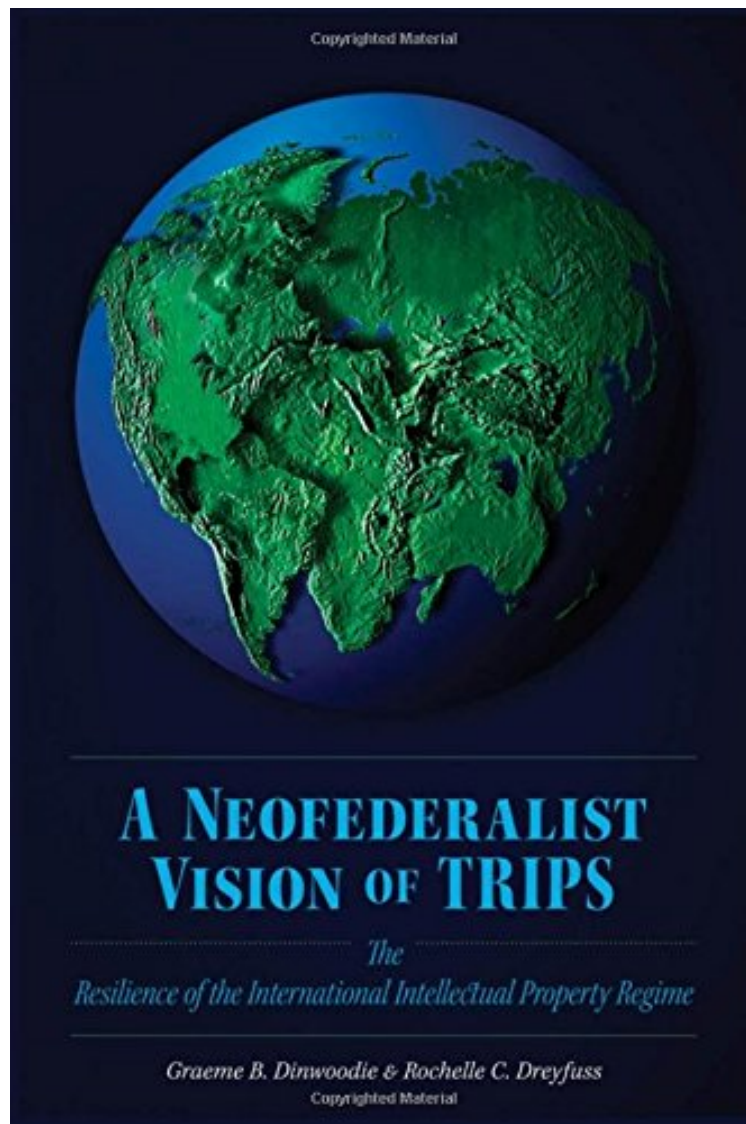


[Free read ebook] A Neofederalist Vision of TRIPS: The Resilience of the International Intellectual Property Regime

A Neofederalist Vision of TRIPS: The Resilience of the International Intellectual Property Regime

Graeme B. Dinwoodie, Rochelle C. Dreyfuss
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Graeme B. Dinwoodie, Rochelle C. Dreyfuss : A Neofederalist Vision of TRIPS: The Resilience of the International Intellectual Property Regime before purchasing it in order to gage whether or not it would be worth my time, and all praised A Neofederalist Vision of TRIPS: The Resilience of the International Intellectual Property

Regime:

The TRIPS Agreement (Agreement on Trade-Related Aspects of Intellectual Property Rights), signed on April 15, 1994, introduced intellectual property protection into the World Trade Organization's multilateral trading system, and it remains the most comprehensive international agreement on intellectual property to date. A Neofederalist Vision of TRIPS by Graeme B. Dinwoodie and Rochelle C. Dreyfuss examines its interpretation, its impact on the creative environment, and its effect on national and international lawmaking. It propounds a vision of TRIPS as creating a neofederalist regime, one that will ensure the resilience of the international intellectual property system in time of rapid change. In this vision, WTO members retain considerable flexibility to tailor intellectual property law to their national priorities and to experiment with changes necessary to meet new technological and social challenges, but agree to operate within an international framework. This framework, while less powerful than the central administration of a federal government, comprises a series of substantive and procedural commitments that promote the coordination of both the present intellectual property system as well as future international intellectual property lawmaking. Part I demonstrates the centrality of state autonomy throughout the history of international negotiations over intellectual property. Part II, which looks at the present, analyzes the decisions of the WTO in intellectual property cases. It concludes that the WTO has been inattentive to the benefits of promoting cultural diversity, the values inherent in intellectual property, the rich fabric of its law and lore, the necessary balance between producers and users of knowledge goods, and the relationship between the law and the technological environment in which it must operate. Looking to the future, Part III develops a framework for integrating the increasingly fragmented international system and proposes the recognition of an international intellectual property *acquis*, a set of longstanding principles that have informed, and should continue to inform intellectual property lawmaking. The *acquis* would include both express and latent components of the international regime, put access-regarding guarantees such as user rights on a par with proprietary interests and enshrine the fundamental importance of national autonomy in the international system.

"The crowning achievement of a more than a decade of incisive scholarly analysis by two leading scholars of intellectual property law and policy, A Neofederalist Vision of TRIPS offers an astute and balanced prescription for the future of the international intellectual property system. Suffused with insightful analysis and diverse examples, the authors tackle the core challenge facing lawmakers and adjudicators alike—promoting a global innovation regime that preserves space for national experimentation and accommodates competing interests and values." --Lawrence R. Helfer, Harry R. Chadwick, Sr. Professor of Law, Co-Director, Center for International Comparative Law, Duke University School of Law "In this innovative analysis of the normative and institutional architecture of the TRIPS Agreement, Professors Dinwoodie and Dreyfuss offer specialists and novices alike a remarkably cogent and insightful framework in which to assess the inevitable tensions arising from the array of values that inform national and supranational intellectual property rules and processes. They provide readers a doctrinally satisfying and structurally sound exposition of the various modes of interaction between the WTO, WIPO and national governments, and the potential for a global intellectual property *acquis* that both promotes innovation and respects cultural and social distinctions between nation states. This book is a 'must read' and a 'must have' for any serious student of the international intellectual property system." --Ruth L. Okediji, University of Minnesota Law School "Professors Dreyfuss and Dinwoodie have given us a uniquely insightful and illuminating book on the meaning of the TRIPS Agreement. Their Neo-Federalist approach could become the key to the long-term stability and success of that same Agreement. It should be required reading for everyone working in this field, especially for judges sitting on WTO dispute-settlement panels and the Appellate Body." --Jerome Reichman, Duke Law School "This book is an extraordinarily valuable addition to the complex debate about international intellectual property. The analytical depth of this book and its authors' understanding of how international intellectual property norms interact with domestic laws makes this an important resource for policy makers, scholars and students of intellectual property. The authors provide the reader with a thoroughly analyzed and detailed vision of international intellectual property and, consequently, with an invaluable tool and an important resource for those interested in the future of innovation and creativity." --Susy Frankel, Professor of Law, Victoria University of Wellington, New Zealand; Director of New Zealand Centre of International Economic Law "Professors Dinwoodie and Dreyfuss's recent book, A Neofederalist Vision of Trips, is an important and exciting new addition to debates about international intellectual property governance... With this book, Dinwoodie and Dreyfuss have moved the discussion about global intellectual property regulation forward in significant and important ways, providing detailed analysis of new local innovations, focusing attention on the structural features of the TRIPS agreement, and generating new proposals for resolving conflicts of authority and norms both internal and external to the TRIPS regime. It would be a highly valuable read for anyone who works in the field of international intellectual property." --The IP Law Book About the Author Graeme B. Dinwoodie is the Professor of Intellectual Property and Information Technology Law at the University of Oxford. After graduating from

the University of Glasgow in 1987, he went to the United States as a John F. Kennedy Scholar at Harvard Law School, and later received his doctorate from Columbia Law School. Before returning to the UK in 2009 to take up the IP Chair at Oxford, he taught at several U.S. law schools and has also held a Chair at Queen Mary College, University of London. In 2008, Professor Dinwoodie was awarded the Pattishall Medal for Excellence in Teaching Trademark and Trade Identity Law by the International Trademark Association. Professor Dinwoodie is a member of the American Law Institute, and has served as a consultant to both the World Intellectual Property Organization and the United Nations Conference on Trade and Development. He has been Chair of the Intellectual Property Section of the Association of American Law Schools, and is the current President of the Association of Teachers and Researchers in Intellectual Property Law (ATRIP). Rochelle C. Dreyfuss is the Pauline Newman Professor of Law at New York University School of Law and Co-director of the Engelberg Center on Innovation Law and Policy at NYU. She was a law clerk to Chief Judge Wilfred Feinberg (Second Circuit) and to Chief Justice Warren E. Burger (U.S. Supreme Court). She is a member of the American Law Institute and was a co-Reporter for its Project on Intellectual Property: Principles Governing Jurisdiction, Choice of Law, and Judgments in Transnational Disputes. She was a consultant to the Federal Courts Study Committee, to the Presidential Commission on Catastrophic Nuclear Accidents, and to the Federal Trade Commission and served on the Secretary of Health and Human Services' Advisory Committee on Genetics Health and Society. She was also a member of the National Academies Committee on Intellectual Property in Genomic and Protein Research and Innovation as well as the Committee on Intellectual Property Rights in the Knowledge-Based Economy. She is presently serving on the Academies' Committee on Science, Technology, and Law.