

Independent Ink: Supreme Court Lowers Antitrust Barriers to IP Tying and Bundling Arrangements

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Kelley Drye's [Antitrust](#) Practice Group has prepared a client advisory. The Supreme Court has reconsidered its prior thinking on the competitive impact of patents. In *Illinois Tool Works, Inc. v. Independent Ink, Inc.*, 126 S. Ct. 1281 (2006), the Court decisively rejected the presumption in antitrust tying cases that a patent confers market power. This substantial shifting of the evidentiary burden can be expected to reduce, if not completely eliminate, the routine filing of antitrust tying claims as a counter to allegations of patent infringement.