

THE POLITICS OF GLOBAL INTELLECTUAL PROPERTY

Graeme B. Dinwoodie
Chicago-Kent College of Law

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I. Intersecting Debates in Current Global Intellectual Property Law

1. A Substantive Balance (not unlike domestic calculus)
 - * not historically part of the initial development of international intellectual property law (Paris, Berne, and TRIPS)
 - * a more recent focus of explicit discussion
 - i. difficulties of identifying national interests/stakeholders in global market
 - ii. new players: the role of non-governmental organizations; changes in industry interests
 - iii. new political institutions: regime shifting; private ordering
 - iv. developing countries as proxies for users/consumers: institutional alliances, and building coalitions
2. The Balance Between National Autonomy and Universal Standards
 - * historical devices favoring national autonomy
 - i. substantive *minima*
 - ii. in enforcement
 - * flexibilities in the existing system
 - i. in implementation
 - ii. in interpretation and compliance
 - iii. the effect of bilaterals
 - * the current demand for immediate international solutions: new rights (for creators *and* for users)

II. Specific Dilemmas

1. Structuring and Restraining Nation-State Behavior
 - * Procedural Proposals
 - * Substantive Limits: Ceiling as well as floors: the Users' Rights Debate
2. A positive international agenda
 - * The limits of simply blocking nation-states: private ordering
 - * The limits of multilateral solutions: bilaterals as end-runs, or a return to IP a la carte?
 - * Escaping or embracing the trade context
3. Competing Priorities
 - * Normative reconstruction of the system versus efficient operation of the existing system
 - * new rights or barring rights
4. The Contest of Rhetoric
 - * Changes in the Tenor of Debate: is this new?
 - * The Importance of Context: Moments in Time
 - * A general critique of international lawmaking or international IP?