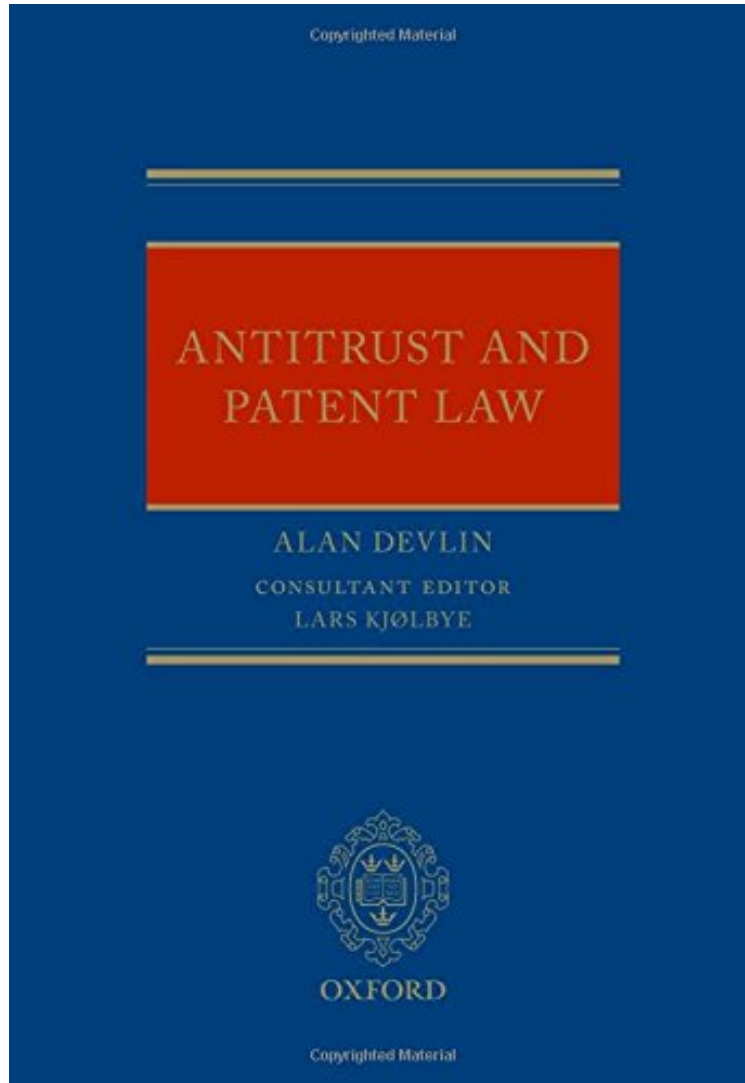


# Antitrust and Patent Law

*Alan Devlin*

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**Alan Devlin : Antitrust and Patent Law** before purchasing it in order to gage whether or not it would be worth my time, and all praised Antitrust and Patent Law:

3 of 3 people found the following review helpful. HELPING ANTITRUST PRACTITIONERS SOLVE COMPETITIVELY SENSITIVE BUSINESS ISSUES IN THE NEW ECONOMYBy Phillip Taylor MBEHELPING ANTITRUST PRACTITIONERS SOLVE COMPETITIVELY SENSITIVE BUSINESS ISSUES IN THE NEW ECONOMYAn appreciation by Phillip Taylor and Elizabeth Taylor of Richmond Green ChambersCompetition lawyers, especially those specialising in antitrust issues, will welcome this new work of reference, published recently by the Oxford University Press. The foremost challenge facing such practitioners, says author Alan Devlin, is the

difficulty of navigating the patent-antitrust intersection, which is the object of this book. The intersection between patent law and antitrust legislation is closely analysed in this text and explained with clarity, pointing out more than a few fundamental truths. The introduction to the book's first section, for example, refers to the intricate relationship between competition law and the patent system, adding that policymakers increasingly call on competition law to ameliorate problems that are a function of patent law, making it important for practitioners in this space to understand both antitrust and patent law at a substantive level. Yes, the book can assist the occasionally bemused practitioner with the task of advising clients, but equally, it offers the wider, more analytical viewpoint that is essential in global business. Antitrust-patent law is an international affair, says the author. Therefore, the book explores the world's most important competition regimes: the United States and the European Union, and in so doing, examines their rules and policies and the relevant economic principles that inform them. As there are notable differences between the antitrust regimes of Europe and America, the book explains why these distinctions matter, particularly for certain clients and their advisers. But, as the author also points out, the book is aimed not merely at advisers, but at a wider audience in search of insightful commentary on the theory, practice and evolution of competition law in the technology sector, including bio-technology -- notably the life-sciences. We are reminded here, for example, that competition law is a full-time occupation in the pharmaceutical industry. Thus the book illuminates the symbiotic relationship between technology and the law and the advancement and evolution of both. To wit: the one can't do without the other. As the new economy has mushroomed, observes the author, so too has the heterogeneity of innovation and the strategic importance of patent holdings. And the lodestar of antitrust, he adds, is consumer welfare, regardless of whether a digital application or a steel mill is at issue. Underpinning all this is a complex jurisprudence to which the book contributes a much enhanced understanding. Easily navigable, it excels as a research source too, with extensive tables of cases (mainly from the EU and US) and of EU and US legislation. Practitioners involved with imparting reasoned, well considered and authoritative advice within the context of the new economy would do well to acquire this book. Students, academics and policymakers will also benefit from this absorbing in-depth analysis of a complex area of law, ever subject to the vagaries of rapid and continuing change. The publication date is cited as at 2016.

Patents lie at the heart of modern competition policy. In the new economy, firms use them variously to protect their RD, to bolster their market positions, and to exclude rivals. Antitrust enforcers thus scrutinize patentees to ensure that they do not use their intellectual-property rights to suppress competition. Today's antitrust lawyers must therefore navigate intellectual-property issues and advise clients on the procurement and assertion of patents. It is no easy task. In granting exclusive rights, patents have an uneasy relationship with competition law, which struggles in turn to apply policies developed in bricks and mortar industries to the world of technology. This book explores the acquisition and use of patents under the law of the world's two most important antitrust regimes: the United States and the European Union. It examines antitrust rules governing technology transfer, standard-essential technologies, patent aggregation, open and closed systems, coercive licensing terms that amount to misuse, evergreening tactics in the pharmaceutical industry like 'paying for delay', and patentee immunity in suing for infringement. To contextualize that analysis, the book explores the theoretical relationship between patents and competition law, addresses the U.S. 'patent crisis', the move towards unitary patents in Europe, and differences between the US and EU competition regimes. Further, the book explores idiosyncrasies governing the core antitrust questions of market definition, market power, and anticompetitive conduct in the patent setting. In doing so, the book allows those who practice, enforce, teach, or study competition law to understand the subtleties of this fascinating subject.

About the Author Alan Devlin, Federal Trade Commission, Washington, DC, Attorney Advisor to Hon. Maureen K. Ohlhausen Alan Devlin advises Commissioner Ohlhausen on antitrust and intellectual-property matters. Previously, he was a senior associate in the San Francisco office of Latham Watkins LLP. He has taught as an adjunct professor at the University of Chicago, University of California Hastings College of Law, DePaul University College of Law, Trinity College Dublin, and University College Dublin. His publications include *Fundamental Principles of Law and Economics* (Routledge 2014), as well as over thirty law-review articles. He is a graduate of Stanford Law School, the University of Chicago, and University College Dublin.