

Recognition and Enforcement of Foreign Intellectual Property Judgments: Analysis and Guidelines for a New International Convention

Yoav Oestreicher (Bar Ilan University) has posted an article on the Social Science Research Network (SSRN) entitled, "**Recognition and Enforcement of Foreign Intellectual Property Judgments: Analysis and Guidelines for a New International Convention**". The abstract reads:

This dissertation attempts to analyze the reasons for the continuing failure of the international community to agree on a single international comprehensive instrument that regulates recognition and enforcement of foreign judgments, especially following the negotiations that took place at the Hague Conference on Private International Law until June 2005, by concentrating on intellectual property as a model. It is concluded that the continuing attempt to base the proposed instruments on a "mixed" or "double" convention model, thus combining the question of recognition and enforcement of the foreign judgment with the substantially complicated question of jurisdiction of the rendering court is unjustified. The inability to agree on the jurisdiction question due to economic, cultural and financial reasons resulted in the continuing inability to regulate this field.

The dissertation proposes a somewhat revolutionary minimalist solution to the problem, which is based on a "simple" convention model that promotes a "presumption of enforceability" rule with very broad exceptions such as public policy, due process, and jurisdiction. The proposed

guidelines for a new international convention do not directly address the issue of jurisdiction, but rather indirectly, as an exception to the general rule of enforcement. By creating the convention within the framework of the TRIPs Agreement, it will enjoy some of the elements that are already contained therein. In the future, this model could be broadened in scope to also apply to other fields of law. Success of this proposed convention will bring stability and create confidence and trust among potential member countries, thus serving as the basis for a broader international solution.

The full article can be downloaded from [here](#).