2019 Volume 41 Issue 4
ISSN: 0142–0461

European Intellectual Property Review

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The WIPO Broadcasting Treaty: A Conceptual Conundrum 199

The Broadcasting Treaty that has been discussed at WIPO for over 20 years seems to be reaching a dead end. The Treaty, which aims at extending the legal protection of broadcasters to the digital realm, suffers from three major flaws: one economic, one conceptual, and one pragmatic. Owing to the decreasing technical costs of broadcasting, the economic case for granting special rights to broadcasters is weakening. Moreover, properly defining the act of "broadcasting" that would give rise to legal protection is highly problematic. Finally, no real and urgent need for a new right seems to exist, in light of current legal regimes that broadcasters already rely on under national law. Perhaps the time has come to abandon work on the WIPO Broadcasting Treaty, and move on.

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Regional Trade Agreements and Copyright Law: The Necessity of Renegotiating the TPP 203

The past decade has witnessed an increase in the use of regional trade agreements (RTAs) to drive trade and the economy by fostering co-operation within a region. The benefits and limitation of RTAs have been widely discussed in extant literature; however, this article analyses the rationale for the recent introduction of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTTP), following the withdrawal of the United States from the Trans-Pacific Partnership Agreement (TPP). More specifically, this article examines the necessity for renegotiating the TPP from the perspective of Australian copyright law. In this article, the author argues that although there are clear theoretical benefits of co-operating regionally through RTAs, RTAs are governed by the limitations of power balances that are often present during their negotiation. This article draws on the theory of international co-operation together with case studies of the Australia-United States Free Trade Agreement (AUSFTA) and the TPP, to examine the benefits and limitations of negotiating RTAs. The author concludes that, owing to the presence of power imbalances, the TPP required renegotiation, which significantly reduced the original copyright provisions. The agreement overwhelmingly represented the US copyright agenda at the expense of Australian copyright law interests, thus failing to promote the copyright balance.

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Council Regulation 723/2009 on the Community Legal Framework for European Research Infrastructure Consortium (ERIC) provides for the inclusion of policies, including an intellectual property rights policy, in the statutes of ERICs. The manner in which research infrastructures with ERIC status have responded to this requirement varies. This article reports findings of a preliminary study of the treatment of intellectual property rights in ERICs (2011–2018). The tension between the existence of IPRs and their exercise is a familiar one in competition law; the article suggests that the "fifth freedom" imports this issue into the European Research Area and the balance of rights forms the backcloth of considerations of IPRs and ERICs.

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