



Trade-Related Intellectual Property Rights

**Prof. Frederick Abbott/ Prof. Carsten Fink
20-23 January 2010**

Trade-Related Intellectual Property Rights

Course description

Prof. Abbott's course introduces the international intellectual property rights (IPRs) system. It examines the WTO TRIPS agreement, and recent important developments of a legal and/or policy nature at the WTO, the World Intellectual Property Organization (WIPO), the World Health Organization and other international fora, as well as in bilateral and plurilateral agreements. Discussions of policy issues include the relationship between intellectual property and public health, and intellectual property and renewable sources of energy. Prospects for future development regarding international technology transfer, further integration of the international IP system, patenting of life forms, the disclosure of the source of traditional knowledge and genetic resources, the protection of test data, and the protection of geographical indications, will be considered.

Prof. Fink's course offers an introduction into the economics of the intellectual property rights (IPRs) system. It seeks to expose students to the complex economic trade-offs associated with different forms of IPRs protection. After first reviewing key facts and figures on the creation and use of IPRs, the course will outline the general economic rationales for protecting patents, copyright, trademarks and related IPRs instruments. It will then deepen the economic analysis for selected IPRs topics, including the relationship between IPRs and public health, policies towards parallel importation, and what is at stake in current international IPRs negotiations

Location

IELPO Room 20-23 January 2010 8h30 - 14h15
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Frederick Abbott
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Biography

Frederick Abbott is Edward Ball Eminent Scholar Professor of International Law at the Florida State University College of Law. He is Rapporteur for the Committee on International Trade Law of the International Law Association, consultant to the UNCTAD/ICTSD Project on Intellectual Property and Sustainable Development, to the World Health Organization and the World Bank. He is on the Panel of Experts of UNCTAD's Program on the Settlement of Disputes in International Trade, Investment and Intellectual Property. Professor Abbott serves as panelist for the World Intellectual Property Organization Arbitration and Mediation Center. He is on the editorial board of the Journal of International Economic Law (Oxford). He is former Chair of the American Society of Law Intellectual Property Interest Group and the International Law Section of the American Association of Law Schools, and former Director of the American Society of International Law Research Project on Human Rights and International Trade. He is Chair of the Intellectual Property Advisory Committee of the Foundation for Innovative New Diagnostics. Professor Abbott is the author of numerous books and articles in the fields of international economic law, international intellectual property rights law, and public international law. Prior to 1989 Professor Abbott was a partner at Pillsbury, Madison & Sutro (now Pillsbury Winthrop Shaw Pittman). He has served as Visiting Professor at University of California at Berkeley (Boalt Hall) School of Law, as Jean Monnet Professor at the University of Bonn, Visiting Professor and Weickert Fellow at the University of Berne, Visiting Professor at University of California, Hastings College of the Law and at Vanderbilt Law School, and was Professor at Chicago-Kent College of Law. Professor Abbott regularly teaches on the faculties of the World Trade Institute in Berne and the Central European University in Budapest. Professor Abbott holds BA and LLM degrees from UC Berkeley, and a JD from Yale Law School.

Carsten Fink

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Carsten Fink is the Chief Economist of the World Intellectual Property Organisation (WIPO) based in Geneva. Before joining WIPO, he was Professor of International Economics at the University of St. Gallen. He also held the positions of Visiting Professor at the Fondation Nationale des Sciences Politiques (Sciences Po) in Paris and Visiting Senior Fellow at the Group d'Economie Mondiale, a research institute at Sciences Po. Prior to his academic appointments, Mr. Fink worked for more than 10 years at the World Bank. Among other positions, he was a Senior Economist in the International Trade Team of the World Bank Institute, working out of the World Bank's office in Geneva and an Economist in the Trade Division of the World Bank's research department, based in Washington, DC. Mr. Fink's research work has been published in academic journals and books. He holds a doctorate degree in economics from the University of Heidelberg in Germany and a Master of Science degree in economics from the University of Oregon in the United States.

An Introduction to the Law and Economics of IPRs

Compulsory reading materials

- Chapter 1, Part I (*Introduction*), II (*The International IP Institutions*) & V (*Policies Underlying the International IPRs System*), in F. Abbott, T. Cottie and & F. Gurry, *INTELLECTUAL PROPERTY IN AN INTEGRATED WORLD ECONOMY*, pages 1-45, 91-117 (Aspen 2007)

Study Notes

- The forms of intellectual property
- The international institutions that regulate IPRs
- The economic rationale for protecting IPRs
- IPRs, innovation, and growth
- Do IPRs work in developing countries?

Suggested Reading Materials

- Fink, Carsten and Keith E. Maskus, (2005) 'Why We Study Intellectual Property Rights and What We Have Learned', in Carsten Fink and Keith E. Maskus (eds): *Intellectual Property and Development: Lessons from Recent Economic Research*. (The World Bank and Oxford University Press), pp. 1-18
- Jaffee, Adam B. and Josh Lerner. (2004). *Innovation and Its Discontents: How Our Broken Patent System is Endangering Innovation and Progress, and What to Do About It*. (Princeton, New Jersey: Princeton University Press).
- Maskus, Keith E. and Jerome H. Reichman, "The Globalization of Private Knowledge Goods and the Privatization of Global Public Goods," *Journal of International Economic Law*, Vol. 7, No. 2, pp. 279-320.

Trade Agreements on IPRs

Compulsory reading materials

- Frederick M. Abbott, *Intellectual Property Rights in World Trade* in RESEARCH HANDBOOK IN INTERNATIONAL ECONOMIC LAW, pages 452-75 (A. Guzman & A. Sykes) (Edward Elgar 2007)
- Frederick M. Abbott, *Intellectual Property Provisions of Bilateral and Regional Trade Agreements in Light of U.S. Federal Law*, UNCTAD - ICTSD Project on IPRs and Sustainable Development, Issue Paper No. 12, Feb. 2006, pages 1-21

Study Notes

- The TRIPS Agreement
 - Negotiating history
 - General provisions
 - Substantive provisions for different IPRs
 - Enforcement obligations
 - Other aspects
- ‘TRIPS-plus’ provisions found in bilateral and regional free trade agreements

Suggested Reading Materials

- ICTSD-UNCTAD. (2005). Resource Book on TRIPS and Development. (Cambridge University Press).
- Watal, Jayashree, (2001) Intellectual Property Rights in the WTO and Developing Countries, (The Hague: Kluwer Law International).

Thursday, January 21, 2010

8h30-14h15

IPRs and Public Health

Compulsory reading materials

- Frederick M. Abbott and Jerome H. Reichman, *The Doha Round's Public Health Legacy: Strategies for the Production and Diffusion of Patented Medicines Under the Amended TRIPS Provisions*, 10 J. Int'l Econ. L. 921 (2007) (Oxford)
- Worst Fears Realised: The Dutch Confiscation of Medicines Bound from India to Brazil, 13 ICTSD BRIDGES 13, Feb.-Mar. 2009

Study Notes

- Key characteristics of the pharmaceutical industry
- Patents and prices
- Differential pricing
- Doha Declaration on TRIPS and Public Health
- August 2003 Decision and 2005 TRIPS amendment

Suggested Reading Materials

- Abbott, Frederick M. (2002). *The Doha Declaration on the TRIPS Agreement and Public Health: Lighting a Dark Corner at the WTO.* Journal of International Economic Law, Vol. 469.
- Abbott, Frederick M. (2005). "The WTO Medicines Decision: World Pharmaceutical Trade and the Protection of Public Health." American Journal of International Law 99: 317-58.
- Fink, Carsten (2001). "Patent Protection, Transnational Corporations, and Market Structure: A Simulation Study of the Indian Pharmaceutical Industry." Journal of Industry, Competition and Trade 1(1), pp. 101-121. (2001).

- Roffe, Pedro, Geoff Tansey and David Vivas-Eugui (eds). (2006). *Negotiating Health: Intellectual Property and Access to Medicines*, (London: Earthscan).

Additional IPRs Topics

Compulsory reading materials

- Frederick M. Abbott, *Parallel Importation: Economic and social welfare dimensions*, *International Institute for Sustainable Development*, June 2007, prepared for the Swiss Agency for Development and Cooperation (SDC)
- Frederick M. Abbott, ICTSD Information Note Number 7, August 2008 *Post-mortem for the Geneva Mini-Ministerial: Where does TRIPS go from here?*
- Frederick M. Abbott, *Cross-Retaliation in TRIPS: Options for Developing Countries*, ICTSD Programme on Dispute Settlement and Legal Aspects of International Trade, Issue paper No. 8, April 2009, International Centre for Trade and Sustainable Development, Geneva, Switzerland

Study Notes

- Intellectual Property Exhaustion and Parallel Trade
- TRIPS in the Doha Round: geographical indications and biopiracy
- Cross-retaliation and suspension of TRIPS obligations
- Other issues

Suggested Reading Materials

- Maskus, K.E. (2000). "Parallel Imports." *The World Economy*, Vol. 23, No. 9, pp. 1269-1284.
- Fink, Carsten and Keith E. Maskus. (2005). "The Debate on Geographical Indications in the WTO." In Richard Newfarmer (ed.),

Trade, Doha, and Development: Window into the Issues. (The World Bank).

- Manuel Ruiz. (2004). "Access to Genetic Resources, Intellectual Property Rights and Biodiversity: Processes and Synergies." Paper prepared for the Seventh Meeting of the Conference for the Parties to the Convention on Biological Diversity. Available at http://www.iucn.org/themes/pbia/wl/docs/trade/ipsdweek_may04/P_GCS_TB_Ruiz.pdf

Useful websites:

www.iprsonline.org (Large collection of legal and economic studies on IPRs, maintained by ICTSD in Geneva)

www.wto.org/english/tratop_e/TRIPS_e/TRIPS_e.htm (TRIPS Gateway of the WTO Secretariat, with helpful background information on the TRIPS Agreement, TRIPS-related WTO decisions, and ongoing negotiations)

www.wipo.org (Website of the World Intellectual Property Organization, with background information on WIPO Conventions, intellectual property statistics, and other information).

www.epo.org (Website of the European Patent Office)

Introduction to the Economics of IPRs

Compulsory Reading Materials

- Fink, Carsten. (2008). *Trade-Related Intellectual Property Rights: Economic Principles and WTO rules*. Training Module Prepared for the World Bank Institute-Columbia University Trade Policy Course (Draft).

Study Notes

- Key facts and figures
- The economic rationale for protecting IPRs
- IPRs in open economies
- IPRs, innovation, and growth
- Do IPRs work in developing countries?

Suggested Reading Materials

- Fink, Carsten and Keith E. Maskus (2005). “Why We Study Intellectual Property Rights and What We Have Learned.” In Carsten Fink and Keith E. Maskus (eds): *Intellectual Property and Development: Lessons from Recent Economic Research*. (The World Bank and Oxford University Press), pp. 1-18.
- Jaffee, Adam B. and Josh Lerner. (2004). *Innovation and Its Discontents: How Our Broken Patent System is Endangering Innovation and Progress, and What to Do About It*. (Princeton, New Jersey: Princeton University Press).
- Maskus, K. E. (2000). “Intellectual Property Rights and Economic Development: Patents, Growth and Growing Pain” In: Maskus, K. E. *Intellectual Property Rights in the Global Economy*, Chapter 5, (Washington, D.C.: Institute for International Economics), pp. 143-170.

- Maskus, Keith E. and Jerome H. Reichman. (2004). “The Globalization of Private Knowledge Goods and the Privatization of Global Public Goods.” *Journal of International Economic Law*, Vol. 7, No. 2, pp. 279-320.

Saturday, January 23, 2010

8h30-14h15

IPRs and Public Health

Compulsory Reading Materials

- Fink (2008). “Intellectual Property and Public Health: An Overview of the Debate with a Focus on U.S. Policy.” Working Paper No. 146, (Washington, DC: Center for Global Development).

Study Notes

- Key characteristics of the pharmaceutical industry
- Patents and prices
- Differential pricing
- Incentives for R&D into developing country-specific diseases

Suggested Reading Materials

- Abbott, Frederick M. (2002). The Doha Declaration on the TRIPS Agreement and Public Health: Lighting a Dark Corner at the WTO.” *Journal of International Economic Law*, Vol. 469.
- Abbott, Frederick M. (2005). “The WTO Medicines Decision: World Pharmaceutical Trade and the Protection of Public Health.” *American Journal of International Law* 99: 317-58.
- Fink, Carsten (2001). “Patent Protection, Transnational Corporations, and Market Structure: A Simulation Study of the Indian Pharmaceutical Industry.” *Journal of Industry, Competition and Trade* 1(1), pp. 101-121. (2001).
- Roffe, Pedro, Geoff Tansey and David Vivas-Eugui (eds). (2006). *Negotiating Health: Intellectual Property and Access to Medicines*, (London: Earthscan).

The Economics of Parallel Trade

Compulsory Reading Materials

- Fink, Carsten. (2005a). “Entering the Jungle of Intellectual Property Rights Exhaustion and Parallel Importation.” In Carsten Fink and Keith E. Maskus (2005). *Intellectual Property and Development: Lessons from Recent Economic Research*. (The World Bank and Oxford University Press).

Study Notes

- Intellectual property exhaustion and parallel trade
- The benefits and costs of permitting parallel trade
- Empirical evidence

Suggested Reading Materials

- Maskus, K.E. (2000). “Parallel Imports.” *The World Economy*, Vol. 23, No. 9, pp. 1269-1284.

What’s at Stake in Current International IPRs Negotiations

Compulsory Reading Materials

- Fink, Carsten. (2005b). “Shifting Tides: TRIPS in the Doha Round.” *The World Trade Brief*. (London: Haymarket Management).

Study Notes

- Ongoing negotiations at the WTO: geographical indications and access to genetic resources
- WIPO Development Agenda

Suggested Reading Materials

- Fink, Carsten and Keith E. Maskus. (2005). “The Debate on Geographical Indications in the WTO.” In Richard Newfarmer (ed.), *Trade, Doha, and Development: Window into the Issues*. (The World Bank).
- Manuel Ruiz. (2004). “Access to Genetic Resources, Intellectual Property Rights and Biodiversity: Processes and Synergies.” Paper prepared for the Seventh Meeting of the Conference for the Parties to the Convention on Biological Diversity. Available at http://www.iucn.org/themes/pbia/wl/docs/trade/ipsdweek_may04/PG_CS_TB_Ruiz.pdf