Are We Exhausted Yet?

Post-Sale Restrictions After *Lexmark*

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Exhaustion

- When a patented item is "once lawfully made and sold, there is no restriction on [its] use to be implied for the [patentee's] benefit."
  - *Adams v. Burke*, 84 U.S. 453, 457 (1873).

Exhaustion

- Patent exhaustion marks the point where patent rights yield to the common law principle against restraints on alienation.
- The doctrine "is uniform and automatic."
- Regardless of any post-sale restrictions.
  - *Impression Prods. v. Lexmark Int'l, Inc.*, 137 S. Ct. 1523 (2017).

Quanta: Two Contracts

- LGE entered into a license agreement with Intel that authorized Intel to manufacture and sell microprocessors and chipsets.
- The license agreement did not purport to alter patent exhaustion rules.
- A separate agreement required Intel to give its customers written notice that the LGE license did not extend to a product made by combining a licensed Intel product with a non-licensed Intel product.

Quanta: Quanta's Infringement

- Quanta purchased microprocessors and chipsets from Intel and used them to manufacture computers using licensed Intel products in combination with non-licensed Intel products.
- Quanta did not modify the Intel components.
- LGE sued Quanta for patent infringement.

Quanta: Initial Questions

- The Supreme Court first addressed two questions:
  - (1) whether patent exhaustion applies to method claims, and
  - (2) the extent to which a product must embody a patent to trigger exhaustion.

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