

Foreword

When I teach courses in international intellectual property law, I often start by suggesting that much of the content that we will cover can be understood as an attempt to solve the problem of territoriality – both territoriality as a legal (political) concept, and territoriality as the dominant defining unit of social and commercial ordering. Understanding why *international* intellectual property law (apparently) paradoxically embraces a commitment to this foundational principle is crucial to an appreciation of the proper roles of international and local systems in regulating the creative and commercial environment. As the social power of territoriality comes under pressure from global trade and online activity, it might be tempting to jettison the legal principle entirely rather than to work out how to harness its enduring benefits in a contemporary context. But casting territoriality aside would be too simplistic a solution. Many of the contributions to the volume illustrate nicely the continuing importance of national autonomy, of difference and differentiation, of elevating local values in an increasingly global time. And others demonstrate the practical and political difficulties of substituting universal norms in place of what we now have. But that does not make this a conservative tome. It is very far from that. All the contributions recognise, and grapple with, the reality that intellectual property scholars must reconsider the normative and practical claims of territoriality in light of changing circumstances. But that reconsideration might sometimes lead us to reaffirm historical commitments and redouble efforts to preserve what powerful social and political forces might imperil. On other occasions, it results in acknowledgment that new institutions or new rules must be shaped to make it possible for intellectual property law to serve its core purposes. This is a subtlety that can be found throughout this volume; it is what makes international intellectual property law complex, and work like this vital.

The volume takes trademark law as its particular focus. The questions raised by territoriality pervade intellectual property law, but they are especially acute in the field of trademarks. Trademarks, as vessels for consumer understanding, have an inherently spatial dimension that reflects patterns of social and commercial exchange. Yet, the online world

that renders borders porous and physical place less dominant is trademark-intensive. Thus, as the title to this book suggests, the global economy is a huge challenge to territoriality of marks. The magnitude of that challenge, however, may only inspire harder thought and greater readiness for innovation. The editors are to be commended for bringing together such a varied and thoughtful collection of contributions, all of which vigorously accept the challenge that this environment presents. The result is a thoroughly informative and thought-provoking read.

Graeme B. Dinwoodie
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