

INTELLECTUAL PROPERTY ORDERING BEYOND BORDERS

During the past century, intellectual property (IP) law has expanded within and beyond national borders. The field of IP law was once a niche area concerning authors, inventors, and trademark owners. Today, IP law acts as a complex regime of instruments, institutions, and actors that negotiate overlapping, diverging, and occasionally competing public policies on a global scale. As IP continues to expand beyond borders, the instruments and tools utilised for its global protection rely on public international law as the common denominator and unifying frame. *Intellectual Property Ordering Beyond Borders* provides an evaluation of the most pertinent public international law questions raised by this multidimensional expansion. This comprehensive and far-reaching volume tackles problems such as generalist approaches under the law of treaties; custom and general principles; interfaces between IP and other normative orders, such as trade and investment; and interdisciplinary accounts from the economic, political, and social science perspectives. This title is also available as Open Access on Cambridge Core.

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Preface

This book is the outcome of a two-year research project jointly hosted by the Centre for Intellectual Property and Information Law (CIPIL) and the Lauterpacht Centre for International Law (LCIL) – both at the University of Cambridge – and the Weizenbaum Institute for the Networked Society, Berlin. The concept was to go significantly beyond a mere collection of conference papers, and rather to start with a structured approach that aims at shedding light on under-researched and often ignored interfaces between IP and various generalist topics as well as critical and socio-economic discussions in international law. At the two workshops in June 2019 in Berlin and in May 2020 (virtually) in Cambridge, initial ideas, then more refined draft papers, were presented to a group of around twenty eminent scholars and experts in the field of international law and intellectual property (IP) law.

The book is aimed at filling a gap in ongoing debates that concern different aspects of IP ordering beyond borders, and which in the last two decades have rather focused on responses to new technologies, critiques of continuous expansion of IP protection and enforcement, as well as on practical matters raised by cross-border IP conflicts – in particular, the jurisdiction of courts, applicable law, coordination of international proceedings, and the recognition and enforcement of judgments. The respective projects of the Hague Conference, the World Intellectual Property Organization (WIPO), and the International Law Association (ILA) have been finalised. Against this background, this book aims to push in a different direction, perhaps to some extent a turning point in the international IP discourse, which has changed part of its focus towards the public international side of global IP ordering. Some of that public international law dimension of course has long been analysed and discussed, at least since the ‘marriage’ of IP and international trade in the 1990s, later complemented by the protection of IP rights via international investment law. The book hence acknowledges, but significantly moves beyond, the literature on IP as part of the global trading regime, and, more recently, the IP–investment interface. It does so by taking a further step back from these specific and by now well

researched interfaces, instead considering what we identify as some (but by no means all – as discussed in the introductory chapter) common denominators within public international law and theory, as applied to the protection of IP beyond borders.

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