

INTRODUCTION

INTELLECTUAL PROPERTY IN INTERNATIONAL PERSPECTIVE

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In an essay predating this Symposium, one of its contributors, Peter Yu, aptly described the challenges facing scholars teaching international intellectual property law:

Taken together, the political maneuvering by both developed and less developed countries has resulted in a new era of resistance and contestation. From the standpoint of international law and international relations, the activities by both country blocs have led to the emergence of a new forum-shifting phenomenon, through which countries “attempt to alter the status quo ante by moving treaty negotiations, lawmaking initiatives, or standard setting activities from one international venue to another.” This phenomenon has made the international intellectual property regime increasingly complex. Because the discussion of international intellectual property law developments can no longer be confined to activities within WIPO and the WTO, this regime has also posed major challenges to teachers and students.¹

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1. Peter K. Yu, *Teaching International Intellectual Property Law*, 52 ST. LOUIS U. L.J. 923, 937 (2008) (footnotes omitted).

While Professor Yu's remarks were part of an essay concerning the vagaries of teaching international intellectual property, they also describe an essential thread underlying the papers authored for this Symposium. Each work contributes to our understanding of the "increasingly complex" international intellectual property regime. Moreover, each work tackles important questions about the future of that regime; four in a context related to the multilateral Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and its framework, and one in the context of a proposed anti-counterfeiting treaty.

The work of these five remarkable scholars is set forth in this 2009 Symposium Issue, *Intellectual Property in International Perspective*, of the *Houston Law Review*. This Issue continues a highly productive collaboration between the Review and the University of Houston Law Center's Institute for Intellectual Property and Information Law (IPIL).

Each year IPIL brings together, for the IPIL/Houston National Conference, internationally recognized scholars to explore a particular subject within intellectual property or information law. The 2009 Conference was held on June 5–6, 2009, in Santa Fe, New Mexico.² Its goal is to provide a small-group, seminar-course-style discussion of the papers in a locale that is both enjoyable and inspirational. The in-depth review and conversation about the scholarship is unparalleled. It is intimate in a professional and tremendously beneficial way. Given the group assembled for the 2009 Conference, I am honored to briefly introduce the resulting scholarship as reported in this Symposium Issue.

The fifteen-year history of the TRIPS Agreement unites the first four papers in their quest to improve the international intellectual property regime. In *The Objectives and Principles of the TRIPS Agreement*,³ Peter Yu brings forth a new awareness of certain treaty provisions available to help less developed countries preserve and perhaps enhance the TRIPS implementations important to their interests. In a similar vein, but focusing primarily on patent law, in *Unveiling Competing*

2. In addition to the five Conference Presenters whose papers appear here, the 2009 gathering in Santa Fe benefited greatly from the insightful participation of our three Conference Fellows: Edward Lee, The Ohio State University Moritz College of Law, Jacqueline D. Lipton, Case Western Reserve University School of Law, and Mary W. S. Wong, Franklin Pierce Law Center.

3. Peter K. Yu, *The Objectives and Principles of the TRIPS Agreement*, 46 HOUS. L. REV. 979 (2009).

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Patent Perspectives,⁴ Cynthia Ho describes contested visions of the exclusionary rights of a patent in relation to country-implemented compulsory licensing under TRIPS.

The final two TRIPS-related papers expand the perspective beyond TRIPS to systemic issues concerning the responsiveness of international intellectual property law to multinational pluralist interests. In *Intellectual Property in the Twenty-First Century: Will the Developing Countries Lead or Follow?*,⁵ Jerome Reichman analyzes whether and how the leadership roles in shaping international intellectual property might change in the future under the evolving regime in light of changes in technological capacity and competitiveness since the original arrival of TRIPS. In a complementary analysis, in *Designing a Global Intellectual Property System Responsive to Change: The WTO, WIPO, and Beyond*,⁶ Graeme Dinwoodie and Rochelle Dreyfuss describe a revitalization of WIPO's prominence as an agenda-setting force and assess this and other developments as future flexibility mechanisms.⁷ This is, of course, an important development given the regime shifting strategy used by developed countries in the early 1990s to shift international intellectual property law development to the WTO and directly link it with the worldwide regime concerning trade flows.

Analyzing current day regime shifting, the final contribution to this Symposium, *The Proposed Anti-Counterfeiting Trade Agreement (ACTA): Two Tales of a Treaty*,⁸ posts one of the first scholarly commentaries for what is likely to be a controversial and much discussed treaty. In this work, Charles McManis describes the postures and interests seeming to influence the negotiations, focusing on issues of transparency and efficacy given the secretive nature of the development of the officially unpublished treaty text, a status which itself makes all the more admirable Professor McManis's depth of analysis on the proposed treaty.

4. Cynthia M. Ho, *Unveiling Competing Patent Perspectives*, 46 HOUS. L. REV. 1047 (2009).

5. Jerome H. Reichman, *Intellectual Property in the Twenty-First Century: Will the Developing Countries Lead or Follow?*, 46 HOUS. L. REV. 1115 (2009).

6. Graeme B. Dinwoodie & Rochelle C. Dreyfuss, *Designing a Global Intellectual Property System Responsive to Change: The WTO, WIPO, and Beyond*, 46 HOUS. L. REV. 1187 (2009).

7. The gathering in Santa Fe in June 2009 included only Professor Dreyfuss as a participant among the two coauthors. However, Professor Dinwoodie was a participant in 2004. See Graeme B. Dinwoodie, *Trademarks and Territory: Detaching Trademark Law from the Nation-State*, 41 HOUS. L. REV. 885 (2004).

8. Charles R. McManis, *The Proposed Anti-Counterfeiting Trade Agreement (ACTA): Two Tales of a Treaty*, 46 HOUS. L. REV. 1235 (2009).