

## CURRICULUM VITAE

Director

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# Theon van Dijk

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## Summary

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Dr Theon van Dijk is a Director of E.CA Economics and has more than twenty years of experience as an expert in the economics of competition law and intellectual property.

His experience covers all fields of competition policy enforcement, including providing economic support to parties in merger control cases (initial and in-depth investigations), abuse of dominance and cartel investigations, self-assessments of vertical and horizontal agreements, State aid matters and disputes regarding intellectual property licensing conditions. He has worked on cases before the European Commission and national competition authorities in the Netherlands, Belgium, the United Kingdom, Germany and France. In addition, he has advised parties in litigation cases, including cartel damages cases, and acted in numerous cases as an economic expert on behalf of parties before court and in arbitration proceedings. He has also served as an arbitrator.

Besides renowned law firms and national competition authorities and regulators, his clients have included multinational firms in a wide range of industries, such as the basic materials, pharmaceuticals, biotechnology, consumer electronics, fast-moving consumer goods, broadcast services, lighting products, salt, sugar, beer, publishing, hospital and telecommunications services sectors.

After working in senior positions for major international consultancies in London and Brussels, Theon founded Lexonomics in 2005, which joined forces with E.CA Economics in November 2016. Between 2013 and 2015, Theon served as Chief Economist of the European Patent Office in Munich. He has published widely in the areas of industrial economics, competition policy and intellectual property.

## Professional experience

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From 11/2016	Director, E.CA Economics, Brussels
2013 – 2015	Chief Economist, European Patent Office, Munich
2005 – 2016	Founder and Director Lexonomics, Brussels & The Hague
2005	Visiting Researcher, Antwerp University
2002 - 2004	Partner, RBB Economics, Brussels
1997 - 2002	Senior Consultant, National Economic Research Associates, London & Brussels
1996 - 1997	Analyst, Netherlands Bureau for Economic Policy Analysis (CPB), The Hague

Member of the board of the Dutch Competition Law Association (Nederlandse Vereniging voor Mededingingsrecht), from 2006 to 2013.

Member of the Ministerial Committee on Vertical Integration in the Netherlands, which advised the Dutch Minister of Health, Welfare and Sport on competition law aspects of vertical integration of health insurers and hospitals, 2009.

Lecturer in Competition Economics, Antitrust Law, Grotius Academy (postdoctoral education for lawyers), 2008-2011.

## Academic experience

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1995 - 1996	Postdoctoral Researcher, Institut d'Économie Industrielle, Toulouse University
1989 - 1994	Ph.D. in Economics, Maastricht University ("The Limits of Patent Protection, Essays on the Economics of Intellectual Property Rights")
1985 - 1989	M.A. in Economics, Maastricht University (cum laude)

## Competition, Regulation and Intellectual Property experience

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### Competition

Over the more than twenty past years, Dr Van Dijk has advised law firms and corporate clients in numerous cases in all fields of competition law economics: mergers, abuse of dominance, vertical and horizontal agreements, State aid, disputes related to intellectual property and cartel damages proceedings.

Regarding merger work, his experience includes a number of phase II in-depth investigations before the European Commission, the Dutch competition authority (ACM) and the Belgian competition authority (BMA). Products or services that he has covered include semi-finished copper products, building materials, financial services, mental healthcare, wholesale and retail pharmacy products, land-based lotteries and bingo games, fixed telephony, broadband internet and television, professional light fixtures, health insurance, public transport, animal food, domestic appliances.

With respect to abuse of dominance cases, Theon has been active in the areas of housing sites, snacks, diamond cutting services, agricultural services, telecommunications, postal services and radio and television advertising services. Analyses have included the assessment of access conditions, retroactive and other conditional rebates, selective and predatory pricing, price discrimination.

As far as horizontal and vertical agreements are concerned, Theon has experience in numerous sectors including in sport shoes, cash processing services, healthcare, house foreclosure auctions, construction materials and construction services, beer and pharmaceuticals. The agreements he has analysed and assessed include horizontal cooperation agreements, coordinated behaviour, exclusive purchase obligations, exclusive supply obligations, online restrictions in selective distribution systems and "cover pricing" practices.

In cartel damages litigation, Theon acts as an economic expert for defendants and claimants. His experience in this areas included Gas-Insulated Switchgear, Sodium Chlorate, Lifts and Elevators, Bitumen, Flour and Feed Phosphates.

## Regulation

### Telecommunications

Theon van Dijk has acted for national regulators as well as telecom companies. For the Dutch telecoms authority (OPTA, now ACM), he carried out an analysis of the possible effects of countervailing buyer power on the tariffs set by network operators for fixed terminating access services, he prepared an economic report for OPTA on the pricing pressure experienced by cable operators in the supply of retail television services, and he assisted OPTA in various market analysis decisions between 2006 and 2011. In addition to this agency work, he has acted several incumbents in the area of broadcasting activities, fixed and mobile telephony and broadband internet access.

### Healthcare

In healthcare Theon provided economic advice to the Dutch Healthcare authority (NZA) on competition aspects of healthcare groups, organisations in which individual healthcare providers cooperate to provide care for chronic diseases. This resulted in a contribution to the joint ACM and NZa Guidelines Healthcare Groups.

## Intellectual property

As Chief Economist at the European Patent Office in Munich between 2013 and 2015, besides providing ad-hoc economic advice to senior management, Theon van Dijk led various studies: on the competitive effects of patent aggregators, economic effects of the unitary patent and Unified Patent Court, economics effects of introducing a grace period in Europe, and the possible role of patent offices in determining FRAND rates for standard-essential patents (SEPs). Moreover, consulting experience includes expert advice on the "reasonableness" and "fairness" of license fees in the areas of copyright and neighbouring rights.

## **Publications and working papers**

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### Academic publications

- "Bertrand Competition with an Asymmetric No-discrimination Constraint" (with Jan Bouckaert and Hans Degryse), *Journal of Industrial Economics*, Volume LXI, March 2013, pp. 62-83.

- "Access Regulation, Competition, and Broadband Penetration: An International Study" (with Jan Bouckaert and Frank Verboven), *Telecommunications Policy*, December 2010, volume 34, issue 11, pp. 661-671
- "Implementing the passing-on defence in cartel damages actions" (with Frank Verboven), *Global Competition Litigation Review*, 2010, volume 3, pp. 98-105.
- "Cartel Damages Claims and the Passing-On Defense" (with Frank Verboven), *Journal of Industrial Economics* Vol 57(3), pp: 457-491, September 2009.
- "Quantification of Damages" (with Frank Verboven), in: Wayne D. Collins, ed., *Issues in Competition Law and Policy*, American Bar Association, Antitrust Section, 2008.
- "Unilateral Effects in Retail Chain Mergers: An Application to Supermarkets" (with Andrea Coscelli and Simon Baker), *European Competition Law Review* 23 (4): 180-192 (2002).
- "General or Specific Competition Rules for Network Utilities?", *Journal of Network Industries*, 2: 93-111 (2001).
- "Licence Contracts, Future Exchange Clauses, and Technological Competition", *European Economic Review*, 44: 1431-1448 (2000).
- "Passing the European Patent Office: Evidence from the Data-Processing Industry" (with Geert Duysters), *Research Policy* 27: 937-946 (1998).
- "Competition and Innovation" (with Jan Boone), *De Economist* 146 (3): 445-461 (1998).
- "Patent Height and Competition in Product Improvements", *Journal of Industrial Economics* 44: 151-167 (1996).
- "Innovation Incentives through Third-Degree Price Discrimination in a Model of Patent Breadth", *Economics Letters*, 47: 431-435 (1995). Reprinted in: *The Economics of Price Discrimination, International Library of Critical Writings in Economics*, George Norman (ed.), Edward Elgar, Cheltenham, 1999.

#### **Book contributions, non-academic publications & publications in Dutch**

- "Margin squeeze: Recent developments in EU and national case law" (with Linda Gratz), *Concurrences*, March 2018.
- "Price Comparison Websites and Selective Distribution Systems: An Effects-Based Approach" (with Hans W. Friederiszick and Ela Ela Głowicka), *Complaw-blog*, 12 December 2017.
- "Het CBb komt eruit voor Bolletje beschuit: de ACM bakt het te bruin", *Markt & Mededinging* 5, 30 december 2016.
- "Economische methoden en terminologie voor horizontale concentraties" (with Paul de Bijl), *Tijdschrift mededingingsrecht in de praktijk*, volume 3, september 2016, SDU.
- "Nieuwe kartelwaakhond moet tanden tonen" (with Paul de Bijl), *Het Financieele Dagblad*, 9 October 2012.
- "Alleen concurrentie relevant voor nieuwe Autoriteit Consument en Markt" (with Paul de Bijl), *Me Judice*, 25 September 2012.
- "Mededingingsbeleid en publieke belangen: een economisch perspectief" (with Paul de Bijl), *Markt & Mededinging*, October 2012, nr. 4, pp. 149- 156.
- "Annotatie: Van Drie/Alpuro" (in Dutch), *Markt & Mededinging*, december 2011, nr. 6, pp. 245-248.
- "CBb vernietigt omroepbesluiten OPTA ten onrechte" (with Jonas Rosenstok), *Actualiteiten Mededingingsrecht* 5, October 2010.
- "The passing-on defence and the full compensation principle" (with Frank Verboven), *Concurrences*, 3-2010.
- "The New EC Block Exemption for Vertical Restraints: a Step Forward and a Missed Opportunity" (with Paul Lugard), *CPI Antitrust Journal*, June 2010 (2).

- "De nieuwe groepsvrijstelling verticale beperkingen – een bescheiden stap vooruit" (with Paul Lugard), Markt & Mededinging 3: 107-111, June 2010.
- "De ontwerp groepsvrijstelling verticale beperkingen – een stap vooruit?" (with Paul Lugard), Markt & Mededinging, 5: 148-155, November 2009.
- "Imperfect Enforcement of Predatory Pricing Law" (with Dag Morten Dalen, Norwegian School of Management), Working Paper, 24 April 2009.
- "Niet-horizontale concentraties en diagonaal economisch denken", Markt & Mededinging, december 2005, 8: 8, pp: 239-246.
- "Assessing Unilateral Effects in Bidding Markets: Mixed Progress" in: L. Hancher and P. Lugard (eds.), On the Merits, Current Issues in Competition Law and Policy (Liber Amicorum Peter Plompen), Intersentia, 2005.
- "An Address Model of Patent Breadth with Two Countries" (with Curtis Eaton and Patrick van Cayseele) in: Applied Microeconomics Theory: Selected Essays of B. Curtis Eaton, Edward Elgar Press, 2003.
- "De rooiprijzetest in de Deutsche Post AG zaak", Tijdschrift Privatisering, 2002.
- "Gezamenlijke marktmacht en het besluit inzake Airtours/FirstChoice" (with Simon Baker), Markt & Mededinging, 3(3), juni 2000: 89-95
- Executive Summary of "The Economic Consequences of the Choice of a Regime of Exhaustion in the Area of Trademarks" (with John Rhys et al), NERA, London, February 1999. Reprinted in The Economics of Intellectual Property, International Library of Critical Writings in Economics, Towse and Holzbauer (eds.), Edward Elgar, Cheltenham, 2002.
- "Ervaringen met Public Private Partnerships in het Verenigd Koninkrijk" (with Michael Spackman), Economisch Statistische Berichten, 8 October 1998, 83(4170): 10-15.
- "Prijnsregulering voor netwerkdiensten" (in Dutch), Economisch Statistische Berichten, 27 March 1998, 83: 253-256.
- "Regulatory Reform and Competition Policy" and "Science and Technology Policy" (both with George Gelauff), Chapters in: Challenging Neighbours, Rethinking Institutions in Germany and the Netherlands, Springer Verlag, 1997.
- "Economic Implications of Converging Patent Breadth in Europe" (with Patrick Van Cayseele), in John Hagedoorn (ed.), Technical Change and the World Economy, Cheltenham: Edward Elgar, 1995
- The Limits of Patent Protection, Essays on the Economics of Intellectual Property Rights, PhD Thesis, Maastricht: Maastricht University Press, 1994.
- "Naar een economische theorie van imperfecte octrooibescherming", Vraagstelling, 1994, 1(4): 95-102.
- "Technologiebeleid in een economisch perspectief" (with Luc Soete), in R.T. Frambach en E.J. Nijssen (eds.), Technologie en Strategisch Management, Utrecht: Lemma, 1992.
- "The Effect of Novelty Requirements on Subsequent Innovations", Tinbergen Institute Research Bulletin, 1992, 4: 187-195.

## Presentations at Conferences and Seminars

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Speaker at various competition economics seminars and training days, including events organised at the European Commission, OFTEL, OPTA, US Chamber of Commerce to the EU, Association of Competition Economists (ACE) and academic institutions (Tilburg University, University of Liege, Catholic University of Leuven, LUISS Guido Carli, Rome). Presented academic papers at several EARIE and EEA conferences. On behalf of the European Patent Office, he gave

presentations on economic aspects of patents at conferences in Rio de Janeiro, Tokyo, Singapore, for the OECD, the European Commission and various national patent offices in Europe.

## Languages

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Dutch & English (active & passive: excellent)

German & French (passive: very good; active: basic)