Emerging Issues in Intellectual Property

Trade, Technology and Market Freedom: Essays in Honour of Herchel Smith

Edited by

Guido Westkamp

Queen Mary Intellectual Property Research Institute, Centre for Commercial Law Studies, Queen Mary, University of London, UK

QUEEN MARY STUDIES IN INTELLECTUAL PROPERTY

Edward Elgar Cheltenham, UK ° Northampton, MA, USA

Contents

	of contributors word Michael Blakeney	vii ix
PAR'	T I TECHNOLOGY, MARKET FREEDOM AND THE PUBLIC DOMAIN	
1	The confusing case of Mr Smith - Herchel Smith as litigant Jeremy Phillips	3
2	Auditing intellectual property rights by public research institutes Michael Blakeney	14
3	Some initial thoughts on copyright, human rights and market freedom Uma Suthersanen	35
4	Changing mechanisms in copyright's ontology - Structure, reasoning and the fate of the public domain <i>Guido Westkamp</i>	54
5	The structure of control - Communication systems and copyright law John Cahir	73
6	Circumventing the idea/expression dichotomy: The use of copyright, technology and contract to deny access to ideas Noam Shemtov i!	88
7	The pharmaceutical industry, the evolution of patent law and the public interest: A brief history Graham Dutfield	109
8	Seabirds, series and sonar: Claiming registered rights Alison Firth	160
9	Post sale effects of a trade mark: Conceptual necessity or a gift-to trade mark proprietors? Spyros Maniatis	176
PAR	T II INTELLECTUAL PROPERTY AND INTERNATIONAL TRA	DE
10	Intellectual property rights as strategic weapon: Domestic and international trade considerations <i>Gary Lea</i>	191

vi Contents

11	Intellectual property law and political transformation:	
	Post-socialist reform in Central and Eastern Europe	203
	Mira Sundara Rajan	
12	Lessons from negotiating an amendment to the TRIPS	
	Agreement: Compulsory licensing and access to medicines	222
	Duncan Matthews	
13	The international protection of geographical indications	
	yesterday, today and tomorrow	250
	Gail Evans and Michael Blakeney	
PAR	T III TRADITIONAL KNOWLEDGE, TECHNOLOGY AND RESOURCES	
14	Knowledge and other values - Intellectual property and the	
	limitations for traditional knowledge	309
	Johanna Gibson	
15	Checking the lie of the land: Current trends in bioprospecting related laws	319
	Florian Leverve	
16	Avenues to ensure full participation of rural communities in	
	access authorisation processes in Cameroon.and South Africa	344
	Marcelin Tonye Mahop	
17	NERICA, food security and intellectual property: From the _f	
	Green to the Gene Revolution	369
	Muriel Lightbourne	
18	The appropriation of American Indian names and images in	
	trade marks - The Washington Redskins Case	391
	Daphne Zografos	
Inde	ex	407