Works-In-Progress Conference

“IPScholars Asia”

Conference Programme

&

Participants’ Profiles

28 – 29 January 2016

Li Ka Shing Library

School of Law

Singapore Management University
Welcome Message

Dear Participants,

Welcome to the Inaugural Works-in-Progress Conference “IPScholars Asia”!

“IPScholars Asia” aims at providing a forum for scholars researching and writing on IP law-related issues in Asia (including IP and Competition law, International Trade and IP, Information Technology and Internet law, etc.) to present and discuss their works-in-progress with colleagues from other universities.

The Applied Research Centre for Intellectual Assets and Law in Asia was launched in May 2015 with the objective to become a leading research institution and a focal point for understanding and developing the treatment of intellectual assets in Asia and beyond Asia. Our mission is: to engage in thought provoking research projects in areas of practical and regional importance; promote interest, academic research and cooperation on intellectual assets and the law in Asian economies; build a research network of leading scholars working in related fields by inviting them as visiting faculty to co-lead research projects and co-author book; promote research and dialogue on Asian Law and foster promising young scholars on Asian IP law.

We hope that you all will enjoy the two days that you will spend with us at Singapore Management University and look forward to seeing for many years to come, as “IPScholars Asia” will become an annual initiative of our Centre.

Best regards,

The ARCIALA Team

Dress Code for the Conference

Smart casual. Jackets, suits, and ties are not required due to the hot weather in Singapore. However, you may wish to have a light jacket or sweater handy, as the conference venue may be cool due to air-conditioning.

Conference Materials

Electronic copies of the papers presented at the Conference will be available on Dropbox. Please email us at arciala@smu.edu.sg for further information and questions.
Conference Programme

THURSDAY, 28 JANUARY 2016 (DAY 1)

8.30am – 9.00am REGISTRATION
(Li Ka Shing Library, Level 5, outside “Quiet Area” Room)

WELCOME AND INTRODUCTION
(Li Ka Shing Library, Level 5, “Quiet Area” Room)

9.00am – 9.05am WELCOME
Tiong Min Yeo, Dean and Professor, School of Law, Singapore Management University

9.05am – 9.15am INTRODUCTION
Kung-Chung Liu, External Director, ARCIALA, School of Law, Singapore Management University
Irene Calboli, Visiting Professor and Deputy Director, ARCIALA, School of Law, Singapore Management University

PLENARY SESSION
(Li Ka Shing Library, Level 5, “Quiet Area” Room)

9.15am – 10.30am SETTING THE STAGE: THE IMPORTANCE OF WORKS-IN-PROGRESS CONFERENCES FOR (IP) SCHOLARSHIP
Chair and Moderator
Wee Loon Ng-Loy, Professor, Faculty of Law, National University of Singapore

Speakers
Andrew Harding, Director, Asian Law Institute; Professor and Director, Centre for Asian Legal Studies, Faculty of Law, National University of Singapore
Graeme Dinwoodie, Professor of Intellectual Property and Information Technology Law, Faculty of Law, University of Oxford
Megan Richardson, Professor, Melbourne Law School, University of Melbourne
Irene Calboli, Visiting Professor and Deputy Director, ARCIALA, School of Law, Singapore Management University

10.30am – 11.00am Morning Tea Break (Li Ka Shing Library, Level 5, “Quiet Area” Room)
MORNING PARALLEL SESSIONS
(The venue for each session is indicated below)

11.00am – 1.00pm  PARALLEL SESSION 1.A: PATENTS, ENFORCEMENT, AND FRAND STANDARD
(Li Ka Shing Library, Level 5, “Quiet Area” Room)

CHAIR AND MODERATOR
ARPAN BANERJEE, ASSISTANT PROFESSOR, ASSISTANT DEAN AND EXECUTIVE DIRECTOR FOR CENTRE FOR IP RIGHTS STUDIES, JINDAL GLOBAL LAW SCHOOL

PRESENTERS
ANDY CHEN, PROFESSOR AND DEPARTMENT CHAIR, DEPARTMENT OF FINANCIAL AND ECONOMIC LAW, CHUNG YUAN CHRISTIAN UNIVERSITY
JYH-AN LEE, ASSISTANT PROFESSOR, FACULTY OF LAW, CHINESE UNIVERSITY OF HONG KONG
Implementing the FRAND Standard in China
YOGESH PAI, ASSISTANT PROFESSOR, NATIONAL LAW UNIVERSITY DELHI
Some F/RANDom Thoughts on SEPs Litigation in India
CHEN GUO ZHANG, JUNIOR PROFESSOR, CENTRE FOR EUROPEAN LAW AND POLITICS, LAW SCHOOL, UNIVERSITY OF BREMEN
How Efficient is the Judicial Enforcement of Patent Law in People’s Republic of China (PRC) to Deter Patent Infringement?

11.00am – 1.00pm  PARALLEL SESSION 1.B: ONLINE CONTENTS, PRIVACY, AND INNOVATION
(Li Ka Shing Library, Level 5, Learning Lab 1)

CHAIR AND MODERATOR
YAHONG LI, ASSOCIATE PROFESSOR, FACULTY OF LAW, UNIVERSITY OF HONG KONG

PRESENTERS
ELIZA MIK, ASSISTANT PROFESSOR, SCHOOL OF LAW, SINGAPORE MANAGEMENT UNIVERSITY
Contractual Protections of Website Content: Thoughts on Century 21 Canada Limited Partnership v. Rogers Communications Inc.
JILL BRONFMAN, ADJUNCT PROFESSOR OF LAW AND DIRECTOR OF PRIVACY AND TECHNOLOGY PROJECT, HASTINGS COLLEGE OF LAW, UNIVERSITY OF CALIFORNIA
Saving Face: The Screen of Chinese Privacy Law Unfolds
YUAN YUAN CHEN, ASSISTANT PROFESSOR, SCHOOL OF COMPUTING, NATIONAL UNIVERSITY OF SINGAPORE
Online Digital Goods Distribution Models and Copyright Exhaustion in Singapore
RUNHUA WANG, JSD CANDIDATE, COLLEGE OF LAW, UNIVERSITY OF ILLINOIS
Stimulating Technical Innovation by SMEs in China: A Case Study of the Zhongguan-Cun Science Park
11.00am – 1.00pm PARALLEL SESSION 1.C: TRADEMARKS AND MISLEADING ADVERTISING  
(Li Ka Shing Library, Level 5, Learning Lab 2)

CHAIR AND MODERATOR
PEK SAN TAY, ASSOCIATE PROFESSOR, FACULTY OF LAW, UNIVERSITY OF MALAYA

PRESENTERS
BASHAR MALKAWI, DEAN AND PROFESSOR, COLLEGE OF LAW, UNIVERSITY OF SHARJAH
Protection of Well-Known Marks in the UAE: The Policy Debate
IZURA MASDINA ZAKRI, LECTURER, FACULTY OF LAW, UNIVERSITY OF MALAYA
The ‘Targeting’ Approach: Ideal for Internet Jurisdiction and How It Can Be Applied for Online Trademark Infringement in Malaysia
LIZHOU WEI, PHD CANDIDATE, FACULTY OF LAW, LUDWIG-MAXIMILIAN UNIVERSITY OF MUNICH
The Rise and Pitfalls of “Use as a Trademark” Requirement in China
VISUAL MAHALWAR, ASSISTANT PROFESSOR, NATIONAL LAW UNIVERSITY DELHI
Misleading Advertising and Intellectual Property Laws

1.00pm – 2.15pm Lunch (Li Ka Shing Library, Level 5, “Quiet Area” Room)

KEY NOTE PRESENTATION
(Li Ka Shing Library, Level 5, “Quiet Area” Room)

2.15pm – 3.00pm CHAIR AND MODERATOR
CHENG LIM SAW, ASSOCIATE PROFESSOR AND DIRECTOR OF THE LL.M. PROGRAMME, SCHOOL OF LAW, SINGAPORE MANAGEMENT UNIVERSITY

KEY NOTE SPEAKER
SHERIF SAADALLAH, EXECUTIVE DIRECTOR, WIPO ACADEMY, WORLD INTELLECTUAL PROPERTY ORGANIZATION
The WIPO Academy: A Response to a Global Need in IP Training and Education

AFTERNOON PARALLEL SESSIONS
(The venue for each session is indicated below)

3.00pm – 5.00pm PARALLEL SESSION 2.A: COPYRIGHTS IN THE DIGITAL WORLD  
(Li Ka Shing Library, Level 5, “Quiet Area” Room)

CHAIR AND MODERATOR
ANN BARTOW, PROFESSOR AND DIRECTOR, FRANKLIN PIERCE CENTER FOR INTELLECTUAL PROPERTY, SCHOOL OF LAW, UNIVERSITY OF NEW HAMPSHIRE

PRESENTERS
PEK SAN TAY, ASSOCIATE PROFESSOR, FACULTY OF LAW, UNIVERSITY OF MALAYA
Copyright Issues Arising from Data Mining in Malaysia
HAOCHEN SUN, ASSOCIATE PROFESSOR, FACULTY OF LAW, UNIVERSITY OF HONG KONG
Copyright and the Public Interest: A Tale of Two Digital Library Litigations

RANJIT O ABRAHAM, ASSISTANT PROFESSOR, TAMIL NADU DR. AMBEDKAR LAW UNIVERSITY
Legislative Perspectives of Digital Rights Management in the Indian Copyright Amendment Act 2012 – A Critical Analysis

CHENG PENG SIK, LECTURER, FACULTY OF LAW, UNIVERSITY OF MALAYA
Does the Notice and Takedown Procedure under the Copyright Act 1987 Provide a Balance of Interests?

3.00pm – 5.00pm
PARALLEL SESSION 2.B: INVESTMENT TREATIES AND INTERNATIONAL IP AGREEMENTS
(Li Ka Shing Library, Level 5, Learning Lab 1)

CHAIR AND MODERATOR
YOGESH PAI, ASSISTANT PROFESSOR, NATIONAL LAW UNIVERSITY DELHI

PRESENTERS
BRYAN MERCURO, PROFESSOR, FACULTY OF LAW, THE CHINESE UNIVERSITY OF HONG KONG
When Trade Meets Investment: The Continuing Evolution of Patent Provisions in International Investment Agreements

PRATYUSH NATH UPRETI, LECTURER, COLLEGE OF LAW, CHAKRABARTI HABI EDUCATION ACADEMY
Trade Agreement, Investor's Claims & Intellectual Property: An Ugly Turn in Romantic Affair

FRIES MELIA SALVIANA, PhD CANDIDATE, FACULTY OF LAW, AIRLANGGA UNIVERSITY
Intellectual Property as an Investment Instrument in ASEAN Free Trade (AFTA)

GARGI CHAKRABARTI, ASSOCIATE PROFESSOR, NATIONAL LAW UNIVERSITY JODHPUR AND LOPAMUDRA DUTTA, PPTCT CONSULTANT, UNICEF
Analysis of Trans-Pacific Partnership Agreement (TPPA): Impact on Access to Medicine

3.00pm – 5.00pm
PARALLEL SESSION 2.C: 3D PRINTING AND TECHNICAL INNOVATION
(Li Ka Shing Library, Level 5, Learning Lab 2)

CHAIR AND MODERATOR
HSIAO-FEN HSU, ASSOCIATE PROFESSOR, COLLEGE OF LAW, TUNGHAI UNIVERSITY

PRESENTERS
KEITA SATO, PROFESSOR AND DEPARTMENT CHAIR, CHUO LAW SCHOOL, CHUO UNIVERSITY
Scope of the Design Right: Case Study; Design Right for Joy Stick (3D Object) vs. Joy Stick 2D Image on the Computer Display Screen
Hao-Yun Chen, Assistant Professor, Graduate Institute of Patents, National Taiwan University of Science and Technology

A Maker or an Infringer? 3D Printing Technology and Patent Infringing Liability

Kan He, Project Researcher, Department of Commercial Law, Hanken School of Economics

Regulating Terms and Conditions on Licensing of Copyright in the User-Generated Content Platform: the Case of 3D Printing Files

Nobuya Fukugawa, Associate Professor, Graduate School of Engineering, Tohoku University

Impacts of Intangible Assets on Post-Entry Performance of High-Tech Start-Ups: From the Viewpoints of Sectorial and National Innovation Systems

5.00pm – 5.30pm Afternoon Tea Break (Li Ka Shing Library, Level 5, “Quiet Area” Room)

Key Note Presentation
(Li Ka Shing Library, Level 5, “Quiet Area” Room)

5.30pm – 6.15pm Chair and Moderator

Irene Calboli, Visiting Professor and Deputy Director, ARCIALA, School of Law, Singapore Management University

Key Note Speaker

Denis Croze, Director, South Asia Office, World Intellectual Property Organization

Intellectual Property and Multilateralism

6.30pm – 8.00pm Dinner (Li Ka Shing Library, Level 5, “Quiet Area” Room)

End of Day 1
(See next page for the programme for Day 2)
FRIDAY, 29 JANUARY 2016 (DAY 2)

8.30am – 9.00am  REGISTRATION
(Li Ka Shing Library, Level 5, outside “Quiet Area” Room)

PLENARY SESSION
(Li Ka Shing Library, Level 5, “Quiet Area” Room)

9.00am – 10.30am  ROUNDTABLE ON THE PRESENT AND FUTURE OF IP RESEARCH IN ASIA AND BEYOND

CHAIR AND MODERATOR
SIMON SEOW, DIRECTOR, INTELLECTUAL PROPERTY POLICY DIVISION, MINISTRY OF LAW OF SINGAPORE

SPEAKERS
ALISON FIRTH, EMERITUS PROFESSOR, SCHOOL OF LAW, UNIVERSITY OF SURREY AND VISITING PROFESSOR, NEWCASTLE LAW SCHOOL
SUSANNA LEONG, ASSOCIATE PROFESSOR AND VICE-DEAN (GRADUATE STUDIES), NUS BUSINESS SCHOOL, NATIONAL UNIVERSITY OF SINGAPORE
XIUQIN LIN, PROFESSOR AND DEPUTY DEAN, SCHOOL OF LAW, XIAMEN UNIVERSITY
KUNG-CHUNG LIU, EXTERNAL DIRECTOR, ARCIALA, SCHOOL OF LAW, SINGAPORE MANAGEMENT UNIVERSITY
MARY WONG, SENIOR POLICY DIRECTOR, ICANN

10.30am – 11.00am Morning Tea Break (Li Ka Shing Library, Level 5, “Quiet Area” Room)

MORNING PARALLEL SESSIONS
(The venue for each session is indicated below)

11.00am – 1.00pm  PARALLEL SESSION 3.A: PATENT ELIGIBILITY AND TRENDS
(Li Ka Shing Library, Level 5, “Quiet Area” Room)

CHAIR AND MODERATOR
NICK SIM, LEGAL COUNSEL, THE AGENCY FOR SCIENCE, TECHNOLOGY AND RESEARCH (A*STAR)

PRESENTERS
LUNG-SHENG CHEN, ASSOCIATE PROFESSOR, DEPARTMENT OF LAW, NATIONAL CHUNG HSING UNIVERSITY
Gene Patents after the Myriad Decision
ETSUKO YOSHIDA, RESEARCH FELLOW, INTELLECTUAL PROPERTY CENTER, OSAKA UNIVERSITY
A Comparative Law Study on the Patent Eligibility - Focus on Computer Implemented Software Inventions
**Hsiao-Fen Hsu**, Associate Professor, College of Law, Tunghai University  
*Drawing a Line Someplace: Morality and Ordre Public in Intellectual Property Law*

**Tejaswini Yadavalli**, Research Associate, Faculty of Biotechnology, Jawaharlal Nehru Technological University  
*Patenting Trends in Diagnostic and Treatment Strategies of Autism Spectrum Disorders*

11.00am – 1.00pm  **Parallel Session 3.B: Copyright Protection, Exceptions and Limitations**  
(Li Ka Shing Library, Level 5, Learning Lab 1)

**Chair and Moderator**  
Andy Chen, Professor and Department Chair, Department of Financial and Economic Law, Chung Yuan Christian University

**Presenters**

**NaaZima Kamardeen**, Lecturer, Faculty of Law, University of Colombo  
*Going for a Song: The Protection of Copyrighted Material in Sri Lanka*

**David Tan**, Associate Professor and Vice Dean (Academic Affairs), Faculty of Law, National University of Singapore  
*The Unbearable Lightness of Fair Dealing: Towards an Autochthonous Approach in Singapore*

**Raquel Xalabarder Plantada**, Professor and Chair of Intellectual Property, School of Law and Political Science, Universitat Oberta de Catalunya  
*Limitations to Copyright for Teaching and Research Purposes: A Comparative Approach of EU, Asian and North-American Laws*

**Vandana Mahalwar**, Assistant Professor, The Indian Law Institute, New Delhi  
*Protection to Fictional Characters under Copyright Law and the Internal Limitations*

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11.00am – 1.00pm  **Parallel Session 3.C: Regional and National IP Integration in Asia**  
(Li Ka Shing Library, Level 5, Learning Lab 2)

**Chair and Moderator**  
Bryan Mercurio, Professor, Faculty of Law, Chinese University of Hong Kong

**Presenters**

**Yahong Li**, Associate Professor, Faculty of Law, University of Hong Kong  
*Necessity, Challenges, Possibilities and Models of Regional IP Integration in Asia*
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1.00pm – 2.15pm  Lunch (Li Ka Shing Library, Level 5, “Quiet Area” Room)

**KEY NOTE PRESENTATION**
(Li Ka Shing Library, Level 5, “Quiet Area” Room)

2.15pm – 3.00pm  **CHAIR AND MODERATOR**

KUNG-CHUNG LIU, EXTERNAL DIRECTOR, ARCIALA, SCHOOL OF LAW, SINGAPORE MANAGEMENT UNIVERSITY

*KEY NOTE SPEAKER*

MITSUYASU MATSUKAWA, JUDGE, ADMINISTRATIVE AFFAIRS BUREAU OF THE SUPREME COURT OF JAPAN

*IP Litigations in Japan: Recent Trends and Future Perspectives*

**AFTERNOON PARALLEL SESSIONS**
(The venue for each session is indicated below)

3.00pm – 4.30pm  **PARALLEL SESSION 4.A: IP LEGISLATION, ENFORCEMENT, AND CHALLENGES**
(Li Ka Shing Library, Level 5, “Quiet Area” Room)

**CHAIR AND MODERATOR**

RAQUEL XALABARDER PLANTADA, PROFESSOR AND CHAIR OF INTELLECTUAL PROPERTY, SCHOOL OF LAW AND POLITICAL SCIENCE, UNIVERSITAT OBERTA DE CATALUNYA

**PRESENTERS**

ARPAN BANERJEE, ASSISTANT PROFESSOR, ASSISTANT DEAN AND EXECUTIVE DIRECTOR, CENTRE FOR IP AND TECHNOLOGY LAW, JINDAL GLOBAL LAW SCHOOL

*Delhi Belly: Curbing the Appetite for Forum Shopping in India*

MOHAMMAD BASHIR MIA KHADEM, LECTURER, DEPARTMENT OF PUBLIC ADMINISTRATION, UNIVERSITY OF DHAKA

*Learning from Null and Void: The Challenges of Intellectual Property Administration in Bangladesh*
HEE KYOUNG SPIRITAS CHO, ASSISTANT PROFESSOR, COLLEGE OF LAW, HONGIK UNIVERSITY
Governmentality and Innovation: Korea’s IP Foundation Law

3.00pm – 4.30pm PARALLEL SESSION 4.B: INTELLECTUAL PROPERTY PROTECTION IN CONTEXTS: COPYRIGHTS AND GEOGRAPHICAL INDICATIONS
(Li Ka Shing Library, Level 5, Learning Lab 1)

CHAIR AND MODERATOR
JYH-AN LEE, ASSISTANT PROFESSOR, FACULTY OF LAW, CHINESE UNIVERSITY OF HONG KONG

PRESENTERS
ANN BARTOW, PROFESSOR AND DIRECTOR FRANKLIN PIERCE CENTER FOR INTELLECTUAL PROPERTY, SCHOOL OF LAW, UNIVERSITY OF NEW HAMPSHIRE
Reading Lawrence Lessig in Beijing
YANBING LI, RESEARCH FELLOW, ARCIALA, SCHOOL OF LAW, SINGAPORE MANAGEMENT UNIVERSITY
Is Copyright Law Content Neutral: A Comparative Study
JOHN SZU-YUAN WANG, ASSISTANT PROFESSOR, KAINAN UNIVERSITY
GI Protection in Taiwan: Turning a Legal Conundrum into a Policy Tool for Development

4.30pm – 5.00pm Afternoon Tea Break (Li Ka Shing Library, Level 5, “Quiet Area” Room)

KEY NOTE PRESENTATION
(Li Ka Shing Library, Level 5, “Quiet Area” Room)

5.00pm – 5.45pm CHAIR AND MODERATOR
DAVID LLEWELYN, PROFESSOR (PRACTICE) AND DEPUTY DEAN, SCHOOL OF LAW, SINGAPORE MANAGEMENT UNIVERSITY

KEY NOTE SPEAKER
DAREN TANG, CHIEF EXECUTIVE, INTELLECTUAL PROPERTY OFFICE OF SINGAPORE
Completing the Jigsaw: A View of IP Norm-Making in a Decentralized World

6.00pm – 7.30pm Dinner (Li Ka Shing Library, Level 5, “Quiet Area” Room)

CONCLUSION OF THE CONFERENCE
Ranjit O ABRAHAM, Assistant Professor, Tamil Nadu Dr. Ambedkar Law University

Ranjit Oommen Abraham is Assistant Professor in the School of Excellence in Law, Tamil Nadu Dr. Ambedkar Law University, Chennai. He has a post graduate degree in Business Law from the Tamil Nadu Dr. Ambedkar Law University, Chennai. He has submitted his doctoral thesis on the topic titled “Digital Infringement of copyright with reference to Film and Music Industry-A critical study”. He was selected by the U.S. Consulate for the prestigious International Visitor Leadership Program in Intellectual Property Rights for the year 2008. He has presented around 20 articles in national seminars’- and conferences. He has also published various articles in journals related to Intellectual Property Rights. He has served as a Project Leader for the FSTP IPR project executed by Tamil Nadu Dr. Ambedkar Law University and Teles Inc Germany. He has presented many papers on IPR in various seminars-, and conferences. He has visited numerous law schools in the U.S. and held discussions with the USPTO IPR desk of the Department of State, U.S.

Arpan BANERJEE, Assistant Professor, Assistant Dean & Executive Director for Centre for Intellectual Property & Technology Law, Jindal Global Law School

Arpan Banerjee is Assistant Professor and Assistant Dean at Jindal Global Law School, India. At Jindal, Arpan serves as the Director of the Centre for Intellectual Property & Technology Law. Arpan is also affiliated with the Centre for Intellectual Property Research at the Maurer School of Law, Indiana University Bloomington. Arpan has published in leading journals and received
a number of fellowships and grants. Before joining academia, Arpan practised law full-time. He worked on a broad range of IP litigation and prosecution matters. He advised clients ranging from Fortune 500 companies to small enterprises. Arpan is a graduate of the National University of Juridical Sciences, Calcutta and King’s College, London.

Ann BARTOW, Professor of Law & Director, Franklin Pierce Center for Intellectual Property, School of Law, University of New Hampshire

Ann Bartow is the Director of the Franklin Pierce Center for Intellectual Property and Professor of Law at the University of New Hampshire School of Law in Concord, New Hampshire, U.S. She is a graduate of Cornell University and the University of Pennsylvania Law School. She teaches an array of courses including Copyright Law, Trademark Law, Patent Litigation, Art Law, Cyberspace Law and Intellectual Property Law Survey. Her scholarship focuses on intellectual property law doctrine, theory, and public policy. She sometimes writes about feminist legal theory and ways in which it intersects with intellectual property constructs. She spent the 2011-12 academic year as a Fulbright Distinguished Lecturer at Tongji University in Shanghai, China.

Daniel Z. BERNARDO, Policy Analyst, Office of the Special Envoy on Transnational Crime, Office of the President, University of the Philippines-Diliman

Daniel Zamora Bernardo is a government practitioner, academician, lecturer, social science researcher, and a Ph.D. student. He is an expert, both in the academic and policy level, in dealing with transnational crime issues particularly with human trafficking, smuggling of migrants, illicit drug trafficking and intellectual property theft. He is currently a policy analyst at the Office of the Special Envoy on Transnational Crime- Office of the President. He is also a Ph.D. student in Philippine Studies major in Foreign Relations at the University of the Philippines-Diliman. He is also in charge of conducting the pre-departure seminar program on transnational crime at Foreign Service Institute- Philippines. Daniel is a former professional lecturer on International Security Studies, Political Parties, and Interest Groups at St. Scholastica’s College in Manila.
Jill BRONFMAN, Adjunct Professor of Law Institute for Innovation Law, Director of Privacy and Technology Project, Hastings College of the Law, University of California

Jill Bronfman is the Director of the Privacy and Technology Project at the Institute for Innovation Law and Adjunct Professor of Law in Data Privacy and Compliance at the University of California Hastings College of the Law. She was named in The Recorder’s 2014 list of the 50 Women Leaders in Tech Law. Previously, she was an Assistant General Counsel and Network Security and Privacy Subject Matter Expert for Verizon in the San Francisco office. At Verizon, she designed and moderated several in-house training programs in data security, compliance, and intellectual property. She has presented on privacy and security issues at the RSA and International Association of Privacy Professionals (IAPP) conferences in Spring 2015 as well as ISACA for Fall 2015, and has had papers accepted for Berkeley Law Privacy Law Scholars Conference (PLSC) and Amsterdam Privacy Conference (APC2015). Her law review article, “Weathering the Nest: Privacy Implications of Home Monitoring for the Aging American Population,” is forthcoming in the Duke Law and Technology Review.

Irene CALBOLI, Visiting Professor and Deputy Director, ARCIALA, School of Law, Singapore Management University

Irene Calboli is Lee Kong Chian Fellow, Visiting Professor, and Deputy Director of the Applied Research Centre for Intellectual Assets and the Law in Asia (ARCIALA), School of Law, Singapore Management University. She is also Professor of Law at Texas A&M University School of Law and Transatlantic Technology Law Forum Fellow at Stanford University. From August 2012 until May 2015, she was a Visiting Professor at the Faculty of Law of the National University of Singapore. Irene’s scholarship focuses on the intersection between intellectual property and international trade. She is an elected member of the American Law Institute and currently serves on the Executive Committee of the Intellectual Property Section of the Association of American Law Schools, the Executive Board of the European Policy for Intellectual Property Association (EPIP), and is the Co-Chair of the Professor Membership
Team of the Academic Committee of the International Trademark Association (INTA). She is also a Delegate to the American Society of Comparative Law, and a member of the International Law Association (American and Singapore Branches), the International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP), and the Association Litteraire and Artistique Internationale USA (ALAI-USA).

Gargi CHAKRABARTI, Associate Professor, National Law University, Jodhpur

Gargi Chakrabarti is Associate Professor, Coordinator MHRD Chair on IPR, and Coordinator UGC-GIAN Project at the National Law University, Jodhpur. Her areas of interest include Intellectual Property Law, Cyber Law, Competition Law, and Environment Law. She holds a PhD from NALSAR University of Law, Hyderabad, India and an MPhil from National Law School of India University, Bangalore, India. Previously, she was Assistant Professor in NLU Jodhpur, India and in School of Law, Christ University, Bangalore, India; and she was Research Associate, MHRD Chair on IPR, National Law School of India University, Bangalore, India. She was selected as one of the three Researchers from India for International University of Washington – Google Project on Intermediary Liability and her research topics were Intermediary Liability on Hate Speech and Intermediary Liability on Child Protection. She was selected as Visiting Scholar at the School of Law, University of Washington in Seattle in 2015. She has 25 national and international publications to her credit.

Andy CHEN, Professor of Law, Department Chair - Department of Financial and Economic Law, Chung Yuan Christian University

Andy Chen is currently Professor of Law in the Department of Financial and Economic Law at Chung Yuan Christian University in Taiwan. He served as Commissioner of the Taiwan Fair Trade Commission (TFTC) from 2007 to 2010. During his term at the TFTC, he was responsible for the agency’s international affairs, in addition to his case-reviewing obligations. He supervised submissions and led delegates to annual meetings of the OECD Competition Committee in Paris. His familiarity with international competition laws and policies has made
hims a regular speaker on related topics to both government agencies and private companies. He also regularly provides expert testimony in lawsuits and advises the TFTC, regulatory agencies as well as private business. He earned his law degrees from National Taiwan University, Soochow University (Taiwan), Duke University, and Northwestern University (SJD). He has published extensively on antitrust and regulatory issues both in Chinese and English, mainly from the perspective of economic analysis.

Hao-Yun CHEN, Assistant Professor, Graduate Institute of Patents, National Taiwan University of Science and Technology

Hao-Yun Chen is currently working as Assistant Professor in the Graduate Institute of Patent, National Taiwan University of Science and Technology (Taiwan). She received a Doctor of Laws from the Graduate School of Law, Nagoya University in Japan (2014), a Master of Laws in National Taiwan University, Taiwan (2008), and a Bachelor of Laws in National Taiwan University, Taiwan (2005). Previously, she had worked as an associate attorney in a law firm in Taiwan. Her research interests include: intellectual property law (especially patent and copyright law), the relationship between intellectual property law and competition law.

Lung-Sheng CHEN, Associate Professor, Department of Law, National Chung Hsing University

Lung-Sheng Chen is Associate Professor of Law at Department of Law, National Chung Hsing University, Taiwan. He is a scholar whose academic interests focus on intellectual property law and biotechnology law. He holds a joint appointment with National Chung Hsing University Bachelor Program of Biotechnology, teaching lecture classes and seminars that span the intellectual-property spectrum. He has published academic papers in his field and is the author of a patent law textbook offering a concise and deep analysis on Taiwan patent law. He speaks at national and international symposia, conferences, and workshops on intellectual property topics across Taiwan and overseas. He earned his LL.M. and J.D. from School of Law, Washington University in St. Louis, U.S. Prior to his U.S. study, he was a practicing lawyer specializing in litigation and IP related matters.
Yuanyuan CHEN, Assistant Professor, Department of Information Systems, National University of Singapore

Yuanyuan Chen is Assistant Professor in the Department of Information Systems at the National University of Singapore (NUS). She joined NUS in September 2008 after receiving her Ph.D. and LL.M degrees from Emory University. She also holds a LL.M degree from National Huaqiao University and is a certified lawyer in China. Her current research focuses on law and economics of IT and IT-enabled services. Specifically, her research interests include the following three areas: (1) economics of intellectual property; (2) global governance framework for cloud computing; and (3) cybersecurity and data protection. Her research has been published in journals such as Information Systems Research, MIS Quarterly, Journal of Strategic Information Systems, and Journal of Singapore Academy of Law.

Hee Kyoung Spiritas CHO, Assistant Professor, College of Law, Hongik University

Hee-Kyoung Spiritas Cho is a scholar of intellectual property, international trade and international relations. Her current research interests include governmentality and innovation, the regulation of biosimilars, and the interface between the regulation of international trade and intellectual property. She has presented on these and related topics at conferences around the world, including in China and Iran. In addition to her teaching duties, she has served as the director for the University’s international relations. Prior to becoming an academic, she worked as an IP litigator in private practice and as an in house counsel and government affairs specialist for an international media firm. She has significant experience lobbying the EU Commission and the EU Parliament.
Denis CROZE, Director, Singapore Office, World Intellectual Property Organization

Denis Croze is the Director of the Singapore Office of the World Intellectual Property Organization (WIPO), covering the Asia Pacific region since June 2012. Previously, Mr. Croze held several positions at WIPO. He was the Director of the Assemblies and Documentation Affairs Division (AADD) in the Office of the Director General (2010 -2012), the Acting Director Advisor in the Executive Office of Mr. Michael Keplinger, Deputy Director General in charge of the Copyright and Enforcement Sector (2006 – 2009), the Acting Director Advisor in the Executive Office of Mr. Geoffrey Yu, Deputy Director General, Economic Development Sector (2004 - 2006), the Head of the International Law Development Section (2002 – 2004), and the Head of the Trademark Law Section in the Industrial Property Law Division of WIPO (1999 – 2002). From 1996 to 1999, Mr. Croze headed the Multilateral Affairs Department of the French Patent and Trademark Office (INPI) in Paris, France. He was also a WIPO Consultant to set up the WIPO Mediation and Arbitration Center from 1994 to 1996.

Graeme DINWOODIE, Professor, Faculty of Law, University of Oxford

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Daren Tang is the Chief Executive of IPOS. Prior to his appointment in 2015, Mr. Tang was IPOS’ Deputy Chief Executive (DCE) and helmed the Registries Cluster which was responsible for the development and operationalisation of Singapore’s IP regulatory framework. He oversaw the republic’s IP policy and legal regime development, and is currently co-leading major reviews of its copyright and design regimes. Mr. Tang represented Singapore in international IP negotiations with the World Intellectual Property Organization (WIPO). He also chaired the IP negotiations in major Free Trade Agreements, such as the Trans-Pacific Partnership (TPP) agreement, and the Regional Comprehensive Economic Partnership (RCEP) agreement. Formerly, he was a Senior State Counsel with the Attorney-General’s Chambers, where he led services negotiations in the US-Singapore FTA, and was part of the legal team that argued Singapore’s case before the International Court of Justice relating to the sovereignty of Pedra Branca. Mr. Tang holds a LLB (2nd Upper, Hons) from the Faculty of Law, National University of Singapore, and an LL.M (with distinction) from the Georgetown
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Pratyush Nath Upreti is a Lawyer at Upreti & Associates, a Kathmandu based law firm, where he is leading Commercial and Research Department. He is also Lecturer of Intellectual Property Law at Chakrabarti Habi Education Academy, College of Law. Besides this, he is also an executive member of ‘New IP Lawyer’s Network’, a wing of school of Law and its research centre SCule (Science, Culture and the Law) under University of Exeter, United Kingdom. In his short career, Upreti has advised Government of Nepal, INGOs, companies, stakeholder’s, and other’s on several issues. He regularly writes for The Kathmandu Post and contributes several articles at National and International Journals and Newspapers. He has earned his Bachelor of Science & Bachelor of Law (BSc.LLB (Hons)) from India and LLM Intellectual Property Law &
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Runhua Wang is a third year J.S.D candidate from the University of Illinois College of Law. She completed her LL.M. at the same law school, and double-majored in Industrial Engineering and Law in Beihang University in China. Her area is in law and economics, IP, government grants, and corporate finance. Her thesis is about stimulating technical innovation by small and medium-sized enterprises in China. It is a case study and covers all of the listed SMEs in the secondary boards of Shenzhen Stock Exchange from Beijing and Shanghai as the observations, and the duration of data in the study is from 2009 to 2013. Based on this topic, her research covers the concerns of patents, software copyrights, government grants and various subsidies, and financial policies and regulations.

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Szu-Yuan Wang obtained his LLB degree from National Taiwan University. He later attended an LL.M program in Roman law and European legal history at the University of Glasgow. He holds a Ph.D degree from Newcastle University. His thesis examined the theoretical foundation of intellectual property and explored the possible location of geographical indications in the IP territory. He has been a member of the Ius Commune Research School since 2008. Dr. Wang is currently serving as Assistant Professor at Kainan University, Taiwan. He teaches intellectual property law, company law, legal English, and International Honorary Program, a program specifically designed for international students. He has broad research interests, ranging from intellectual property law, law and economics, cultural property law, traditional and indigenous knowledge protection, and legal history.
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Mary Wong is Senior Policy Director with the Internet Corporation for Assigned Names & Numbers (ICANN), in which capacity she handles global policy development work relating to the coordination and management of the Internet domain name system. Prior to joining ICANN, she was a tenured Professor of Law at the University of New Hampshire School of Law (formerly the Franklin Pierce Law Center), a top-ten-ranked intellectual property law school in the U.S. where she was the Founding Faculty Director of its flagship applied research center for intellectual property, the Franklin Pierce Center for Intellectual Property. At UNH Law, Mary was also the Faculty Chair for Global Intellectual Property Partnerships and Chair of the Graduate Intellectual Property Program. Mary has previously been associated with the international law firm of Morrison & Foerster LLP, resident primarily in its New York office as Special Counsel to the firm’s Technology Transactions Group. She was also a law professor in her native Singapore, first at the National University of Singapore and then at Singapore Management University, where she taught specialist courses in intellectual property, Internet and business law. Mary is a frequent speaker at academic and industry conferences worldwide, and has authored numerous articles in law reviews published in Singapore, Australia, and the U.S.
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Tejaswini Yadavalli worked as a Senior Research Fellow (2010-13) in VMRC Centre for Genetic diagnosis and Molecular Medicine Department for a project titled “Molecular genetics study of β- Amyloid precursor protein in different neurological disorders including Autism” funded by Indian Council of Medical Research (ICMR 54/12/2008-BMS). She is currently a Phd Scholar in Biotechnology Department from Jawaharlal Nehru Technological University, Hyderabad, India a part from this she holds P.G. Diploma in Patents Law (Nalsar University and has successfully completed certificate courses on “Patent Information Search” awarded from WIPO. Her interest towards Intellectual property Management prompted her to join Indian Institute of Oilseeds Research in Technology transfer division as a Research associate. Her work focuses mainly on conducting technical, patent and non-patent literature searches,
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Tiong Min YEO, Professor and Dean, School of Law, Singapore Management University

Professor Yeo Tiong Min obtained his undergraduate law degree from the National University of Singapore and postgraduate qualifications from the University of Oxford. He had taught at the National University of Singapore before joining the Singapore Management University in 2007, when the School of Law was launched, as its first Yong Pung How Professor of Law. He was appointed Dean of the School of Law on 1 July 2012. His research interests are in private law, with a concentration in private international law. His published works have been widely cited by academics and courts. He was conferred the Singapore Law Merit Award by the Singapore Academy of Law in 2008 for his contributions to the development of Singapore law. He was awarded the Public Service Medal in 2011 for his services to the Singapore Academy of Law. He is a board member and Professorial Fellow of the Singapore Institute of Legal Education. In 2012, he became the first person in Singapore to be appointed Senior Counsel (honoris causa) for outstanding contributions to the development of the law and the legal profession in Singapore.

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Chengu Zhao (Coco), LL.M. is currently Junior Professor at the Law School of University Bremen, Germany, Centre of European Law and Politics. She is leading a project concerning the enforcement of Intellectual Property Law in China and EU. She is also affiliated research fellow at the Max Planck Institute for Innovation and Competition in Munich. Her interests lie in the international, political, theoretical, and instrumental facets of the IP law with emphasis on China and EU. After she graduated from Tsinghua University, China (Bachelor of Law) and University Frankfurt (Master and Ph.D.) in Germany, she worked as a lawyer for years, before she went back to the academic career track. She wrote columns for legal magazines, translated classic works of jurisprudence from German to Chinese, and published comments on literary works as well. Her latest publications involved papers on the sui generis right of traditional knowledge and folklore in developing countries, the three-step test and fair-use doctrine for more openness in copyright law, basic theory of EU IP Law, the third amendment of the PRC Copyright Act as well as the PRC Copyright Act. She teaches at the University Bremen International and European Intellectual Property Law.

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Anlei Zuo is a PhD candidate at the University of Hong Kong, Faculty of Law. He holds a LL.M. from the National University of Singapore and was a guest researcher at Max Planck Institute for Innovation and Competition in Munich. His main research fields are International Intellectual Property Law, Public International Law, and Global Governance.

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Ranjit O ABRAHAM, Assistant Professor, Tamil Nadu Dr. Ambedkar Law University

Title: *Legislative Perspectives of Digital Rights Management in the Indian Copyright Amendment Act 2012 – A Critical Analysis*

Abstract
The copyright legislation in India is one of the most remarkable and dynamic legislation that encompasses technological changes within its contours swiftly. The present copyright amendment was actuated by the government of India in order to make the Indian copyright law compliant with the WIPO copyright treaty (WCT) and the WIPO Performance and Phonograms treaty (WPPT) although India is not a signatory to both the treaties. This copyright amendment has embarked the concept of digital rights management, technological protection measures and anti-circumvention measures in the Indian Copyright scenario. The stimulus behind India’s copyright amendment on Digital Rights management was the profuse demand and compulsion of the powerful industrial lobbying groups. The concept of Digital Rights Management and its implications has not been examined and analysed by the Indian Parliament before enacting these amendments and the Indian legislative machinery is totally bereft of the situation wherein it is imperative to balance the rights of copyright holders through DRM. The dual punch relating to constraints for innovation relating to such copying technologies and dissemination of information is a matter of concern for the knowledge crusaders and innovators as it subtly supersedes the fair use provisions. The international developments relating to DRM and copyright should have given warning signal to the Indian legislators but unfortunately they neither avoided public reaction nor legislative actions and as a result there is a scope for various stakeholders to criticize the Indian Copyright legislative amendments.

This paper attempts to analyse the need for DRM provision and to ascertain the appropriate legislative perspective of DRM in Indian copyright regime and gives suggestions to incorporate provisions which would strike a balance between the inevitable DRM provisions and the fair use by genuine stakeholders of such copyrighted work. This paper also compares the issues pertaining to DRM in other countries and the judicial approach on DRM provisions is analysed so as to understand the possibilities of various difficult circumstances that might prevail in Indian scenario.

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**Arpan BANERJEE**, Assistant Professor, Assistant Dean & Executive Director for Centre for Intellectual Property & Technology Law, Jindal Global Law School

**Title:** *Delhi Belly: Curbing the Appetite for Forum Shopping in India*

**Abstract**

Forum shopping refers to the strategy of a plaintiff to “have his action tried in a particular court or jurisdiction where he feels that he will receive the most favorable judgment or verdict.” The term is typically used when a plaintiff seeks to bypass the “natural forum” for a dispute, and is motivated by factors ranging from favorable laws to juror biases. In the case of IP litigation, forum shopping at a domestic level is fairly common.

In the US, plaintiffs have sued in courts based on factors such as “home-field advantage,” the “convenience of trial counsel,” and the speed with which courts disposes of cases. In China, foreign IP owners have sued in large cities like Beijing and Shanghai, as they are often headquartered there and these cities purportedly have judges familiar with sophisticated patent law concepts. Italy has seen a case where a plaintiff domiciled, near Milan, sued an alleged trademark infringer, domiciled in Venice, in Milan. A global study has advised that domestic forum shopping should be used as a tactic by IP owners wherever possible. Forum shopping is problematic for various reasons, theoretical and practical reasons.

This paper will discuss the problem of forum shopping in IP infringement cases in India — focusing on trademark and copyright infringement. The reason for focusing on trademark and copyright infringement is that there has historically been very little patent litigation in India, and Indian patent legislation also does not offer the same opportunities for forum shopping as Indian copyright and trademark legislation does. I will particularly focus on the disproportionate number of cases filed before the Delhi High Court at first instance. I will investigate the causes of this trend, and search for solutions to curb forum shopping.

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**Ann BARTOW**, Professor of Law & Director, Franklin Pierce Center for Intellectual Property, School of Law, University of New Hampshire

**Title:** *Reading Lawrence Lessig in Beijing*

**Abstract**

Lawrence Lessig’s most famous book, *Code: And Other Laws of Cyberspace*, correctly asserted in 2000 that cyberspace was not unregulable; it was only code, the software and hardware that make cyberspace what it is, that created that preliminary illusion for a brief interlude. That code can also create a place riddled with oppressive intrusions is aptly demonstrated by Chinese internet, where online behavior is rigorously monitored and as stringently controlled as Internet technologies allow.

In 2005, Lessig published *Free Culture: The Nature and Future of Creativity*. In this book he argued that copyright law is unbalanced, favoring the interests of corporate content owners
over the interests of creators and consumers, and stifling technological and artistic innovation. "Free Cultures are cultures that leave a great deal open for others to build upon," declared Lessig, adding: "Ours was a free culture. It is becoming less so." His view of strong copyright law regimes is that they lock down culture and discourages the creation of new imaginative or inventive works. Lessig touts productive piracy as a manifestation of the openness which is a necessary precondition to breakthrough creativity in terms of both new content itself, and new content delivery.

However, actual evidence that he is correct about the positive effects of piracy is far more equivocal than his theories about the malleability and controllability of code. China presents an extreme example of a nation that has high rates of piracy, but is far from being a free culture or artistically productive society. While piracy leads to vast and unfettered consumptive freedom in China, it probably also depresses the demand for some domestic creative works, which in turn adversely affects the supply of them. In Free Culture Lessig vehemently criticized large scale for-profit pirates, writing: “All across the world, but especially in Asia and Eastern Europe, there are businesses that do nothing but take others people’s copyrighted content, copy it, and sell it—all without the permission of a copyright owner. The recording industry estimates that it loses about $4.6 billion every year to physical piracy (that works out to one in three CDs sold worldwide). The MPAA estimates that it loses $3 billion annually worldwide to piracy. This is piracy plain and simple. Nothing in the argument of this book, nor in the argument that most people make when talking about the subject of this book, should draw into doubt this simple point: This piracy is wrong.” (Lessig, Free Culture at 63.)

But it is this very piracy that gives Chinese citizens their access to most of the foreign books, movies, music, television programs, video games and computer software that interest them. The vast majority of foreign creative works are not officially authorized for distribution by the Chinese government, so piratical availability is the only option. Lessig simultaneously acknowledged that gaining access to copyrighted content that is not otherwise available, though still technically a violation of copyright, has an economic harm of zero because the copyright owner could not otherwise sell the content, and can be highly rewarding. He described unauthorized sharing when that is the only means of access as “illegal, yet good for society (since more exposure to music is good) and harmless to the artist (since the work is not otherwise available).”

Thus the general Lessig position is very much in favor of the access to information that piracy provides individuals who would otherwise be denied it. The Chinese government officially regulates information so extensively, the only way that most foreign creative works are available to most Chinese is through piracy. This is what makes both piracy and Lessig so popular among those who study and practice copyright law in China.

This essay argues that Lessig’s work ultimately offers an account of piracy that legitimizes piracy as an instrument of access that educates and informs consumers, and conterminously provides an extensive if unofficial global public domain that Chinese creators can cultivate and reap for the benefit of Chinese culture.

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Title: Philippine IP Code and ASEAN Integration

Abstract
The Philippines upholds the importance of protecting intellectual property ownership, as one of the core pillars of country’s economic progress. The Philippines recognizes the creation of stronger regional ties within the ASEAN region in order to combat the counterfeiting and trafficking of illicit goods and intellectual properties especially in the context of transnational crime. With the establishment of the ASEAN Framework Agreement on Intellectual Property Cooperation, ASEAN Member States are encouraged to foster closer cooperation and understanding in the field of intellectual property.

This study examines the Philippines commitment, as a Member State in complying with the ASEAN Framework on Intellectual Property Cooperation. The Philippines as a developing country is subject to various cases of intellectual property counterfeiting and illicit trade cases due to its economic condition, trade exchange environment and geographical location which are taken advantaged by producers, distributors and transnational organized groups on intellectual property theft. This process has impeded the Philippines to attract foreign trade and investments and latter harms the country’s economic development. Not only the Philippines, but also its neighbouring countries within the ASEAN region in general also experience the same kind of problems in the field of intellectual property.

With the adoption of the Intellectual Property Code of the Philippines or Republic Act No. 8283, this law institutionalized the proper safeguarding of intellectual and industrial property system in the Philippines in order to guarantee the development of domestic and creative activities, facilitate transmission of technology, entice foreign investment and ensure market access in products and goods. The law also formed the Intellectual Property Office in the Philippines that would serve as the primary agency and council that would administer the registration and regulation of intellectual goods, exercise intellectual property laws and monitor activities concerning any forms of intellectual property theft.

The study is geared in assessing the effectivity of the Intellectual Property Code of the Philippines in terms of the following a.) enforcement of its legal instruments, b.) prosecution of offenders, c.) operational capacity building and interagency mechanisms between government agencies and business sectors, and d.) creating national awareness and regional partnership in further solving intellectual property theft issues. This national initiative is also anchored with the Philippines commitment in abiding to the ASEAN Framework Agreement on Intellectual Property Cooperation especially with the formation of ASEAN integration: political negotiation and economic trade becomes more open and liberal; and security issues such as intellectual property theft, as a transnational crime becomes immanent with the organization of inter-border exchanges.

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Abstract
Privacy is often a subjective value, taking on meaning from specific social, historical, and cultural contexts. Western privacy scholars have so far generally limited academic study to focus on Western ideals of privacy. However, privacy – or some notion of it – can be found in almost every culture and every nation, including the growing economic powerhouse that is the People’s Republic of China. Focusing on China as a case study of non-Western privacy norms is important today, given the rapid rise of the Chinese economy and its corresponding impact on worldwide cultural norms and law. Simply put, it is naïve to believe that privacy law will develop in the near future without the influence of China.

First, though China does not have a developed body of privacy law, any privacy laws China chooses to implement now and in the future will certainly affect business and organizations seeking to invest in and engage with Chinese consumers. With the size and economic impact of the Chinese consumer base, international technology organizations would be remiss in ignoring the development of Chinese privacy laws.

Second, understanding Chinese conceptions of privacy is crucial to the study of international privacy law. China has a great deal of influence in the Asian region, which is particularly important given the somewhat unclear status of the APEC Privacy Principles.

Given the long-arm reach of many nations’ privacy laws (particularly the EU’s current and proposed regulations), several signs indicate that China may follow the EU’s example in enforcing its privacy laws worldwide. For these reasons, it is imperative that privacy scholars and practitioners pay close attention to the field of Chinese privacy law. As Chinese privacy laws today are still fairly underdeveloped, now is the time to carefully study how cultural norms have impacted the development of Chinese privacy law thus far and how future regulations can and should develop, given Chinese cultural foundations of privacy.

This paper will attempt to illuminate the state of privacy law in China, by evaluating current legal developments, exploring cultural and historical perceptions of privacy, and analyzing how China’s unique perceptions of privacy may influence the future development of new norms in China’s growing privacy regime. In particular, this paper looks to the significant contrast between traditional Western ideals of privacy as an individual right and traditional Chinese ideals of privacy related to the concepts of “saving face” and community values, ultimately leading to recommendations for future data regulation policies based on the unique cultural and historical values of Chinese perceptions of privacy.

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Title: Analysis of Trans-Pacific Partnership Agreement (TPPA): Impact on Access to Medicine

Abstract
The Trans-Pacific Partnership (TPP) Agreement was signed on Oct 5, 2015. The signing of the TPP represents the historic reality that the Asia-Pacific region is a large and growing market. It also highlights that this region has now become the chosen target of manufactured goods, agricultural products and service providers of multinational corporations. TPP is a trade agreement between 12 Asia-Pacific Countries; namely, United States of America (US), Australia (AU), New Zealand (NZ), Brunei Darussalam (BN), Canada (CA), Mexico (MX), Chile (CL), Peru (PE), Japan (JP), Malaysia (MY), Singapore (SG), Vietnam (VT).

In November 2009 President Obama had declared intention of USA to negotiate Trans-Pacific Partnership with the aim of boosting US economic growth and creation of high-quality job opportunities for the Americans. But the impact on this agreement on access to medicine is still unclear.

It is estimated by several public health organizations that TPPA will create severe negative impact on access to medicine. Provisions in the TPP may initiate issues like inflation of patent monopoly rights, limit flexibilities, and may also facilitate abuse of the patent system. Longer, broader, and stronger patent monopolies used to reduce generic competition and increase drug costs for families and national health programs. When one drug is under patent, generics cannot enter the market for 20 years, until the patent validity is over. Price of patented medicine is a major factor affecting the accessibility and affordability of medicine for human society; and entry of generic medicine has an unavoidable impact on lowering the price of medicine.

The TPP Agreement contains certain provisions which may cause the delay of generic entry into market; hence the lowering of price of patented medicine by generic competition will be delayed, and it will prevent in turn the patients and government treatment program from accessing the affordable medicine. The TPP provisions may delay the generic entry into the market by creating following obstacles: extension of patent term more than 20 years; patenting of known medicines with new form or with new use; and provisions of data exclusivity and patent linkage provisions.

The aim of this article is to analyze the provisions of the TPPA, specifically in relation to the TRIPS Agreement minimum standard to find out its compatibility in terms of public health need. Hence, this article will analyze the provisions of TPP Agreement Drafts, compare the provisions with relevant articles/sections of the domestic legislations, will try to find out the possible impact of the provisions on access to medicine.

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Title: Patent Assertion Entities in Merger Review: Issues of Characterization and Remedies

Abstract
Patent Assertion Entities (PAEs) have received a substantial amount of attention from antitrust and intellectual property (IP) scholars. A significant portion of this rapidly growing literature highlights the competitive harms caused by the strategic aggregation and aggressive assertion of patent rights by PAEs.

However, a more interesting question from the perspective of competition law is whether these alleged harms are attributable to the identity of being a PAE itself, and if they would challenge the existing antitrust analytical framework. After all, the study of competitive harms from the strategic utilization of property rights could be anchored in the broadly defined and widely debated “raising rivals’ cost” (RRC) theory. Treating PAEs as an emerging topic for competition law requires showing how the status of being a PAE would aggravate the competitive harms caused by an action as compared with when the same conduct is undertaken by non-PAEs. Closely related to this proposition is the issue of characterization: when are patent holders qualified as PAEs? Few current studies attending to this question provides operational answers.

In 2014, the Taiwan Fair Trade Commission (TFTC) approved the sale by Nokia of its mobile-phone division to Microsoft. However, the TFTC elevated the commitment that Nokia made to the standard-setting organizations (SSOs) to charge “Fair, Reasonable, and Nondiscriminatory” (FRAND) royalties for Nokia’s standard essential patents (SEPs) as a remedy conditional to its approval. Central to the TFTC’s concern was that after the merger, Nokia would no longer need to be cross-licensed for the SEPs held by competing device manufacturers and would be relieved from the pressure of retaliatory cross-licensing royalties. Nokia may become a PAE and focus predominantly on charging excessively high royalties that harm consumers and exclude competitors.

In this paper, we use the case to discuss the issue of PAE characterization arising from merger reviews on asset disaggregation by SEPs owners. We intend to show that the TFTC failed to provide persuasive legal and economic arguments to substantiate their view of PAE transformation and the necessity of imposing FRAND commitment as merger remedies.

We then offer our thoughts on the viability of establishing specific criteria for characterizing PAEs and their potential limits. The theoretical and practical problems associated with the FRAND remedy and the derivable policy implications from our study are discussed at the end of this paper.

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Title: A Maker or an Infringer? 3D Printing Technology and Patent Infringing Liability

Abstract
This paper focuses on the emerging patent infringement issues concerning 3D printing technology, and conducts a legal analysis on the potential conflict between protection of patent rights and non-commercial private use in the context of 3D printing technology. 3D printing technology is a general term applied to manufacturing technologies encompassing various manufacturing methodologies.

Many countries have been gradually paying more attention to the accelerated development of 3D printing technology, which is changing the way of manufacturing and has the potential to enhance domestic manufacturing competitiveness. Irrespective of exciting possibilities 3D printing technology offers, such technology, however, makes it much easier for users to infringe other’s intellectual property rights. Among the myriad legal issues associated with 3D printing, this article focuses on the related issues of patent infringement.

Generally, there are two major characteristics of 3D printing that bring challenges to patent laws.

First, 3D printing enables “digital manufacturing” and distribution of “virtual objects” via the Internet. By scanning existing patented products or key parts of patented products with a 3D scanner, anyone can effortlessly create CAD files of the patented products or key parts of such. These created CAD files can be immediately delivered globally through the internet. Anyone having these CAD files can effortlessly “print” the patented products or key parts with a 3D printer. This process thus increases the possibility for users to infringe other’s patent rights intentionally or by negligence.

Second, “personal manufacturing” is achieved by means of 3D printing technology. Cheaper, smaller, and more user-friendly 3D printers are available for private individuals, and there are several online platforms which allow anyone to upload and download designs of a wide variety of objects that can be manufactured with a 3D printer. In these circumstances, end users are expected to play an increasingly conspicuous role in patent law disputes ever than before.

Facing these new challenges brought by 3D printing technology, how should patent laws respond to them? This article provides a comparative study of the Patent Act in Taiwan and Japan concerning issues of 3D printing and patent infringement. Part II briefly explains the manufacturing process of 3D printing. Part III examines potential patent infringement liabilities that may occur in each step of the 3D printing process explained in the Part II, especially those related to digital manufacturing. Part IV discusses the rising of end-user infringement and its impact of on the Patent Act.

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Title: Gene Patents after the Myriad Decision

Abstract
In 2013, the United State Supreme Court’s decision on Association for Molecular Pathology v. Myriad Genetics, Inc. (hereinafter Myriad) has drew the public’s discussion on the issue of patent eligibility of human genes. Gene patents, or patents attempting to claim a DNA or nucleotide sequence (hereinafter “Gene Patents”) have always been controversial. Proponents advocate that gene patents give inventors powerful incentives in genetic research. Opponents, however, argue that gene patents can restrict patient access to genetic diagnostic tests. Others object to gene patents because such patents potentially impede the progress of future research.

Myriad Genetics, a private biotechnology company, isolated the BRCA1 and BRCA2 genes associated with breast cancer and obtained patents in the U.S., Australia and Europe. The U.S. courts in the Myriad case have exemplified these concerns. The Supreme Court has interpreted the patentable subject matter broadly to include “anything under the sun that is made by man.” Therefore, a natural substance such as a gene in its natural form is barred from patent protection. However, the Supreme Court held in the Myriad case that a patent application claiming a purified and isolated form of a gene or the protein it creates, i.e., DNA, is a product of nature and therefore cannot be patented.

This paper examines the legal and policy issues arising out of gene patents in light of the Myriad case. It begins with a brief overview of gene patents and outlines the basic patentability requirement under the U.S. Patent Law. It will also discuss the alleged problems created by gene patents in view of the Myriad decisions, particularly focusing on the policy concerns of gene patent debates as well as the issue of patent eligibility. Finally, this paper proposes recommendations to the competing interests of patient access to beneficial technologies and gene patenting.

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YuanYuan CHEN, Assistant Professor, Department of Information Systems, National University of Singapore

Title: Online Digital Goods Distribution Models and Copyright Exhaustion in Singapore

Abstract
Advancements in information technology have changed dramatically the manner in which copyrightable works are being distributed and consumed over the Internet. We have seen a decrease in the use of tangible media for the distribution of copyrightable works since the invention of the internet.

Instead, copyrightable works such as software, music, films, games or e-books are sold or distributed over the internet by the process of downloading or streaming either for
permanent or temporary use. Patented technologies from big online retailers such as Amazon and Apple as well as smaller start-ups like ReDigi and ReKiosk are paving the way for the creation of a digital resale marketplace.

Different online digital goods distribution models have emerged to offer consumers with different modes of accessing and consuming copyrightable works. The emergence of these online digital goods distribution models has brought to focus the interface between technology and copyright once again. One difficult issue which has arisen is whether copyright exhaustion principles are applicable in online context and if they are, what are the implications for copyright owners and users. Interesting judicial developments have taken place recently, with the courts in the United States and in the European Union seemingly taking different positions on the online copyright exhaustion issue.

This paper studies the issue of online copyright exhaustion by considering the merits and demerits of adopting a similar policy of exhaustion in the online context and makes recommendations for law reforms in Singapore based on legal, economics, and technical reasoning. As government authorities are presently in the process of reviewing the state of copyright law in Singapore and courts in Singapore have also not had an opportunity to consider the issue of online copyright exhaustion, it is hoped that the discussions in this paper would provide useful starting points in the deliberation and resolution of this issue in Singapore.

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Hee Kyoung Spiritas CHO, Assistant Professor, College of Law, Hongik University

Title: Governmentality and Innovation: Korea’s IP Foundation Law

Abstract
Governments of all shapes and sizes are seizing on innovation as the key driver for economic growth for the twenty-first century. They pursue and implement various policies in order to spur innovation. But unlike tonnes of steel, barrels of oil or yards of yarn, innovation, as such, is a concept hard to quantify or to measure. This poses a problem for governments since without measurements, it is difficult to go about the business of governing.

As a result, innovation is often indirectly measured by mapping it to what is taken to be its closest approximation – that is, intellectual property, particularly of the registrable kind. Hence, countries endeavouring to foster innovation legislate laws to implement they believe are designed to promote the production and protection of intellectual property.

Korea’s Intellectual Property Foundation Law (Jishikjaesan Gibonboeop) of 2010 is one such piece of legislation. In this presentation, I will explain the background to the KIPFL, outline its salient features and assess its contribution in terms of governmentality and innovation.

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Nobuya FUKUGAWA, Associate Professor, Graduate School of Engineering, Tohoku University

Title: Impacts of Intangible Assets on Post-Entry Performance of High-Tech Start-Ups: From the Viewpoints of Sectorial and National Innovation Systems

Abstract
Impacts of intangible assets on post-entry performance, measured by initial public offering (IPO), of high-tech start-ups are examined. First, the firm-level factors, such as R&D intensity, and the individual-level factors, such as entrepreneur’s inclination to firm growth, positively affect IPO. Second, patents and university linkages are important for start-up growth in science-based sectors, such as drugs. This finding is consonant with the insights from sectoral systems of innovation. This also pertains to the concept of national systems of innovation, particularly to the promotion of university spill over. The results suggest that the national innovation system reform, including the promotion of university patenting, since the late 1990s may have had university spill over into biomedical start-ups greater, which enabled them grow faster.

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Kan HE, Project Researcher, Department of Commercial Law, Hanken School of Economics

Title: Regulating Terms and Conditions on Licensing of Copyright in the User-Generated Content Platform: the Case of 3D Printing Files

Abstract
‘User-generated content’ (UGC) platform is designed and used to share digital content. It is widely used in sharing online videos and digital books. It now becomes one important media for the users to promote their creation. It can be expected that this kind of platform may be used in 3D printing in the form of sharing CAD files in the future.

One important issue in operating such platform is the licensing of copyright right since most of the CAD files in these platforms can be protected by copyright. This is largely determined by the agreements between the online platform operators and users.

In order to reduce the transaction costs and other operating costs, a standard terms and conditions on licensing of copyrights is commonly used by online platform operators. These terms and conditions affect the rights and obligations of the parties involving in the platform especially the users. It may sometimes cause the problem of ‘license misuse’, namely, the licensee uses its bargaining power to harm the interests of the licensor.

In this work-in-progress article, it tries to answer the question whether it is necessary or under which rationale shall the terms and conditions on licensing of copyright be regulated by or in other words, intervened. If the answer is affirmative, what reasonable policy options the government may take.
The reason to choose 3D printing file as a case is that this file normally contains multiple copyrights that shall license accumulatively, which makes it even difficult to formulate the terms and conditions. And it may affect the future.

Since it is assumed that such terms and conditions are recognized as an agreement between the parties, the freedom of contract may be the basis for making these agreements. This requires no or limited intervention on the agreements. However, in this article, the author try to argue that the assumption of freedom of contract may not hold true in the filed of UGC platform with the change progress of the negotiation from the perspective of interests. It shall impose some limitations on the freedom of contract.

Then the question shifts from why to regulate to how to regulate. Several options can be proposed. From the legislative perspective, certain ‘black list’ terms and conditions or certain compulsory clauses shall be introduced in the laws. From administrative perspective, it may request certain agencies to check on the terms and conditions that may be used largely. From self-regulatory perspective, it can promote the collective negotiations to make the terms and conditions more fair and flexible.

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Hsiao-Fen HSU, Associate Professor, College of Law, Tunghai University

Title: Drawing a Line Someplace: Morality and Ordre Public in Intellectual Property Law

Abstract
The notions of morality and ordre public criteria have a long tradition in most systems of patent and trademark law, in particular, European and Asian countries. This shows that industrial creations must be compatible with the basic rules of society, like any other social activities. In modern patent law, especially in Europe, morality and ordre pubic criteria have been revived in the context of biotechnological inventions by taking into account the new concepts into Patent Law, such as bioethical and environmental concerns.

Compared to their previous use, the new morality and ordre public criteria are softer in their control function and have a more protective aspect. However, the notions of morality and ordre public could have different function and meaning in Trademark law. These criteria are severed grounds for refusal of registration and rather for the purpose to show the dominant value of the said society than prevent the general public being confronted with offensive marks.

The objective of this study is to determine the constitutive elements and functions of the morality and ordre public criteria in Intellectual Property Law. It is important to translate these legal standards into the specific context and language used in different fields of intellectual property law. At the same time, the comparative law perspective allows in particular to illustrate the use of these criteria in different legal systems.

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Naazima KAMARDEEN, Lecturer, Faculty of Law, University of Colombo

Title: Going for a Song: The Protection of Copyrighted Material in Sri Lanka

Abstract
The still pending case involving the unauthorised use of the songs of the famous Sri Lankan singer and composer Clarence Wijayawardene merits a discussion on the protection of copyrighted material in Sri Lanka. Following the standard rules laid down by the accepted legal regime as personified by the Berne Convention as well as the World Trade Organisation’s (WTO) Agreement on Trade-Related Intellectual Property Rights (TRIPS), Sri Lanka provides for copyright protection for a period of the author’s life plus an additional 70 years. However, monitoring copyright violation is an extremely difficult matter, and it is in this area that the law cannot assist the creator of the copyrighted work. Artistes cannot be expected to monitor every single media to check if their works are being used in an unauthorised manner, and each incident of unauthorised use lessens the economic value for the author.

Many artistes in countries across the globe, have overcome this difficulty in monitoring by setting up copyright collectives, which do the monitoring on behalf of the artiste who is a member. The payment of fees enables the collective to conduct efficient monitoring, as well as to enforce the legal rights of the affected artiste through judicial action. This has, to a large extent, reduced the amount of unauthorised use of copyrighted material.

Sri Lanka is a country rich in culture and heritage. It has a strong tradition of music, dance and drums, which is enriched by folklore as well as its long, vibrant and colourful history. However, there is still no copyright collective, which has led to mass copying, often without permission, and always without compensation.

This article will consider the reasons as to why Sri Lankan artistes have not yet taken this important step to safeguard their rights, and will propose, based on the experience of some other comparable jurisdictions, a model that Sri Lanka might follow to ensure that artistes (and their families) are not cheated out of their legitimate dues from copyrighted material.

Mohammad Bashir Mia KHADEM, Lecturer, Department of Public Administration, University of Dhaka

Title: Learning from Null and Void: The Challenges of Intellectual Property Administration in Bangladesh

Abstract
It is beyond doubt that Intellectual Property (IP) has gained tremendous importance in the era of globalization. Globalization has made the intellectual property rights as a matter of international concern. All developed and developing nations have enacted laws for the protection of their creation as ‘works of mind’. Bangladesh, being one the members of the Least Developed Countries (LDCs) is working and trying to protect the rights of IP holders. The country has already made the comprehensive legal framework and administration for IP
Two separate ministries are responsible for the IP Administration, namely, the Ministry of Industries (MOI) and the Ministry of Cultural Affairs (MOCA). Firstly, The Department of Patents, Designs and Trade Marks (DPDT) is a WIPO affiliated organization working under the Ministry of Industries (MOI) by its four sub-departments namely a) Patents and Designs, b) Trade Marks, c) WTO and International and d) Administration and Finance. Secondly, the Copyright Office works under the Ministry of Cultural Affairs (MOCA). This two agencies are mainly responsible for the matters relating to copyrights and IP rights.

As a matter of international concern, WTO, WIPO and UNESCO are always providing their right hands to the same offices. Other than these two departments, the country has already formulated many acts, rules and executive order in order to regulate the IP and other rights. For example, the Trademarks Act of 2009, the Patents and Design Act of 2003 and the Copyrights Act of 2000 are the main IP Acts in Bangladesh. Nevertheless, plenty of piracy and counterfeit products sprinkling enormously in the retail market of Bangladesh. It can't be denied that extensive infringement of intellectual property rights disheartened the creativity and protection of originality. In addition, lack of coordination and cooperation between the creative industries is the main cause of piracy and counterfeit products. Lack of awareness, corruption, dormant administration, non-accountability and lack of enforcement of procedural law accelerate this phenomenon in a worst way. As an obvious flow of discussion the paper reiterates to look beyond the problems and constraints of IP administration in Bangladesh.

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Emmy LATIFAH, Lecturer, International Law Department, Faculty of Law, Sebelas Maret University

Title: *Finding the Appropriate Model Provision for Disclosure of Origin Requirements in Indonesia*

Abstract
The requirements of disclosure of origin for intellectual property application are an important element of access and benefit-sharing regime as recognized by the Convention on Biological Diversity (CBD) and reaffirmed in the Nagoya Protocol (NP). Disclosure of origin could be used to tracking compliance with access and benefit-sharing requirement including to disclose the country of origin of genetic resources and traditional knowledge; to prevent the improper use of genetic resources and traditional knowledge obtained without the prior informed consent and mutual agreed terms; and further, it also could encourage the fair trade practices. It shows that there is significant interrelationship between the CBD regime and the intellectual property rights system, especially in patent system. Indonesia, as one of the parties of CBD and NP, should have to implement both of those provisions.

Nevertheless, Indonesian Patent Act has not regulated the requirements of disclosure of origin for the genetic resources and traditional knowledge yet. The absence of those provisions could provide an opportunity for other countries to conduct unauthorized access and utilize the genetic resources and traditional knowledge from Indonesia.
There are some matters should be considered by Indonesia in drafting the disclosure of origin requirement. They are: who has the qualification for the undoubtedly inventor of a claimed invention; whether the applicant entitled to apply for and to be granted a patent; whether the claimed invention completely new and inventive (relating to already known of genetic resources and genetic resources); whether the applicant has disclosed all known background knowledge that is relevant to the claim that the invention is patentable; how to regulate the licensing from traditional knowledge holder’s; and how can the patent system be used to monitor and sanction compliance with the law governing access and benefit-sharing, especially when these arise in cross border countries.

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Jyh-An LEE, Assistant Professor, Faculty of Law, Chinese University of Hong Kong

Title: Implementing the FRAND Standard in China

Abstract
Technical standards have become a core component for a variety of information-communication-technology (ICT) products. Currently most standard-setting organizations (SSOs) require their members to license standard-essential patents (“SEPs”) under fair, reasonable, and non-discriminatory (FRAND) terms. SEPs cover inventions that are necessary to comply with a technical standard, and are particularly important in the communications industry.

A number of complicated legal issues concerning SEPs and FRAND have been the focus of recent patent and antitrust scholarship. These issues are of great importance to the ICT industry, especially manufacturers of mobile or smartphone devices. Courts and competent authorities in multiple jurisdictions around the world have coped with these series of legal problems.

As China has grown into a major player and market in the worldwide communications businesses, its public sector’s policy and private sector’s strategy toward SEPs has become increasingly important for the global telecommunications industry.

This Article focuses on the recent Chinese case Huawei v. IDC, which has drawn global attention. Like most of the FRAND disputes, where standard implementers claim that the patentees have breached the FRAND terms and courts are asked to determine the reasonable royalty rate, the Chinese courts in Huawei were asked to make a substantive judgment regarding patentee’s violation of FRAND commitment and the reasonable royalty. This is the first court decision that ruled the crate for a FRAND-encumbered SEP in China as well as Asia.

By analyzing the case of Huawei, this Article provides a comprehensive and critical review of key patent and contract law issues associated with SEPs under Chinese law, which include but not limited to: the legal base for enforcement of FRAND obligations and the factors considered in the judicial determination of the FRAND rate. This Article also compares the Chinese approach with a different one adopted by the U.S. courts in Microsoft v. Motorola. This study concludes that China’s policy toward SEPs has evolved in a way that demonstrates sensitivity
to the international norms and various stakeholders in the standard environment. Nonetheless, the current way that Chinese court coped with disputes involving FRAND is arguably not sophisticated enough.

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Yahong Li, Associate Professor, Faculty of Law, Hong Kong University

Title: Necessity, Challenges, Possibilities and Models of Regional IP Integration in Asia

Abstract
Globalization and regionalism are dual trends in IP law. While 20 plus international IP treaties and agreements have been adopted to harmonize national IP laws, regional IP integration has also been developed to counter this trend. The EU, North America, Latin America, Central America, Mercosur, and Africa all have certain kind of regional IP institutional integration. Compared with these regions, Asia’s regional IP integration has been very loose and weak. So far, only the ASEAN signed IP cooperation agreements among its ten member states. The China-ASEAN FTA has only one article on IP. There has been no formal IP cooperation existing among northeast Asian countries such as China, Korea and Japan.

Because “regionalism is in fact a response to globalization. …economic competitive pressures are best mediated and accommodated through regional mechanisms” (Mansfield and Milner, 1999), it is necessary for Asia to have a regional IP integration to protect regional economic interest. Many Asian countries also share regional interests and problems in IP area such as international protection and recognition of traditional medicines, expressions of Asian folklore, genetic resources and plant varieties, compulsory licensing, anti-monopoly, and technology transfer and assistance.

Regional IP integration can also pool the limited resources to raise concerns collectively in the intense and highly technical international IP negotiations. However, the challenges for such integration should not be underestimated. The historical, political, cultural division and distrust, and the huge economic and legal gaps between the developed and developing countries in Asia make it very difficult to form such an integration.

Nevertheless, this paper argues that the possibility of regional IP integration in Asia does exist because of the common heritage in Confucianism in many countries, the more integrated market, the shared knowledge of importance of IPRs in commercial competition (Llewelyn, 2010), similar transitional stage from imitator to innovator, and common tendencies in the process of upgrading their IP systems.

The possibility of integration is further demonstrated by the existence of trilateral collaboration between China, Japan and South Korea in patent application, and the bilateral cooperation on IP between China and ASEAN. Lastly, this paper proposes the possible models of IP integration in Asia such as establishing an Asian IP organization, in addition to formulating regional IP policies through FTAs and other bilateral or multilateral treaties.

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Yanbing Li, Research Fellow, ARCIALA, School of Law, Singapore Management University

Title: Is Copyright Law Content Neutral: A Comparative Study

Abstract
Content-neutrality is a forgotten yet fundamental issue, which reflects the justification theory underlying a national copyright regime. However, philosophical justification is never the but one, even not a main consideration for copyright lawmakers; conversely, consistency, transparency, practical feasibility and procedural economy are of greater significance. In addition, the domestic copyright and cultural policies also play a vital role. Surely, copyright law does not protect any kinds of works; neither does it protect every type of efforts invested in contributing the works. The scope of copyright protection is only justified to certain extent within which the fundamental legislative purposes of the copyright law to encourage creation and dissemination of works can be served without unreasonably restraining the freedom of speech, unfairly maintaining the monopoly of ideas and technology, overkilling the free disposal and free circulation of copyrighted products by subsequent purchasers, or endangering the cultural diversity and public interests. Accordingly, throughout the copyright legal system, various types of thresholds, limitations and exceptions are designed to confine the scope of the legal monopoly of copyrighted works to a reasonable and justified extent.

However, it is not clear so far whether copyright law is and should be content-based or content neutral. To put it differently, should copyright law provide equal protection to works regardless of their content (American current approach) or differential protection based on their content (English, Chinese and German approaches)? The answer differs among jurisdictions, changes from time to time and depends on the type, amount and offensive degree of the questionable content of the work. Is there harmonized standard or at least minimal obligation set up by international copyright treaties and is there any flexibility left intendedly at the discretion of the domestic policies? Should content of a work be considered as a matter of inherent threshold in the context of originality requirement, or a type of excluded subject matter (Chinese traditional approach), so that works with offending contents will be entirely excluded from copyright protection? Or alternatively, should it constitute a matter in the regime of limitations and exceptions which can be raised as defence in a case of copyright infringement against injunctive relief and monetary damages, so that copyright enforcement with respect to such works may be prohibited partially or entirely (German approach, arguably Chinese current approach).

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Vandana Mahalwar, Assistant Professor, The Indian Law Institute, New Delhi

Title: Protection to Fictional Characters under Copyright Law and the Internal Limitations

Abstract
Fictional characters exist merely in the words assembled by author and are protected by copyright law only against the backdrop of the work in which they appear. Fictional characters, failing to clear the ‘fixation requirement’ and ‘substantial similarity test’, lack copyright
protection independently from the work in which they are embedded in the fixed textual form. A character may be believed to possess a tangible existence only because of the specific words fashioned for its description by author.

These words, however, also create an image in the mind of the reader or viewer, an image which may be more vivid than life. It is only in this abstract form that a character can be said to have an independent existence. An independent character, therefore, is difficult to be defined clearly, since no two minds will conceive it imprecisely the same way. Fictional characters are not limited to the work in which they first appear, but can be introduced to new works where they lead a new life of their own.

Copyright protection provides owners with a legal course to control the exploitation of the characters they generate and to prevent others from reaping what they have sown. The unique ability of these characters to serve the expressive function justifies intellectual property protection to be granted under copyright. But, as the copyright law fails to provide apposite protection to the fictional characters, courts have attempted to formulate some tests like ‘Distinct Delineation Standard’ and ‘The Story Being Told Test’ which at times, are misinterpreted and variably applied by courts.

This paper intends to examine the inherent limitations in protecting characters through copyright law and to discuss how the literary considerations predict continued confusion in law and also, to take into account the difference between copying and creative reuse. Moreover, the paper would also discuss the reasons which necessitate an exclusive kind of fictional character protection under the copyright law.

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Vishal MAHALWAR, Assistant Professor, National Law University, Delhi

Title: *Misleading Advertising and Intellectual Property Laws*

Abstract
Marketing of any product or service seems to be indispensable component to get settled as successful entrepreneur in present economic world. Production itself doesn’t signify achievements of proprietor unless and until same get consumed or availed by public at large which could not be possible in lack of effective advertising. Increase in the number of entrepreneur indicates the requirement of improvise quality of products and services as well. Mere improvising quality doesn’t serve the purpose for a proprietor to generate monetary benefits out of this.

Today, in the global world, false and misleading advertisements have become a major issue which creates an impediment to groom for any proprietor. Opponents try to beat others by the misleading advertisements which include misleading information pertaining to the character, quality, quantity or composition, geographical origin, mode of manufacturing, production or performance of wares or services. In order to prevent such kind of unfair practices, Intellectual property laws are appropriate laws to curb such practices in the present scenario. According to new trend, comparative advertisements has become a mean to prove
your product or services better than others which leads towards misleading advertisement sometime. In this paper, the Author shall find out various dimensions and issues of Intellectual Property in misleading advertisements.

With the special reference to Trade Mark Law and established case laws, author shall minutely scrutinise the concept of comparative advertisement, disparagement and false advertising.

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Bashar MALKAWI, Professor and Dean, College of Law, University of Sharjah

Title: Protection of Well-Known Marks in the UAE: The Policy Debate

Abstract
Proper protection of well-known trademarks is a significant issue in international trade relations, as a trademark is often a company's most valuable asset. Protection of intellectual property is an integral part of UAE's economic reform policy. With the development of UAE's economy, culminating in its entry into the World Trade Organization (WTO), and the pressure put to bear from multinational corporations and the governments of developed countries, the UAE legislator has become aware that protection of well-known marks pursuant to the standards of the Agreement on Trade-Related Aspects of Intellectual Property Rights of the WTO (TRIPS) must be an integral part of UAE's trademarks law.

Prior to the UAE becoming a WTO member, protection of well-known trademarks was vague and unsystematic. Due to the lack of explicit provisions preventing the registration of well-known marks, many local companies filed applications to register these marks under their own names. The simplistic approach to register trademarks in UAE also contributed to the registration of well-known marks. While no clear reference was made to well-known marks in the Trademarks Law, proprietors of well-known marks benefited from some other provisions in the existing law. Generally, well-known trademarks were given protection through ad hoc or informal determinations. The Trademarks Registration Office, under Ministry of Economy, granted well-known status determination on an ad hoc basis through oppositions and cancellations. Furthermore, courts in particular cases could grant well-known status for trademarks on an ad hoc basis. It was not until 2002, however, that the protection of well-known marks was integrated into UAE's Trademarks Law. The amended Trademarks Law sets out special provisions to protect well-known marks. In addition, the amended Trademarks Law infused several remedies available against trademark infringers. Despite the latest efforts in UAE to enforce well-known marks, there are several problems — administrative and cultural-hindering proper enforcement of trademark regulations.

The central concern of this article is to examine the rise of well-known marks in the UAE legal system from initial judicial recognition of marks to the amendment of the UAE trademarks law. The battle against well-known marks violations in UAE cannot be resolved by legislative enactments and regulatory measures alone. The enforcement of these enactments and measures is the mean to accomplish effective protection of well-known marks. Therefore, the paper will also examine well-known trademarks enforcement record in the UAE.
Bryan MERCURIO, Professor, Faculty of Law, The Chinese University of Hong Kong

Title: *When Trade Meets Investment: The Continuing Evolution of Patent Provisions in International Investment Agreements*

Abstract
Despite being included within the scope of International Investment Agreements (IIAs) for many decades, several high-profile cases have revealed the extent to which intellectual property rights (IPRs) can be deemed investments under an IIA. With substantive standards and textual language differing between and among the more than 3000 IIAs the situation is highly fragmented. Health advocates are concerned that non-discriminatory measures taken to promote health and safeguard public welfare may be deemed to violate an obligation under an investment treaty. Certain governments have been responsive to this concern and have begun to refine and improve the textual language of treaties. This presentation evaluates the most recent treaty language used in relation to IPRs and public health. The author concludes that governments which are making efforts to safeguard public health and welfare are indeed providing enhanced protection for public welfare measures in key parts of IIAs. That being said, the author identifies potentially problematic textual language which warrants further consideration from treaty drafters in the future.

Eliza MIK, Assistant Professor, School of Law, Singapore Management University

Title: *Contractual Protections of Website Content: Thoughts on Century 21 Canada Limited Partnership v. Rogers Communications Inc.*

Abstract
The Internet in 2015 differs from the Internet in 1995 – not just in terms of technology but also in terms of usage. These differences are particularly apparent when we observe the transformation of the web, which has evolved from an open, “free everything” approach to restricted access models. With growing pressure to monetize prior investments in infrastructure and content, the Internet is becoming increasingly commercialized. It is no longer “just” a medium for communication but a platform for content and service delivery. In particular, blurring the distinction between mass media and other forms of communication, the web has become a gateway to music, movies, news and TV shows – content traditionally provided by television, radio or newspapers. Consequently, we observe the development of different mechanisms designed to protect (technically and legally) the content and services made available on, or through, websites. The value of information depends on what uses are permitted and what protections are available under the default principles of a legal system. The commercial value of the latter is not in question, neither is its protection by intellectual property rights.

The same cannot be said, however, about all website content. If, then, a particular type of information is not protected by e.g. copyright or recognized as a database, its “owner”
Unsurprisingly then, website operators describe the permissible use of information made available on their websites by means of terms, which are traditionally placed behind hyperlinks on the bottom of individual webpages. The importance of contract in transactions in information has been extensively discussed in copyright scholarship. An extreme view, expressed as early as 1997, stated that contract would supersede property rights and mediate every online transaction. Similarly, in 2003 Madison discussed the raise of “information-as-a-thing” and “information-as-a-place” metaphors and the accompanying drive to control access to information by means of non-traditional tools. Unsurprisingly, the use of contract to restrict access to website content continues to create controversies – especially if such “access control” is treated as an attempt to create a quasi-proprietary right in information or to override traditional copyright protections.

The debate can be divided into a number of interrelated questions: Is it correct to assume that placing content on a Web server and making it publicly accessible is synonymous with relinquishing the right to control such content? What is the relationship between “contractual access control” and copyright law? To what extent, if any, is it possible to modify (or override) statutory principles of copyright law by means of private agreement? Can contractual protections of website content exist independently of copyright? The problem gains in complexity again when discussed in the broader context of internet accessibility. Allegedly, any restrictions placed on the accessibility of online content threatens the functioning and utility of the Internet as a whole. The aforementioned issues have been recently discussed by the Supreme Court of British Columbia in Century 21 Canada Limited Partnership v. Rogers Communications Inc, a case on so-called web-scraping. The draft paper will review the most important arguments made in the said case and analyze its broader implications for contractual protections of online content.

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Izura Masdina Binti MOHAMED ZAKRI, Lecturer, Faculty of Law, University of Malaya

Title: The ‘Targetting’ Approach: Ideal for Internet Jurisdiction and How It Can Be Applied for Online Trademark Infringement in Malaysia

Abstract
The jurisprudence of civil jurisdiction is based on the fact that the act either was committed within land or had some effect on the land, and such connection was normally due to a physical connection. However, in the rising face of technology and with the increase use of the Internet, the issues of jurisdiction becomes blurred. It is becoming increasingly obvious that the traditional rules on jurisdiction that are geographically centered sometimes do not appear to be appropriate when dealing with issues that arise on the Internet. For example, a defamatory statement made on a website can mean that anyone who is able to access said the website, would have the cause of action to sue. This is not an optimum situation with regards to the Internet.

Thus, the ‘targetting approach’, or the purposeful availment approach, that is utilized by the United States of America is the best method when dealing with the Internet. Essentially,
personal jurisdiction is based upon the premise that a defendant cannot be subjected to the court’s jurisdiction unless he had ‘purposefully availed’ himself to the benefits of the forum. It is contended that the approach should be used whenever it is to be determined whether a court has jurisdiction over matters that occur on the Internet. It can either be used as a primary method of determining personal jurisdiction, or its concept can be used as a guideline when dealing with personal jurisdiction.

In matters of online trademark infringement or passing off, the targeting approach can be used as a guideline. As courts would determine jurisdiction by establishing whether the trademark had been ‘used’, the ‘targeting’ approach would be an ideal method to be used when making such a determination. Thus, this paper seeks to justify this stance, and show how it can be utilized by the Malaysian courts without the need to reform its laws.

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Yogesh PAI, Assistant Professor, National Law University, Delhi

Title: Some F/RANDom Thoughts on SEPs Litigation in India

Abstract
Recent years have witnessed an explosion in litigation around standard-essential patents (SEPs) in India. SEPs, a term not intrinsic to patent law art, now occupies centre-stage owing to immense public policy implications at the intersection of innovation, intellectual property and competition. Standard-setting organisations (SSOs) routinely set technical standards that incorporate technologies protected by patents (such as WIFI, 3G, 4G etc.). These standards are implemented by product manufacturers across the globe. Hence, SEPs are technologies that have no non-infringing alternatives. While patent holders have an interest in maximising revenues by way of higher/discriminatory royalties or other licensing terms for their SEPs, manufacturers implementing such technical standards may face royalty-stacking and higher switchover costs due to lock-in and network effects. Owing to a possibility of opportunistic behaviour involving SEPs - primarily “patent holdups,” and "patent- holdouts" SSOs demand voluntary contractual commitments from patent holders by way of FRAND (Fair, Reasonable and Non-Discriminatory) offer to license.

Most disagreements over FRAND that relate to fixing of royalties end up as infringement actions against SEPs implementers. SEPs litigation in India and abroad highlights three distinct legal controversies: a. Whether or not the patentee is entitled to injunctive relief for infringement involving FRAND encumbered patents and what interim remedies have been awarded by the Indian courts. b. What is FRAND royalty and how is it calculated? c. Whether alleged opportunistic behaviour by patent holders violates competition law? While there is emerging jurisprudence among different jurisdictions concerning the nature and complexity of the underlying issues, decisions of courts and other authorities are far from reaching coherence and conclusiveness. The presentation will critically deal with the aforementioned questions by looking into the ongoing litigation/decisions in India in the light of emerging comparative jurisprudence and scholarly arguments.

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**Fries Melia SALVIANA**, PhD candidate, Faculty of Law, Airlangga University

**Title:** *Intellectual Property as an Investment Instrument in ASEAN Free Trade (AFTA)*

**Abstract**
Free trade, it can be said to be scourge for entrepreneurs in the world. It is caused when before this era entrepreneurs can still take refuge behind the national rules of the country to be able to at least win the competition in their own country. But in the era of free trade of all products entrepreneurs can freely in and out without any restrictions from the countries. A wide variety of ways by entrepreneurs to win the competition and not the least costs, though there are quite a sure-fire way to win this competition, by trying to create a product that is dominant, unbeatable and give protection by Intellectual Property. Besides that, entrepreneurs can make a new investment instrument from its intellectual property to increase its gain with change it to a securities form.

Securities Intellectual Property, split the profits Intellectual Property rights holder to investors, as was done in the shares through a share dividend. Economic rights of the Intellectual Property owned by a company certainly generate huge profits, it is because the company has more than one Intellectual Property. Besides, the investor profits can also be obtained from the difference between the sale proceeds and the proceeds buy or capital gains. Management and dissemination of the new effect is certainly very necessary both for issuers, investors, and securities companies, because if demand increases, this effect will also increase the price of the securities.

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**Keita SATO,** Professor, Chuo Law School, Chuo University

**Title:** *Scope of the Design Right: Case Study; Design Right for Joy Stick (3D Object) vs. Joy Stick 2D Image on the Computer Display Screen*

**Abstract**
About 10 or 20 years ago, many countries revised patent law to include computer related inventions as an object of patent. In some countries, the Industrial Design Law also revised in the same manner to include display screen design as an object of design registration. For example, Japanese Registered Design law (Isho Ho) included “computer display design for operation of function of a machine” in 2009. The coverage of such right was thought to be limited to the design within the article specified in the design application. In other words, when a design of operating display screen of ATM machines was registered, such design right could not cover display screen of internet banking sites, even if operating screen appearance is same, since design right is limited by the article specified in the application (2D screen design is protected against using 2D screen only when it is used with specified 3D articles). US Law is almost the same. Design patent right for computer-generated icon design has limited coverage within the article of manufacture specified in the title of the application. This is traditional approach, which design right for 3D object only covers 3D products. However, when we introduced 2D (or digital) display screen design to Design Law and its legislative
process, we had no discussion about coverage of 3D design right relating to 2D display screen. Then, this paper discusses a case whether design right for 3D object could cover 2D image of such an article on the computer screen display.

My new idea is: If somebody registered a real shape of joystick or switch button, his design right could cover also 2D image of joystick or switch button on the display screen for operating machine, game etc.. The idea is based upon an idea that making a product as hardware or as software is just decided by cost analysis. Of course, as Professor Bentley (Cambridge Univ.) explained at 1st Oxford design law conference in 2012, the design right for shape of the train ICE should not cover photographed image of such train (see, BGH vom 7.Apr. 2011, I ZR 56/09-ICE). This is because function of photo image is not the same function as real trains. But the function of joystick image on the computer display screen or game machine is actually the same as function of real joystick. I would argue a possibility of a new interpretation of 3D object design right.

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Cheng Peng SIK, Lecturer, Faculty of Law, University of Malaya

Title: Does the Notice and Takedown Procedure under the Copyright Act 1987 Provide a Balance of Interests?

Abstract
The Copyright Act 1987 of Malaysia implements a notice and takedown procedure, compliance with which is one of the requirements for eligible service providers to enjoy the limitation of liabilities for copyright infringement. The limitation of liabilities for service providers represents an attempt to accommodate the interests of copyright owners and service providers in the online environment. However, the notice and takedown procedure also involves the users and may affect the interests of the public.

The paper examines the notice and takedown procedure under the Copyright Act 1987 with a focus on the question whether a balance of interests holds thereunder, with reference made to the approaches adopted in the jurisdictions of the US and the UK on this matter. The paper highlights the various aspects in which the notice and takedown procedure under the Copyright Act 1987 is lacking and, thus, has significant impact on the balance of interests between service providers, copyright owners and the public.

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Haochen SUN, Associate Professor, Faculty of Law, University of Hong Kong

Title: Copyright and the Public Interest: A Tale of Two Digital Library Litigations

Abstract
Google was sued in both the United States and China for infringing copyright because of its operation of the digital library. However, the outcomes of the litigations were completely different. In the United States, the court ruled in favour of Google by recognizing Google’s
unauthorized scanning of copyrighted books as a fair use, which exempted Google from infringement liability. By contrast, the courts in China ruled in favour of the copyright holder. They decided that Google’s unauthorized scanning of copyrighted books did not constitute fair use under Chinese copyright law. Therefore, Google had infringed the copyright holder’s right of reproduction.

This article aims to suggest that both legal and cultural infrastructures are essential for protecting the public interest in copyright law. It will explore this proposal by juxtaposing the conflicting opinions made by judges in China and the United States over the Google digital library project. It will argue that such a juxtaposition will shed new light on how to deal with the conflict between the private interest in protecting copyrights and the public interest in promoting socially beneficial schemes such as digital libraries.

First, the article will examine the history of copyright litigations over the Google digital library project. It will then discuss in detail how the courts in China and the United States rendered conflicting opinions on the legality of the Google digital library project by applying the fair use doctrine.

Second, based on the conflicting judicial opinions on the Google digital library, the article will examine the legal infrastructure that is necessary for promoting the public interest through copyright law. By comparing the differences and similarities of the fair use system in China and the United States, it will argue that Chinese copyright law lacks certain key norms in the legal infrastructure in protecting the public interests. These norms include open-ended statutory design of the U.S. fair use system and its transformative use doctrine.

Third, the article will further consider how the culture infrastructure will impact the protection of the public interest in copyright law. There is a perplexing contrast between Google’s responses to infringement allegations that copyright holders raised in China and the U.S. In China, Google publicly admitted their copyright infringement liability and issued an apology for that, even before copyright holders lodge a lawsuit to court. By contrast, Google never did so in the U.S. This article will investigate the cultural factors that led Google to take different actions in China and the United States. It will further consider the lessons that could be learned for making the cultural infrastructure conducive to the protection of the public interest in copyright law.

David TAN, Associate Professor, Vice Dean (Academic Affairs), Faculty of Law, National University of Singapore

Title: The Unbearable Lightness of Fair Dealing: Towards an Autochthonous Approach in Singapore

Abstract
There is scant academic literature and virtually no case law on fair dealing, a significantly underexplored and underdeveloped area of copyright law, in Singapore. The goal of this paper is to propose a workable interpretation of section 35(2) of the Copyright Act that is consonant
with global developments and Singapore’s own policy imperatives. Due in part to the historical connection of Singapore’s Copyright Act to its Commonwealth counterparts, and in part to the striking similarity in the text of section 35(2) to the US fair use legislative provision, it is argued that fair dealing in Singapore should draw on appropriate elements from Australian, UK and US jurisprudence.

Ultimately, since Singapore’s fair dealing provision must be shaped by prevailing local circumstances and by its sociolegal context, the autochthonous approach gives effect to Singapore’s legislative objectives of creating an environment conducive to the development of creative works, and also facilitating greater investment, research and development in copyright industries.

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Pek San TAY, Associate Professor, Faculty of Law, University of Malaya

Title: Copyright Issues Arising from Data Mining in Malaysia

Abstract
The Age of Big Data is marked by an explosion of digital information. In the past, understanding text contents and correlations was performed by the human mind. With the present day tremendous increase of digital data, this human endeavour can no longer be carried out accurately without the intervention of technology. Data mining refers to the process of using software techniques to analyse large amounts of data sets in order to discover useful information. The information is usually in the form of patterns or relationships that might otherwise not be observed if scanned by the human eye. Data mining offers great possibilities for almost all industries, such as businesses, healthcare sector, education sector, music recording industry, air transport industry and insurance sector because the process provides useful information to accurately predict future trends. This would provide useful insight and competitive advantage to interested parties. However, data mining almost always involve the reproduction of the content of the database, many of which are protected by copyright. Very often, the database is created with considerable investments involving human, technical and financial resources. In addition, the selection and arrangement of their contents often constitute intellectual creation. Accordingly, data mining activities raise copyright issues because it impinges on the exclusive right of reproduction of copyright owners.

In Malaysia, databases are protected by the Copyright Act 1987 as literary works in the form of compilations and also as derivative works. This research examines and analyses the legality of data mining operations under Malaysian copyright law. The finding is that data mining amounts to copyright infringement under Malaysian copyright law but that the fair dealing defence is available in the case of data mining. As the researcher’s view is that a balance should be achieved between the copyright owner’s right to protect his economic benefit and the need for society to have access to copyright works without undue restriction, there is a need to draw a line between data mining activities that would qualify for the fair dealing defence and those that would not. For this purpose, a comparative study on the legality of data mining under the copyright law of selected foreign jurisdictions will be made in order to shed light on the responses of those jurisdictions to data mining. With this, the research aims
to make some recommendations to protect database owners and, at the same time, to facilitate data mining activities.

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Pratyush Nath UPRETI, Lecturer, College of Law, Chakrabarti Habi Education Academy

Title: Trade Agreement, Investor’s Claims & Intellectual Property: An Ugly Turn in Romantic Affair

Abstract

Intellectual Property is romantic. It’s love for other branches of law have become Centre for attraction for academician and practitioner. I examine this intangible love story among Trade Agreement, Investment Law and Intellectual Property through lenses of Trade Related Aspects of Intellectual Property (TRIPS) flexibility and Investor-State Dispute Settlement (ISDS). In today’s industrialized world, the landscape of the intellectual property is changing. It has become an integral part of the regulatory system including investment and trade policies leading into debate globally. Intellectual Property as an Incentive: commodity has moved towards assets. Most of the Free trade agreement (FTA), Bilateral Investment Treaties has become an attraction for developed countries to strengthen Global IP regime. Similarly, the expectation of Investor is increasing. The recent cases have revealed the complexity and potential overlap between intellectual property, Investment Law, and Trade Law.

The recent IIAs reveal ‘intellectual property’ as the form of investment, advancing an alternative way for an investor to protect their intellectual property rights. Under such circumstances, investors has challenged traditional intellectual property through claims of Most Favour Nation (MFN), free and legitimate expectation, expropriation, full protection and security. Such practices have a severe impact on international intellectual property standards and also bring concerns of TRIPS flexibility. In addition, ISDS has been the concern for countries in negotiating investment agreement like Transatlantic Trade and Investment Partnership (TTIP) between the European Union and the United States and Trans-Pacific Partnership (TPP) with twelve countries throughout the Asia pacific region. There has been a serious concern raised in the European community on ISDS creating the risk of ‘regulatory chill’.

Therefore, it is important to analyse the intersection between these fields. Moreover, integration of these fields have brought some challenges to the WTO-TRIPS flexibility by enforcing IPRs by Investor’s through Investor-State Dispute Settlement (ISDS). It is clear that investor’s likes to flirt with International Intellectual Property instrument to enforce their rights. But it may result in salvaged relationship between the state and investor. Therefore, the recent exercise of European Commission to offer ‘investment court system’ can be seen as a step towards an alternative. However, the other option such as investor-state mediation can be considered to offer an alternative. Thus, this article investigates the intersection between Trade Agreement, Investor’s Claims, and Intellectual Property. The author uses an interdisciplinary approach to examine the possible investment claims under Investor-state dispute settlement. Moreover, it focuses on negative consequences, which may result from trade agreement towards the legal framework under WTO.
John Szu-Yuan WANG, Assistant Professor, Department of Law, Kainan University

Title: GI Protection in Taiwan: Turning a Legal Conundrum into a Policy Tool for Development

Abstract
Judging from the façade, the development of Taiwanese GI law seems to represent a successful story of legal transplantation. However, in fact, this tranquillity is misleading, if not deceiving. This article reveals the truth that GI-protection has been a legal conundrum to Taiwanese policymakers and the history of Taiwanese GI law has been in turmoil. Sources of Taiwan’s GI conundrum are deep rooted at the policy level and this article employs the term dereistic metaphysically to describe the nature of the policy premises on which Taiwanese GI law has been based.

Three aspects of such dereistic policy premises are identified and explored, including the misidentification of policy context in which GIs are protected, misinterpretation of the GI-trademark relation, and opportunistic distortion of the meaning of protection to conceal the inherent incompatibility between GIs and trademarks. Based on these dereistic policy premises, the development of the Taiwanese GI law, as represented by the mechanism of positive protection, namely, registering GIs as certification marks and collective trademarks, has been characterized by perennial overhauls, doctrinal dilemma, and atavistic evolution. That is, since its inception, the positive protection mechanism has been undergoing major changes due to the policymakers’ oscillation between the doctrinal and institutional elements of trademark law and sui generis GI law. Nevertheless, the enactment of the Trademark Act 2012 actually brings Taiwanese GI law back status quo ante 2003 and all the efforts and struggles have added nothing but new terminology.

It is time to solve Taiwan’s GI conundrum, terminate the chaotic state, and turn GIs into a policy tool for Taiwan’s development. To achieve these goals, the first thing for the policymakers to do is to stop viewing GIs through the lens of the trademark doctrine and acquire a genuine understanding of the long-ignored EU sui generis paradigm. Only after genuine understanding of the role and function of GIs as a policy tool can the policymakers properly assess how and what they can contribute to Taiwan’s development and fit them into the tapestry of development policy.

Runhua WANG, J.S.D Candidate, College of Law, University of Illinois

Title: Stimulating Technical Innovation by SMEs in China: A Case Study of the Zhongguan-Cun Science Park

Abstract
The effect of innovation on the economy is increasingly obvious and important in many countries, including China. In order to encourage and sustain technological innovation, Small and Medium sized Enterprises (SMEs) are not only necessary but also vital. This work presents
an empirical study to test what critical measures the government should adopt and balance in order to efficiently pursue the goal of increasing the creation of SMEs.

In either a market-oriented or a government-oriented economy, the governments should craft meaningful rules and regulations that benefit SMEs. Accordingly, they need to know whether they should encourage the free market further or pursue command and control in the government-dominated sector. This work will evaluate the flexibility of the different administrative systems, rules and regulations of intellectual property (IP), taxes, subsidies, financial policies and other related government actions.

This work focuses on the Zhongguan-Cun Science Park, a national model for a technical industry park that is located in Beijing, called the Chinese Silicon Valley. Usually, various types of national policies are applied to firms in this science park ahead of the science parks in other Chinese provinces. Its administrative measures are tested and analysed, and those measures that have found to be successful and innovative are then applied to other science parks. The main objective of the policies in this science park is to create tiny, technology SMEs, especially in their early stage of business, and to help them survive and grow. In addition, the government is also guiding companies to use IP regimes to improve their ability to compete. However, the costs of different invectives/measures are different, so it is necessary for the government to identify the most efficient strategies to encourage SME creation.

This work will use panel data regressions to study how effective relevant IP laws and different govt. policies are to encourage technical innovation in the 83 companies listed on the SME (Small and Medium Sized Enterprise) board and the ChiNext board in the Shenzhen stock exchange from 2009 to 2013. The results from this work will not only help the government of China to understand the strategies for stimulating technical innovation in SMEs but also help to engineer similar science parks in other provinces. In addition, this work will help other developing countries to learn effective strategies involving policies, laws and regulations to create SMEs and to develop the technological innovation at this time.

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Lizhou WEI, PhD candidate, Faculty of Law, Ludwig-Maximilian University of Munich

Title: The Rise and Pitfalls of “Use as a Trademark” Requirement in China

Abstract
Recent decades have witnessed the expansion of trademark rights. In the EU, a recent step moving forward in this direction is the CJEU’s extensive reading of the ‘double identity’ clause. By a series of preliminary decisions, the CJEU has gradually discarded the ‘use as a trademark’ requirement, but started to embrace the ‘trademark functions’ requirement in finding trademark infringement. By doing so, not only trademarks’ origin function, also other functions (e.g. quality function, investment function, etc.) shall be protected. Consequently, besides source-identifying use, unauthorized non-source-identifying use shall also be prohibited.
In comparison to the EU, the ‘use as a trademark’ requirement hasn’t drawn deserved attention in China until recently. With the 2014 revision of Chinese Trademark Law, a distinction between the ‘double identity’ clause and the ‘confusing similarity’ clause has been made within the infringement regime. It makes the expansive interpretation of the ‘double identity’ (like the CJEU’s approach) possible in China. Although, a so-called ‘trademark use’ provision has also been introduced, which narrows the concept of ‘use’ down to the source-identifying use by definition, the expansive reading of the ‘double identity’ clause remains possible, since one may claim the ‘trademark use’ provision is only conditional to the revocation ground of non-use. Contrary to the possible expansion of trademark protection from the academic perspective, in practice the Chinese courts have frequently invoked the ‘use as a trademark’ requirement to exempt some possible trademark infringement in recent decisions (e.g. the ‘Viagra’ case, and the ‘PRETUL’ OEM outsourcing case), giving rise to a growing concern of unjustified reduce of the scope of trademark protection in China.

In the research, my preliminary conclusion is that on the one hand China should stick to the ‘use as a trademark’ requirement to prevent the unjustified expansion of trademark right, and the CJEU’s jurisprudence on this point is by no means a good example for China to follow. On the other, a clear definition of the requirement is needed to prevent the trademark right from being unjustified reduced by the Chinese courts. Between the two poles, the ‘use as a trademark’ requirement shall be reoriented properly, to pursue a better balance between the interest of the trademark owners and their competitors.

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Raquel XALABARDER PLANTADA, Professor, School of Law and Political Science, Universitat Oberta de Catalunya

Title: Limitations to Copyright for Teaching and Research Purposes: A Comparative Approach of EU, Asian and North-American Laws

Abstract

According to the recent Communication from the EU Commission, COM(2015) 626 final, “Towards a modern, more European Copyright framework”, the Commission intends to take action regarding the EU framework of exceptions and limitations which are relevant for access to knowledge, education and research, in order to ensure their effectiveness in the digital market and across borders. In addition, this issue was also among the few topics covered in the previous Communication “A Digital Single Market Strategy for Europe” COM(2015)192 final.

Limitations and exceptions for research and teaching purposes in European laws are hardly harmonized. This paper will start with an overview of the current legislative framework in the different EU States, and compare it with other national frameworks existing in Canada, the USA, and some Asian countries. Specifically, the paper will examine and compare the scope of exempted uses, under national statutory texts and case law, for purposes of teaching and research (including, specifically, text and data mining), preservation by libraries (i.e., Darmstadt in the EU –CJEU- or Hathi Trust and Google books in the USA) and remote consultation.

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Tejaswini YADAVALLI, Research Associate, Faculty of Biotechnology, Jawaharlal Nehru Technological University

Title: *Patenting trends in diagnostic and treatment strategies of Autism Spectrum Disorders*

Abstract

Autism Spectrum Disorders is characterized by deficits in social interaction, verbal and nonverbal communication often accompanied with repetitive and stereotyped patterns of behaviour. Since 1960s, a rich means of data has become available, indicating higher prevalence and universality of the disorder than previously thought. However the diagnostic and treatment methods for Autism Spectrum Disorders (ASD) are still at elementary level and are based on behavioural history and assessments. Patent documents contain important research results with rich technical terminology that demands a lot of human efforts for analyses. But thanks to the text mining approaches which are underway that facilitate the screening of relevant patents.

The present patent landscaping study was carried out to gather the patent information on autism with an aim to understand various diagnostic and treatment approaches, so as to identify the technology for future research. Thomson Innovation database was selected for patent retrieval for its worldwide content coverage and outstanding patent family registration.

To cover all forms of search terms appropriate truncations were used. Many of these keywords were retrieved using the search field of “Title, Abstract and Claims” where as searches under the field of “Description” or “Specification” were excluded. It was useful to limit each search using the specific terms under the search field of “Claims”. Other limits on searches were organized by assignees, or other definitional fields that provide an extensive coverage for almost all the patents that were filed.

A careful and systematic search provides the insights of 2989 patent documents from 444 families considering diagnosis and treatment technologies in autism research from the past 25 years giving through classification studies at the level of patent type including diagnosis & sample used for diagnosis, treatment methods, compositions, drug discovery & development. In addition, insights about last 5 years were identified to figure out current R & D focus and technology trends for future prospectives.

Over a period of 25 years (1989-2014) the main focus of Autism research was in the field of developing novel treatment methods, variety of Compositions to cure the disorder and...
natural extracts followed by Risk assessment based on testing for genetic and epigenetic factors, biomarkers and so forth

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Etsuko YOSHIDA, Research Fellow, Intellectual Property Center, Osaka University

Title: A Comparative Law Study on the Patent Eligibility - Focus on Computer Implemented Software Inventions

Abstract
Inventions have shown variation in association with industrial development and progress in science and technology. Examples of such inventions are those of business methods that utilize computer technology based on informatization and medical-related inventions such as gene screening methods accompanying the development of biotechnology.

As a result, in the U.S., the issue of patent eligibility of business method inventions has led to the increase in the number of litigations over patent eligibility and vigorous discussions have been conducted. Similarly, in Europe, the way to conduct harmonization has been sought by using various methods including the referral made by the President of the European Patent Office with respect to the issue of patent eligibility of computer-software-related inventions due to the difference between the EPO and member states in terms of the determination method for such issue.

In this research study, a comparative study will be made on the requirements for determining whether or not an invention is statutory used in Japan, the U.S. and Europe based on the issue of patent eligibility in the U.S. as well as the transition in the trial and court decisions and the discussions that have traditionally been developed in the U.S. and Europe.

In particular, with respect to process invention, the issue of patent eligibility is prominent in the fields of computer software and business methods and thus such field have mainly been dealt with. First, the trends in the U.S. court decisions that have been rendered in large numbers over the last few years and that have become a major topic of debate will be examined. Specifically, the transition in the determination method used in the U.S. will be studied by focusing on the relationship between the three categories for non-statutory subject matter that have been used in determining patent eligibility and excluded from patent protection, i.e. (i) laws of nature, (ii) natural phenomenon and (iii) abstract ideas, and past court decisions. Transitions in the past trial and court decisions as well as discussions relevant thereto will be studied with respect to the Europe and Japan.

This research study aims to be of some help to the efforts made for international systemic harmonization by considering the requirement for patent eligibility from the viewpoint of comparative law based on the above mentioned set of studies.

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Chenguo ZHANG, Junior Professor, Centre for European Law and Politics, Law School, University of Bremen

Title: How Efficient is the Judicial Enforcement of Patent Law in People’s Republic of China (PRC) to Deter Patent Infringement?

Abstract
This study takes a first step towards providing an empirical basis for assessing how efficient or deficient the judicial enforcement of patent law in PRC de facto is - as generally perceived and debated in numerous international fora - to fulfil its intended purposes, inter alia, to deter infringement and to compensate the right holder’s damage. It does this by assembling, aggregating and analysing information of 318 patent infringement cases trailed before the First, Second and Third Beijing Intermediate People’s Courts from 2004 to 2011. We designed four OLS specifications for the regression analysis to test certain hypotheses and found: (1) a super-national treatment instead of Xenophobia exists in the judicial practice. Cases involving foreign plaintiffs incur much higher transaction cost but, being a law suit involving foreign parties increases plaintiff’s likelihood to win by almost 12%. (2) Being a suit on design patent increases the likelihood to win by 36%. (3) Courts are much more reluctant to grant monetary remedy than injunctions. In our dataset, the historical maximum damage award ranged at USD 0.8 Million while this in U.S. 2013 ranged at USD 1 billion. The average damage award ratio is approximately 20%. (4) The correlation coefficient between the damage award ratio and the litigation cost share is -0.226, indicating that the share of litigation cost is divided according to the ratio of justice between the plaintiff and defendant under the principle of proportionality. (5) The correlation between the proceeding duration and rate of damage awarded is insignificant. (6) The coefficient of the year 2008, in which the third amendment to the PRC Patent Act was concluded aiming at strengthening the patent enforcement in China, is positive, meaning that suits after the year 2008 gain more remedy. But unfortunately, it is statistically insignificant, meaning that the 3rd amendment of patent act was actually not effective for the judicial enforcement of patent law.

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Anlei ZUO, PhD candidate, Faculty of Law, Hong Kong University

Title: Regime Interaction of International Intellectual Property Regimes in Asia-Pacific Region: Lost in Institutional Fragmentation?

Abstract
The regime complex of international intellectual property legal regimes in Asia-Pacific region is one representative example concerning the development of international intellectual property architecture, the rise of regionalism and the “institutional fragmentation” rhetoric in international law. However, this “noodle bowel” is rarely relationally investigated and analytically examined from the perspective of regime interaction in a world society. How to understand the regime relationship and interaction among those regional and global regimes, what are the prospects of TPP and other potential regimes, and how to understand the “institutional fragmentation” of international intellectual property regimes in Asia-Pacific region? Specifically, through a comprehensive investigation on the historical evolution of
those regimes including WTO TRIPS Agreement, WIPO, CBD, UPOV, TPP, RCEP, FTAAP, NAFTA and other FTAs, international IP law-making has its own ontological ethos and regime complex has more dimensions apart from difficulties and threats. For regime interaction, two aspects are particularly analysed hereof: what are the potential pathways, leadership and regime interaction for the trade liberalization and economic integration in Asia-Pacific region, and how could U.S. and China reconcile to establish an Asia-Pacific approach to international intellectual property law in a world society? The Trans-Pacific track and the Asian track are respectively led by U.S. and Asian countries (particularly China); U.S. still has incomparable advantages while China has become one of the main stakeholders for international IP law-making, and only with the participation of both China and U.S. could the formulation of regional and global IP regimes and rules be relevant, effective and legitimate. The international IP regimes in Asia-Pacific region are not lost in institutional fragmentation, but are making progress through regime interaction in this world society

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**End of Document**
Works-In-Progress Conference

“IPScholars Asia”

Campus Maps

&

Useful Information

28 – 29 January 2016

Li Ka Shing Library

School of Law
Singapore Management University
Conference Venue Details

Address:
Li Ka Shing Library
70 Stamford Road, Level 5
Singapore 178901

Contact Numbers:
Ms Rehju Mohamed – +65 6808 5387 / +65 9766 5963
Ms Li Yanbing – +65 9074 5159
Library – +65 6828 0355

Street Map from Bayview Hotel to the Conference Venue:
Instructions to Access the Conference Venue:

- **The Conference will take place in the 5th Floor (Level 5) of the Li Ka Shing Library.**
- To access the Conference venue, please enter the Li Ka Shing Library following the signs indicating “IPScholars Conference.”
- The entrance to the Li Ka Shing Library is on the Level 2 of the building, please use the escalators to arrive to Level 2.
- **Once you are in the library, take the elevators to Level 5 and you will see the Registration table in front of you.**

Figure 1 – Floor Plan of the Conference Venue, Level 5.
Campus Map

The campus of Singapore Management University (SMU) is situated at the heart of the central business district, and the arts and heritage precincts of Singapore. The campus is easily accessible via public transportation. There is a wide variety of food outlets, shopping and entertainment centres conveniently located around campus. See also http://www.smu.edu.sg/campus-map
Currency, Bank, and Money Exchange

Currency for Singapore is the Singapore Dollars (SGD).

Money exchange counters can be found in all terminals at Singapore Changi Airport and in shopping centres all over Singapore.

OCBC bank and ATM is located on-campus, B1-45

Mon - Fri : 9.00am to 4.30pm  
Saturday : 9.00am to 11.30am  
Sun & Public Holiday: Closed

The Clinic @ Campus

The clinic is located at the Concourse, B1-21

Mon – Fri: 8.30am–5.30pm  
Saturday: 8.30am–12:30pm  
Sun & Public Holiday: Closed

Electricity & Electronics

Voltage
The standard voltage in Singapore is 220V/240V, 50 Hz. If you have equipment that runs on a higher voltage, you should not connect it to Singaporean power unless you have the correct transformer (voltage adaptor).

Power Plugs
Singapore uses the British BS1363 three-pronged square pin type socket. Plugs from the US, Western and Eastern Europe, and Asia will not fit into a Singapore power plug. You are advised to bring along an international plug adaptor and/or transformer if required.

How to Reach SMU from the Airport

You can reach SMU by bus, train, and taxis.

By bus or train = 50 minutes (approximately S$2.50)  
By taxi = 20 minutes (approximately S$25.00)

See next page for details about the MRT system in Singapore
Public Transport (Near to SMU)

3 MRT stations are conveniently located within SMU (see map in the next page;)

- Dhoby Ghaut MRT (near Bayview hotel)
- Brash Bash MRT (next to the Singapore Art Museum)
- City Hall MRT (near Chijmes, opposite Lee Kong Chian School of Business)

Fares may be paid in cash for single rides or by EZ link card, which can be used on both the MRT and buses. You can buy your ez-link card from any TransitLink Ticket Office (TO). More information is available here:

http://home.ezlink.com.sg/singapore-tourist-pass (1-3 day passes)
http://home.ezlink.com.sg/get-your-ez-link-card/where-the-cards-are-sold

MRT MAP
Additional Information about Singapore

Entertainment

You can visit the Singapore Tourism Board website for the latest events happening in Singapore: [http://www.yoursingapore.com/content/traveller/en/experience.html](http://www.yoursingapore.com/content/traveller/en/experience.html)

Things to visit in Singapore:

1. Gardens by The Bay
2. Singapore Botanical Gardens
3. Singapore Zoo & Night Safari
4. Little India @ Serangoon Road
5. Chinatown
6. Arab Street
7. Singapore Flyer

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