

VELANKANI ELECTRONICS PRIVATE LIMITED VS. INTEL CORPORATION

Case No. 16/2018

Decision date: 09/11/2018

Keywords: processors for servers, reference design files, abuse of dominance

Issue: Whether the allegations of denial of access by the OP to all files/ documents/ information necessary for enabling the Informant to design/develop and manufacture its own Server-Boards which are compatible with the Micro-Processors manufactured by the OP amounts to abuse of dominant position.

Rule: Sec. 4 (2) (b), 4 (2) (c) and 4 (2) (e) read with Sec. 4 (1) of the Competition Act, 2002.

The case arose as a result of allegations made by Velankani Electronics Private Limited (Velankani), a manufacturer of servers, which alleged that Intel Corporation had abused its position of dominance in the market for “processors for servers”. Intel is involved in the business of design, manufacture and distribution of a wide range of IT components, peripherals, computer systems and so on. It is also involved in the design, manufacture and distribution of server-boards, integrated circuits, processors, flash memory devices, etc. Velankani stated that the manufacture of servers involved assembling various components such as processors, server-boards and chassis, not manufactured by Velankani, but assembled after purchase from the market. Velankani had entered into a Manufacturing Enablement Agreement with Intel to enable itself to manufacture server boards based on Intel’s designs, in exchange for a license fee.

It was alleged that Intel’s processors were essential for the manufacturing process of servers, since they were accepted by most consumers of servers as the industry standard, and preferred over all other micro-processor manufacturers. Additionally, Intel had a market share of more than 80%. The combination of these factors implied that there could be no marketable server unless the server-board and chassis of the Velankani were compatible with the processors of Intel, making Velankani completely dependent on Intel for procuring processors. Velankani alleged that Intel had refused to provide it with access to reference design files of their processor, which were required to manufacture server boards. Further, Velankani submitted that these files have been duly provided by Intel to Dell, HPE and other companies (‘ODMs/OEMs’), which are Velankani’s competitors in the server market. The reason provided by Intel for not furnishing the required designs to Velankani is that Velankani does not have “sufficient technical and sales scope and expertise”. This allegedly inhibited the ability of Velankani to design server-boards compatible with the processors of Intel.

In the order, the CCI determined found that the relevant market would be the market for “processors for servers in India”. The CCI also concluded that Intel was in a dominant position in the relevant market after relying on a previous decision in *ESYS Information Technologies Private Limited v Intel Corporation* where it was found *prima facie* that Intel

held more than 90% share in the global market, and at least an 80% share in the Indian market. The CCI held that Intel:

- i) was unable to provide a reasonable explanation as to why it disallowed Velankani access to the required design files for the manufacture of processors when it allowed access to other ODMs and OEMs (discriminatory treatment)
- ii) denied market access to Velankani through this process, thereby contravening Section 4 (2)(c) of the Act
- iii) limited and restricted the production of servers in the market, and limited the technical as well as scientific development of servers in the market, violating Section 4 (2)(b) of the Act.

Accordingly, the CCI directed the DG to further investigate the allegations against Intel.