
OVERLAPPING INTELLECTUAL PROPERTY RIGHTS

EDITED BY
NEIL WILKOF
SHAMNAD BASHEER



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PREFACE

The idea for this book derived from teaching a class nearly a decade ago. The student asked Neil a simple question: how does the law handle a situation where an artistic work is protected both as a trademark and a copyright? Neil found himself stumbling to find an answer. Even more worrying was the fact that there was a severe paucity of secondary literature. The trademark/copyright overlap led to ruminations about intellectual property overlaps more generally and with that came the unformed urge to do a book on the subject.

At least half a decade passed and Neil was making little progress with this project. Being convinced that the best way to handle the subject was through separate chapters on various intellectual property overlaps, each written by an expert on the subject-matter of the specific pair of rights, he sought a co-editor. Shamnad Basheer, an intellectual property scholar from India with a substantial background in intellectual property practice, seemed to be the perfect candidate. (Since both Neil and Shamnad had improbably both spent time in the past at the University of Illinois, Urbana-Champaign, fate seemed to be sending a clear message.)

Neil then approached Shamnad with the offer to co-edit such a volume and Shamnad gladly accepted, blissfully unaware of the volume and intensity that such a task entailed. We then took the idea to Oxford University Press and, after a rigorous review process, it embraced the publication of this book. And thus was born this labour of love.

This book's journey, like any other journey of challenge, has seen many a trough and a crest. Thankfully we survived, owing to the wonderful support that we received from a large number of good-hearted people. Two people in particular merit mention.

First, we wish to express our sincere gratitude to Luke Adams, who served as the original commissioning editor and guided us through the challenging process of formulating the proposal through to approval.

Secondly, our heartfelt appreciation for the wonderful work by Sophie Barham, who took over the project and whose exemplary efficiency and skill in handling over 40 contributors saw the book to completion on time. Sophie has given new meaning to the word 'indispensible'.

Every project of this kind also needs a wise man, lurking in the background, who is always ready to offer a helping hand when called upon. Dr Jeremy Phillips was our wise man. In a word—thanks.

We also wish to thank Shan Kohli, Jay Sanklecha, and Autri Saha, students of The National University of Juridical Sciences, Kolkata, and Levona Lavi, a student at Monash University in Melbourne, Australia for their help with preparing some of the chapters.

At the end of the day, this book is all about the work of the various contributors and those who prepared the comparison tables for the various jurisdictions, who were all asked to give form and content to the editors' vision. We have been fortunate that those who accepted the challenge have carried it out with aplomb, style, and profundity of thought. We hope that you are all pleased with the results.

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Prof. Shamnad Basheer
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Shamnad Basheer is the Ministry of Human Resource Development (HRD) Professor in Intellectual Property law at the National University of Juridical Sciences (NUJS), Kolkata.

He is the founder of SpicyIP, a blog dedicated to Indian intellectual property and innovation policy issues. This blog was rated as one amongst the 50 most influential IP personalities the world over by MIP (Managing Intellectual Property). He is also the founder of IDIA (Increasing Diversity by Increasing Access to Legal Education), a pan-India student movement to train underprivileged children for admission to the premier law schools.

After graduating from the National Law School Bangalore, Shamnad Basheer joined Anand and Anand, a leading intellectual property law firm in New Delhi, where he rose to head the firm's IT and telecommunications law division.

He then went on to do postgraduate studies as a Wellcome Trust Scholar at the University of Oxford and transitioned to academia. However he continues to consult with law firms, governments, and intergovernmental institutions.

In the past, he has been an IBA and an IPBA scholar and has published papers in leading intellectual property law journals. Shamnad Basheer was recently nominated as an expert on the IP global advisory council (GAC) of the World Economic Forum (WEF).

Neil Wilkof is a member of the Bressler Group, Ramat-Gan, Israel and he serves as special intellectual property counsel to Herzog, Fox & Neeman. He has been recognized by various surveys as a leading practitioner in the field of intellectual property and technology transfer. Neil Wilkof is the author of *Trade Mark Licensing* (2nd edition with Daniel Burkitt), is co-editor (with Melvin Simensky and Lanning Bryer) of *Intellectual Property in the Global Marketplace*, and is co-editor (with Ian D. Westbury) of *Joseph J. Schwab: Science, Curriculum and Liberal Education, Selected Essays*. Neil Wilkof has published numerous articles about intellectual law and practice and is on the editorial board of *Intellectual Property Law and Practice*. He has taught intellectual property law in several universities in the US, India, and Israel. Neil Wilkof is a graduate of Yale University, the University of Chicago, and the University of Illinois.

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