Foreword

Intellectual Property is used to refer not only to copyright and related rights, but also to industrial property covering subjects, such as patents, trademarks, designs and geographical indications.

The objective in this book – deriving from its title *A Defense of Intellectual Property Rights* – is to defend the intellectual property rights avoiding excess and defects in the law. Between over-protection and under-protection there is a need for balance and reform. Intellectual property rights are necessary not only for economic but also for moral reasons. Creators have a right to control the integrity of their works, at least for a limited time. The moral aspect of copyright emphasizes the sensible notion of authorship and confirms the argument that the creator has a morally significant interest in his or her work. Between ‘information socialism’ and ‘information capitalism’, policy makers should find the middle way, which balances legitimate concern about protecting intellectual property rights with the need to preserve common information resources. The spirit of this book follows the adage ‘abuse does not abolish rightful use’. Abuses should be corrected, but reasonable intellectual property rights rewarding creators should be preserved.

These are the central ideas of this excellent study, written by two distinguished academic scholars and experts, Richard Spinello and Maria Bottis.

The authors describe in detail the political history of intellectual property rights; they address a critical overview of the US and European legal regimes; they comment the second ‘enclosure’ movement, the ‘free culture’ movement and all the critical perspectives concerning the doctrine of copyright; they underline the philosophical and normative justification for intellectual property law, explaining the normative foundations of intellectual property rights; they finally defend intellectual property rights not embracing the economic and utilitarian rationale but supporting the natural rights model, moral interests and the human subject’s labor. They express the opinion that the information commons is not impaired by the granting of intellectual property rights, given the permeability of information and the impossibility of perfect control on intangible objects.

The focus of the authors is theoretical and philosophical. The central idea behind this book is the need to reinforce traditional theory, given the growing movement against intellectual property rights and the idealistic talk about collective ownership, commons as well as anti-property rhetoric.

The reader will find an enlightening essay on immaterial property theories and ethical foundations of intellectual property rights. Our digital age is not the ideal time for absolute and exclusive rights, and in particular for copyright. Although a legal framework for protection was introduced, the internet brought about a great alteration because technology overcomes the law. The demand for new legislation is not the proper solution. Protection should be based on classical principles respecting moral values of the human spirit, such as justice and fairness.

Athens, 30 November 2008

Dionysia Kallinikou
University of Athens
European Public Law Organization