

# Thomas Dreier

Merging **Copyright** and industrial property right? – The concept of the IP-Code compared to the WITTEM-project

*Eine Annäherung von **Urheberrecht** und gewerblichem Rechtsschutz? – Das Konzept des Modellgesetzes im Vergleich zum WITTEM-Projekt*

# 1. Introduction

# Overview:

**© and Industrial Property**

***IP-Code v. WITTEM-Code***

## 2. *Copyright* and *Industrial Property*

# Joining *non-registration* rights with registration rights [1]: – *Similarities*

Literary and artistic *creations*  
= **immaterial** (public) goods

& **IP** {*beware the „property“ metaphor*}

& *licensing* + *enforcement* to be merged  
with other IP laws

# Joining *non-registration* rights with registration rights [2]: – *Differences*

© = *non-registration*

& *personality rights* component

& *author*-protective

& different *incentives* and *balancing*

## [Some] *Effects* of differences (1):

*No effect of aggregation of registration provisions*

& ©-provisions *largely intact*

& *contracts: split* of provisions

[§ 36, 36a book 3]

while leaving the special *substance* of ©-provisions *intact* in general part

## [Some] *Effects* of differences (2):

& similarly: *limitations* split + referring  
back [*§ 14 (2) book 1*]

& *No integration of {new} right of  
organisers of sports events* [*§ 11 book 1*]

However: Reform proposal regarding  
*employed authors*: ahead of the acquis [*Book  
10, B*]



**3. IP-Code**

**v.**

***WITTEM-Code***

## ***IP-Code* & *WITTEM-Code*: 2 different approaches**

***IP-Code***: integration and consolidation of existing IP-laws

***WITTEM-Code***: harmonizing, streamlining and developing only ©, at the European level

## ***WITTEM-Code*: its aim**

***{[www.copyrightcode.eu](http://www.copyrightcode.eu)}***



***improve* consistency and transparency  
of EU ©**

**strike *proper balance* between proprietary  
and access (freedom of information;  
competition) interests**

*{„protect the moral and economic interests of creators,  
while serving the public interest by promoting the  
production and dissemination of works“}*

## ***WITTEM-Code***: its content

*{[www.copyrightcode.eu](http://www.copyrightcode.eu)}*



***Rules on:*** works, authorship and ownership,  
moral rights, economic rights & limitations

A **torso**: no rules on related rights,  
(most) contract law, sanctions, collective  
administration

**However:** legislative language,  
*not just principles/frame of reference*

# ***WITTEM-Code***: its content

*{[www.copyrightcode.eu](http://www.copyrightcode.eu)}*



## *In particular:*

Definition of ***common*** EU core ***rules***

& ***streamlining*** legislative language

& ***broader limitations*** (claims for remuneration)

& ***transcending*** the *acquis* (*within international framework*)

## 4. *Conclusions (some)*

## **© and Industrial Property:**

*Possible & partly useful*

*Gain of transparency minimal*

**In sum:** *Advantages of integration  
mitigated by splitting of provisions*

## **IP-Code v. WITTEM-Code**

***Different approach:*** *harmonisation  
and further development of ©*

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