

Péter Mezei – Hannibal Travis – Anett Pogácsás (eds.), Harmonizing Intellectual Property Law for a Trans-Atlantic Knowledge Economy

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Dávid Ujhelyi*

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1. Introduction

It is beyond doubt that the Fifth Annual Workshop on Intellectual Property Rights in the city of Szeged, Hungary of 2021 (or WIPS for short)¹ was a successful international conference. Among the fruitful conversations and exchange of ideas that took place, the fifth WIPS also provided a successful starting point for scholars, guided by Péter Mezei, Hannibal Travis, and Anett Pogácsás, to develop the volume “*Harmonizing Intellectual Property Law for a Trans-Atlantic Knowledge Economy*”, the focus of this book review (hereinafter: Volume).²

In the Introduction (authored by the editors),³ the editors articulate a compelling rationale for the Volume: the convergence of IP regimes is not only about doctrinal alignment, but also about balancing the interests of the many stakeholders and purposes, goals and objectives of IP law – incentivizing authors and other rightsholders, fostering innovation, strengthening market integration, while preserving cultural and unique, national constitu-

* Dávid Ujhelyi: head of department, Department of Competition Law and Intellectual Property, Ministry of Justice of Hungary, Budapest; senior lecturer, Pázmány Péter Catholic University, Budapest, dr.ujhelyi.david@gmail.com. The views expressed in this paper do not necessarily reflect the views of the above institutions.

1 The programme of the conference can be accessed at <https://wips.copy21.com/schedule/>.

2 Péter Mezei *et al.* (eds.), *Harmonizing Intellectual Property Law for a Trans-Atlantic Knowledge Economy*, Brill–Nijhoff, Leiden–Boston, 2024, 436 p.

3 Péter Mezei *et al.*, ‘Harmonizing Intellectual Property Law for a Trans-Atlantic Knowledge Economy – an Introduction’, in Mezei *et al.* (eds.) 2024, pp. 1–37.

tional identities. This balancing act becomes more precarious in light of dynamic technological advancements, such as artificial intelligence (AI), 3D printing, and streaming economies. In my view, the Volume's main strength lies in addressing these tensions in both depth and breadth, traversing traditional boundaries between copyright, trademark, and patent law, while also incorporating critical, interdisciplinary, and comparative methodologies.

As a short overview, the Volume is structured into four thematic parts. Part 1, titled "*Pursuit of Harmonization*" focuses on the successful aspects of harmonization, while providing a historical and theoretical foundation for understanding IP law harmonization. Part 2, "*Divergences in Harmonization*", delves into areas where harmonization efforts have faced significant obstacles, or could be deemed outright unsuccessful. Part 3, titled "*Innovation for or against Harmonization?*" is concerned with emerging new technologies and their effect on IP law harmonization. The fourth and final Part of the Volume, "*The Challenges of Technological Advancements to IP Doctrine – Any Space for Harmonization Yet?*" focuses on specific technological disruptions to IP doctrine. Each Part contains chapters that interlace legal scholarship with practical policy insights, while the Volume itself is generally based on comparative and analytical methods, dividing its focus between legal, technological, business, and policy perspectives. Together, the 16 chapters illuminate how trans-Atlantic IP harmonization is as much a regulatory necessity as it is a deeply contested and evolving ambition.

2. An Overview of the Selected Papers (Chapters)

On the positive side of harmonization effort, Laura R. Ford's chapter, "*From Plato to WIPO: Old and New in Legal Harmonization*" aptly navigates through the historical philosophical underpinnings of IP law, highlighting how ancient principles still resonate in modern legal frameworks. Ford's exploration offers a rich narrative that combines philosophical discourse with legal evolution, calling attention to the perennial tension between the protection of creators and the public interest.⁴

Hannibal Travis's contribution, "*Augmented Creativity in a Harmonized Trans-Atlantic Knowledge Economy*" further delves into the implications of emerging technologies for creativity and IP law. Travis argues convincingly

⁴ Laura R. Ford, 'From Plato to WIPO: Old and New in Legal Harmonization', in Mezei et al. (eds.) 2024, pp. 45–66.

that while technological advancements can facilitate creativity, they also challenge existing legal paradigms. The chapter points to the need for dynamic legal frameworks that can adapt to technological innovations, thus ensuring equitable protection of rights while promoting progress.⁵

On the more challenging side of harmonization, Péter Mezei and Caterina Sganga's chapter, "*The Need for a More Balanced Policy Approach for Digital Exhaustion*," underscores the complexities of digital exhaustion and its legal ramifications. Their analysis reveals the stark differences between EU and US approaches to digital content and the need for a balanced policy that considers the rights of consumers and creators alike.⁶

Anett Pogácsás, in her chapter "*To Waive or Not to Waive? – Some Thoughts on the Role of Copyright Waiver*" examines the rarely analyzed concept of copyright waivers, highlighting the fundamentally divergent approaches of the different legal systems and their potential to be mitigated and to provide flexibility within IP frameworks.⁷

Giulia Dore in her chapter "*Experimenting with EU Moral Rights Harmonization and Works of Visual Arts: Dream or Nightmare?*" critically assesses moral rights⁸ harmonization in visual arts within the EU, raising questions about whether uniformity is feasible or desirable in culturally sensitive areas, while exposing the persistent gap between the civil and common law approach.⁹

In the opening Chapter of Part 3, Hannibal Travis contributes with a second paper titled "*Spooky Innovation and Human Rights*". This chapter critiques how emerging technologies, such as quantum computing and neural networks pose normative risks to legal coherence and individual autonomy. This chapter reveals how technological advancements necessitate adaptive legal frameworks while posing risks to traditional IP regimes.¹⁰

5 Hannibal Travis, 'Augmented Creativity in a Harmonized Trans-Atlantic Knowledge Economy', in Mezei *et al.* (eds.) 2024, pp. 67–84.

6 Péter Mezei & Caterina Sganga, '*The Need for a More Balanced Policy Approach for Digital Exhaustion*', in Mezei *et al.* (eds.) 2024, pp. 133–153. See more Péter Mezei, '*Copyright Exhaustion: Law and Policy in the United States and the European Union*', Cambridge University Press, Cambridge, 2022.

7 Anett Pogácsás, 'To Waive or Not to Waive? – Some Thoughts on the Role of Copyright Waiver', in Mezei *et al.* (eds.) 2024, pp. 175–194.

8 See on moral rights and parody: David Ujhelyi, 'The Long Road to Parody Exception', *Iparjogvédelmi és Szerzői Jogi Szemle*, Vol. 17, Issue 2, 2022, pp. 65–81, 94–95.

9 Giulia Dore, 'Experimenting with EU Moral Rights Harmonization and Works of Visual Arts: Dream or Nightmare?', in Mezei *et al.* (eds.) 2024, pp. 195–219.

10 Hannibal Travis, 'Spooky Innovation and Human Rights', in Mezei *et al.* (eds.) 2024, pp. 237–263.

Mauritz Kop offers a provocative theory of public property from the machine, in which AI-generated works could fall into a new category of commons-based output. His argument, while still nascent, opens up important debates about the future of authorship and ownership in algorithmically driven systems, also offering a new, alternative solution faced by copyright law regarding generative AI services.¹¹

David Linke's analysis of AI training data, wittily titled "*AI Training Data: Between Holy Grail and Forbidden Fruit*", represents one of the Volume's most timely and technically detailed contributions. He describes the fine line between lawful training practices and unauthorized exploitation of protected works. Linke offers a nuanced comparative analysis of evolving case law in the EU and the US, highlighting how legal uncertainty could inhibit both innovation and harmonization.¹²

The final Part of the Volume further expands on the question whether doctrinal IP law can keep pace with rapid technological shifts. Peter Menell's chapter on design protection is a standout contribution. He dissects the historical divergence between US and EU design regimes and explores how differing policy rationales and institutional frameworks obstruct harmonization.¹³

Bohdan Widła addresses the thorny issue of copyright protection for application programming interfaces (APIs), comparing the landmark *Google v Oracle* decision in the US with evolving European jurisprudence. He shows that while both systems recognize the centrality of interoperability, their doctrinal foundations differ significantly.¹⁴

3. (Un)successful Harmonization?

In an era characterized by rapid technological advancements and globalization, the quest for harmonizing intellectual property law across jurisdictions has become paramount. The Volume is unquestionably an ambitious schol-

11 Mauritz Kop, 'Public Property from the Machine', in Mezei *et al.* (eds.) 2024, pp. 264–288.

12 David Linke, 'AI Training Data: Between Holy Grail and Forbidden Fruit', in Mezei *et al.* (eds.) 2024, pp. 289–310.

13 Peter Menell, 'Navigating the Trans-Atlantic Design Protection Quandry', in Mezei *et al.* (eds.) 2024, pp. 311–352.

14 Bohdan Widła, 'No More Convergence? Copyright Protection of Application Programming Interfaces in the USA and the EU', in Mezei *et al.* (eds.) 2024, pp. 375–394.

arly endeavor that addresses the complexities of intellectual property law harmonization between the EU and the US. It explores how globalization, technological advancements, and differing legal traditions shape IP regimes in these two major jurisdictions.

The editors deserve credit for curating a volume that strikes a balance between doctrinal depth, comparative rigor, and policy relevance. Their introduction not only synthesizes the key themes but contextualizes the Volume within the wider evolution of international and EU IP law.¹⁵ They identify several crucial trends – the rise of digital platforms, the challenges of AI, the influence of multilateral and regional treaties, and the evolving role of fundamental rights – that structure the Volume and give it analytical coherence. Importantly, the Volume does not assume that harmonization is necessarily desirable or always achievable. Rather, it invites the reader to consider harmonization as a spectrum of legal, institutional, and normative processes. In this respect, the Volume is in line with contemporary scholarship that treats harmonization as a contested and pluralistic phenomenon, rather than a unidirectional goal. This Volume enriches the literature on comparative IP law and offers valuable insights to policymakers, academics, and practitioners alike. Its strengths lie in its interdisciplinarity, its responsiveness to current debates, and its careful balance of theoretical and empirical perspectives.

That said, some areas could have benefitted from deeper exploration. While the Volume includes detailed discussions of copyright and, to a lesser extent, trademarks and design rights, it pays comparatively less attention to patents, trade secrets, and the role of international enforcement mechanisms. Similarly, while – as the title of the Volume suggests – the trans-Atlantic axis is thoroughly analyzed there is limited engagement with emerging economies that are increasingly shaping the global IP landscape.

Applying a holistic approach to technology and platform regulation, including the impact of regulations like the DSA¹⁶ or the DMA¹⁷ would have

15 See Anett Pogácsás, 'One Hundred Years of International Copyright', *Hungarian Yearbook on International Law and European Law*, Vol. 10, Issue 1, 2022, pp. 246–259.

16 Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a single market for digital services and amending Directive 2000/31/EC (Digital Services Act).

17 Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act).

further strengthened the discussion, especially given the EU's global regulatory influence (the so-called "Brussels Effect").¹⁸

4. Conclusion

The Volume captures the complexity and urgency of aligning IP regimes in a digitized, globalized world. It resists simplistic calls for convergence and instead offers a thoughtful, multifaceted, and critical approach to harmonization. The Volume's blend of doctrinal analysis, technological literacy, and normative reflection makes it essential reading for anyone engaged in the study or practice of intellectual property law today.

The editors have successfully curated a diverse array of perspectives that encompass historical, theoretical, and practical dimensions of IP law harmonization. Each chapter, rich in content and insights, addresses critical questions and controversies that underpin the current landscape of intellectual property in the digital age.

In sum, the Volume is not only a scholarly achievement but also a practical toolkit for navigating the challenges and possibilities of IP law in the 21st century. It marks an important step toward a more coherent, equitable, and innovation-friendly regulatory landscape.

¹⁸ Miriam Vogel *et al.*, 'Is Your Use of AI Violating the Law? An Overview of the Current Legal Landscape', *New York University Journal of Legislation and Public Policy*, Vol. 26, Issue 4, 2024, p. 1113.