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BOOK REVIEW


This ambitious treatise provides a road map of the evolution of the harmonization of the often-conflicting national schemes of protection into European trademark law. The work begins with the legislative structure used to codify the existing laws of the separate nations and then proceeds to a detailed analysis of the seminal decisions of the Court of Justice of the European Union interpreting the First Council Directive 89/104/EEC of December 21, 1998 to Approximate the Laws of the Member States Relating to Trade Marks (the “Directive”) and the Council Regulation (EC) No. 40/90 of December 20, 1993 on the Community Trade Mark (the “Regulation”).

By systematically reviewing and analyzing the Court of Justice’s decisions to interpret what the Court has said and—just as importantly—what it has not said, the authors of Trade Mark Law in Europe have provided a comprehensive review of case law with an analysis of the specific terms used in trademark law that spell out the rights contained in a trademark in the European Union.

Well-organized and well-indexed, the treatise begins with a content summary to provide an at-a-glance understanding of the full scope of the endeavor. The first three chapters provide an overview of the European trademark regime and the role of the Court of Justice as both an interpretive court and a supreme court of appeal in the legal order of the European Union. The second part of the book looks at the core philosophy of trademark law in the European Union, as revealed in the Court of Justice’s definitions of terms and interpretation of trademark requirements. Here, the Court of Justice’s decisions are organized according to subject matter. After probing into the decisions that clarify what constitutes a “sign,” the authors turn to the jurisprudence of the Court on absolute grounds. A thorough analysis of the cases lays the groundwork for the authors to illuminate the logic of the Court and its explication of the text of the Directive. The reader experiences the tension between the Court’s competing concerns of trademark owners’ rights and the extent of protection versus competition and the free movement of goods. The section continues with an examination of the Court’s decisions on distinctiveness acquired through use, relative grounds, loss of rights, and the scope of protection.

The third part of the book discusses the interaction of trademark law with other areas of law, including comparative
advertising and domain name law, and the continuing need for reform and clarification of trademark law. The many issues encountered by the Court in interpreting the law are evaluated. The authors conclude that, for the Court to be instrumental in further developing European trademark doctrine, it must avoid narrow interpretations of the law.

The treatise’s detailed referencing for each topic tackled by the Court of Justice—including tables of cases, tables of both national and European Union legislation, and a comprehensive index—facilitates the practitioner’s research of the various issues. This reference book provides a manageable and easily accessible summary of the Court of Justice’s systemic use of its decisions to lay down principles of general trademark law. An excellent desk reference, this treatise would be a valuable addition to any intellectual property library.

Jane Colleen