
Preface

Intellectual property is nowadays rarely limited in scope to a single country. The modern intellectual property system is international, almost by nature, despite its very firm territorial roots. Parallel rights exist in the various jurisdictions and rights are exploited in various jurisdictions.

The challenge that arises is based on the conception in business that intellectual property operates at a cross-border level, in combination with the fact that the reasonable expectation of an effective cross-border enforcement of intellectual property needs to be filled in in practice on a territorial country by country basis. This collection of essays looks at the cross-border enforcement and the issues that arise from it from various perspectives.

In a first part various national or regional systems are examined individually. In some of them there are already special rules for cross-border cases, whilst in others, and in particular in those of emerging economies, the focus is still firmly on establishing an effective enforcement system in the jurisdiction itself. Be that as it may, either system will be needed for an effective cross-border enforcement in the appropriate particular scenarios.

In a second part, the territorial basis is taken one step further. National systems necessarily interact and this is where private international law issues arise. We deal first of all with the traditional private international law areas such as jurisdiction, choice of law and recognition and enforcement, but we then consider special issues arising from ubiquitous cases to the use of intellectual property as security.

In a third part we look at cross-border enforcement from the perspective of those involved, such as practitioners, judges and arbitrators.

And finally, in a fourth part, we consider special, somewhat more individual issues, such as the liability of intermediaries and the fall-out from TRIPS and ACTA.

On that basis we hope to provide a complete overview of the issues that arise in a cross-border enforcement context, as well as an in-depth analysis of the current state of affairs in legal science.

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