

## Preface and Acknowledgments

This project on International Patent Remedies for Complex Products (INPRECOMP) has an ambitious objective – to engage intellectual property scholars worldwide on the topic of patent remedies for complex products, in order to identify areas of consensus along with topics needing further research and discussion. This project was made possible by a gift from Intel Corporation to the Center for Law, Science & Innovation (CLSI) at the Sandra Day O'Connor College of Law at Arizona State University. Intel provided the funding for a project (with the details to be determined by the CLSI) to advance and broaden scholarly research and dialogue on patent remedies for complex products. Intel encouraged us to involve scholars from as many different perspectives and countries as feasible. Other than that general direction, Intel played no role in the design, participant selection, topic choice, or work product of this project. We appreciate Intel's support of independent research, and we thank it for making this project possible.

A number of individuals played a central and indispensable role in this project, and each deserves accolades for the commitment, patience, and expertise he or she brought to the project. First and foremost, Brad Biddle, a Faculty Fellow of the ASU Center for Law, Science & Innovation, was key to both launching and administering the project. Brad first broached the subject of this project and made the initial contact with Intel. He operated as our *de facto* project coordinator, convening meetings and conference calls of our steering committee, which he chaired, pushing gently but firmly to ensure we stayed on schedule, and stepping in to help resolve any disagreements or problems along the way. Brad's enthusiasm and leadership for this project were, respectively, infectious and effective.

One of the most important things that Brad did at the outset was to recruit two subject matter experts to be the thought leaders of this project. These are law professors Jorge Contreras of the S.J. Quinney College of Law at the University of Utah and Norman Siebrasse of the University of New Brunswick, Faculty of Law. Jorge and Norman are not only tremendously knowledgeable experts on patents and patent remedies, but they are also committed to balance, objectivity, and scholarly

excellence. Jorge's and Norman's impressive expertise, extensive contacts in the field, enthusiasm for the subject matter, and good-natured commitment to the project were critical for the project's success.

In addition to serving on the INPRECOMP steering committee over the two-plus years of the project's duration, Jorge and Norman were central in selecting the other faculty members of this project, whose biographies can be found above. They assembled an outstanding team of twenty leading intellectual property scholars from eleven countries in North America, Europe, and Asia. These scholars attended two 2-day meetings, one in London and one in Phoenix. After the London meeting, the group split into six working groups with overlapping membership, each dedicated to an individual chapter. The teams participated in numerous conference calls and email exchanges to develop and reach consensus on the material in this book, which was then circulated for comment to the entire group. Their time, expertise, and perspective gave this project its intellectual richness, breadth, and depth, for which we are enormously grateful.

Some of these academic participants did even more. We particularly appreciate the additional work of the following working group chairs: Tom Cotter (Chapter 1), Chris Seaman (Chapter 2), Colleen Chien (Chapter 3), Norman Siebrasse (Chapter 4), Jorge Contreras (Chapter 5), and Alison Jones and Renato Nazzini (Chapter 6). We also thank Alison Jones and Renato Nazzini for hosting and helping to organize the London meeting.

As the working groups began drafting the chapters that ended up being this book, we quickly realized that we needed a lead editor, someone who was knowledgeable about the subject matter and able to work with the author teams to coordinate consensus where it was possible and to identify and manage differences. We found the perfect person for this important role in Brian Love, Associate Professor of Law and Co-director of the High Tech Law Institute at the Santa Clara University School of Law, who was already a member of the INPRECOMP team. Brian did yeoman's work in collaborating with the teams of authors for each chapter, bringing the discussions to completion, and putting into writing for each chapter the text and recommendations upon which each chapter's authors could agree. This process involved a tremendous commitment of time and skill, which Brian provided with enthusiasm and excellence.

The other key player in bringing this book to fruition was Jay Jenkins, the Intellectual Property Director of the CLSI at ASU. Jay served as line editor, working closely with Brian to go through each chapter line-by-line to edit the text for clarity, consistency, and impact. Jay also worked in completing all the references, a daunting task given the different nations and languages of the primary materials used in the production of this work. Without Jay's tireless efforts, this book never would have seen the light of day, and we are very grateful for his dedication and effort.

Another important component of this project was the opportunity to “stress test” our initial ideas with a panel of eminent judges and a panel of leading practitioners. We provided the initial drafts of our chapters and then invited these legal experts to critique, question, and challenge our initial work at the Phoenix meeting. Our judicial panel consisted of the Hon. Marsha Berzon of the U.S. Court of Appeals for the Ninth Circuit, the Hon. Klaus Grabinski of the German Federal Court of Justice (Bundesgerichtshof), the Hon. Kathleen O’Malley of the U.S. Court of Appeals for the Federal Circuit, and the Hon. James Robart of the U.S. District Court for the Western District of Washington. The practitioner panel consisted of Tina Chappell from Intel, Luke McLeroy from Avanci, Mark Selwyn from WilmerHale, and Richard Stark from Cravath, Swaine & Moore. The feedback received from these experts in private practice and the judiciary were extremely insightful and helpful, and greatly assisted the project team in understanding the practical and legal issues presented by patent damages for complex products. We additionally thank Judge O’Malley for writing the preface to this book.

Finally, I would like to thank the staff of the Center for Law, Science & Innovation for their administrative support of this project. Center Director Lauren Burkhart negotiated the agreement with Intel, was in charge of the budgeting for the project, participated on the project steering committee, and organized the meetings, conference calls, and other activities involved with the project. She was ably assisted by Center Coordinator Debb Relph, who among other things coordinated travel arrangements, reimbursement, and logistics. Their excellent assistance was essential for the smooth and successful implementation of this project.

Typically, at the end of a long list of acknowledgments like this, there would be a statement that all errors and misunderstandings are the sole responsibility of the author. That is not possible here because there is no single “author” of this book. Rather, it represents a group process involving a disparate set of knowledgeable experts that produced its chapters as consensus documents, not an easy or simple achievement. In fact, it is probably safe to say that no single member of the team is perfectly satisfied, or even fully agrees with, everything said and how it is said in this book. Rather, this book is part of what we hope will be an ongoing and worldwide consensus-building process. This work does not aspire to represent the final word on these important issues. Rather, by advancing areas of consensus and identifying areas needing further research, we hope we have produced something that can be studied, referenced, quoted, critiqued, agreed or disagreed with, and ultimately further advanced, all with the goal of improving patent remedies for complex products around the world.

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