

PROJECT DESCRIPTION

PROJECT DETAILS

Project Title

Intellectual property and information rights in the European Digital Single Market: legal, regulatory and normative issues.

Project Summary

Intellectual property and information rights have been at the centre of the European integration agenda for decades and continue to be subject to intense legislative and judicial scrutiny. In September 2018, the EU Parliament has approved the highly contentious Directive on copyright in the Digital Single Market, which is now awaiting its final enactment. Alongside the General Data Protection Regulation (entered into force in May 2018), the new Copyright Directive will shape the internet ecosystem in the years to come. The proposed PhD project, to be carried out as part of Bournemouth University's Jean Monnet Centre of Excellence for European Intellectual Property and Information Rights, will address regulatory and policy issues emerging from this new legislative framework.

European integration in the fields of intellectual property and information rights has raised great expectations as to their effects on European economy and society at large. Indeed, intellectual property rights seem to be taken as the key legislative instruments to stimulate innovation and creativity, to foster fairness and equity in the markets, to promote consumer welfare and wellbeing, and economic growth in all the many areas of the Internal market. Likewise, information rights such as privacy and data protection purportedly crystallize fundamental European values of individual autonomy, self-determination and human dignity. However, these expectations are increasingly challenged in today's information society. Scholars and stakeholders alike raise concerns as to the real efficacy of intellectual property rights, and question whether current information rights are sufficiently strong to cover the whole complexity of human values at stake.

To a considerable extent, these concerns arise from the disruptive effects of new information technologies, particularly ICTs, machine learning and Artificial Intelligence (AI), and the consequent emergence of new and unprecedented concentrations of power in the digital economy. The proposed PhD project will therefore focus on one or more of the following issues:

- Impact of AI on the Digital Single Market
- Internet platforms regulation
- Loopholes in the European harmonization process
- Access to information, competition and democracy
- The role of copyright and related rights in the new creative economy
- The growing relevance of exceptions and limitations to intellectual property
- Data ownership and access to data.

The research carried out under this Studentship will address these issues from the perspective of intellectual property and/or information rights. The PhD student engaged in this research is expected to have a solid background in a relevant area of law (e.g. copyright and related rights, data protection, internet law), as well as knowledge of EU law and acquaintance of the current EU policy debate. Most importantly, they will be open minded and able to engage in a fruitful dialogue with neighbouring disciplines. The research will provide new insights and original thinking on how intellectual property and information law should respond to the new challenges of the European Digital Single Market.

As part of their appointment, the PhD researcher is expected to contribute to the dissemination activities of the Jean Monnet Centre of Excellence, in particular:

- To design, edit and maintain the Centre's Newsletter
- To manage the Centre's mailing list,
- To collaborate with the Centre's faculty in the organization of events, seminars and workshops

Academic Impact

The research deals with a quickly evolving subject that has received extensive academic attention in the last years, by providing a fresh perspective and new insights. By means of intensive desk-based research and engagement with the academic scholarship and stakeholders, the PhD researcher will develop new insights, which will be consolidated in a PhD thesis as well as in academic papers and articles. The doctoral student will join academic networks such as "New IP Lawyers" (the Network of Young Practitioners and Academics in Intellectual Property Law), BILETA, ISHTIP and EPIP, and will present at the related international conferences.

The project will have impact on the following academic communities:

- Copyright scholars; in particular those interested in the EU Digital Single Market, the jurisprudence of the European Court, the EU policy and legislative process and the implementation of the new Copyright Directive;
- IT law scholars interested in regulatory aspects of the information society;
- Social scientists interested in the impact of digital technology on cultural consumption and, specifically, on access to information in the European digital landscape;
- Economists addressing new models of regulation of the digital economy
- Political scientists with an interest in European integration.

Societal Impact

The research project and its outputs will also have impact on the European society in a number of ways:

- Existing contact and continual engagement with IP policy-making agencies (such as EUIPO, the Observatory on IP Infringements, the EPO, the European Commission) throughout the project will ensure an in-depth engagement with the project's challenges and complexities. In turn, the results of the engagement with EU agencies will provide a feedback loop to stakeholders.
- Working closely with experienced academics in the fields of IP and information rights will maximise the impact of the research outputs through knowledge transfer between researchers, operators of the Digital Single Market the public at large.
- To policy-makers, the project will provide alternative scenarios and possible solutions to the difficult problem of regulating the European Digital Single Market.

The researcher will assist the faculty of the Jean Monnet Centre of Excellence with dissemination deliverables (newsletter, mailing list, public events). In this respect, too, the research will have impact on the European society. A well informed academic community is obviously more performant in its role of informing policy and industry at world-wide level. The implementation of a newsletter that will keep updated all IP&IT academics on European matters, discussions, issues and events, will certainly benefit the global academia, directly. Indirectly, it will benefit European policies. This includes public policies (e.g. EU institutions) and corporate policies (e.g. the creative industry, which is one of the main driving forces of European economy).

Training Opportunities

The doctoral student will acquire specialised legal knowledge in one or more of the key areas of EU law and will benefit from the expertise of the supervisory team. These include: digital copyright and data protection (Borghini), copyright and new technology (Mendis), EU law and policy (Mimler). The student will be encouraged to participate in public consultations and discussion fora and is expected to liaise with other European research centres that are partners of the BU's Jean Monnet Centre of Excellence through poster/paper presentations at conferences and

colloquia, visits/ joint projects and other networking activities.

SUPERVISORY TEAM	
First Supervisor	Professor Maurizio Borghi
Additional Supervisors	Professor Dinusha Mendis, Dr Marc Mimler
Recent publications by supervisors relevant to this project	<p>M. Borghi “Data portability and regulation of digital markets”, <i>Mercato Concorrenza Regole</i>, 3/2018</p> <p>M. Borghi, K. Erickson & M. Favale “With Enough Eyeballs All Searches are Diligent: Mobilizing the Crowd in Copyright Clearance for Mass Digitization”, 16 <i>Chicago-Kent Journal of Intellectual Property</i>, 135 (2016)</p> <p>M. Borghi & S. Karapapa “Search engine liability for autocomplete suggestions personality, privacy and the power of the algorithm”, <i>International Journal of Law and Information Technology (IJLIT)</i>, Vol. 23, No. 4 (2015), 1-29.</p> <p>M. Borghi & S. Karapapa, “Contractual restrictions on lawful use of information: sole-source databases protected by the back door?”, <i>European Intellectual Property Review (EIPR)</i>, Vol. 37, Issue 8, (2015), 505-514</p> <p>M. Borghi & S. Karapapa, <i>Copyright and Mass Digitization</i> (Oxford University Press: 2013)</p> <p>D. Mendis, M. Lemley & M. Rimmer (eds.) <i>3D Printing and Beyond: The Intellectual Property and Legal and Implications Surrounding 3D Printing and Emerging Technologies</i>. Cheltenham, UK: Edward Elgar Publishers (2019)</p> <p>D. Mendis, “Winds of Change: Conceptualising Copyright Law in a World of 3D Models and 3D Design Files – A Perspective from the UK” In: Pihlajarinne, T., Vesala, J. and Honkkila, O., eds. <i>New Issues in Online Distribution of Content in the EU</i>. Cheltenham, UK: Edward Elgar Publishing (2018)</p> <p>D. Mendis, “In Pursuit of Clarity: The Conundrum of CAD and Copyright – Seeking Direction Through Case Law”, <i>European Intellectual Property Review</i> (2018)</p> <p>H. Boshier and D. Mendis, “Swings and roundabouts: The impact of legal drafting on the language and understanding of copyright law and the need for educational materials”. <i>International Review of Law, Computers and Technology</i>, 30 (3) (2016) 211-</p> <p>D. Mendis, “Extended Collective Licensing in the UK - One Year On: - A Review of the Law and a Look Ahead to the Future”. <i>European Intellectual Property Review</i>, 38 (4) (2016) 208-220.</p> <p>E. Bonadio & M. Mimler, “Brexit Implications for Geographical Indications of Food and Beverages” <i>European Intellectual Property Review</i>, 41 (1), (2018) 1-4.</p> <p>M. Mimler, “‘Metall auf Metall’ – the German Federal Constitutional Court discusses the permissibility of sampling music tracks” <i>Queen Mary Journal of Intellectual Property</i>, 7 (1), (2017) 119-127.</p> <p>M. Mimler & A. P. Ringelhann, “Digital exploitation of out-of-print books and copyright law: French licensing mechanism for out-of-print books under CJEU scrutiny” <i>European Intellectual Property Review</i>, 39 (3), (2017) 190-193.</p> <p>M. Mimler, “First things first: German Federal High Court provides guidance on ISP liability in online copyright infringement cases” <i>Journal of Intellectual Property Law & Practice</i>, 11 (7), (2016) 485-489.</p>

INFORMAL ENQUIRIES

Maurizio Borghi mborghi@bournemouth.ac.uk

ELIGIBILITY CRITERIA

The PhD Studentships are open to UK, EU and International students. Candidates for a PhD Studentship should demonstrate outstanding qualities and be motivated to complete a PhD in 4 years and must demonstrate:

- outstanding academic potential as measured by either a 1st class honours degree or a Master's degree with distinction or equivalent Grade Point Average (GPA)
- an IELTS (Academic) score of 6.5 minimum (with a minimum 6.0 in each component) for candidates for whom English is not their first language which must be evidence at application

In addition to satisfying minimum entry criteria, BU will look closely at the qualities, skills and background of each candidate and what they can bring to their chosen research project in order to ensure successful completion.

Applicants will be asked to submit an online application form and a proposal (c. 1500 words) outlining their understanding of the project for which they are applying, the approach they would envisage taking and what qualities they will bring to the research community.

Please note:

- Current BU Doctoral students are not eligible to apply for a Studentship
- Current MRes/MPhil students can apply, subject to satisfactory completion of their Research Degree prior to being able to take up the award
- PhD Studentships cannot be used to support BU staff to complete doctoral programmes

HOW TO APPLY

Please complete the online application form by **21 April 2019**. Further information on the application process can be found at: www.bournemouth.ac.uk/studentships