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Watches and Competition Law

By Alexis Apostolidis

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I am obsessed with watches - there I have said it! Aside from their aesthetic characteristics, the subject matter of many design registrations, and their mechanical complications, subject to patent registrations covering minute repeaters, mechanical alarms, tourbillions, hydraulically powered movements and the like I didn't think watches could grab my interest any more than they do.

But I was wrong, you see, because now there is a competition law angle to watches, and the practise of competition law is something that gets me going.

A large number of watch manufacturers use parts and movements supplied to them by the Swatch Group. These must be distinguished from those watch manufacturers that make the majority, if not all, of their parts in-house. The Swatch Group is said to have 70% of the market for the manufacture of mechanical movements (through its ETA company) and 90% of the market for the manufacture of hair springs (a part necessary for the watch to tick at regular intervals). The Swatch Group owns high-end brands such as Omega and Breguet and therefore not only supplies watch parts, thereby competing in the market for mechanical movements and parts, but also in the market for finished products.

Rumblings

Towards the end of 2010, beginning of 2011, rumblings from the Swatch Group began to spread through the industry that they wanted to reduce output of their movements and springs to third parties and approached the Swiss Competition Commission (Comco) for a ruling. To the dismay of third parties reliant on the Swatch Group's movements, such as Frederique Constant, Louis Erard and seven other watch brands, the Comco, together with the Swatch Group, agreed upon provisional measures, that the Swatch Group would continue to supply parties for that year and that in 2012 it could reduce its supplies to 85-95% of 2010 levels. The Swatch Group did exactly that, but to put a spanner in the competitor's mechanical movement's works, so to speak, Comco extended the provisional measure to 2013 as they are still in the process of investigating the matter.

The spat between the owners of watch brands and watch movement manufacturers is an interesting one which essentially revolves around the question as to whether a party, in a dominant position, in the relevant market, may "refuse to supply" (either totally or by reduced numbers) third parties to which it was originally supplying. On the one hand one should surely be free to decide to whom one will supply and on what terms. On the other hand, a party in a dominant position has a special responsibility and cannot use its position to obtain an unfair advantage by refusing to supply components that it was originally supplying to its competitors thereby obtaining a better advantage in a related market, in this case for the finished product - a watch.

Hence, although there are other manufacturers of movements and hair springs, they are smaller entities who cannot benefit from the efficiencies created by the manufacture of high volumes of products. Switching to these will result in reduced volumes, and higher prices. In fact, it has been reported that hairsprings made by other Swiss manufacturers are about US$65 more expensive than those sold by the Swatch group through one of its divisions. The result is that until such time as these other manufacturers have geared up for greater volume production and are able to take up the slack, the Swatch Group's reduction in supply may well be anti competitive.

So, what does that mean for you and me? It means that adding to our watch collection will be a bit more expensive than usual, alas, and for those dominant suppliers out there, consider carefully the competition law implications of ceasing to supply or reducing supplies to one or more of your competitors!

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