Intellectual Property and Private International Law

- Hague Conference on Private International Law

- Soft Law Initiatives (ALI, CLIP, Transparency, Japan-Korea Principles Project, ILA)


▶ 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 4bis, 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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