

The Global Regime for the Enforcement of Intellectual Property Rights

Xavier Seuba



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Xavier Seuba, Ph.D., is Senior Lecturer at the Center for International Intellectual Property Studies (CEIPI) of the University of Strasbourg. At CEIPI he is Academic Coordinator and Judicial Training Manager and co-directs the CEIPI-BETA Project in the Law and Economics of Intellectual Property. He teaches courses in various European and American universities in International Intellectual Property Law, International Health Law and International Economic Law. His research is focused on intellectual property enforcement, intellectual property and health and the economics of intellectual property. Seuba has advised national governments and has also been a consultant for several international organizations.

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XAVIER SEUBA

Center for International Intellectual Property Studies,
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THE GLOBAL REGIME FOR THE ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

In *The Global Regime for the Enforcement of Intellectual Property Rights*, Xavier Seuba offers a comprehensive description of the international norms and bodies dealing with the enforcement of intellectual property rights. The book analyses multilateral, plurilateral and bilateral treaties, and their national implementation, along with civil, border and criminal enforcement. The book also explores the interface between the enforcement of intellectual property rights and the norms regulating international trade, competition and human rights, as well as the conceptual and systemic aspects of enforcement, while illustrating the importance of these rights with examples in litigation. The book should be read by anyone interested in how intellectual property rights are being enforced around the world and how these efforts relate to other legal regimes.

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To Cecilia and Martí

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Abbreviations

AC	– Law Reports: Appeal Cases (UK)
ACTA	– Anti-Counterfeiting Trade Agreement
AIDS	– acquired immunodeficiency syndrome
AIM	– European Brands Association
AIPPI	– International Association for the Protection of Intellectual Property
AR	– Alberta Reports (Canada)
ASEAN	– Association of Southeast Asian Nations
AUSFTA	– Australia-United States Free Trade Agreement
BCSC	– Supreme Court of British Columbia
BGH	– Bundesgerichtshof [Federal Court of Justice of Germany]
BGHZ	– Amtliche Sammlung des Bundesgerichtshof in Zivilsachen [Official Reporter for Decisions of the German Federal Court of Justice in Civil Matters]
CAFTA	– Central America Free Trade Agreement
Cal.	– California Reports (US)
CanLII	– Canadian Legal Information Institute
CARICOM	– Caribbean Community and Common Market
CARIFORUM	– Forum of the Caribbean Group of African, Caribbean and Pacific States
CBP	– Customs and Border Protection (US)
CCIA	– Computer and Communications Industry Association
CD Cal.	– United States District Court, Central District of California
Ch.D	– Law Reports Chancery Division (UK)
CJEU	– Court of Justice of the European Union
CP	– Law Reports, Common Pleas (UK)
CPR	– Canadian Patent Reporter
Cr App Rep	– Criminal Appeal Reports
CU	– Customs Union

D.Del.	– United States District Court, District of Delaware
D.Minn.	– United States District Court, District of Minnesota
D.Mass.	– United States District Court, District of Massachusetts
D.N.J.	– United States District Court, District of New Jersey
DG	– Directorate General
Dist. Ct./USDC	– United States District Court
DMCA	– US Digital Millennium Copyright Act
DMd	– United States District Court, District of Maryland
DR	– Dominican Republic
DSB	– Dispute Settlement Body
DSS	– Dispute Settlement System
DSU	– Dispute Settlement Understanding
E.D.Mich.	– United States District Court, Eastern District of Michigan
E.D.La.	– United States District Court, Eastern District of Louisiana
EC	– European Community
ECHR	– European Convention on Human Rights
ECJ	– European Court of Justice
ECommHR	– European Commission of Human Rights
ECOSOC	– United Nations Economic and Social Council
ECR	– European Court Reports
ECtHR	– European Court of Human Rights
ED Tex.	– United States District Court, Eastern District of Texas
EEA	– European Economic Area
EFTA	– European Free Trade Association
EIA	– Economic Integration Agreement
Eng. Rep.	– English Reports
EPA	– Economic Partnership Agreement
EPO	– European Patent Office
ER	– England Reports
ESCR Committee	– United Nations Committee on Economic, Social and Cultural Rights
ETS	– European Treaty Series
EU	– European Union
EU Charter	– Charter of Fundamental Rights of the European Union
EUIPO	– European Union Intellectual Property Office
EWCA	– England and Wales Court of Appeal
EWCA Civ.	– England and Wales Court of Appeal (Civil Division)
EWHC	– England and Wales High Court
F.	– Federal Reporter (US)
F. Cas.	– Federal Cases (US)
F. Supp.	– Federal Supplement (US)
F.2d	– Federal Reporter, Second Series (US)

F.3d	– Federal Reporter, Third Series (US)
FBI	– Federal Bureau of Investigation
FCA	– Federal Court of Appeal (Canada)
FCCA	– Federal Circuit Court of Australia
FCTD	– Federal Court Trial Division (Canada)
Fed. Appx.	– Federal Appendix (US)
Fed. Cir.	– Federal Circuit (US)
FRG	– Federal Republic of Germany
FSR	– Fleet Street Reports (UK)
FTA	– Free Trade Agreement
GA	– United Nations General Assembly
GAO	– United States Government Accountability Office
GAOR	– United Nations General Assembly Official Records
GATS	– General Agreement on Trade in Services
GATT	– General Agreement on Tariffs and Trade
GDP	– gross domestic product
GfK	– Growth from Knowledge
HADOPI	– Haute Autorité pour la Diffusion des Oeuvres et la protection des Droits sur Internet (France)
HCJ	– High Court of Justice (Canada)
HIV	– human immunodeficiency virus
HL	– House of Lords (UK)
HR	– House of Representatives (US)
HRC	– United Nations Human Rights Committee
IACtHR	– Inter-American Court of Human Rights
ICCPR	– International Covenant on Civil and Political Rights
ICESCR	– International Covenant of Economic, Social and Cultural Rights
ICJ	– International Court of Justice
ICT	– information and communication technologies
ICTSD	– International Centre for Trade and Sustainable Development
IFPI	– International Federation of the Phonographic Industry
IIC	– International Review of Intellectual Property and Competition Law
ILC	– International Law Commission
ILM	– International Legal Materials
InfoSoc	– Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society

INTERPOL	– International Criminal Police Organization
IP	– intellectual property
IPD	– Intellectual Property Decisions (UK)
IPRED ₂	– Second European Union Intellectual Property Rights Enforcement Directive
IPRs	– intellectual property rights
IR	– Irish Reports
ISP	– Internet service provider
JIPITEC	– Journal of Intellectual Property, Information Technology and E-Commerce Law
KEI	– Knowledge Ecology International
LDC	– least developed countries
LJN	– Landelijk JurisprudentieNummer (the Netherlands)
MD Florida	– United States District Court, Middle District of Florida
MERCOSUR	– Southern Common Market
N.D.Ill.	– United States District Court, Northern District of Illinois
N.M.	– United States District Court, District of New Mexico
NAFTA	– North American Free Trade Agreement
NDCal.	– United States District Court, Northern District of California
NDOhio	– United States District Court, Northern District of Ohio
NDTex.	– United States District Court, Northern District of Texas
NDGa	– United States District Court, Northern District of Georgia
NGOs	– non-governmental organizations
NJW	– Neue Juristische Wochenschrift (Germany)
NPEs	– non-practicing entities
OAS	– Organization of American States
OECD	– Organisation for Economic Co-operation and Development
OHIM	– Office of Harmonization for the Internal Market (Trade Marks and Designs)
OJ/OJEU	– Official Journal of the European Union
OR	– Ontario Reports (Canada)
PIBD	– Propriete Industrielle Bulletin Documentaire (France)
PIIPA	– public interest intellectual property advisors
PTAs	– Preferential Trade Agreements
R&D	– research and development
RAE	– Royal Spanish Academy
RPC	– Reports of Patent, Design and Trade Mark Cases (UK)
RSC	– Revised Statutes of Canada
S. Ct.	– Supreme Court Reporter (US)

S.W.	– South Western Reporter (US)
SACU	– Southern African Customs Union
SADC	– Southern African Development Community
SC	– Statutes of Canada
SCC	– Supreme Court of Canada
SCR	– Supreme Court Reports (Canada)
SD Iowa	– United States District Court, Southern District of Iowa
SD Tex.	– United States District Court, Southern District of Texas
SDNY	– United States District Court, Southern District of New York
SQ	– Statutes of Quebec
STC	– Sentence of the Supreme Court (Spain)
TPMs	– technological protection measures
TPP	– Trans-Pacific Partnership
TRIPS	– Agreement on Trade-Related Aspects of Intellectual Property Rights
UDHR	– Universal Declaration of Human Rights
UK	– United Kingdom of Great Britain and Northern Ireland
UK Ct. App.	– United Kingdom Court of Appeal
UKHL	– United Kingdom House of Lords
UKSC	– United Kingdom Supreme Court
UN	– United Nations
UNCTAD	– United Nations Conference on Trade and Development
UNGA	– United Nations General Assembly
UNSC	– United Nations Security Council
UNTS	– United Nations Treaty Series
UPC	– European Unified Patent Court
UPR	– Universal Periodic Review
US	– United States of America
USC	– United States Code
USCA	– United States Code Annotated
USLW	– United States Law Week
USPQ	– United States Patents Quarterly
USPQ2d	– United States Patents Quarterly Second Series
USPTO	– United States Patent and Trademark Office
USTR	– United States Trade Representative
VCLT	– Vienna Convention on the Law of Treaties
W.D. Tenn.	– United States District Court, Western District of Tennessee
WCO	– World Customs Organization
WCT	– WIPO Copyright Treaty
WHO	– World Health Organization

WIPO	– World Intellectual Property Organization
WL	– Westlaw (US)
WLR	– Weekly Law Reports (UK)
WPPT	– WIPO Performances and Phonograms Treaty
WTO	– World Trade Organization

