Preface

This book examines the contribution that trade marks have made to the marketing of goods and services and to the organization of the production and distribution of goods and the provision of services. It uses this economic perspective as a basis for analysing trade mark law. The book focuses on trade mark law in the European Union, which has been substantially harmonized pursuant to a directive of 1988. In interpreting and elaborating the provisions of this directive, the Court of Justice of the European Union has linked the legal protection of trade marks to the economic goals of the European Union and in particular to that of achieving a system of undistorted competition. This book argues that trade marks can also play a useful economic role through improving the competitiveness of firms and facilitating various forms of innovation.

This book therefore uses economic analysis to evaluate the exclusive rights that the owners of registered trade marks enjoy under the European directive and to explore some other issues in trade mark law. It argues that the law should strike an optimal balance between maximizing the value of trade marks to their owners as marketing resources and enabling third parties to make reasonable use of their communicative power. This book also considers how the legal recognition and protection of trade marks have enabled marketing to develop as a distinct form of economic activity and how the flexibility of the trade mark as a structuring device has had a major impact on the evolution of the firm and on the organization of streams of economic activity.

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Andrew Griffiths
Reader in Law, University of Manchester