



AHRC Creative Industries Policy & Evidence Centre:

New empirical research on Intellectual Property litigation and Platform regulation

Half-day conference

London, 26 February 2020

LOCATION: [British Institute of International and Comparative Law](#) (BIICL)

Charles Clore House, 17 Russell Square, Bloomsbury, London WC1B 5JP

14:30 Registration

#### I. UK litigation

15:00-15:20 IPEC Small claims track litigation (presentation by Dr Sheona Burrow/ Dr Elena Cooper)

Preview of project:

<https://pec.ac.uk/blog/shedding-light-on-the-workings-of-the-intellectual-property-enterprise-court-1>

15.20-15.40 Copyright litigation in the IPEC and High Court (presentation by Dr Luke McDonagh/ Dr Georg von Graevenitz)

Preview of project:

<https://www.create.ac.uk/blog/2018/03/02/research-blog-series-copyright-litigation-english-courts-2009-2015/>

15.40-16:00 panel response & discussion (Dr Daniela Simone, UCL; Michael Skrein, Reed Smith)

#### II. EU litigation

16:00-16:20

Copyright at the CJEU (presentation by Dr Marcella Favale/ Prof. Martin Kretschmer/ Prof. Paul Torremans)

Preview of: "Who Is Steering the Jurisprudence of the European Court of Justice? The Influence of Member State Submissions on Copyright Law" (forthcoming Modern Law Review): [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3116703](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3116703)

16.20-16:40

TM clutter and non-use at the EU IPO (presentation by Dr Georg von Graevenitz)

Abstract: Trademarks are widely used to protect brands against imitators. To register a trademark the owner must declare which goods and services the mark will be used for; this restricts which marks other applicants can obtain. Jurisdictions differ in how they ensure that registered use accords to actual use. Exploiting the 2016 reform of trademark fees in Europe we show that registered use very frequently exceeds actual use there. We then match marks registered in Europe and the United States and analyse opposition to later applicants' marks in Europe. We find that opposition on the basis of excessively broad earlier marks is common, often based on goods and services for which the earlier mark is not in use. We also show that existing legal mechanisms to protect later applicants against such outcomes are used surprisingly rarely. We discuss policy implications for trademark and competition lawyers.

16.40-17:00 panel response & discussion (Dr Ilanah Fhima, UCL; Nick Saunders QC, Brick Court Chambers)

17:00 Tea

### III. Platform regulation

17:30-18:00 Platform regulation project launch (presentations by Prof. Martin Kretschmer, Dr Ula Furgal, Prof. Philip Schlesinger)

Preview of project:

<https://pec.ac.uk/blog/regulating-a-platform-economy>

Abstract: Platforms have emerged as a distinct new regulatory object. Back in 2003, the Nobel prize-winning economist, Jean Tirole, analysed a new form of what he termed 'platform competition in two-sided markets'. A so-called 'safe harbour' that limits the liability of online intermediaries has now been in place for almost two decades (US Digital Millennium Copyright Act 1998, EU eCommerce Directive 2000). Since 2016, however, a string of new policy initiatives targeting online platforms has surfaced at a rapid pace. The German NetzDG Law of 2017 requires social media platforms to remove manifestly unlawful content within 24 hours, enforced with high fines and audited through reporting requirements; Australia launched a far-reaching digital platform inquiry in 2017 focusing on competition issues associated with the US tech giants Facebook and Google; the new European Commission has committed to a Digital Services Act, potentially creating a pan-European digital regulator. What are the UK's options in this rapidly evolving regulatory landscape? This project maps the statutory basis and duties of key UK regulators and looks ahead to potential new responsibilities.

18:00-18:30 panel response & discussion with regulators: Ofcom (Kate Davies), Competition and Market Authority (Mark Basile), Information Commissioner's Office (Sallie Spilsbury), Intellectual Property Office (Ros Lynch), Centre for Data Ethics and Innovation (Stephen Dunne)

18:30-19:00 Drinks reception



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