

PROPERTY ASPECTS OF INTELLECTUAL PROPERTY

For many years, there have been discussions about whether intellectual property (IP) is really property. The property concept, particularly when used in transnational and international concepts, remains somewhat elusive.

In this volume, Ole-Andreas Rognstad comprehensively discusses the use of the property metaphor in relation to IP in a transnational perspective. Rognstad gives an overview of the main aspects of the IP/property interface, notably the justification and the structuring of the rights and intellectual property rights as assets. Moreover, he highlights the importance of distinguishing between these aspects, even though they are closely linked to each other. The book takes a transnational approach, dealing with recent developments in European human/fundamental rights law and international investment law, helping readers understand the practical implications of the IP/property interface. This will be valuable reading for academics, practitioners, and policymakers working in the area of IP, and lawyers and philosophers interested in the property debate.

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To Astrid, Helena, and Jakob

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Preface

Deciding to write a book on intellectual property (IP) and property is perhaps not the wisest thing to do given the complexity of the topic. Still, that was what I did a few years ago and here is the result. The discussions in legal scholarship and elsewhere on the “proPERTIZATION” of intellectual property, the increasing importance of intellectual property rights (IPRs) in European human and fundamental rights contexts, and the rejection of the usefulness of “property talk” related to IP in Scandinavian law were among the factors that motivated the decision. This should be clear from the problems that are discussed in this book. The broadness of the topic as such could easily imply that this would be a book of 2,000 pages. That was never the intention, and the book’s closing remarks reflect what has been the purpose of the project from the start.

The book project was initiated during my time as a guest researcher at the University of San Diego (USD) in the academic year 2012–2013. I give special thanks to my sponsor at the USD, Professor Lisa P. Ramsey, for all her support. A revisit in the summer of 2015 was made possible with funds from the Norwegian Non-Fiction Writers and Translators Organization, for which I am grateful. I also thank Professors Alexander Peukert and Nari Lee as well as PhD fellow Henrique Carvalho and my colleagues at the Department of Private Law, University of Oslo, for inspiring discussions at a workshop on topics related to the book, hosted by the research group Market Innovation and Competition in October 2016. Special thanks to Professor Kåre Lilleholt for valuable input on certain aspects that are discussed in the book.

The book is dedicated to my dearest.

Abbreviations

ACHPR	African Charter on Human and Peoples' Rights
ACHR	American Convention of Human Rights
BC	The Berne Convention for the Protection of Literary and Artistic Works
BIT	Bilateral investment treaties
CJEU	Court of Justice of the European Union
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EPC	The European Patent Convention
IACHR	Inter-American Court of Human Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICSID	International Center for Settlement of Investment Disputes
IIA	International Investment Agreements
IP	Intellectual property
IPR	Intellectual property rights
P1-1	Protocol 1 Article 1 to the European Convention on Human Rights
TPP	Trans-Pacific Partnership Agreement
TRIPS	(WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights
UDHR	Universal Declaration of Human Rights
UNCITRAL	United Nations Commissions on International Trade Law
WCT	WIPO Copyright Treaty
WIPO	World Intellectual Property Organization
WPPT	WIPO Performances and Phonograms Treaty
WTO	World Trade Organization

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