

Foreword

Commentators have widely noted the transformation of intellectual property law and policy from an arcane, obscure and technical area to one that now has a direct and pervasive impact on our daily life. Most of these commentators, however, did not discuss the growing complexity, fragmentation and incoherence in intellectual property law and policy at the international level. Professor Oguamanam's book, therefore, is a highly welcome addition to the intellectual property literature. It provides a rich narrative on how the protection of intellectual property rights has spilled over into other policy areas that have their own histories, cultures, philosophies, languages, institutions, players, norms, values, approaches and dynamics.

Drawing on the author's broad knowledge of intellectual property, international trade, public international law, political science, international relations, anthropology, and development studies, the book covers what commentators have described as the "international intellectual property regime complex." This ever-evolving conglomerate regime was established by linking in a decentralized, non-hierarchical manner the various partially-overlapping international regimes that have been implicated by the protection of intellectual property rights. These regimes cover areas ranging from public health to human rights and from biological diversity to information and communications.

The present regime complex builds on a decade-and-a-half-old, but highly turbulent marriage of intellectual property and trade through the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) of the World Trade Organization. Entering into effect on January 1, 1995, the Agreement has adverse impacts on a wide range of areas in the developing world, including agriculture, health, the environment, education, culture and competition. To date, the international intellectual property regime complex remains one of the most fast-growing, yet understudied conglomerate regimes in the international policy arena.

In this book, Professor Oguamanam introduces a wide and diverse array of actors, fora and issues that populate the emerging international intellectual property regime complex. The book also identifies many new battlegrounds, in particular those that provide developing countries with opportunities to restore the balance of the international intellectual property system. Although developments in this area are dynamic, entangled, multifaceted, rapidly-changing and often messy, the author has successfully kept the discussion manageable for his readers without oversimplifying many of the details.

For lay readers, the book carefully breaks down the intriguing discussion into different policy areas. It situates the larger international intellectual property debate in the familiar contexts of globalization, global governance and post-industrial society. It explores the discourse on intellectual property law and policy in relation to the formation of a post-industrial global society driven primarily by creativity, innovation and a knowledge-based economy. The discussion also pays special attention to two issues that the TRIPS Agreement has failed to fully address: the information revolution and the advance of biotechnology. Such discussion is important because information technology and biotechnology have become key economic drivers in the twenty-first century.

For those well-versed in international law, regime theory or international relations, or those who are already familiar with international intellectual property issues, Professor Oguamanam's highly informative account is equally insightful. It provides a deep understanding of the complex interrelationship between the many different nation states, state and non-state actors, global institutions and international regimes that have been implicated by the protection of intellectual property rights. The narrative not only shows vividly the dynamic nature of global standard setting in the intellectual property area, but also documents the alarming impacts the resulting standards have on scientific research, knowledge dissemination, technology transfer, industrial development, global competition, food security, environmental sustainability, cultural patrimony and wealth distribution.

Unlike other books that devote the last chapter, or last few chapters, to outlining solutions to address problems in the international intellectual property system, this book embeds the solution in itself. It reminds readers that, if we are to solve the myriad problems in our existing system, we need to acquire a deeper and more sophisticated understanding of the international intellectual property regime complex. In short, we need to read this book!

The last chapter, nonetheless, provides some concrete suggestions on how countries, in particular the oft-mentioned BRIC countries, can team up with others to push for a proper recalibration of the international intellectual property system. The author rightly reminds us that the world is now at a crossroads. From climate change to global economic recovery, we are confronted with new issues and debates that have serious ramifications for the future development of the international intellectual property regime complex.

More importantly, how this regime complex develops will have serious implications for the developing world—for example, for access to medicines, textbooks, seeds, fertilizers, technology, knowledge and other development resources. As more developing countries migrate from the traditional agrarian and industrial economies to ones that are based on post-industrial, knowledge-based innovation, intellectual property can only become more important.

Thus, we should all be thankful that Prof. Oguamanam has written this very timely and important book. It shows how increased complexity, fragmentation and incoherence in the international intellectual property regime complex may place developing countries at a considerable disadvantage. Yet, the book offers hope by noting the possibility for these countries to better manage international regimes. In so doing, they can address global inequities, bridge the North–South divide and ultimately restore the much-needed balance of the international intellectual property system.

Peter K. Yu
Drake University Law School
Zhongnan University of Economics and Law