

Do patent pool attacks have a future?

An IP Law website IPKat has drawn attention to a US case: American Needle v NFL - in which the Supremes handed down a ruling that collaborative exclusionary action by competing bodies could infringe the Sherman Act. (Competition Law).

It's back with a lower court that originally refused to consider the question.

Nothing has happened yet but if American Needle prevail on that point (even if they fail to actually get what they want) it could have interesting ramifications. I can think of at least two questions.

Directly relevant to the USA, would it still be lawful to assert a patent pool to exclude others (I'm thinking WebM)?

Indirectly, how might this read across to BBC Project Canvas?

There's nothing there yet but the case is worth following to see if there is a reusable precedent. I think this is separate to any outcome on Bilski, as it's a separate legal principle.

[Direct link to the original story](#)

Gerry Gavigan, 5 June 2010