Information Law Series

Series Editor: P. Bernt Hugenholtz
The advent of the Information Society has put the field of information law squarely on the map. Information law is the law relating to the production, marketing, distribution and use of information goods and services. The field of information law cuts across traditional legal boundaries, and comprises a wide set of legal issues on the crossroads of intellectual property law, media law, telecommunications law, freedom of expression and right to privacy.

Nobody likes today’s copyright law. Widespread unauthorized use of copyright material proliferates with impunity, while citizens and users protest that intrusive copyright and related rights law stifles cultural expression. Equipment manufacturers and intermediaries complain about yet more ‘security’ features that complicate their products and services and encumber marketing, while content owners desperately want enforcement to work. And of course it is crucial that whatever regulatory instruments come into play must not age prematurely in Internet time.

The European Union faces the daunting challenge of articulating coherent copyright policies that satisfy these contradictory multiple demands. Yet the legal framework must conform to the EU’s remit of fostering economic growth in a common market, while respecting the national traditions of its still growing family of Member States. Clearly, an extraordinary balancing act is called for if justice is to be done to all the private and public interests affected.

So how has the European acquis communautaire scored on these issues so far? In this groundbreaking study the Institute for Information Law of the University of Amsterdam brings its extensive academic expertise to bear on this question. The authors scrutinize the present law as laid down in the seven copyright and related rights directives, against the background of the relevant international standards of the Berne Convention, the TRIPs agreement and the WIPO Internet Treaties. They map out in detail the degree to which certain areas of copyright have been harmonized as they expose the gaps and inconsistencies in the acquis and the urgent unresolved issues that persist. They identify the EU’s ambitions in relation to its present and future competences (following the Lisbon Reform) to regulate copyright, and to its Better Regulation agenda. Following a comprehensive analysis of almost two decades of regulatory intervention, they move on to the salient current trends that point towards a more coherent and balanced European copyright law.

This book will be welcomed by all those interested or involved in the regulation of copyright and related rights law. Legal scholars, academic and research institutions, corporate counsel, lawyers, government policymakers and regulators – all these and more will benefit enormously from the profound analysis presented here.

Autumn 2009, approx. 350 pp., hardbound
ISBN: 9789041131300
Approx. Price: EUR 110.00 / USD 145.00 / GBP 98.00
Publications in the Information law Series are aimed at scholars, practitioners and policy makers who are active in the rapidly expanding area of information law and policy. Previous volumes of the series have examined such current issues as database protection, the right of publicity, copyright ownership, the future of copyright law, digital rights management and the ongoing proliferation of intellectual property rights.


by Paul L.C. Torremans

Human rights issues arise more and more often in an intellectual property context. *Intellectual Property and Human Rights* is the first comprehensive analysis of this emerging nexus of legal issues. In twenty-one incisive essays, well-known authorities in both intellectual property law and human rights law present in-depth analysis and discussion of such essential topics as the following:

- The human rights credentials of copyright and other intellectual property rights;
- The relations between copyright and freedom of speech and of expression, from the perspectives of both North American and European law;
- The relevance to copyright of the public interest defence in European law;
- The way trade marks and human rights interfere;
- The human rights and morality aspects of biotechnological patents and stem cell patents;
- The interaction between human rights and geographical indications and
- The fundamental rights of privacy in an intellectual property environment.

In the years to come, more and more lawyers will be confronted with issues involving the interaction of intellectual property and human rights. As a groundbreaking work *Intellectual Property and Human Rights* will be seen as a cornerstone of the debate. Practitioners, academics and policymakers in both fields will immediately recognize its value as a springboard to the informed future development of this new and crucial area of legal theory and practice.

This book is an enhanced edition of the title Copyright and Human Rights published in 2004. In addition to updating six chapters of this earlier edition, some 15 chapters on other IP topics were added.

*July 2008, 624 pp., hardbound
ISBN: 9789041126535
Price: EUR 145.00 / USD 191.00 / GBP 116.00*
This important book examines the challenges posed to public service obligations by European Union media law and policy. An in-depth analysis of the extent to which six countries (France, Germany, Greece, Italy, the Netherlands, and the United Kingdom) regulate broadcasting for the public interest reveals a range of vulnerability to national political pressures or, alternatively, to the ideology of market sovereignty. The author examines the country of origin principle and the European quota rule of the Television without Frontiers Directive, revealing the influence of European law on the definition and enforcement of programme requirements, and shows how the case law of the European Court of Justice encourages deregulation at the national level without offering adequate safeguards at the supranational level in exchange. She asks the question whether the alleged ‘European audiovisual model’ actually persists – that is, whether broadcasting is still committed to protecting such values as cultural diversity, the safety of minors, the susceptibility of consumers to advertising, media pluralism, and the fight against racial and religious hatred. The book concludes with an evaluation of the impact of the EU state aid regime on the licence fee based financing of public broadcasting.

Despite the increasing importance of the subject, its study in a comparative context has been heretofore underdeveloped. This book fully provides that context and more, and will be of great value and interest to all parties concerned with the key role of communications in the development of European integration.

April 2008, 480 pp., hardbound
ISBN: 9789041125002
Price: EUR 120.00/ USD 158.00/ GBP 96.00
This book is the result of a major collaborative research project led by the Institute for Information Law of the University of Amsterdam (IViR) in co-operation with the Tilburg Institute for Law, Technology and Society (TILT) of Tilburg University, and funded by ITeR, the Dutch National Program for Information Technology and Law.

Thirteen contributions from academia worldwide make up the present book, addressing the future of the public domain from a different angle. In addition, all authors were invited to reflect upon the notion and role of the public domain in the context of information law and policy. Should this concept be limited to that of a 'negative' image of (intellectual) property protection, i.e. all publicly available information not subject to a property right, and therefore freely (i.e. gratis) available, or should a broader approach be taken, e.g. all information available from public sources at affordable cost? Should information policies be aimed at maximizing the public domain or optimizing information flows? To what extent are these aims congruent?

This book takes a broader, 'information law' oriented approach towards the question of preserving the public domain, in which a wide range of interrelated legal questions converge. Issues treated in this book include:

- Economic analysis of the public domain
- Fundamental rights analysis of the public domain
- Impact of the application of technological protection measures and contractual restrictions on the public domain
- The impact of the expansion of copyright, database right and patent rights on the public domain
- The impact of the commodification of private data, government information, indigenous knowledge on the public domain
- The capacity of the Open Source and Creative Commons Movements to preserve the integrity of the public domain

*The Future of the Public Domain* is an important work for all those interested or involved in the regulation of the knowledge economy. Legal scholars, academic and research institutions, corporate counsel, lawyers, government policymakers and regulators - all these and more will benefit enormously from the thoughtful and incisive discussions presented here.

*July 2006, 392 pp., hardbound*  
*ISBN: 9789041124357*  
*Price: EUR 127.00/ USD 163.00/ GBP 102.00*
Control of access to content has become a vital aspect of many business models for modern broadcasting and online services. Using the example of digital broadcasting, the author reveals the resulting challenges for competition, broadcasting, and telecommunications. *Controlling Access to Content* explores the relationship between electronic access control, freedom of expression and functioning competition. It scrutinizes the interplay between law and technique, and the ways in which broadcasting, telecommunications, and general competition law are inevitably interconnected.

European law has widely harmonised the way conditional access is regulated in the Member States of the European Union. The author comments in detail on the relevant rules in European Court of Justice and the European Commission in its function as watchdog of European competition law. The relevant provisions in European broadcasting law, such as the right to short reporting and the so-called list of important events, are discussed extensively, as are the conditions that overrule the free-TV culture that was the essence of traditional broadcasting law. The broad and systematic screening of the existing regulatory framework makes this book an essential resource for all those who are concerned with the electronic control of access to content.

With its in-depth analysis and explicit conclusions, *Controlling Access to Content* amply supplies the crucial understanding of this complex field that policy makers, regulators, and academics require. It investigates the implications of electronic access control, digitalization, and convergence for broadcasting, as well as the effects of the regulatory framework on innovation, competition, and consumer access to content. It demonstrates clearly at which points the chosen approach could backfire and generate undesirable side effects, and what lessons can be learned from the pay-TV case for other digital service sectors. Using many examples, the author explains for lawyers, consumer and industry representatives the main lines of the regulatory framework that apply to access-controlled broadcasting, how their interests are affected, and what changes the future might bring.

July 2005, 336 pp., hardbound
ISBN: 9789041123459
Price: EUR 107.00 / USD 137.00 / GBP 86.00
The three-step test - by which limitations on exclusive copyrights are confined to ‘certain special cases’ which do not conflict with a ‘normal exploitation of the work’ and do not ‘unreasonably prejudice the legitimate interests of the author’ - is among the most enduring of standards affecting limitations on intellectual property rights. Its field of application is the delicate balance between exclusive rights and sufficient breathing space for the free flow of ideas and information. However, the emerging information society has thrown numerous unforeseen obstacles in the once-clear path of its implementation. Can the traditional balance between grants and reservations of copyright law be recalibrated along the lines of the three-step test in order to meet current and future needs? Controversies over this crucial question - in Europe, the U.S., Australia, and elsewhere, as well as in two significant WTO panels in 2002 - have brought the three-step test into focus, the essential principle governing copyright limitations in the information society. Investigating the development, structure, and function of the three-step test in international copyright law with thoroughness and precision, *Copyright, Limitations and the Three-Step Test* offers a close and insightful analysis of its continuing utility for the twenty-first century. The book includes:

- viable restatements of the rationales of copyright protection for the emerging IP environment;
- new insights into the relationship between copyright protection and copyright limitations;
- in-depth explanation of the structure and functioning of the three-step test;
- detailed interpretations of each criterion of the test;
- discussion of the two WTO panel reports dealing with the test;
- a proposal for the further improvement of the copyright system and the international rules governing copyright law;
- detailed information about international conference material concerning the test; and
- discussion of potential future trends in copyright law.

The author provides many examples that demonstrate the test’s impact on different types of limitations, such as private use privileges and the U.S. fair use doctrine. He explains the test’s role in the European Copyright Directive. The detailed examination and explanation of the three-step test will be of extraordinary value to policymakers, judges, and lawyers in the field of intellectual property law seeking to react adequately to the challenges of the digital environment.

*February 2004, 368 pp., hardbound*
*ISBN: 9789041122674*
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