

## **Editors note**

*by Ana Ramalho & Christina Angelopoulos*

The leading line of this book is the interplay between intellectual property and other fields of law. This volume will deal specifically with civil law, criminal law and competition law. The challenge presented to the contributors was to analyse the relation of intellectual property with any of these three fields, from a perspective individually chosen by the author.

Part I approaches the intersection of intellectual property and civil law. Andrea Stazi and Davide Mula chose to examine the role of consumer law in that realm, as a recognized branch of civil law. Their contribution discusses the concepts of “consumer” and “consumption” in the framework of intellectual property. Particular issues tackled include remote storage, private copy, P2P, streaming and technical protection measures.

In the second chapter of Part I, Luís Couto Gonçalves concentrates on the position of contracts involving industrial property rights within the Portuguese legal framework. Starting from the historical evolution of the concept of industrial property, the author proceeds to an analysis of the civil and antitrust law provisions relevant to the licensing of IP rights. Focus is placed in turn on each of the practices of franchising, trademark merchandising and technology transfer agreements.

Marco Grotto kicks off Part II with an overview of current intersections between copyright and criminal law in Italy. After analysing the relevant Italian and international norms, the chapter turns to two case studies: the “Schwibbert” case illustrates difficulties in reconciling Italian and EU rules and the effect of procedural discrepancies on the application of sanctions; the “Promusicae” and “Peppermint” cases interrogate the relevance of privacy concerns in the protection of copyright. The chapter ends with an examination of current trends across Europe in the fight against illegal P2P file-sharing.

The second chapter of Part II turns to recent initiatives aimed at combating organized IP crime in the Baltics. Kristina Janušauskaitė examines the European Commission’s proposal for a directive on the harmonisation of criminal measures in the light of existing international and regional rules, from TRIPS to the IPRED. The aim is to achieve a practical interpretation of substantial criminal law notions as regards their compatibility with IP law. Examples are drawn from the national criminal legislation and case practice of Lithuania, Latvia and Estonia, while a comparison of the criminal law frameworks of the Baltic states with those of Western European countries is also undertaken. The chapter closes with an examination of predictable legal difficulties which may ensue should the Draft Criminal Enforcement Directive be adopted.

Finally, Part III focuses on intellectual property and competition law. Mariateresa Maggolino presents some general tenets in that regard. These are built on a discussion of US and EU case law regarding refusals to license by dominant firms and on a diligent analysis of the objectives of both intellectual property and competition law.

The last chapter examines in detail the specific question of dominant firms refusing to license their intellectual property rights. Luís Pinto Monteiro critically and thoroughly analyses the criteria involved in unlawful refusals to license intellectual property rights by resorting to both Article 102 of the Treaty on the Functioning of the European Union (relating to the abuse of dominant position) and to EU case law.