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To Be and Not to Be an IPR: The Protection of Trade Secrets in the EU 401

The classification of the protection of trade secrets as either subject-matter of intellectual property rights (IPR) or of unfair competition law differs between regions of the world. One should not seek to deduce any legal consequences from the classification in itself, but it does have implications for the applicability of other rules, such as choice of law and enforcement measures. In respect of enforcement, the picture is obscured by trade secret protection being classified as IPR for the purpose of the TRIPS Agreement and not an IPR for the purpose of the EU Enforcement Directive.

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Viewed as a whole, the DSM Copyright Directive represents a setback for copyright protection in the EU. To most observers, the debate looks like a classic struggle between those who wish to strengthen copyright and those who wish to roll it back. The reality is, of course, far more nuanced, but in the legislative process nuance was a casualty. Most rightholder groups were supportive of adoption, but there were significant exceptions. Anti-copyright stakeholders sought its rejection. National implementation of this instrument, which has forever altered the face of EU copyright, is set to be the next battleground.

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The notion of protected works in EU copyright law has been subject to controversial decisions since Infopaq in 2009. Levola promised to bring clarity, but its overly concise ruling instead triggered further questions. This article comments on the current state of the art, highlights its problematic aspects, and proposes solutions to achieve legal certainty and avoid future interpretative misunderstandings.

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Designing the Special Regime for Protection of Traditional Sciences in Iranian Law with Regard to WIPO and TRIPS Rules 440

With the growing expansion of commercial communications, the need to protect traditional knowledge is felt increasingly. After the WIPO, and following the establishment of the WTO and the authorisation of the TRIPS Agreement, certain countries, including developing ones, paid due attention to the matter of traditional knowledge. Since 2000, the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), as one of the sub-components of WIPO, has not been successful in enacting an obligatory agreement considering traditional knowledge. In this regard, some countries have enacted laws and regulations on the protection of traditional knowledge in their laws. In Iran, along with the establishment of Intellectual Property Policy Council, some steps have been taken to promote intellectual property rights. Iran's traditional knowledge based on its ancient civilisation, as well as its vast territory, necessitate considerable attention. It seems inevitable to develop a particular system of protection of traditional knowledge within the needs of the Iranian legal system.

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The internet has revolutionised people's lives by offering a medium to share and receive abundant information. However, this resource hub has become a harbour for the infringement of IP material. Although the sole responsibility lies on the internet user, some degree of liability on the shoulders of the internet service providers cannot be ruled out. Expounding on this issue, and considering the relevant judicial decisions and academic commentaries, the following article evaluates the changing trends in the liability of internet service providers for the infringement of intellectual property rights, more specifically focused towards trade mark and copyright infringements in UK and Europe.

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