES (LAWS) INVOLVED IN THE CASE

The rules involved in the instant matter includes:

- a) Copyright Act, 1957 as the petitioners have claimed the matter to be dealt under Copyright law and not separately under Competition law. The present matter is about the accusation on the anti-competitive practices related to a copyrightable product, that is, a movie. Therefore, the petitioners have alleged to deal the instant case under Copyright law.
- b) Competition Act, 2002 wherein Section 3(3), and 3(5) of the Act has played a significant role as the case deals with the anti-competitive practices involved under Intellectual Property law. Section 3(3) of the Competition law discusses about the formation of cartel by any enterprises or association of enterprises, which can take the form of price fixing, sharing markets, bid rigging or quotas. Usually cartels function in secrecy, one of the major aspect to get hold of cartel it is necessary to establish intention.
- c) Aside from that, Section 3(5) of the Competition Act of 2002 addresses the scope of competition law in matters relating to the Copyright Act of 1957, the Patents Act of 1970, the Trade Marks Act of 1999, the Geographical Indications of Goods (Registration and Protection) Act of 1999, the Designs Act of 2000, and the Geographical Indications of Goods (Registration and Protection) Act of 1999, and the Semi - conductor Integrated Circuits Layout-Design Act, 2000. The law states that any matter which is related to these laws shall not come under the purview of the Competition Act, 2002. In other words, the person in authority of any product or invention under the aforementioned laws may impose reasonable restrictions upon the usage of those products or can have a monopoly over the same, which shall not be restricted by the Competition Act, 2002.

ISSUES INVOLVED

The question before the Bombay HC in this case was regarding, whether the Competition Commission of India has jurisdiction to handle cases related to IPR.

THE DECISION AND REASONING BEHIND THE JUDGMENT PASSED

The court ruled that IPR is statutory rather than sovereign, and that the Competition Commission of India has jurisdiction over IPR issues in relation to competing laws. The main reason behind ascertaining that the Competition Commission has the authoritative jurisdiction to entertain matters which are also concerning the IPR is that the Competition law has specific provision which provides the Competition Commission to deal on matters involving IPR, to protect the interests of the consumers, in order to ensure that there is a harmonious freedom of trade between the consumers. The Competition Commission has been given the authority to form a forum for dealing with the issues related to Copyright, and therefore, it rightly has the jurisdiction in the matter.

ANALYSIS OF THE JUDGMENT

In this case, the Court's decision gives readers the righteous fear that the application of the Act to matters concerning Intellectual Property Rights is not at all barred. Section 3(5) of the Competition Act does not restrict a person's authority to establish reasonable restrictions for the protection of any of his rights. As a result, an Intellectual Property holder cannot impose any conditions he sees fit.

Indeed, the ability to do so is limited by Section 3(5) of the Act, which provides for broad exceptions when imposing reasonable limits to maintain intellectual property rights granted by other statutes. Thus, if the licensor imposes a reasonable limitation in an agreement to protect any of the rights recognised under any of the statutes of IPR recognised under Section 3(5) of the Act, the provisions of Sections 3(1) to 3(4) of the Act will not apply.

There is nothing in the Competition Act which indicates that Competition Commission of India has no jurisdiction to determine such jurisdictional fact. It said that the Competition Commission of Law has the jurisdictional power to deal with the cases related to Intellectual Property Rights and IPR and Competition Law are interrelated.

IMPACT OF THE CASE ON THE MARKETS OR CONTEMPORARY RELEVANCE.

It is crucial to highlight that the issuance of IPR does not violate competition law; nevertheless, the difficulty emerges when the owner of the IP engages in anti-competitive behaviour after receiving such IPRs. For example, the granting of a patent to an inventor is not a concern of competition law; nevertheless, if the patentee engages in unfair trade practises, such as manipulating royalties paid or other anti-competitive actions after such granting, competition law will come into play.

The actual problem and conflict between the two laws derives from the nature of IPRs. IPRs prohibit anyone from monopolising an IP or using it in any form without the IP owner's prior permission or licence. This reduces market competitiveness, resulting in a conflict between the purposes of both the legislation.

Intellectual property rights and competition law are not mutually exclusive, but rather complement each other. There may be some wrangling over how these laws achieve their goals. All of these regimes, however, attempt to optimise innovation and the correct functioning of consumer welfare in a market economy. As a result, this case is added as an example of how the conflict emerging in matters relating to IPR and Competition law can be combated by developing harmony between the two, rather than focusing on their differences.

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