

Teaching at higher education institutions – The impact of globalization

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Structure of presentation

- Impact of globalization on the IP curriculum
- Impact of Regionalization
- Impact of Bilateralism
- Impact of Plurilateralism
- International IP Policy Formulation
- Significance of external developments for IP teaching – law students
- Significance of external developments for IP teaching – non-law students
- Tools for a global regulatory environment
- Transnational Approach To IP Teaching
- International problem solving
- A general jurisprudence of IP?

Globalization of IP

- Impact of WTO TRIPS Agreement
 - IP Norms (categories of IP to be protected, eg plant varieties, geographical indications, layout designs for integrated circuits, confidential information)
 - Enforcement (procedures, remedies, eg interim orders, border controls)
 - TRIPS Jurisprudence (decisions of Dispute Settlement Panels and Appeal Boards)

Impact of Regionalisation (EU)

- Compliance with the EU *acquis communautaire* (IP is part of the company law chapter of the contract of accession to the EU)
- Subordination of Member States' laws to the European Parliament and the decisions of the European Court of Justice

Acquis communautaire, eg copyright

1. Directive 91/250/EEC of 14 May 1991 on the legal protection of [computer programs](#)
2. Directive 92/100/EEC of 19 November 1992 on rental right and [lending right](#) and on certain rights related to copyright in the field of intellectual property
3. Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission ([communication and diffusion rights](#))
4. Directive 93/98/EEC of 29 October 1993 harmonizing the [term](#) of protection of copyright and certain related rights
5. Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the [legal protection of databases](#)
6. Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the [harmonisation of certain aspects of copyright and related rights in the information society](#)

Impact of Bilateralism

- Eg Free Trade Agreement between the EFTA States and Serbia, Annex VI Article 3.2 provides that the Parties shall be guided by the principles contained in, the WIPO Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks, 1999, and the WIPO Joint Recommendation Concerning Provisions on the Protection of Marks and other Industrial Property Rights in Signs on the Internet, 2001.

Serbia-EFTA : the Parties “shall grant and ensure adequate, effective and non discriminatory protection of intellectual property rights, ...in accordance with Annex VI and the international agreements referred to therein.”

Article 2.3 of Annex VI requires the Parties before 31 December 2010, to ratify or accede to:

- (a) the Geneva Act of 1999 of the Hague Agreement Concerning the International Registration of Industrial Designs;
- (b) the WIPO Copyright Treaty of 20 December 1996;
- (c) the WIPO Performances and Phonogram Treaty of 20 December 1996; and
- (d) the International Convention for the Protection of New Varieties of Plants 1978 (“1978 UPOV Convention”), or the International Convention for the Protection of New Varieties of Plants 1991 (“1991 UPOV Convention”).

Plurilateralism eg Anti-counterfeiting Trade Agreement (ACTA)

USTR Summary of Key Elements Under Discussion (Feb. 2009)

CHAPTER TWO - LEGAL FRAMEWORK FOR ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

Section 1: Civil Enforcement

Section 2: Border Measures

Section 3: Criminal Enforcement

Section 4: Intellectual Property Rights Enforcement in the Digital
Environment

Institutional Impacts upon IP Policy Formulation

- World Intellectual Property Organization – Patent Offices
- World Trade Organization - Trade
- World Health Organization - Medical
- Commission on Intellectual Property Rights Innovation and Public Health - Medical
- UNCTAD- Developing countries
- International Union for the Protection of New Varieties of Plants (UPOV) - Agriculture
- Food and Agricultural Organization (FAO) - Agriculture

International IP Policy Formulation 2

- Conference of Parties (COP) of the Convention on Biological Diversity (CBD) - Environment
- United Nations Environment Programme - Environment
- UNESCO – Culture and Education
- United Nations Industrial Development Organization (UNIDO) – Technology transfer
- Consulting Group on International Agricultural Research - Agriculture
- World Customs Organization (WCO) – Border control

IP Teaching prior to TRIPS

- Taught in undergraduate law programmes: IP survey course tended to be offered to students as an optional subject.
- Postgraduate coursework programs in intellectual property tended to be few.
- Why? law school curriculum was driven by a national-centred local legal profession.
- Practice of IP law was seen as a secondary, relatively small and specialist area of legal practice.

IP Teaching after TRIPS

- **Developments resulting from TRIPS:**
 - **The number of IP law courses has increased significantly**
 - **Customized professional IP training courses prepare students for legal practice or specific IP industries (e.g. pharmaceutical sector)**
 - **IP courses in non-law teaching**
- **The above correspond with significant changes in character of law schools and legal education:**
 - **Greater numbers of students from diverse economic and social backgrounds**
 - **Greater numbers of law schools**
 - **Fee paying students**
 - **Fee paying enterprises in the case of customized courses**
 - **Law schools offer a many combined degree programs, eg law and commerce, law and science, law and engineering**

Significance of external developments for IP teaching – law students

Necessity to take account of international and regional legislation and jurisprudence (eg decisions of the WTO panels and the ECJ)

We need to teach students to take account of the socio-economic impact of IPR:

Eg advances in genetic and agricultural science mean globally enforceable IPRs are capable of significant socio-economic effects: essential medicines; food safety and security.

“Students must be made aware of the values that legal solutions carry, and of the ethical and humanitarian dimensions of law as an instrument which affects the quality of life” (Lord Chancellor’s Advisory Committee on Legal Education and Conduct (ALEC) 1996: 19).

Significance of external developments for IP teaching – non-law students

Necessity to take account of impact of IP upon: agriculture, business, culture, development economics, environment, government, medicine, philosophy, politics and trade.

We need to identify the role of IP in innovation, research, technology transfer and commercialisation.

Need to raise awareness of IP across the university sector, eg to protect research assets and to facilitate the commercialisation of research.

Case study- change in IP teaching at Queen Mary University of London

- **International and comparative perspectives in teaching of copyright, patents and trade mark law**
- **Intra-disciplinary linkages e.g. International Economic Law; Information Technology Law, IP and Medicine**
- **Interdisciplinary linkages e.g. intellectual property and economics; intellectual property and history; intellectual property and political science.**
- **Impact of global regulation is evident: e.g. Global Policy and Economics of Intellectual Property.**
- **Impact of IT revolution is evident: e.g. Intellectual Property and the Digital Millennium.**
- **Market driven developments eg IP Transactions**

Case study- Queen Mary

The development of the IP curriculum has also responded to the move by Universities to a more market-based footing:

- For patent and trade mark attorneys QM offers a qualifying Certificate in intellectual property law
- For IP executives QM offers a MSc in intellectual property management
- Joint LLM degrees offered with countries such as China, Iran.

QM has also developed a range of diplomas by distance learning :

- Diploma in Applied Patent Law: (Pharmaceuticals, Biotechnology sectors)
- Diploma in IP and Applied Copyright: (Music Industry)
- Diploma in IPR Enforcement: (law enforcement agencies)
- Diploma in IP and Agriculture: (Agri-business; farming)

Concluding remarks on impact of globalization on IP teaching

Globalization transforms IPRs in ways that challenge the structure of the intellectual property curriculum

- IP law and policy is no longer a self-contained domain catering exclusively to a narrowly defined legal professional practice.
- Advancements in science and IT mean that the demands on the international IP system, the range of its constituents and interest groups and its potential to serve economic and social needs, show unprecedented levels of growth and change.
- The challenge for those involved in education is to ensure that the implementation of IP law and policy promotes optimal use of human and informational resources thereby contributing to national prosperity.
- The IP curriculum must evolve and expand to meet the effects of globalization on international commerce and legal practice.
- These economic and technological developments challenge us to justify the basic structure and form of the education we offer.