BOOK REVIEW


The book, Intellectual Property and Human Rights - A Paradox which is a collection of chapters on the relationship between intellectual property law and human rights law by leading experts in IPR, is an outcome of a conference held by the Centre for Intellectual Property Law (CIER) in 2006. The collection of articles makes a valuable contribution to current debates on these critically important issues by providing a range of views on the human rights implications of intellectual property law and policy.

Not only do intellectual property law and human rights law have related origin, both have had similar development during the twentieth century. The relationship between human rights and intellectual property (IP) rights has been very weak for a long time, but gained attention only during the last decade. People started exploring relationship between IP and human rights in more detail only recently. Two major views have been proposed in this respect. A first school of thought is of the view that human rights and IP are in fundamental conflict. Strong IP protection is incompatible with a broad spectrum of human rights obligations, especially in the area of economic, social and cultural rights. This conflict can be resolved by recognizing the primacy of human rights law over IP law as IP rights are instrumental in promoting and protecting human rights. The second thinking claims that human rights law and IP law are compatible and can coexist because human rights and IP focus on the same fundamental question of enhancing welfare and the benefit for society. Both legal regimes equally try to define appropriate scope of private rights, while safeguarding public interest.

The book gives a brief account of the status of intellectual property rights in the actual international regulation of intellectual property law. The book has in total 14 chapters under three main heads: (1) Setting the stage: The law and its trends, (2) Intellectual property rights as human rights broadly covering different views on recognition of copyright law and patent law, and (3) Human rights as restrictions to intellectual property rights broadly covering different views on enforcement of copyright law and patent law.

The Part I of the book after giving a brief introduction about the origin and development of IP rights and human rights, discusses about the historical development of copyright law vis-à-vis its human rights context, starting from its roots in the seventeenth century and providing an overview of the expansion and convergence in the IP law. The paradox in patents and human rights arises only when IP rights are used to restrict access to information that could - at no real cost to the developer - be spread in ways that satisfy fundamental human needs. This paradox has been explained in detail in the chapter on Patents and human rights: Where is the paradox?

The Part II focuses mainly on the extent to which human rights law affects the legislative formation of IP law regimes, especially patent law and copyright law, and thereby determining their regulatory make-up and workings. The Part III is mainly on the nexus between IP rights and human rights regarding the effects of human rights provisions restricting the scope and exercise of IP rights.

The book will be of interest to academics, postgraduate students, national and international public authorities and those involved with international organizations in the fields of intellectual property law and human rights law.

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The earlier Designs Act, 1911 enacted with an objective to protect creative commercial designs, was based on the corresponding English Act. After a significant period of time and consequent strides in science and technology, this act was repealed by The Designs Act, 2000. Industrial design registration is a form of intellectual property right protection that is increasingly being used by businesses to maintain market competitiveness. This can be appreciated from the fact that design registration is now competing with trademark registration in terms of filing of applications. Given this background, it must be said that there is little in-depth information available about this area and this book is one of its kind which not only facilitates understanding of the subject but also covers the critical differences between industrial designs, trademark and copyright.

For practical purposes, the contents of the book can be separated into three portions, the first containing a detailed analysis of the Designs Act, 2000 beginning from object of the Act upto repeal of the Designs Act, 1911. This portion ends with an elaborate frequently asked questions and answers section. This is followed by a second portion consisting of chapters to create a basic understanding of related subject areas including (i) copyright & related rights, (ii) industrial property, (iii) utility models, and (iv) the role of WIPO. The final portion of the book comprises a voluminous appendix section which includes text of various acts, international treaties and agreements.

The subject area of designs as intellectual property has always been one of vagueness for the novice due to other closely related rights like trademarks and copyright. To be able to differentiate the subject matter of design protection, one needs a thorough understanding of definitions and legal aspects. This difficulty is only enhanced by the fact that there is a lack a good reading material in this subject area and very few professionals who are actually involved in design protection. Understanding Designs Act alleviates these very difficulties for the reader.

The book is informative and written in a lucid, organized manner. The appendices acting as ready reference for definitions, acts and related agreements is a thoughtful addition by the author. The use of case laws to explain the clauses in the Designs Act is also a tactful approach to capture and maintain the attention of the reader. This book is recommended as a good exposure to industrial design protection for IP professionals, practising lawyers, law students and of course, anyone who seeks to protect his intellectual property.

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