

# Dark Sides of Patent Pools with Compulsory Independent Licensing

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## Abstract

This paper examines roles of patent pools with compulsory independent licensing and argues that contrary to the argument by Lerner and Tirole (2004, “Efficient Patent Pools,” *American Economic Review*, 94, 691-711), forcing patent pools to allow each individual patent holder to licence the technology independently does not necessarily work as a screening tool to select only desirable patent pools. We demonstrate that if there are users who demand only specific technologies, compulsory independent licensing gives a tool for price discrimination for the patent holders, which decreases welfare under some conditions. Moreover, since forming a patent pool mitigates price reduction forced by lower grade entrants, combination with independent licensing may further reduce the social welfare.

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