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Preface

This project, which has been conducted since 2001 under the aegis of the Institute for Intellectual Property Law and Market Law (IFIM) at Stockholm University in cooperation with the Max Planck Institute for Intellectual Property and Competition Law (MPI) in Munich, took its cue from intense private discussions between the editors over dinners and coffees from the mid 1990s, exchanging views on actual developments and prognoses for the future of intellectual property (IP) matters. We soon observed that the tendency to apply a one-sided and inflexible approach to IP on the global as well as on the domestic level might distort the necessary equilibrium between the different interests involved, and thus become a source of systemic malfunctions and increasing discontent. The response to that, in our opinion, could only be found in promulgating an overarching “balancing instrument” to which all IP must conform.

While the basic tenor of the message was clear even then, the task remained to cast it in a form which combined academic substance with communicative appeal. Elaborating the necessary groundwork called for institutionalization in the form of a project, which came to operate under the name Intellectual Property in Transition (IPT). External funding, without which the work would have been impossible, was received from the Swedish Research Council (“Vetenskapsrådet”) for three years from 2001. Initial plans to finish the work within that time period proved to be far too optimistic; it took more than twice as long. The reasons for such procrastination were many; academic work is not easily fitted into tight schedules. It was also not until we were in the midst of project activities that we realized that the most appropriate way of presenting and illustrating the impact of an IP balancing instrument would be to propose pertinent amendments to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), so as to be heard and understood by a broader audience, and to provide a concrete impetus for the further development of international IP law.

Apart from the two of us, the following persons participated in the working group: Professors Niklas Bruun (Helsinki), François Curchod (Strasbourg), Antonina Bakardjieva Engelbrekt (Stockholm) and Jens Schovsbo (Copenhagen). Dr. Henning Grosse Ruse-Khan (MPI), doctoral candidates Frantzeska Papadopoulou (Stockholm) and Andrea Wechsler
(MPI) were involved in the work as permanent or temporary project group members. Doctoral candidate Åsa Hellstadius (Stockholm) acted as the group’s secretary. Without them, the exploration of ways to re-establish the balance between different interests involved would never have matured into a book. Not least did François Curchod’s knowledge and experience, and his engaged participation in all group meetings and revisions of all draft texts, provide an invaluable resource. Others who have taken part in the work over time were Professors Bengt Domeij (Uppsala), Thomas Dreier (Karlsruhe), Ole Andreas Rognstad, Are Stenvik (both of Oslo), and Joseph Straus (MPI), as well as Dr. h.c. Henry Olsson (Stockholm). We are very thankful indeed for all their useful input!

As has been stated, the project was originally generously funded by the Swedish Research Council (2001–2005). But since we had by no means completed the work in 2005, the participating institutions have kindly supported us with personal resources to enable the continuance of the project work. The Swedish Research Council also financed, in November 2005, a two-day “Friends of the Project Meeting” for some 30 participants from all over the world. A first draft version of our proposals was presented at this occasion, and valuable input was received which is reflected in a number of changes made to the original text. We gladly take this opportunity to finally thank all those attending the meeting for the many constructive, and sometimes harsh, comments, as well as for their encouragement! We also had the honour to present the framework of the IPT project at the ATRIP Meeting in Parma in September 2006, for which we are grateful to the organizer, Professor Gustavo Ghidini. Some early ideas of the project were also discussed at an MPI symposium in Schloss Elmau, Bavaria in early 2002.

It is every academic’s aim to be read and discussed, and we are no different. So, it is our hope that by reaching, at last, the stage of publication, our work will stimulate further discussions on the development of international IP law, including its overlaps with areas such as Human Rights and Sustainable Development in their various facets, as well as regarding the IP-consumer interface, just to mention a few. In addition, we hope that the meetings, work and discussions that we have enjoyed so much over almost a decade are now revived and continued in what may be a second phase of the IPT project.

Munich and Stockholm, July 2010

Annette Kur and Marianne Levin