

European Intellectual Property Review

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FIONA ROTSTEIN

Is there an International Intellectual Property System? Is there an Agreement between States as to what the Objectives of Intellectual Property Laws should be? 1

This article contends that there is an international intellectual property system, and the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement") sheds light on what the objectives of intellectual property laws should be. However, there are difficulties that occur when applying principles of private international law to multi-jurisdictional intellectual property disputes (particularly in the Australian context) in light of internet technologies.

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The Shared Concern of Trademark Law and FDA to Avoid Medication Errors 5

As part of the approval process for a pharmaceutical product in the US, the Food and Drug Administration (FDA) will review the proposed trademark to determine whether it is acceptable under FDA's safety and promotional standards. FDA takes the position that its review of the trademark is fundamentally different from that under trademark law, in that it considers the possibility of the trademark being a source of confusion that could lead to a medication error. However, application of the Lanham Act by both the Patent and Trademark Office and the courts shows that, when a pharmaceutical trademark is involved, avoidance of medication error is a consideration under trademark law. FDA in its review should include and give weight to a trademark's status under trademark law.

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After the third amendment to the Chinese Patent Law came into effect on October 1, 2009, the Implementing Regulations of the Chinese Patent Law and the Guidelines for Examination came into force together on February 1, 2010. This amendment brought about a review on rules concerning design patent infringement litigation under the new legal framework, which include the scope of protection for design patent, judgment of infringement, defense and remedies, and comments on key amendments relating to design patent.

DR. MAKEEN F. MAKEEN AND GADI
ORON

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Traditionally, Egypt and Israel belong to two different families of law: Egypt followed the French Civilian legal system, Israel adopted the Common law approach of the UK. Therefore, in protecting literary and artistic works, Egypt followed the *droit d'auteur* approach whereas Israel adopted the copyright system. Both Egypt and Israel recognise the importance of moral rights. Although many differences exist between the two jurisdictions with respect to the existence and scope of the rights of divulgation, integrity and withdrawal from circulation, many common features surround the treatment of the right of paternity. This article examines the scope of the right of paternity under both systems.

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The notion of promoting investments in innovation made and used in outer space—and respecting their associated Intellectual Property Rights (IPRs)—will continue to transition from a desirable policy goal to an essential goal. More and more space activities have shifted from being unilateral endeavours to co-operational, international, and contractually-based arrangements. Such co-operational agreements depend on a simple, uniform and reliable international legal framework, such as application of IPRs in space. However, the current United Nations (UN) space treaties squarely conflict with the current terrestrial IPR framework. To respect IPRs in space and subsequently spur more commercial players and quicker innovation of space exploration, four events must take place: breaking down IPR barriers in space via withdrawal from the UN Space Treaties; forming IPRs in space via adoption of a Space Patent System; cross-pollinating IPRs in space to allow for cross-licensing of the requisite technologies to further space exploration; and rethinking government space agencies' roles in space endeavours.

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When the Community Trade Mark system entered into force, almost everyone supported the view that a CTM could be maintained by genuinely using it in one Member State only. This view (supported by a Statement entered into the minutes of the Council meeting who approved the CTM Regulation) can no longer be maintained as is outlined in this article.

CHRIS WADLOW

Hotel Cipriani Srl v Cipriani (Grosvenor Street) Ltd [2010] EWCA Civ 110; [2010] R.P.C. 16: The Court of Appeal Draws the Line on Whether a Foreign Business has an English Goodwill or not 54

Hotel Cipriani v Cipriani (Grosvenor St) Ltd is the latest case to raise the question of whether a foreign business has goodwill in the UK, so as to support an action for passing-off. The claimants were the owners of the internationally famous hotel in Venice, and the defendants operated a restaurant in Mayfair. In finding for the claimants, the Court of Appeal adopted a conservative approach to what was necessary to demonstrate the required goodwill. Questions remain as to whether law rooted in the circumstances of 30 years ago, or more, is entirely appropriate for the internet age.

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In Lego, the Court of Justice of the European Union denied registration for an exclusively functional shape mark despite the availability of other shapes capable of fulfilling the same function and in Dyson v Vax Mr Justice Arnold established that a design can not be registered for a purely functional shape even though another shape could fulfil the same required function.

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