



WIPO and Private International Law

WIPO-ILA Seminar on Intellectual Property
and Private International Law

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Eun-Joo MIN, Building Respect for IP Division

Intellectual Property and Private International Law

- Hague Conference on Private International Law
- Soft Law Initiatives (ALI, CLIP, Transparency, Japan-Korea Principles Project, ILA)
- Proposal for a “Convention on Jurisdiction and Recognition of Judgments in Intellectual Property Matters” (2001)
- ▶ To date, no fully articulated regime at the international level

How does the international IP system address transnational matters?

- “PIL Approach”

- Lex loci protectionis – “the laws of the country where the protection is claimed”
 - Berne Art 5(2), Rome Art 7, Beijing Art 5

How does the international IP system address transnational matters?

- “IP Approach”

- Harmonization of national laws – minimum standards

- Territoriality / Rule of independence
 - Paris Art 4*bis*, Art 6, Berne Art 5

- National treatment
 - Paris Art 2(1), Berne Art 5(1)

- Right of priority / Country of origin
 - Paris Art 4, Berne Art 5

How does the international IP system address transnational matters?

- “IP Approach”

■ Substantive norms

- Use of mark on the Internet / commercial effect (JR on Marks on the Internet)
- Uniform Domain Name Dispute Resolution Policy

■ Facilitation of multi-territorial protection

- PCT, Madrid, Hague, Lisbon

■ Alternative dispute resolution

- WIPO arbitration, mediation, expert determination
- WIPO domain name dispute resolution services

WIPO Tool: National Approaches to Private International Law Issues in Online IP Infringement Disputes with Cross-Border Elements

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