

## **IEEM Intellectual Property Seminar**

**6 – 7 November 2017**

**Draft programme**

### **IP Rights: Obstacles or Opportunities to Legitimate Trade?**

#### Background:

The WTO/TRIPS Agreement for the first time put intellectual property rights in the context of trade rules. The reason was that only a harmonised level of IP protection would ensure a level playing field in international trade, while on the other hand lacunae in the scope of IP protection would lead to trade distortions. On the other hand, it must be realised that territorial monopolies are already per se obstacles to trade. The TRIPS Agreement tries to strike a balance by ensuring “that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade”.

In the last 20 years, a number of controversial cases have arisen where intellectual property rights are conferred, used or enforced in a manner that arguably impede legitimate trade, both in the domestic and international context.

#### **Keynote Speech**

The history of TRIPS, and the notion of “Barriers to Legitimate Trade”

Daniel Gervais Vanderbilt University

#### **Issues in International Trade**

Parallel Imports, Exhaustion and Patents

(t.b.a)

*This topic looks at one of the most controversial issues of the TRIPS Agreement and the underlying legal and economic rationales.*

The Geoblocking of Legitimate Content

Marketa Trimble, Las Vegas University Law School

*This topic primarily concerns copyright and geographical encryptions that prevent the legitimate use of copyrighted works across borders*

The registration of descriptive terms in international trade

Dev Gangjee, University of Oxford

*This topic arises in the context of trade marks and geographical indications. For trade marks, it concerns the registration of foreign descriptive terms with the purpose or result of preventing*

*competition by importation. For geographical indications, it concerns the protection of terms that are considered generic in the domestic market.*

### Transit and Trade

Martin Senftleben, Free University of Amsterdam

*In the field of enforcement, the issue of IP enforcement over goods in transit has been particularly controversial and also given rise to complaints before the WTO due to conflicts with the principle of free transit enshrined in the GATT Agreement.*

## **Issues in Domestic Trade**

### The Green, Green Grass of Evergreening Patents

Ove Granstrand, Chalmers University, Stockholm

*This topic concerns tensions between the limited duration of pharma patents and attempts to extend such duration by the subsequent filing of similar patents, thereby creating legal uncertainty and a deterrent for generic manufacturers.*

### Exhaustion and Second-Hand Digital Goods/Contents

Matthias Leistner, University of Munich

*Rules on the domestic exhaustion of copyrighted goods serve the freedom of commerce and do not allow the copyright owner to control the second-hand market of such goods. This established balance may considerably shift in favour of copyright owners and platform providers should the exhaustion principle not apply to digital products.*

### Unjustified Threats

Anselm Kamperman Sanders, University of Maastricht

*Enforcement of intellectual property rights by way of warning letters sent to alleged infringers may be a cheap but potentially abusive way of asserting rights. After all, infringement should be determined by the courts and not by threatening letters to producers or their customers. Many jurisdictions thus impose a rather strict liability where such threats turn out to be unfounded.*

## **Science-Based Research in IP – The Cutting Edge**

PhD researchers funded by the European Commission will present their projects in fields related to copyright, trade mark and unfair competition law, namely:

- 1) Intellectual Property as a Complex Adaptive System
  - a. Bridging the Valley of Death
- 2) Governance of Production and Technologies
  - a. Geographical Indications: a spurring or hampering device for innovation in agribusiness?
  - b. Automation, Robotics and Big Data in the Biomedical Field
- 3) Adjudication, Justice and Enforcement
  - a. Enforcement of intellectual property rights and global trade

- 4) Allocation of Rights, Actors and Institutions
  - a. Creativity and Access: Adaptation of Copyright to the Digital Economy
  - b. Decision Making Institutions
  - c. Innovation and Justice: Constructing Just and Efficient Court Systems
  - d. Collecting Management Organisations and Institutional Users

The research takes place within the EIPIN Innovation Society, funded by the European Commission within the Marie Skłodowska-Curie Actions, International Training Networks (ITN), European Joint Doctorates (EJD). See [www.eipin-innovationsociety.org](http://www.eipin-innovationsociety.org).