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Susan K. Sell

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Susan K. Sell : Private Power, Public Law: The Globalization of Intellectual Property Rights (Cambridge Studies in International Relations) before purchasing it in order to gage whether or not it would be worth my time, and all praised Private Power, Public Law: The Globalization of Intellectual Property Rights (Cambridge Studies in International Relations):

0 of 0 people found the following review helpful. Five Stars
By Bob Gibson
Very nice!
2 of 2 people found the following review helpful. How Twelve CEOs Made International Law
By Etienne RPT
This book changed the way I look at intellectual property rights and conceive of their protection. Before reading it, I had a rather naive view of the subject. I assumed that IP rights were necessary incentives for innovation and that their protection was a desirable and welfare-enhancing objective. After all, intellectual property comes with heavily loaded words, and its constitutive terms ("intellectual", "property" and "rights") are associated with positive values: the liberty of intellectual pursuit, the sanctity of private property, and the inalienability of rights. On the opposite, infringement of IP is described as copying, as piracy and as theft.
My first surprise upon reading Susan Sell's book was to discover that this conception of IP rights as being pro-business, pro-market and pro-trade was fairly recent. At the end of the nineteenth century, when the Paris and Berne Conventions first put the issue on the international agenda, IP rights were construed as "grants of privilege" that were explicitly recognized as exceptions to the rules against monopolies. Through much of the twentieth century, US courts held to this conception of property rights as a kind of monopoly privilege, and their concern was to limit abuses of monopoly power. It was only in the early to mid 1980s that the courts quit referring to patents as monopolies and began applying stricter terms on copyright infringement. At about the same time, the US government began to vigorously pressure violators of such property rights abroad by threatening trade retaliation under Section 301 of the US Trade and Tariff Act.
My second shock was to realize that strong IP protection can be detrimental to the interests of developing countries and that it can even reduce welfare in developed countries. Again I am stating the obvious: if patents and copyrights are monopoly privileges, their direct effect is to restrict competition and to limit the externalities associated with knowledge as a public good. Historically, Japan and South Korea have developed by using foreign knowledge and technologies without always paying due royalties, and developing countries oppose the strengthening of the international IP regime. For much of its history, the United States developed within a climate of weak IP protection and was a net importer of technologies. As Susan Sell states, "the notion that one set of uniform standards is appropriate for all countries and all industries defies both economic analysis and historical experience." Another argument quoted by the author is that "in so far as innovation is no longer driven by external breakthroughs but by the routine exploitation of existing technologies, property systems designed to protect and exclude have a chilling effect on innovation because they hinder vital diffusion of existing knowledge bases."
This book was an eye-opener for a third reason: as the title suggests, in the case of intellectual property private power made public law. Private sector actors succeeded in getting most of what they wanted from a global agreement on IP protection, which now has the status of international public law. This is how the plot can be summed up. Initially, acting primarily through industry associations in the 1970s and 1980s, US firms urged the government to pressure foreign government to adopt and enforce more stringent IP protection. They sought and won changes in US domestic laws - most notably Section 301 and 337 of the US trade laws. A handful of US-based transnational corporations formed the Intellectual Property Committee (IPC) and spearheaded the efforts to secure a multilateral instrument codifying their interest in stricter IP protection. They redefined inadequate IP protection abroad as a barrier to legitimate trade, and worked to build an OECD consensus for a multilateral trade-based instrument. To codify this instrument, they were able to appeal to an existing organization, the GATT, eschewing the traditional venue of the World Intellectual Property Organization because WIPO lacked enforcement powers and was dominated numerically by less developed countries. The culmination of these efforts came with the adoption of the 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) administered by the World Trade Organization. The transnational leadership of the IPC was decisive in the achievement of TRIPS. The eventual collapse of developing countries' opposition to the inclusion of intellectual property further facilitated the IPC's goals. Developing countries were willing to accept the IP agenda in exchange for concessions in agriculture and the Multi-fibre Arrangements. They also hoped that cooperation on TRIPS might lift pressure they were experiencing from the United States through Section 301 and other bilateral means.
The story of twelve US CEOs who changed the course of world intellectual property law and policy is an engaging one: a drama with the archetypal elements of wealth, position, and power. Suitable for readers in law, politics, and the wider social sciences, *Private Power, Public Law* is an articulate, highly readable, and engaging account of the evolution and making of the TRIPS Agreement and of the impact that global norms for intellectual property have had on the welfare of the world's poorest populations. This book will appeal not only to scholars interested in law, economics, sociology, political science, and anthropology, but also to the general reader. It may also change the way you look at intellectual property rights in the future.
6 of 6 people found the following review helpful. Emergence of TRIPS
By Jeffrey Hart
The purpose of the book is to explain the emergence of a more ambitious global intellectual property regime in the form of the TRIPS (Trade Related Intellectual Property Rights) agreement - one of several agreements to emerge from the Uruguay Round of multilateral trade negotiations. The main argument is that TRIPS emerged primarily as a result of good organization and transnational consensus building on the part of a small group of leaders of multinational corporations called the Intellectual Property Committee (IPC), and the coincidence of the perceived interests of that group with key governments such as that of the United States. In the last chapter, Susan Sell shows how these circumstances did not exist for other Uruguay Round agreements and that, as a result, those agreements were weaker. She also argues that the TRIPS agreement represents

an overly aggressive interpretation of intellectual property rights to the advantage of multinational corporations and that a political backlash against this is already underway. This is a real contribution to the field for the following reasons. There is a very good overview of the rationale behind the granting of intellectual property rights and a very careful analysis of who wins and loses with strict enforcement of laws protecting intellectual property rights. There is also an unusually detailed analysis of the slow evolution of intellectual property laws in the United States that set up the conditions for a change toward more extensive grants of rights in the last two decades. The analysis of the politics of negotiating the TRIPS agreement is an excellent and original contribution to the growing literature on the Uruguay Round. Finally, there is a very good theoretical discussion, relevant mainly to theorists of international relations, about the so-called "structure-agency" problem. I would compare this book favorably with Wayne Sandholtz's excellent work, *High Tech Europe*. It also holds up well in comparison with Laura Tyson's *Who's Bashing Whom?* I don't think it is a blockbuster book, but rather a solid piece of scholarship in an important and somewhat neglected area and that it will represent a standard for future scholarly work on its subject.

Susan Sell's book reveals how power in international politics is increasingly exercised by private interests rather than governments. In 1994 the World Trade Organization (WTO) adopted the Agreement in Trade-Related Aspects of Intellectual Property Rights (TRIPS), which dictated to states how they should regulate the protection of intellectual property. This book argues that TRIPS resulted from lobbying by powerful multinational corporations who wished to mould international law to protect their markets.

"...a remarkably gripping narrative that powerfully challenges some traditional beliefs...In addition to providing accessible and concise accounts of the genesis and subsequent development of TRIPS [Trade-Related Aspects of Intellectual Property Rights], Professor Sell also provides additional insights of her own that make her book particularly notable as a resource...This book should have wide appeal to a diverse audience that includes political scientists or international relations theorists, as well as those who are more interested primarily in TRIPS, or the development of international intellectual property law." *Emory International Law About the Author* Susan K. Sell is Associate Professor of Political Science and International Affairs at The George Washington University. She is the author of *Power and Ideas: The North-South Politics of Intellectual Property and Antitrust* (1998).