

1-1-2001

Intellectual Property Rights in the Global Economy

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Recommended Citation

Stephen Lowry, "Intellectual Property Rights in the Global Economy" (2001) 10 Dal J Leg Stud 209.

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BOOK REVIEWS

Intellectual Property Rights in the Global Economy

Keith E. Maskus

Washington: Institute for International Economics, 2000, 241 pp.

Reviewed by Stephen Lowry[†]

Keith Maskus claims that the “protection of intellectual property rights [IPRs] is at the forefront of controversies over the impacts of globalization.”¹ He proves that claim in *Intellectual Property Rights in the Global Economy* with a thorough assessment of IPRs in numerous trade areas around the world. In this study of current trade policies and practice, Maskus canvasses arguments for and against strengthening IPRs and he shows that, from an economic standpoint, it is clear IP is bursting its established borders and creating a demand for new global rules and innovative treaties.

One such innovative treaty is the WTO agreement on *Trade-Related Aspects of Intellectual Property Rights*. “TRIPs,” as this agreement is known, is a major subject of the book. In the first chapter, Maskus asks, “[Does] TRIPs move the world closer to a global economic optimum...”² The ensuing discussion evaluates the likelihood of achieving a global optimum by weighing IP’s two main societal objectives, *invention* and *access*, against each other. *Invention*, with its commonplace meaning, is an obvious benefit to society which leads to better products and more efficient services. The incentive to invent – generally found in technologically advanced countries – is protected by strong IPRs. *Ac-*

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¹ Keith E. Maskus, *Intellectual Property Rights in the Global Economy*, (Washington: Institute for International Economics, 2000) at 14.

² *Ibid.* at 12.

cess, on the other hand, describes the benefit of providing improved technology to a wide range of society at an affordable cost. This benefit is primarily a concern for less developed nations. IPRs restrict *access* because they create barriers against the free-flow of ideas, and these barriers confer the power to control and sell those ideas into the hands of creators. As Maskus explains, there is always a conflict between the pursuits of *invention* and *access*. The real question then, is whether strengthening IPRs in agreements like TRIPs can protect and encourage *invention* in developed nations without sacrificing the ability of poorer nations to obtain *access* to innovations.

Maskus contends that such a balance can be obtained. While he acknowledges that improving these rights throughout the world may lead to short-term negative effects in developing nations, he argues that long-term benefits accruing from increased trade, foreign direct investment (FDI) and technology spillover will far outweigh the short-term troubles. He feels that current practices demonstrate an imminent need for change. For example, in pharmaceuticals, he says the ease with which drugs can be copied operates as a disincentive for companies to undertake the onerous costs of research and development to engineer new products. Alternatively, in the digital realm, it is clear that traditional copyright laws cannot possibly fight off the growing incidents of software piracy. The global nature of these problems demand more global rules such as patents with broader scope and better registry systems, as well as agreements to provide legal protection for trade secrets.

Maskus explains that, in the absence of remedies for these imitative practices, conflicts between rich and poor countries will persist. He says that currently, developed nations have different goals and, by necessity, vastly different priorities than undeveloped countries. While the most advanced nations are concerned with patent issues such as protecting the method that shoppers use to click on their book purchases at *Amazon.com*, poor countries are attempting to imitate agricultural and pharmaceutical products so food and medicine can be delivered at reasonable prices. In prescribing a course of action, he acknowledges some of the problems that stronger IPRs will produce for lesser developed nations such as significant short-term losses in their labour forces and possible monopolistic prices. But ultimately, he turns to empirical and anecdotal findings for evidence that strong IPRs will create security for investment and promote numerous technological opportunities that,

in the long term, will compensate for initial losses. Maskus says, "Perhaps it is a leap of faith for poor countries to trust TRIPs to enhance their growth."³ But it is clear from the current trend toward IP protection that it is a leap many countries in the globalizing economy will be forced to make.

Regardless of how compelling readers find this argument, there is no doubt that *IPRs in the Global Economy* is an excellent survey of current IP issues in international trade. The book covers patent races, parallel trade, NAFTA and the WTO, compulsory licensing, databases and FDI – all at an engaging level of complexity. Maskus contrasts products so sophisticated that they deter imitation with inventions in genetics and plant engineering that are so readily copied "they wear secrets on their face."⁴ He conveys a sense of urgency in IP, in that events are unfolding at a demanding pace. He points out that not only are governmental policies and strategies lagging behind, but scholarship is as well. Economic study in these new and rapidly evolving areas needs more empirical attention before definitive answers will be produced.

On that point, it should be noted that Maskus does not attempt to look beyond the realm of economic analysis for further answers. Instead, this book remains unwavering in its focus on economics. In fact, some law students might prefer a greater emphasis on law. There is no case law or any direct analysis of statutes; trade schemes and market mechanisms dominate. However, Maskus does present trade economics in a very instructive manner without delving too far into complex methodology. He employs only a single supply and demand graph in the book and carefully places the various data charts into a readable framework. While the analysis is very lucid, it is unfortunate Maskus does not include more concrete examples to illustrate trade problems. Readers are interested in the real struggles and successes of companies in the global economy. For example, readers may be curious to hear more accounts like that of the Indian Chemists who find that the weak IPRs in their country are a major obstacle against joint ventures and transferring new technology. Nonetheless, this study on the whole informs and inspires us to learn more about these ideas and findings.

³ *Ibid.* at 190.

⁴ *Ibid.* at 52.

IPRs in the Global Economy thoroughly explores the forefront of global conflicts in trade. It gives a detailed picture of the current state of IPRs and conveys Maskus' visions of a stronger, more efficient IP system with a major role for international coordination and for 'works in progress' like TRIPs. This study will undoubtedly accomplish its stated goal of stimulating further discussion of controversial IP questions.