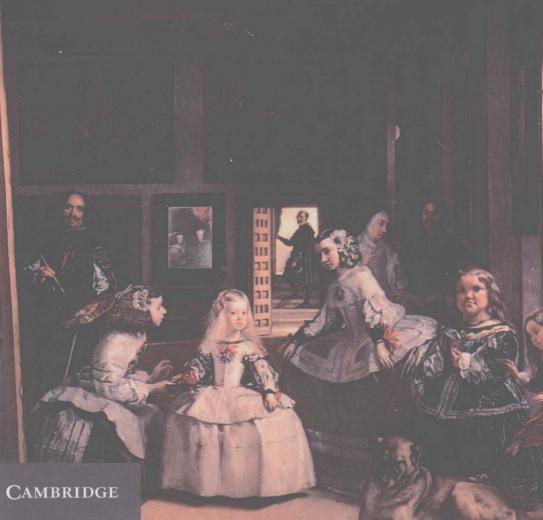
Constructing Intellectual Property

Alexandra George



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University of New South Wales



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CONSTRUCTING INTELLECTUAL PROPERTY

What is 'intellectual property'? This book examines the way in which this important area of law is constructed by the legal system. It argues that intellectual property is a body of rules, created by the legal system, that regulates the documented forms of abstract objects, which are also defined into existence by the legal system. Intellectual property law thus constructs its own objects of regulation, and it does so through the application of a collection of core concepts. By analyzing the metaphysical structure of intellectual property law and the concepts the legal system uses to construct 'intellectual property', this book sheds new light on the nature of this fascinating area of law. It explains anomalies between social and intellectual property uses of concepts such as authorship – here dubbed 'creatorship' – and originality, and it helps to explain the role of intellectual property from a structural (rather than the traditional normative) perspective.

Dr. Alexandra George is a Senior Lecturer in Law at the University of New South Wales, Australia. She is the editor of the book *Globalization and Intellectual Property* (2006), and her works have been published in numerous journals, including *Oxford Journal of Legal Studies*, *Res Publica*, *Archiv für Rechts- und Sozialphilosophie*, *Santa Clara Journal of International Law*, *UTS Law Review*, *Journal of Brand Management*, and *Sydney Law Review*. Her main areas of scholarly interest are the applied legal philosophy of intellectual property, globalization, and international intellectual property law and policy, as well as issues concerning copyright piracy and trademark counterfeiting.

To my parents, Charles and Elizabeth George

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Of course, any errors, oversights, or omissions are mine alone, and entirely my responsibility.

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Abbreviations

ACCC Australian Competition and Consumer

Commission

AWI Australian Wool Innovation Limited

Berne Convention Berne Convention for the Protection of Literary

and Artistic Works (1886)

BSI National Standards Body (UK), formerly known

as the British Standards Institution

CEN European Committee for Standardization

Cth Commonwealth of Australia
CTM Community Trade Mark (EU)

IAAO International Association of Assay Offices

IPC Intellectual Property Committee

IPRs intellectual property rights

ISO International Organization for Standardization
NIAAA National Indigenous Arts Advocacy Agency
Nice Convention Nice Agreement Concerning the International

Classification of Goods and Services for the Purposes of the Registration of Marks (1957)

NSW New South Wales, Australia

Paris Convention Paris Convention for the Protection of Industrial

Property (1883)

Qld Queensland, Australia

xxviii ABBREVIATIONS

Sonny Bono Copyright Copyright Term Extension Act (1998) (US)

Term Extension Act

TCEs traditional cultural expressions

TK traditional knowledge

TRIPS Agreement Agreement on Trade Related Aspects of

Intellectual Property (1994)

USPTO United States Patent and Trademark Office

Vienna Agreement Agreement on Technical Cooperation

between ISO and CEN (1991)

WIPO World Intellectual Property Organization

WIPO Convention Convention Establishing the World

Intellectual Property Organization (1967)

WTO World Trade Organization

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