

Book review

Marianne Chappuis, François Gindrat, Ivan Cherpillod, Heijo Ruijsenaas, Pranvera Këllezi, Nick White, Henry Peter and Jacques de Werra (eds), *Sport et propriété intellectuelle/Sport and Intellectual Property* (Schulthess, 2010), 125 pp

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The Law School of the University of Geneva has been organizing annual conferences in the field of intellectual property law. The book which is reviewed here *Sport et propriété intellectuelle/Sport and Intellectual Property* is the first volume of the collection ‘propriété intellectuelle – intellectual property’ which is aimed at publishing the proceedings of these conferences. The editors are all experts in the field of intellectual property, and more specifically in the field of sport law. They consist of both practising lawyers, working for international sport organizations such as the International Olympic Committee, UEFA, the European Broadcasting Union, or law firms, as well as very esteemed academics in intellectual property law from the Law School of the University of Geneva. The collection ‘propriété intellectuelle – intellectual property’ is overseen by Professor Jacques de Werra. He is a highly respected expert and academic in the field of intellectual property.

The targeted readership of the book is made up of practising intellectual property lawyers and anyone who has an interest in intellectual property law and sport law. It is also of interest for academics as well as students. Since the publication of the first volume of the collection two other volumes have been published, *La résolution des litiges de propriété intellectuelle/Resolution of Intellectual Property Disputes* (proceedings of the conference of 8 February 2010) and *Marques notoires et de haute renommée/Well-known and Famous Trademarks* (proceedings of the conference of 15 February 2011).

The focus of the book lies in the relationship between intellectual property and sport. This very interesting relationship warrants analysis since the way high-level sport is practiced, promoted and marketed today raises very important issues regarding the law in general, and more specifically intellectual property law. Every aspect of intellectual property is thus concerned.

First of all, regarding trade marks, organizers of sport events and official sponsors are often victims of the gaps in the law in relation to acts of unfair competition and/or ambush marketing. Secondly, despite numerous regulations addressing sport and intellectual property rights, the effectiveness of the protection provided by copyright, personal data or personality and/or image rights of the sportsman can be questioned. From these perspectives, Jacques de Werra had the good idea to directly entrust such topics to representatives from international sports organizations. These contributions are a great help in understanding how international organizations perceive the stakes within sport and intellectual property, and how they try to resolve them. Nevertheless, Professor

de Werra, judiciously chose to mix these contributions with contributions from practising lawyers and academics. This mix aims at providing new pragmatic as much as doctrinal perspectives on these very interesting issues.

The book is divided into six parts. It begins with the contribution of Marianne Chappuis from the IOC who details the protection of the Olympic intellectual property. She explains the importance of intellectual property for the IOC through the Nairobi Treaty and 'The Olympic Partner Programme' (TOP) which is supposed to guarantee any Olympic partner's exclusive rights, in terms of marketing for a specific category of products and services throughout the world. She moreover explains the particularities of the various Olympic games, regarding regulations and new issues which the IOC is facing, notably for the Olympic games of London 2012.

In the second part, François Gindrat, a lawyer at UEFA, analyses the protection of trade marks of sport institutions and sporting events through the example of UEFA. He raises interesting issues regarding trade marks in the field of sporting events which cover such issues as the length of the filing procedure and refusal of filing on the ground of descriptiveness. Sporting events are planned on a relative short term. Usually, for an event such as the UEFA EURO, the location of the event is decided only four years before the event takes place. Therefore, the trade mark has to be filed for four years in every country holding this event. Most of the time, the length of the filing procedure is not adapted to such practice and opposition proceedings can put the trade mark at risk only a few months before the event. Moreover, in some countries, the designation of the event is not eligible for protection under trade mark law because of a lack of distinctiveness. Gindrat, raises very interesting points and offers very pragmatic solutions.

One issue which is raised by every contributor is ambush marketing. Professor Ivan Cherpillod, a very esteemed scholar, who, however, also practices as an attorney at law in Switzerland, provides one of the best contributions of this book. Professor Cherpillod begins with a clear description of the various types of ambush marketing, and the issues such practices raise, both regarding consumers and sport organizers. In the second section of his part, he utilizes a more technical and legal approach by analysing the lack of intellectual property law regulations regarding such new ways of circumventing intellectual property rights protection.

Heijo Ruijsenaars and Pranvera Këllezi, both legal advisers at the European Broadcasting Union, contribute to the book by providing a comprehensive study on exclusive broadcasting rights for sport events and their limitations. The authors provide a detailed overview of the European legislation and case law on this topic, which is often underrepresented in intellectual property law handbooks. This part is enriched by a study of the specific regulations of some Member States of the European Union regarding broadcasting, such as the United Kingdom, France and Germany, and the impact of competition law on exclusive broadcast rights.

The fifth part of the book is entitled 'Sports Image Rights' and is written by Nick White, a solicitor in London. White gives an overview of image rights, both from a legal, theoretical perspective and a more practical, commercial perspective. The first section of his study focuses on image rights in the United Kingdom. It is illustrated with some of the leading cases in the area such as *Edmund Irvine v Talksport*, the very amusing case of *David Bedford v 118 118* before the Office of Communication (OFCOM) and the very famous *Douglas v Hello!* and *Campbell v MGN*. The second section has a comparative focus and concentrates on the protection of image rights in Germany, the USA and China, while the final section gives a practical view on the subject. In fact, the final part gives some examples on how image rights are used in practice,

notably regarding tax structuring in football services and commercial exploitation of the image rights of their athletes by the sport bodies of which they are members.

Finally, the sixth part, entitled: 'How to Protect Trade Secrets in High Tech Sport? A Legal Analysis in the light of America's Cup and Formula One Experiences', written by Henry Peter and Jacques de Werra, both Professors of Law at the Law School of the University of Geneva, is worth the book. After giving a historical background to the America's Cup and the Formula One Championship, the authors bring the reader into the world of sailing events and motor sports. The authors describe the various issues these events have to face with trade secrets and how they try to handle it. Different case law is used to explain the way the America's Cup and the Formula One Championship resolve their disputes (through arbitration panels, exclusive jurisdictions and/or national courts), and whether judicial strategies can solve trade secret issues. In a second section, the authors explore the legal protection of trade secrets in professional sports in a detailed but very accessible study.

In conclusion, it can be said that the book *Sport et propriété intellectuelle/Sport and Intellectual Property* is essential reading for any lawyer or student interested or working in the field of sport, but also for scholars who want to get familiar and up to date with sport and intellectual property issues.

Without doubt, the collection 'propriété intellectuelle – intellectual property' is born under auspicious circumstances.