

# **Grantbacks and Other Agreements on the Future Innovation of Licensees in EC and US Antitrust Laws**

*Research project*

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Abstract:

Parties to licensing agreements often agree on the licensor's rights to the licensee's future improvements and new applications, whether through explicit grantback obligations or through cross-licensing agreements or non-assertion clauses that also cover the licensee's future intellectual property rights. Such agreements can be used, for instance, to prevent licensee hold-up, keep the licensor's technology competitive, or better allocate risk among the parties.

This research project examines the EC and US antitrust analysis of such agreements on the licensee's future innovations. It identifies theories and conditions under which the agreements can raise antitrust concerns on the relevant product, technology or innovation markets, in particular by harming innovation. It also studies the various commercial objectives such agreements can have and assesses the circumstances in which such an objective can provide an efficiency justification for the restrictive effects. Specific legal issues that arise in the application of EC and US standards to such agreements and innovation concerns are also considered.