

WTI Brown Bag Seminar



Title

Access to Interoperability Standards in Intellectual Property and Competition Law: International Approaches

Speaker

Simon Brinsmead

When

Monday
26 November 2018
12:30-13:30

Where

Anna Nussbaum Auditorium
World Trade Institute
Hallerstrasse 6, 3012 Bern

Abstract

Where dominant firms are in a position to restrict access to interoperability standards and standards-essential intellectual property (SEIP), this will raise issues under domestic intellectual property and competition laws. In the case of de facto standards under the control of a dominant single firm, this could take the form of a refusal to supply interoperability information. In the case of standards developed under the auspices of a formal standard-setting organization, this could take the form of a refusal to licence SEIP on reasonable and nondiscriminatory terms, generally combined with the seeking of injunction from a competent IP court. Considerable variance is observed across jurisdictions, including the EU, US and China, in terms of approaches to addressing these concerns. The intellectual framework of liability rules and exclusive property rules is useful for structuring the problem, and can also provide guidance for possible international approaches. Whilst binding treaty initiatives are likely infeasible in the near future, soft law initiatives, such as an expert manual, could provide timely guidance to courts and regulators.

Biography of the speaker

Simon Brinsmead is a Principal Legal Officer in the Office of International Law, Attorney-General's Department (Australia). As co-leader of small teams of international lawyers, he is responsible for the provision of advice to the Australian Government across all aspects of public international law, with a particular focus on international trade law, international investment law, international IP, international taxation, and other aspects of international economic law. Simon has also advised on international environmental, human rights and sea law. He is experienced in preferential trade negotiations and international dispute settlement, including investor-State and WTO dispute settlement. Simon previously practiced competition and regulatory law with King & Wood Mallesons in its Sydney offices. He tutors public international law at the Australian National University, and was recently a Visiting Scholar at Xiamen University School of Law. Simon submitted (in March 2018) his doctoral dissertation at the University of Bern. He holds Bachelor degrees in Economics and Law from the Australian National University, and a Masters in Law (International Law) from the University of New South Wales.