

Hanns Ullrich's Footprint in the Legal Landscape

Schloss Ringberg, 26-28 February 2020

Network Effects of the Patent System

Alexander Peukert

“The reasons for the rise in patent numbers are not entirely clear ... However, they do not simply correlate with more innovation ..., but possibly also with (new) variations in the function and use of patents”¹

1. Hypothesis

- Patents are nodes in a virtual network that displays network effects. The value of a patent increases with the number of patents in the technology area.

2. The Theory of Network Effects

- Independent and complementary consumption of goods and services
- Direct and indirect network effects
- Early instability, lock-in, and feedback-loop

3. The Patent System as a Virtual Network

- Independence and autarky value of patents
- Complementarity of patents, or: the additional value derived from being able to interact with other patent holders.
- Patent Portfolio Races as Network Effects
 - First movers
 - Patent thickets in complex technologies (e.g. ICT) and strategic patenting in discrete technologies (e.g. pharmaceuticals)
 - Patents as weapons and bargaining chips
 - Patents as signals for investors
- The patent community as the owner of the patent network

4. Conclusion/Outlook

- Legal/political lock-in: demand may decrease, but Patentexit very unlikely
- Increase options (→ van Overwalle's Inclusive Patents)

¹ Hanns Ullrich, The Political Foundations of TRIPS Revisited, in: Hanns Ullrich/Reto M. Hilty/Matthias Lamping/Josef Drexler (eds), TRIPS plus 20. From Trade Rules to Market Principles, 2016, 85-129, at 112 (internal footnotes omitted).