

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

Index

- Aa no bhadrah krtavo yanto visvatah*
verse, 234
- Abercrombie* test, 428
- Abhilashitartha chintamani* (book), 240
- access to medicines, 9, 94
- ACTA. *See* Anti Counterfeiting Trade Agreement
- Acuff-Rose Music, Campbell v.*, 255, 333, 405
- advertising moors, 136
- Advisors, 60
- aesthetic functionality doctrine, 447–49
- aesthetics of originality, 278–81
- African cinema, Nollywood and, 378–82
- African Group Proposal, 44–45
- African-American population
treating hypertension in, 174, 176
- agni baana* (fire-arms), 242
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), 21, 28, 32, 33, 54, 56, 59, 61, 69, 76, 84n40, 372, 487
- Art 7 of, 236
- Article 27(2) of, 151
- Article 27(3) of, 29
- Article 27.1 of, 95, 96, 99, 100
- Articles 7 and 8 of, 22
- geographical indications (GIs) and, 26
- rule-based v. principle-based approaches, 92–95
- AhadHa'am, 197
- Alford, William, 248
- amateur-to-amateur community, 324
- American monomyth, 424
- Analects (Lǐnyǐ)*, *The*, 250, 251, 254
- Anderson v. Stallone, 331
- Anderson, Timothy, 331
- Anti-Counterfeiting Trade Agreement (ACTA), 5n13, 69
- anti-formalism, 482
- Anushravas*, 233
- appropriation art, 411, 411n52
- Apurva*, 241
- Arnaudo, Marco, 424
- Article 10, 55
- Article 10(3), 55
- Article 11, 56
- Article 13, of UNESCO 2003 Main Lines of an Action Plan for the Implementation of [the Declaration], 485
- Article 16(1) of CSICH, 481
- Article 17(1) of CSICH, 481
- Article 2 of TRIPS Agreement, 100
- Article 2(1) of CSICH, 478
- Article 2(2) of CSICH, 476
- Article 2(3) of CSICH, 480
- Article 24 of 2002 Law On Copyrights, 517
- Article 27(2) of TRIPS Agreement, 151
- Article 27(3) of TRIPS Agreement, 29
- Article 27.1 of TRIPS Agreement, 95, 96, 99, 100
- Article 31 of TRIPS Agreement, 67, 87
- Article 31(1) of VCLT, 19
- Article 4, 51
- Article 4(1), 51
- Article 5(1), 52
- of EU Biotech Directive, 156
- Article 53(a) of EPC, 150, 152, 157, 160, 166
- Article 5A of Paris Convention, 98
- Article 6, 53
- of EU Biotech Directive, 152, 157
- Article 6 of Biotech Directive, 165n69
- Article 6(2)(c) of EU Biotech Directive, 152
- Article 6(a) of EU Biotech Directive, 150
- Article 68(1)(I)(II) of Brazilian Intellectual Property Code, 100

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

526 Index

- Article 7, 53, 59
 of 2001 UNESCO Universal Declaration on the Protection and Promotion of the Diversity of Cultural Expressions, 485
 of Biotech Directive, 161
 of TRIPS Agreement, 22, 59, 236
 Article 8 of TRIPS Agreement, 22, 59
 Article 8(j) of Convention on Biological Diversity, 458
 Article 9 of Berne Convention, 52
 Article III of General Agreement on Tariffs and Trade (GATT) of 1994, 100
 Articles 1 and 3(2) of Charter of Fundamental Rights, 157
 Articles 18(1) and 18(2), 164
 Articles 30, 31, and 44, 98
 Articles 9(2) of Berne Convention, 54
 artificial insemination, 244
 Ashkenazim Jewish ancestry patents, 172–77
 Asian culture
 Confucianism and, 265–68
 assimilationism, 179, 180, 182
 Association of American Publishers, 56
 Association of East Asia Nations (ASEAN), 5
Association of Medical Pathologists (AMP) v. Myriad, 185
 audiences, difficulty of connecting with, 508–9
 Aunt Jemima, 113, 134, 135, 138, 140, 141
 authorized entity, 38, 39
aya (iron), 240
 Ayurveda, 234

Bacillus thuringiensis (Bt) bacterium, 215
 Bagley, Margo, 154
 Balinese dance, 467
 Banania, 130, 137, 140, 141
 Bangkok Declaration, 267
 Barlow, John Perry, 318
 Barnett, Ferdinand, 134
 Barron, Frank, 287
 Barthes, Roland, 403, 409
 Bartow, Anne, 290
 Batikmark, 516
 Batman, 404, 415, 419
Batman (TV series), 302
 Battersby, Christine, 285, 286, 287
Bayer, Natco v., 67, 77, 78
 licensing, compulsory and, 84–87
 BDR pharma, 85
 Bearded Darnel, 221
 Beebe, Barton, 408, 436
 Beeson, Mark, 266

 Beijing Audio Visual Treaty, in 2012, 60
 Bell, Derrick, 181
 Bellagio Declaration, 1993, 496
 Benkler, Yochai, 376
 Berne Convention, 22, 22n31, 23n33, 28, 32, 33, 46, 53, 54, 56, 454, 462
 Berne Gap, 53, 54
 Bezalel, 198
 Bhagavad Gita, 238, 239
 BiDil, 173, 174, 175, 176, 188
Bilski decision, 96
 Bioethics Convention, 164
 Biological Diversity Act of 2002, 471
 biotechnologies and HESCs, morality on patent protection in, 150
 black market, 61
 BLACK TAIL, 121
Blanch v. Koons, 407
 Bleich, Erik, 142
Bleistein v. Donaldson Lithographing Co., 275, 278
 Blind and Physically Handicapped adults, program for, 38
 blind or other persons with disabilities, 38, 39
 blind, visually impaired and other reading disabled persons
 treaty for, 42
Board of Education, Brown v., 181, 441
 Boer, Ben, 463
 Bogsch, Arpad, 252
 Bollgard® system, 215
 book famine, 36–41
 Borges, Jorge Luis, 393
Bowman v. Monsanto case, 227, 230
 Boyle, James, 264, 280
 Braille, 40
 Braille, Louis, 41
 Brazil, 64, 100
 Brazilian Intellectual Property Code, Article 68(1)(I)(II) of, 100
 BRIC (Brazil, Russia, India, and China) countries, 5
 Brihat Samhita (deals with swords), 240
Brown v. Board of Education, 181, 441
 Brown, Michael, 496
Brüstle, Court of Justice of the European Union (CJEU) in, 154–57
 Bt-toxin, 220
 BUDDHA BEACHWARE, 120
 Buddhism, 262, 263, 266
 Bureau of Alcohol, Tobacco, and Firearms (ATF), 117
 Byrne, Eleanor, 409

California v. Freeman, 343
Caltech case, 157

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

Index

527

- Campbell v. Acuff-Rose Music*, 255, 333, 405
- Captain America, 404, 414, 419
- cardiovascular disease, 188
- Cariou v. Prince*, 407
- Carol Publishing Group, Castle Rock Entertainment v., 334
- Castle Rock Entertainment v. Carol Publishing Group, 334
- Celera, 187
- certification marks, 516
- Chafee Amendment, 38
- Chan, Joseph, 255
- Chandas, 234
- Chicago Tribune, The*, 265
- China, 247, 262
- shanzhai markets in, 62
- Chinese culture, Confucianism and, 249–52, 261–65
- Chiquita, 113
- Christian Louboutin. *See also* social justice mandate
- causing economic injustice, 431–33
- causing status injustice, 433–35
- district court decision, 429
- second circuit decision, 429–30, 436
- and Yves Saint Laurent (YSL), litigation between, 428–30
- Christiana expeditio, 259
- Cinema Adult Theater, Mitchell Brothers Film Group v.*, 345
- CJEU. *See* Court of Justice of the European Union
- Clancy, Jartech, Inc. v.*, 345
- Cleveland Indians, 112
- COCK SUCKER, 114
- Coedes, George, 266
- Cognitive Surplus*, 300
- Cohn, Jay, 175, 176
- collective mark, 515
- College Humor ad, 116
- color-blindness, 178, 179
- Commission's European Group on Ethics in Science and New Technologies (Group), 161
- commodity culture, between racism and freedom of expression, 142–44
- commodity racism, 141
- in United States, 134–35
- compensation, 66–68, 71, 72, 73
- compulsory licenses. *See* licenses, compulsory
- Confucian China and Its Modern Fate*, 262
- Confucianism, 59
- and Asian culture, 265–68
- challenge of interpreting Confucian teachings and, 257–61
- and Chinese culture, 249–52, 261–65
- development of intellectual property rights, 251
- and intellectual property, 247
- Consensus Instrument, 43
- conspicuous consumption, 434
- consumers' needs, 69–71
- content restrictions
- policy justifications for, in trademark law, 126–28
- contrivances, 245
- Convention for the Safeguarding of the Intangible Cultural Heritage (CSICH), 472, 475, 476–82
- Convention on Biological Diversity (CBD), 32, 465
- Article 8(j) of, 458
- Convention on Human Rights and Biomedicine, 164
- Convention on the Protection and Promotion of the Diversity of Cultural Expression (CCD), 2005, 479, 484, 490
- Convention, 2003, 464, 467, 470, 472
- Conway, Danielle, 146
- Coombe, Rosemary, 113, 139, 329, 410
- Coppa, Francesca, 312
- copyright, 30–31
- and aesthetic judgment, 274–81
- compulsory licenses, 71
- definition of, 282
- exceptions and flexibilities in, 33
- exceptions and limitation to, 45
- fixation, prohibited activity and, 200–2
- holders, 37, 40, 64, 72
- industries, 25
- limitations and exceptions to, 40, 42
- and pornography, 344–46
- protection system, 35
- securing rights of owners and authors, 39
- subject matter, defining, 274–78
- threshold, defining, 278–81
- Copyright Act
- of 1909, 346
- of 1976, 201, 405
- Section 121 of, 38n9–39
- copyright law
- and pornography, 341, 342, 346
- countercultural recoding in, 404
- feminist aesthetics and, 289–92
- in Nigeria, 382
- obscenity laws and, 348
- property and
- performativity, 321–23
- counterpublics, 410

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

528 Index

- Court of Justice of the European Union (CJEU), 149, 151
 in Brüstle, 154–57
 Crazy Horse (trademark), 113, 117
 Cream of Wheat, 113
 creation-as-birth metaphor, 288, 289
 creativity, 203
 derivation of, 195
 forms of, 294
 and incubation effect, 204–6
 and mind wandering, 208–9
 and unconscious thought, 206–7
 critical theories of race, 180–83
 Crowera, Jim, 134
 CSICH. *See* Convention for the Safeguarding of the Intangible Cultural Heritage
 Çudamani dance company, 502
 culinary practices, inscribed as ICH, 489–92
 cultural and intellectual property
 in cross-border disputes about intangible cultural heritage, 467–69
 in discourses about intangible cultural heritage, 460–66
 cultural identity and diversity
 copyright, 30–31
 and film industry, 368–73
 geographical indications in, 26–30, 487
 intangible cultural heritage and, 482–86
 and intellectual property, 24–31
 cultural property, definition of, 461
 Cultural Revolution, 260
 customary law reinforcement, 521
 cyberspace, 318, 324, 327, 337, 417
 cytogenetics, 243

 Damascus blades, 240
Dangerous Twins (film), 375
 Daoism, 263
 Dasatinib, 85
Datafile Ltd., DRG Inc. v., 275
 Davis, Geena, 304
 Davis, Michael, 267
 de Bary, Theodore, 258, 259
 De Certeau, Michael, 321
 de Saussure, Ferdinand, 408
Defence of Poesy, The, 264
 Defoe, Daniel, 288
 DEGO, 114
 deviant globalization. *See* informal economy
 Dhanurveda, 234
 difference principle, 440
 digital, 388
 challenge of, 401
 as cultural and social transformation, 389–90
 place in, 391
 value of, 390
 work of expression in, 391
 Digital Millennium Copyright Act (DMCA), 301, 350
 digitization, 60
 Dimitrov, Martin, 257
 dis-integration (term), 58n1
 discrimination, 97, 184
 Disney, 409
 distinctiveness doctrine
 and Louboutin litigation, 428–30
 roadmap of, 427–28
 distributive innovation, 65
 diversity. *See also* cultural identity and diversity
 concept of, 384
 fashioning, 385–89
 India's patent law and policy promoting, 92
 in intellectual property, 2–6
 protection of, 4
 recognition of, 1–6
 treaty interpretation and, 31–34
 Diversity Convention, 479, 484, 490
 DMCA. *See* Digital Millennium Copyright Act
 Doha Declaration, 21, 22
 Donadey, Anne, 135
Donaldson Lithographing Co., Bleistein v., 275, 278
 Douglass, Frederick, 134
 Drahos, Peter, 153, 163n57
DRG Inc. v. Datafile Ltd., 275
 DUFF, 115
Duty, Consequences and Intellectual Property, 239

 ECHR. *See* European Convention on Human Rights
 economic injustice, trademark law and, 431–33
 economy, informal. *See* informal economy
 ECtHR. *See* European Court of Human Rights
Edinburgh case, 158, 165
 Electronic Frontier Foundation (EFF), 357
 end users, 50, 60, 64, 70, 72
 enhanced therapeutic efficacy, 82, 84
 Enlightenment subject, 386n3
 EPC. *See* European Patent Convention

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

Index

529

- epistemic communities, 456
- EPO. *See* European Patent Office
- equal liberty principle, 440
- equal opportunity principle, 440
- Equal Protection Clause, 441
- Ernest and Bertram (film), 316
- ESKIMO PIE, 113
- ethic of sharing, 507
- Ethics Committee, 162
- ethnic slurs and stereotypes, 110
- EU Biotech Directive, 151
 - Article 5(1) of, 156
 - Article 6 of, 157
 - Article 6(2)(c) of, 154
 - Article 6(a) of, 150
- EUBiotech Directive, 149
- Europe, racist trademarks in, 136–38
- European concepts of morality, 162–67
- European Convention on Human Rights (ECHR), 162
- European Court of Human Rights (ECtHR), 164
- European Patent 0785216B2, 173
- European Patent Convention (EPC), 149
 - Article 53(a) of, 150, 152, 157, 160, 166
- European Patent Office (EPO), 150, 173
 - cases from, 157–60
- European trademark law, 119
- European Union, 4, 31
 - joint recommendation, 46
- Evans v. UK*, 164
- evergreening
 - prevention of, 87–90
 - and principle-based differentiation, 95–98
- fair compensation, 66–68
- fair use, 11, 32, 57, 255, 298, 333
 - recoding of signs and, 408–12
 - transformative use doctrine in, 405–8
 - transforming myths and, 424–25
- Fairbank, John King, 251
- Faleomavaega, Eni F.H., 108
- Falk, Richard, 470
- familiar production
 - in digital context, 390–93
 - through individual's curation of fashion, 393
- fan fiction, 324, 335, 417, 418, 419
- fandom, 295, 300, 309, 310
- Fanfiction.net, 300, 302
- Fanon, Frantz, 130
- fanworks, 298, 299, 301, 302, 305, 308, 314
- fashion, 388
 - and intellectual property, 398
 - fashion show, 398–400
 - fashioning diversity, 385–89
 - fashioning identity, 395–97
 - fast fashion brands, 445, 446
 - FCUK trademark, 116
 - female appropriation of narratives, within popular culture, 323–28
 - female superheroes, 414
 - feminist aesthetics, and copyright law, 289–92
 - Ferguson, Plessy v.*, 181
 - film industry
 - cultural diversity and, 368–73
 - Nollywood video industry, 374–78
 - Fingerroth, Danny, 416
 - Fiske, John, 410
 - fleamarket, 62
 - flexibility, concept of, 55
 - folk knowledge, 458
 - folklore, 461, 466
 - following the money trail technique, 72
 - Fong, Kandy, 311
 - Four Books and Five Classics* (book of Confucianism), 251
 - Fox Television, 333n67
 - France, 370, 372
 - France, Vö v.*, 164
 - Francioni, Francesco, 463
 - Francophone films, 378
 - Fredrickson, George, 135
 - free speech protection perspective, 443
 - free uses, of protected works, 54
 - Freeman, California v.*, 343
 - French DNA* (book), 171
 - FRITO BANDITO, 113
 - Gadbaw, Michael, 265
 - galombang* dancing, 503
 - Gandharvaveda, 234
 - Garnett, Nic, 42
 - gendering of genius, 285–89
 - General Agreement on Tariffs and Trade (GATT) of 1994, Article III of, 100
 - genetic identity, normative framework for assessing, 177
 - genetically modified (GM) crops, 212
 - genius, gendering of, 285–89
 - genre fiction, 298
 - geographical indications (GIs)
 - to intangible cultural heritage, 486–89
 - and traditional knowledge, 26–30
 - George Hensher v. Restawhile*, 275
 - GET IN THE KITCHEN BIT@HESI, 120

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

530 Index

- Ghana (Gollywood), 379
 Ghosh, Shubha, 239
 Giddens, Anthony, 369
 Gilman, Nils, 63
 Glivec, 77, 80, 81
 global trading system (power-oriented v. rule-oriented), 92
 globalization, 25, 28, 59, 60, 370, *See also* informal economy
 Golden Age of Superheroes, 404, 404n7, 412, 421, 424
 Goldhammer, Jesse, 63
 Goldieblox, 310
 Goldman, Merle, 251
Gone with the Wind (Randall, Alice), 302, 303, 308
 Gonzo marketing, 116
 Gordon, Wendy, 333
 Gotanda, Neil, 182
 governing power of law, 328–37
 Greene, Robert, 264
Grokster, 72
Guan Gong vs Captain America, 420f. 19.1.
 Gucci trademark, 426
 Guidelines and the World Heritage Convention, 463
- Hague Convention, 460
halakhah, 199, 202
 Halbert, Deborah, 283
 Han Dynasty, 262
 Harjo, Suzan Shown, 107
 harm, caused by offensive trademarks, 110–12
Harper & Row Publishers v. Nation Enterprises, 347
 Harris, Cheryl, 147
 Hart, Frederick, 195
heard (Sruti), 236
 HEEB, 127
Hennand Derby, R v., 165
 Hicks, John Mark, 226
 Hinduism, 232, 266
Home Office, Van Duyn v., 165
 homo economicus, 283
 homogenization, 60
How to Suppress Women's Writing, 296
 Howell, Vincent, 138
 Huber, Brad, 56
 human dignity, protecting, 156
 human embryos interpretation under Article 6(1)(c) of EU Biotech Directive, 154–57
 Human Genome Project (HGP), 187
 Hunter, Dan, 324
 hypertension treatment, 173, 174, 177
- I EAT PUSSY WITH A FORK, 114
 ICANN. *See* Internet Corporation for Assigned Names and Numbers
 ICERD. *See* International Convention on the Elimination of All Forms of Racial Discrimination
- identity
 concept of, 384, 386, 386n3
 and fashion, 389, 395–97
 first use of, 386n3
 illegal drug market, in Mexico, 63
 illumination, 204
 imatinib, 81
 incubation, 204
 duration for, 208
 effect, 204–6
 and Shabbat, 209–10
- India, 4, 62, 68
 intellectual property rights in ancient, 239–45
 issues in ensuring affordable healthcare in, 77
 India's patent law and policy
 prevention of evergreening, 87–90
 promoting diversity by taking principle-based approach, 92
 using liability rules, 90–92
 WTO-TRIPS consistency analysis of, 93
- Indian Patents Act (IPA) of 1970, 76n4
 Section 3(d) of, 78–84
 Section 83 of, 85
 Section 90, 68
- indigenous peoples, 24, 25, 28, 60, 129, 457, 459
 individual authorship, concept of, 285
- Indonesia, 4, 468
 elements of suitable sui generis approach for, 514–21
 traditional arts in, 502–13
- Indonesia's Plant Variety Protection Law, 470
- industrialization, 395
- informal economy
 consumers matter, 69–71
 deviant globalization and, 61–64
 fair compensation, 66–68
 innovative business models, 71–74
 markets requiring regulation, 74
 recognition of participants interests in, 64–74
- informal markets, 62
 informed consent and benefit sharing, 519
 innovation, 89, 384, 386, 397, 513
 in advertising, 133
 innovative business models, 71–74

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

Index

531

- intangible cultural heritage (ICH)
 - and CSICH, 476–82
 - culinary practices inscribed as, 489–92
 - and cultural diversity, 482–86
 - cultural and intellectual property
 - in cross-border disputes about, 467–69
 - defined, 476
 - fund, 481
 - geographical indications to, 486–89
 - intellectual property and cultural property in discourses about, 460–66
 - protection of TK/TCE and, 456–60
 - seeking limits of, 472–75
- intangible public forums, 442, 443
- intellectual property
 - conventional product of, 398
 - in cross-border disputes about intangible cultural heritage, 467–69
 - cultural identity and diversity, 24–31
 - in discourses about intangible cultural heritage, 460–66
 - diversity in, 2–6
 - related issues, 7–9
 - fashion and, 398
 - identities, interests and intersections in, 9–12
 - identity within, 397
 - in protection of intangible cultural heritage, 470–71
 - reconfiguring rules, 397
 - securing copyright owners rights, 39
 - and trade, 25
- Intellectual Property Appellate Board (IPAB), 81, 86
- intellectual property rights (IPR), 2, 23
 - approach in ancient Indian texts to, 239–45
 - objective of creating, 236
 - regimes, ramifications for, 56–57
- Intergovernmental Committee (IGC), WIPO, 465, 466
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), United Nations, 142
- international intellectual property rights (IPR) regimes, ramifications for, 56–57
- International Stem Cell Corporation, 243
- international treaty interpretation
 - rules, 18–23
- Internet, 5, 25, 318
- Internet Corporation for Assigned Names and Numbers (ICANN), 118
- internet service providers (ISPs), 60, 64
- invention, 89, 95, 98, 173
- IPAB. *See* Intellectual Property Appellate Board
- Islam, 266
- Jacobson Products Co., Inc., Qualitex Co. v.*, 428
- Jartech, Inc. v. Clancy*, 345
- Jefferson, Thomas, 268
- Jenkins, Henry, 324
- Jensen, Lionel, 259
- JESUS JEANS, 115
- Joint Recommendation, 43
- Judaism, 198
- Juicy Whip vs. Orange Bang*, 220
- Jyotir Mimamsa*, 241
- Jyotirmimamsa, 241n36
- Jyotisa, 234
- Kalpa, 234
- Kamal Nath, 78n13
- Kang, David, 266
- Kant, Immanuel, 286
- Kaplan, Benjamin, 514
- Kaplan, Rabbi Mordecai, 203
- Katyal, Sonia, 306, 417
- Kavya Mimamsa* (Rajasekhara), 244
- Ken Shao, 253
- Kenya (Riverwood), 379
- KHORAN, 120, 121
- KickassTorrents.com*, 62
- Kisma Video, Inc., Nova Products, Inc. v.*, 346
- KNIGGA, 120
- knowledge
 - history of concept of, and position in public domain, 236–38
- Koons, Blanch v.*, 407
- KSR v. Teleflex*, 98
- Lanham Act, 105, 516
 - burdens on challengers, 122–23
 - limited remedy, 123–26
 - other offenses addressed under, 120–22
 - Section 2 of, 144
 - Section 2(a) of, 105, 106, 120–26, 143
- Last Sup(per)er Heroes, The*, 423f. 19.4.
- Lastowka, Greg, 324
- Lauter, Estella, 284
- Law on National Heritage of 2005 of Lao People's Democratic Republic (PDR), 469
- legal protection
 - alternative modes for traditional arts, 498–500

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

532 Index

- lekyam*, 236
Leland Stanford v. Modified Animal, 151
 Lentini, Alana, 141
 Levinson, Joseph, 262
Leyland Stanford case, 165
 liability rules
 invoking, 98–100
 use of, within patent law framework, 90–92
 liberal theories of race, 178–80
Liberal Tradition in China, The, 259
 Liberty Link 601 (LL601), 217n39
 Library of Congress, 38
 licenses, compulsory, 70, 71
 and Bayer-Natco dispute, 84–87
 on ground of non-working, 99
 side-effects of issuing, on investments, 91
Linka (thermal unit equivalent), 240
 Litman, Jessica, 280
Living in Bondage (film), 374
 Locke, John, 268
Lolium temulentum, 221
 López, Ian Haney, 148
 Louis Vuitton trademark, 426
 Louri, Glenn, 178
Loving v. Virginia, 441
Lowell v. Lewis, 219
 Lowell, Amy, 203
 Lu Xun, 253
 luxury industry, 445–47

m'lakhah, 200
 MacKinnon, Catharine, 351
 Madhavi Sunder, 496
 MADONNA, 120
 Madras High Court, in India, 81
 Mahabharata, 243, 244
 male motherhood metaphor, 287, 289
 Manchus, 263
 Māori citizens, 4, 28
Marketing Displays, Inc., Traf Fix Devices, Inc. v., 448
 marketing practices and offensive trademarks, 115–16
 markets
 fair compensation and, 66–68
 regulation requirement, 74
 Marrakesh Treaty, 35
 achievements of, 57
 Berne Gap and three-step test application, 53–56
 four substantive obligations of, 50–53
 Marshfield Clinic, 186–89
 Marston, William Moulton, 415

 Mary Sue (character), 308
 May Fourth Movement, 247
 McClintock, Anne, 132
 McIntosh, Jonathan, 310
 McQuillan, Martin, 409
 MedCo Research Inc., 176
 media fandoms, 295, 308, 309
Mediterranean Diet, 489–92
 Meinl, 137, 141
 Mercedes-Benz trademark, 426
 MESSIAS, 120
 Mexico, 63
 Mills, Charles, 147
 Milton, J., 400
 mind wandering, 208–9
 Mishnah, 197, 199
Mitchell Brothers Film Group v. Cinema Adult Theater, 345
 Model Provisions, 462
 Model State Trademark Bill, 119
 Modernization Act, FDA, 176
Modified Animal, Leland Stanford v., 151
Monsanto
 v. Bowman, 227, 230
 v. Organic Seed Growers and Trade Association, 213–25
 v. Schmeiser, 217, 228
 Monsanto Protection Act, 214n24
 MOONIES, 120
 moral utility doctrine, 219n47, 220
 morality, European concepts of, 162–67
 Mote, Fredrick, 249
 Movement Against Racism and for Friendship between Peoples (MRAP), 130
Mulan (movie), 409n39
 Mullerson, Rein, 268
 multilateralism, 59, 60
 Murphy, Dave, 227
Myriad, Association of Medical Pathologists (AMP) v., 185
 Myriad's pending patent application
 on identifying proclivity to breast cancer among people with Ashkenazi Jewish ancestry, 172–77
 as illustration, 183–86

 N.G.O. Declaration, 267
 Nagaswamy, R., 238
 Nancy Green, 134
Napster, 65, 72
Natco v. Bayer, 67, 77, 78
Nation Enterprises, Harper & Row Publishers v., 347
 National Commission on the Traditional

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

Index

533

- Arts, 518
- National Congress of American Indians (NCAI), 107
- National Library Service (NLS), 38
- Natyasastra*, Bharata's, 236
- NCAI. *See* National Congress of American Indians
- NCEs. *See* new-developed chemical entities
- NDDS. *See* new drug delivery systems
- Neier, Aryeh, 268
- Neuwirth, Robert, 65, 74
- Nevins, Daniel, 196
- new drug delivery systems (NDDS), 87
- New Zealand, 4, 28, 29, 32
- new-developed chemical entities (NCEs), 87
- Newmann, Amy, 278
- Nexavar. *See* Sorafenib
- Nezha vs Batman*, 422f. 19.3.
- Nielsen, Laura Beth, 142
- Nietzsche, Friedrich, 287
- Nigeria, 73
- Nigerian video film industry. *See* Nollywood
- Nirukta, 234, 237
- NitroMed, 173, 174, 175, 176, 177
- nitrous oxide, use of, 175
- NLS. *See* National Library Service
- Nnebue, Kenneth, 374
- Noda, Nathaniel T., 403
- Nollywood
 - and African cinema, 378–82
 - success of, 376
 - video film industry, 367, 374–78
- Non-Disparagement of Native American Persons or Peoples in Trademark Registration Act of 2103, 109
- non-governmental organizations (NGOs), 60
 - Declaration, 267
- Norway, 161
- Nouah, Ramsey, 375
- Nova Products, Inc. v. Kisma Video, Inc.*, 346
- Novartis* case
 - Section 3(d) and Supreme Court's decision in, 80–84
- novels, romance, 298
- Obama, Barack, 109
- obscenity, 343, 345, 346
- OECD. *See* Organisation for Economic Co-operation and Development
- offensive trademarks
 - harm caused by, 110–12
 - impetus to protecting public from, 118
 - marketing practices and, 115–16
 - phenomenon of, 112–16
 - and REDSKINS dispute, 112–15
- Office for the United States Trade Representative (USTR), 82, 86
- Ogidan, Tade, 375
- Okediji, Ruth, 39
- Oncomouse* case, 151, 158, 162
- Ong, Walter, 418
- Opera Batak, 505
- Operational Directives, 482
- Operational Guidelines, 463, 486
- Orange Bang, Juicy Whip* vs., 220
- Organic Seed Growers and Trade Association v. Monsanto Co.* case, 213–25
- Organisation for Economic Cooperation and Development (OECD), 63
- originality, aesthetics of, 278–81
- Pagnucci, Gian S., 413
- Parable of the Persistent Widow, 225–30
- Parable of the Wheat and the (GM) Tares, 213–25
- Paramount, 333
- Paris Convention, 28, 99, 119
 - Article 5A of, 98
- parody, 406, 412, 417
- parthenogenesis, 155
- pasak bumi*, 468
- Pateman, Carole, 283
- Patent Act of 1970, 76n4
- Patent Cooperation Treaty (PCT), 173
- patentability
 - of human embryonic stem cells (HESCs), 154–57
 - integrating technical experts in, 161–62
 - on moral grounds, 150–54
- paternity
 - metaphor, 289
 - and property, 288
- patriarchal domesticity, 288
- Patry, William, 288
- PCT. *See* Patent Cooperation Treaty
- peer-to-peer (P2P) file trading
 - software, 66, 71
- Pelosi, Nancy, 109
- Penley, Constance, 326
- Penn, Irvine Garland, 134
- performativity and property, 321–23
- permitted creativity on Shabbat, 202–3
- Personalized Medicine Research Project (PMRP), 187
- Philippines' National Cultural Heritage Act of 2009, 469

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

534 Index

- physical abuse, 362
- Piece of Me (song), 311
- Pierre Menard (story), 393
- pirate market, in Florence, 63
- Pirate Bay, The*, 62, 65, 66
- plagiarism, 278
- Plant Genetic Systems case, 159, 163
- Playboy Inc., 342
- Plessy v. Ferguson*, 181
- PMRP. *See* Personalized Medicine Research Project
- Poincaré, Henri, 203
- policy justifications
 - for content restrictions in trademark law, 126–28
- polychlorinated biphenyls (PCBs), 214
- pornography, 339
 - case against copyright protection for, 360–63
 - and copyrights, 344–46
 - copyright law and, 341, 342, 346
 - cultural effects of, 352
 - harmful effects of, 351, 364
 - on Internet, 357
 - and prostitution, 341, 344, 352, 358, 360
 - protected by First Amendment, 346–50
- Posey, Darrell, 459
- Posner, Richard, 264
- Prabhava*, 245
- pramanas* (authorities), 241
- pratibha*, 241
- pre-digital film production, in Nigeria, 380
- preparation, 204
- Prince, Cariou v.*, 407
- principle-based v. rule-based approaches
 - in WTO-TRIPS consistency analysis, 92–95
- Principles and Guidelines, 466
- print instructional materials, 38, 39
- prior informed consent and benefit sharing, 518–21
- production, familiar, 390–93
- professionalization, 387
- Pro-Football Inc., 106
- prohibited activity and copyright fixation, 200–2
- prohibited labors, 199–200
- property and performativity, 321–23
- property finder, 397–98
- prostitution, 341, 343, 344, 352, 355, 358, 359
- Protection of Plant Varieties and Farmers' Rights Act of 2001, 471
- purpose and character of the use
 - phrase, 405
 - Quaker Oats, 134
 - Qualitex Co. v. Jacobson Products Co., Inc.*, 428
 - R v. Hennand Derby*, 165
 - Rabinow, Paul, 170
 - race
 - critical theories of, 180–83
 - liberal theories of, 178–80
 - racist trademarks
 - between social protest and legal action, 139–40
 - comeback of traditional marks, 138–39
 - commodity culture, 142–44
 - commodity racism in United States, 134–35
 - emergence of, 132–33
 - in Europe, 136–38
 - history of, 132–39
 - remaining public support of, 141–42
 - restricting racist representations, 144–46
 - rainbow commercialism, 180
 - Randall, Alice, 302
 - Randall, Marilyn, 278, 285
 - rasa* (taste), 245
 - Rawls, John, 440
 - Recital 38, of Biotech Directive, 153
 - Recital 39, of Biotech Directive, 153, 163
 - Recital 43, of Biotech Directive, 162
 - recoding
 - of signs and fair use, 408–12
 - of superhero sign, 416–23
 - Recommendation on the Safeguarding of Traditional Culture and Folklore, 463
 - Rector of the University of Virginia, Rosenberger v.*, 442
 - red sole mark, distinctiveness of, 428–30
 - REDSKINS dispute
 - history and developments of, 106–9
 - offensive trademarks and, 112–15
 - red-sole trademark, 431–33
 - Reed, Christopher, 134
 - Rehnquist, William, 347
 - Reid, Harry, 109
 - Relaxin* case, 160
 - remembered* (Smriti), 236
 - Representative List, 473, 481, 482, 485
 - Restawhile, George Hensher v.*, 275
 - Reynolds, Richard, 416
 - Ricketson, Sam, 42
 - right to paternity, 288
 - RIP: A Remix Manifesto* (documentary), 299
 - Robertson's, 113, 139
 - Rogers, Steve, 414

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

Index

535

- Romagnoli, Alex S., 413
 Romantic aestheticism, 278, 282, 286, 289
 romantic author, and romance writer, 296–301
 Romantic authorship, concept of, 295
 romantic racialism, 135
 Rose, Mark, 280, 288, 289
 Rosello, Mireille, 145
Rosenberger v. Rector of the University of Virginia, 442
 Roth, Joel, 196
 RoundUp Ready® technology, 215
 RoundUp®, 214, 227
 Rousseau, Jean-Jacques, 285
 Rule 28(c) of Implementing Regulations to EPC, 157
 rule-based v. principle-based approaches in WTO-TRIPS consistency analysis, 92–95
 Russ, Joanna, 296, 306, 312
 Russell, Bertrand, 203
 Russell, Diana, 357
 Rutt, Chris, 134

Sa Vidyaya Vimuktaye verse, 234
Samara Bros., Wal-Mart Stores, Inc. v., 438
Samarangana Sutradhara, 245
 SAMBO'S, 113, 117
 Sao Paolo, 74
 Sarotti, 136, 141
 Sarotti-Mohr, 136, 138
 scandalous, 121
 SCCR. *See* Standing Committee on Copyright and Related Rights
Schmeiser, Monsanto v., 217, 228
 Schwartz, Benjamin, 258
 Section 121 of Copyright Act, 38n9–39
 Section 2(a) of Lanham Act, 105, 106, 120–26, 143
 Section 2(a) of Trademark Act of 1946, 109
 Section 3(d) of Indian Patents Act (IPA) of 1970
 anatomy of, 79–80
 and Supreme Court's decision in *Novartis* case, 80–84
 Section 83 of Indian Patent Act (IPA), 85
 Section 84 on Sorafenib, 85
 Section 90 of Indian Patents Act, 68, 86
 self
 creation of, 324
 solitary, 281–85
 semiotic democracy, 410
 Senegal, 378
 Senegalese Tirailleur, 130
 Senghor, Léopold, 130

 SENUSSI, 120
 sex
 as profitable entertainment product, 341–44
 selling, 116, 343
sh'vut, 200
 Shabbat
 incubation and, 209–10
 institution and development of, 197–203
 introduction to, 193–94
 permitted creativity on, 202–3
 prohibited activity and copyright fixation, 200–2
 prohibited labors, 199–200
 theology of, 194–97
 Shaler, Nathaniel, 288
 SHANK THE BIT@H, 114
shanzhai markets, 62
 Shi Wei, 252
 Shirky, Clay, 300
 show, fashion, 398–400
 Sidney, Sir Philip, 264
 signs, recoding of
 and fair use, 408–12
 superheroes, 416–23
 Siksa, 234
silat, 503
 Sima Qian, 262
 single color marks, 444
 SLANTS, THE, 127
 slash, 11, 303n28, 306, 307, 307n46, 319, 320, 417
 story of, 323–28
 Slave Labour, 393
 SLUTMAGNET, 114
 Smith, Laurajane, 461
 social justice
 as constitutional value, 441–44
 as fundamental value, 439–41
 principles, 440
 social justice mandate
 aesthetic functionality doctrine, 447–49
 application for trademark law, 435–37
 legal basis of, 438–49
 legal foundation of, 444–49
 luxury industry demise, 445–47
 precedents, 438–39
 single color marks demise, 444
 social life, and traditional arts, 506
 soft law instrument, 482
 solitary self, 281–85
 Soloveitchik, Rabbi Joseph, 194
Sony BMG Music Entertainment v. Tenenbaum, 73
 Sorafenib, 67, 77, 85, 86

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

536 Index

- soul, concept of, 202
- Souter, David, 255
- South Africa, 62
- Southern Common Market (MERCOSUR), 5
- specialized formats, 38, 39
- Spiesel, Christina, 310
- Spitzer, Elliot, 358
- SQUAW, 127
- Stakeholder Platform, 48
- Stallone, Anderson v., 331
- Standing Committee on Copyright and Related Rights (SCCR), 43, 45
- Star Trek*, 311, 326
- StarLink, 217
- State v. Theriault*, 344
- status injustice, and trademark law, 433–35
- Stealth of Nations, 65, 74
- Stein, Aurel, 263
- Steinem, Gloria, 415
- stereotypes, ethnic slurs and, 110
- Stone, Charles, 251, 262
- STOP THE ISLAMATION OF AMERICA, refusing of registration mark, 121
- striated space, defined, 390n14
- Suanda, Endo, 522
- subaltern, 410
- Subhashitha Neevi*, of Srimad Vedanta Desikha, 244
- sui generis*, 498, 499
 - adding targeted provisions, 517–21
 - building on existing law, 515–17
 - conceptual challenges to IP-based models, 500–2
 - elements of suitable approach for Indonesia, 514–21
- Suleman, Nadya, 361
- Sullivan Report, 42
- Sullivan, Judith, 42
- Sumantri, R., 419
- Sun Wu Kong vs Wonder Woman*, 421f. 19.2.
- Sunder, Madhavi, 496
- superheroes
 - characters, 404, 409
 - modern myths of, 412–16, 423
 - sign, recoding, 416–23
- Superman, 404, 412, 413, 414, 418
- Supreme Court's decision in *Novartis* case
 - Section 3(d) of Indian Patents Actand, 80–84
- Sweden, 161
- symbolic speech action, 443
- System D, 62, 74
- Tabernacle, 198
- tares, 221
- taste, notion of, 388
- Tay, Simon, 267
- TCEs. *See* traditional cultural expressions
- technological protection measures (TPMs), 51
- Tehrani, John, 277
- Teleflex, KSR v.*, 98
- television and film industries, 369
- Tenenbaum, Sony BMG Music Entertainment v., 73
- Textual Poachers, 325
- textual poaching, 322
- Thailand, 4
- therapeutic efficacy, 81, 84, 245, 391n15
- Theriat, State v.*, 344
- three-step test, 52, 54, 55, 56
- TIGAR. *See* Trusted Intermediary Global Accessible Resources
- To Steal a Book Is an Elegant Offense*, 248, 252–57
- toledot* (offspring), 199
- Torah, 193, 194, 197, 199
- Torremans, Paul, 165
- Trade Marks Act of 1994, U.K., 143
- Trademark Act of 1946, Section 2(a) of, 109
- trademark law
 - economic injustice, 431–33
 - feature of, 118–19
 - impetus to regulating offensive language, 116–18
 - luxury companies on, 426
 - policy justifications for content restrictions in, 126–28
 - role of morality in, 116–19
 - single color marks, 444
 - social justice mandate application for, 435–37
 - status injustice, 433–35
- trademark racism. *See* racist trademarks
- Trademark Trial and Appeal Board (TTAB), 107, 108, 121, 128
- traditional arts
 - alternative modes of legal protection for, 498–500
 - apparent non-issues, 512–13
 - consensus, 513
 - difficulty of connecting with audiences, 508–9
 - in Indonesia, 502–13
 - lack of appropriate recognition, 510
 - material, general attribution requirement for uses of, 517
 - other concerns, 511
 - reported problems by artists, 508–13
 - social life, and ethic of sharing, 506–8
 - struggle to maintaining

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

Index

537

- inter-generational transfer of knowledge, 510
- traditional cultural expressions (TCEs), 27, 28
- traditional knowledge (TK) and geographical indications, 26–30 and traditional cultural expressions (TCEs), protection of, 456–60
- Trafficking in Persons Report, 356
- TrafFix Devices, Inc. v. Marketing Displays, Inc.*, 448
- Traister, Rebecca, 306
- trans-coding strategies, 411
- transformative use doctrine, in fair use, 405–8
- treaty interpretation, 31
- TRIPS Agreement. *See* Agreement on Trade-Related Aspects of Intellectual Property Rights
- Trusted Intermediary Global Accessible Resources (TIGAR), 48–50
- TTAB. *See* Trademark Trial and Appeal Board
- Tucher and Mohrenbräu breweries, 137
- Tunis Model Law, 462, 468
- Turk, Tisha, 314
- Turkle, Sherry, 324
- Tushnet, Rebecca, 336, 411, 417
- 23andMe, Inc., 171
- Tye, Larry, 414
- U.K. Trade Marks Act of 1994, 143
- U.S. Patent Act, 100
- U.S. Patent and Trademark Office (USPTO), 105
- U.S. Trademark Act. *See* Lanham Act
- UK, Evans v.*, 164
- Uncle Ben, 113, 135, 138, 141
- unconscious thought, 206–7
- underground economy, 62
- underground market, 65
- underside of globalization. *See* deviant globalization
- UNESCO. *See* United Nations Educational, Scientific, and Cultural Organization
- Union of India, Novartis v.*, 101
- Unitary Patent Right, 166
- United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), 42
- United Nations Declaration on the Rights of Indigenous Peoples, 32
- United Nations Educational, Scientific, and Cultural Organization (UNESCO), 4, 36, 453, 463
- Convention, 371, 372, 461, 464, 467, 470, 472, 476
- United States, 64
- United States Draft Consensus Instrument, 45
- United States Olympic Committee (USOC), 316
- United States Patent and Trademark Office (USPTO), 172, 174
- United States Trade Representative (USTR), 62
- United States, commodity racism in, 134–35
- Upa Vedas, 234
- Upanishads, 237
- Upjohn* case, 159
- Urgent Safeguarding List, 474, 481, 482, 485
- use, meaning of, 391
- USOC. *See* United States Olympic Committee
- USPTO. *See* United States Patent and Trademark Office, *See* U.S. Patent and Trademark Office
- USTR. *See* United States Trade Representative
- utilitarianism, 239
- VA. *See* Veteran's Administration
- Vaisheshikastra* Maharishi Kanada's, 240
- Valmiki and Vyasa, 241
- valorization, 278, 279, 282, 292
- Van Duyn v. Home Office*, 165
- Varahamihira, 240
- Vastuveda, 234
- VCLT. *See* Vienna Convention on the Law of Treaties
- Veblen, Thorstein, 434
- Vedas, 233–35
- verification, 204
- Veteran's Administration (VA) studies, 175, 176
- Viagra, by Pfizer, 176
- Victoria and Albert Museum, 387n6
- vidding, example of, 311–13
- Vienna Convention on the Law of Treaties (VCLT), 18, 20
- violence, 111
- vipaka* and *virya* (potency), 245
- VIPs. *See* visually impaired persons
- Virginia, Loving v.*, 441
- VisionIP.org, 48
- Visphala, 239
- visually impaired persons (VIPs), 35, 36, 40, 56
- Visvasaghati Agni yoga*, 242
- Vo v. France*, 164
- Vrdoljak, Ana, 460

Cambridge University Press

978-1-107-06552-9 - Diversity in Intellectual Property: Identities, Interests, and Intersections

Edited by Irene Calboli and Srividhya Ragavan

Index

[More information](#)

538 Index

- Vriksaayurveda*, 244
 Vyakarana, 234
- WAI 262, 28n66
 Waitangi Tribunal report, 32
 Waley, Arthur, 252
 Wallas, Graham, 204
Wal-Mart Stores, Inc. v. Samara Bros., 438
WARF case, 157
 Warner, Michael, 410
 Washington Redskins' trademarks, 6
 Wayne, Bruce, 415
 WBU. *See* World Blind Union
 WCT. *See* World Intellectual Property Organization (WIPO), Copyright Treaty
 wealth maximization and color-blindness, 179, 183
 Weber, Steven, 63
 Wells, Ida B., 134
 Wertham, Fredric, 418
 WHITE TRASH, 114
 WILD INJUN, 114
 Williams, Linda, 357
 Williams, Patricia, 181
 Williams, Raymond, 391n16
 WIPO. *See* World Intellectual Property Organization
 Wolf, Eric R., 454
 Wolk, Douglas, 413
 women and children
 solution to exploitation of, in
 pornography, 360–63
 women's work, defending, 301–10
 Wonder Woman, 404, 415, 419
 Woodmansee, Martha, 280
 work, 386, 388
 working, non-working/insufficient, 91
 World Bank, 63
 World Blind Union (WBU), 41, 42, 49
 Proposal, 43–44
 World Heritage Convention, 1972,
 463, 477
 World Intellectual Property Organization
 (WIPO), 3, 18, 27, 35
 Copyright Treaty (WCT), 54,
 54n63, 56, 60
 Development Agenda, 5
 evolving agenda and platforms, 46–50
 Intergovernmental Committee (IGC),
 465, 466
 Model Provisions, 1982, 464
 World Trade Organization (WTO),
 3, 18, 29
 Doha Declaration, 21
 TRIPS Agreement, 76, 92–100
 Wright, Shelley, 282
 Written Law, 197
 WTO. *See* World Trade Organization
- Yajur Veda*, 235
yantras, 245
 Yantravidhanam, 245
 Yates, Ronald, 265
 Yen, Alfred, 274, 275
yogyatha, 235
 Yoshino, Kenji, 182
 Yves Saint Laurent (YSL) and
 Christian Louboutin, litigation
 between, 428–30
- Zhou Dynasty, 262
 Zhu Xi, 254, 258
zhuanli (patent), 252