Preface

Whenever one is confronted with a particular intellectual property issue for which one’s national law does not appear to offer an immediate answer, a common reflex is often to enquire whether that issue has already given rise to some discussion in the United States or in the European Union. The state of their technological development and the size of their economies make these two jurisdictions natural leaders in the search for solutions with respect to intellectual property matters. This leadership has also manifested itself on an institutional scale: if several European countries were instigators of the founding intellectual property conventions, the Paris Convention for the Protection of Industrial Property of 1883 and the Berne Convention for the Protection of Literary and Artistic Works of 1886, the driving force behind the Agreement on Trade-related Aspects of Intellectual Property Rights of 1994 has been the United States.

Over a century of events separates these two eras in the development of intellectual property law. It is already possible to appreciate that one of the key differences in the political environment of these instruments is the rise of the developing world as an active participant in the quest for a truly international understanding of intellectual property law. The Doha Declaration on the TRIPS Agreement and Public Health is the most conspicuous manifestation of this evolution. At the forefront of the international process, a North–South dialogue is thus engaged between developing countries and the leaders of the industrialised world.

While this dialogue is taking place, another movement is unfolding: other industrialised and industrialising countries are trying to find their own position amid these circumstances. One of these countries is Canada. Neither a superpower nor a developing country, yet a member of the G8, Canada must have intellectual property rules that are in keeping with international developments, but that remain adapted to its own economic and social realities. The texts that have been brought together in this volume are meant to highlight particular approaches to various issues within intellectual property law that have developed in Canada. Some pertain more to legislative solutions, while others stem mostly from judicial reasonings. All of them betray a preoccupation for solutions that suit national needs that need not necessarily coincide perfectly with those of its international allies. Of course, it has not been possible to be exhaustive. Yet, one hopes that this sampling of Canadian intellectual property
issues by some of the foremost experts in the field today will give the reader a taste of the originality of this law.

On a more personal note, I should like to express my gratitude to all the contributors to this volume who have so readily accepted to take part in this project. Many thanks also go to François Senécal who coordinated the revision of the texts, to Mohamed Saïfeddine Hichri who completed the table of jurisprudence, as well as to Luke Adams and Nep Elverd and all the members of the editorial team at Edward Elgar Publishing for their professionalism in making this book a reality.

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