The purpose of this book is to examine the experience of a number of countries in grappling with the problems of reconciling the two fields of competition policy and intellectual property rights. The first two parts of the book indicate the variation in legislative models as well as the wide variety of judicial and administrative doctrines that have been used. The jurisdictions selected for study are the three major trading blocks with the longest experience of case law, the EU, the USA and Japan, and three less populous countries with open economies, Australia, Ireland and Singapore. By setting out the legislative and judicial and administrative alternatives available in those constituencies with some experience of dealing with the interface, this research study provides a reference work which can be used as a resource to throw light on how the two fields of law can be adapted to create a coherent whole in the particular circumstances of any one legal system.

In the third part of the book a number of issues closely related to the interface between competition law and intellectual property rights are examined. Separate chapters analyse: (i) the issue of parallel trading and exhaustion of IPRs, a system of legal rules that creates its own interface with the exercise of IPRs alongside the competition rules, (ii) the issue of technology transfer showing the important differences between international IP licensing and foreign direct investment as well as highlighting how limits on technology spillover are set in bilateral investment treaties, and (iii) the economics of the interface between intellectual property and competition law to suggest how economic thinking may find a way of interacting with legal argument in this field.
THE INTERFACE BETWEEN INTELLECTUAL PROPERTY RIGHTS AND COMPETITION POLICY

Edited by
STEVEN D. ANDERMAN
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This work owes its origin to the Singapore IP Academy, which was established in January 2003 as a result of a national initiative. Acknowledging the value and importance of intellectual assets and creativity as primary sources of wealth and competitive advantage, the broad objective of IP Academy is to contribute to the building of a thriving culture that encourages the management and harnessing of innovation, and the resultant IP rights for the achievement of success in this global, knowledge-driven economy. Although at present it is largely funded by the Singapore Government, it is an independent body.

Professor Gerald Dworkin and Associate Professor Loy Wee Loon were IP Academy’s founding directors from January 2003 to December 2004. They have been succeeded by Professor David Llewelyn as director and Ms. Ng Lyn as deputy director.

One aspect of the IP Academy’s work is training. A broad range of courses, of varying lengths, are being provided for all those who can benefit from an understanding of intellectual property. At one extreme are university-based courses. For example, the Graduate Certificate in Intellectual Property provides a foundation course suitable for those seeking to qualify as registered patent agents in Singapore, and the MSc in IP Management is targeted at mid to senior management, executives and professionals with a background in science, technology or engineering who wish to specialize in the management of IP in a technology-related business. At the other extreme are a stream of short courses, for example Negotiating Skills for IP-Related Technology Transactions and Performing Arts Management: Copyright and Performing Rights for Practitioners.

The other major aspect of IP Academy’s work is ‘Thought Leadership’, namely the promotion of research. Its research projects take on a multidisciplinary focus straddling management, social, economic and legal perspectives. The research faculty supports both local and regional development of best practices in IP policy and endeavours to improve the ability of businesses, professional research institutions and other creators of IP to exploit and commercialise their IP.

Shortly after the IP Academy began its work, the government announced that it was proposing to introduce a framework of competition law for
Singapore. Because of the close relationship between competition and intellectual property law, this development provided an excellent opportunity for the IP Academy to promote its research programme and to assist those responsible for determining the nature of such legislation.

The IP Academy was fortunate in enlisting Professor Steve Anderman to lead an internationally based team to provide an examination of this interface between competition and intellectual property rights in different legal systems. It was hoped that the outcome of the study would produce findings and set out policy options of relevance to those responsible for the drafting and implementation of competition legislation in Singapore; an opportunity to provide customised national legislation in its broader international context.

As the policy formulation and draft legislation proceeded, some of the research work and the experts involved fed in their own contributions, at the very least to better inform and assist the decision makers. Thus, in the early stages, there was an expert Roundtable meeting: 'Issues at the Interface between Intellectual Property and Competition Law: Dealing with the Residual Conflicts'. This was followed by a conference for the Singapore legal profession and others: 'The New Competition Bill and its Implications for Intellectual Property Rights'.

The Singapore Competition Act is now in place. It is hoped that the IP Academy played a useful role in assisting the way in which the legislation was framed. The IP Academy is most grateful to Steve Anderman and to all his colleagues who embarked upon the project with such enthusiasm. It is to be hoped that the work which they have done will be of interest and of value to a wider international audience.