Reframing Intellectual Property Rights with Fewer Distortions of the Trade Paradigm

Abstract:

In this lecture, Jerome Reichman suggests that in many ways, the effort to facilitate trade though harmonization has, in fact, harmed innovation and distorted trade. He will argue that because harmonization tends to be closely correlated with expanding the reach of intellectual property rights, fundamental science—the wellspring from which both commercial and noncommercial products emerge—has become the subject of exclusive rights. As a result, Reichman will expose that trade-related rationales can lead to less rather than more inventive activity. In addition, he will note that because developing countries are behind the technological frontier, they are poorly positioned to benefit from stronger protection; indeed, they are hurt by the higher costs associated with intellectual property rights: protection not only makes goods unavailable, it also decreases opportunities for less developed countries to become creative in their own right. Worse, harmonization prevents countries from experimenting with other approaches to incentivizing innovation. Reichman will conclude that negotiators must turn their attention to developing trade rules that take better account of the impact of ratcheting up protection in the name of promoting trade.

Short biography:

JEROME H. REICHMAN is the Bunyan S. Womble Professor of Law at Duke University School of Law, Durham, North Carolina. He has written and lectured widely on diverse aspects of intellectual property law, including comparative and international intellectual property and the connection between intellectual property and international trade laws. His articles in this last area particularly address problems that developing countries face in implementing the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). He is a consultant to numerous intergovernmental and nongovernmental organizations, a member of the Board of Editors for the Journal of International Economic Law, and of the Scientific Advisory Board of Il Diritto di Autore (Rome).

He is a graduate of the University of Chicago, where he was a Hutchins Scholar and an early entrant. He is also a graduate of Yale Law School. He worked for the UN in Geneva in the 1970s and then taught at Ohio State and Vanderbilt. He has taught at Duke for the last 17 years.

He recently published two books: GOVERNING DIGITALLY INTEGRATED GENETIC RESOURCES, DATA AND LITERATURE: GLOBAL INTELLECTUAL PROPERTY STRATEGIES FOR A REDESIGNED MICROBIAL RESEARCH COMMONS, co-authored with Tom Dedeunwaerdere and Paul Uhlir, (Cambridge University Press, 2016) and THE WORLD BLIND UNION GUIDE TO THE MARRAKESH TREATY, co-authored with Lawrence Helfer, Molly Land and Ruth Okediji, (Oxford University Press, 2017)
In collaboration with Keith Maskus, he published *INTERNATIONAL PUBLIC GOODS AND TRANSFER OF TECHNOLOGY UNDER A GLOBALIZED INTELLECTUAL PROPERTY REGIME* (Cambridge Press, 2005). His most recent publication in this area is *Why the Nagoya Protocol to the CBD matters to Science and Industry in Canada and the United States* (Center for International Governance Innovation [CIGI], Ontario, Canada, 2018).