1-1-1996

Book Review Parallel Importation U.S. Trademark Law. By Timothy H. Heibert

Herbert M. Sampson III

Follow this and additional works at: https://scholarlycommons.pacific.edu/globe

Part of the International Law Commons

Recommended Citation
Available at: https://scholarlycommons.pacific.edu/globe/vol9/iss1/8

This Book Review is brought to you for free and open access by the Journals and Law Reviews at Scholarly Commons. It has been accepted for inclusion in Global Business & Development Law Journal by an authorized editor of Scholarly Commons. For more information, please contact mgbney@pacific.edu.
Book Review

Parallel Importation in U.S. Trademark Law
BY TIMOTHY H. HIEBERT, GREENWOOD PRESS, 1994

Reviewed by Herbert M. Sampson, III

Years ago, a fellow employee told me, “what you do is very boring, until there is real money at stake.” Parallel Importation in U.S. Trademark Law by Timothy Hiebert is a book needed when one has real money at stake. Mr. Hiebert has put together eight chapters in law review article format concerning parallel importation; each of the eight chapters is well researched and endnoted.

Hiebert comes right to the point in the first chapter when he focuses on the problem of parallel imports in U.S. trademark law. In the typical case, the trademark belongs to a foreign manufacturer. The foreign manufacturer enters into a distributorship agreement with a U.S. concern. The U.S. distributor obtains some trademark rights and spends money to advertise the goods in the United States. The foreign manufacturer’s products are then imported by a third party into the United States after being purchased abroad.

The complaint of the U.S. distributor is that the parallel importer has taken a “free ride” on the distributor's advertising dollar. In fact, the parallel importer is pricing the identical goods substantially lower than the U.S. distributor of those goods. The U.S. distributor feels that it should have a captive market in the United States for the goods, even though the parallel imported goods are manufactured by the same foreign manufacturer and are of identical quality.

Hiebert’s discussion is detailed, accurate, pervasive, and analytical. He begins with an explanation of the development of trademark law in the Middle Ages and moves logically through parallel import cases in the United States to the present day.

Although the book frames the problem immediately, it languishes when answering the question of permissibility of parallel imports in the United States. Both scholar and general counsel need to know this information before a detailed discussion takes place, yet in order to find an answer, one must read three highly detailed chapters. Each chapter analyzes the historical case law and statutory history in fine detail, including the thought processes of the judges involved, but never focuses on the present answer.

For those who advise U.S. and foreign concerns about parallel importation in the United States. The book does not vie the answer fast enough. The economic reality is that the advice will usually be asked for an opinion on short notice, and even when the advice is knowledgeable, last minute research is often necessary in international trade matters.

For the person seeking a quick explanation on the currently law of parallel importation, no summary is given. In fact, no succinct explanation of the current
even when the advice is knowledgeable, last minute research is often necessary in international trade matters.

For the person seeking a quick explanation on the currently law of parallel importation, no summary is given. In fact, no succinct explanation of the current law is provided, including a succinct statement that the current law is unsettled. The answer is given, but in too great detail to be easily or quickly digested.

So what can be said about the book:

First, if the reader has an interest in the philosophical underpinnings of U.S. trademark law, and wants to gear up for appellate arguments, it is a great book.

Second, if the reader has a lot of money at stake an the time to digest the information in the book, it is a very interesting and worthwhile investment. Most advisors will need to take a considerable amount of time and mental work to benefit from the contents.

Lastly, if the reader is intellectual property counsel to a U.S. or foreign concern dealing in this matter, and is trying to formulate a speedy and succinct response to the pragmatic daily business questions of parallel imports posed by a client, The reader will not be able to use the book, unless it has been read and digested beforehand.

This book is a superb piece of academic work.; There is no doubt that Mr. Hiebert is knowledgeable on the subject. However, it will take the reader a considerable amount of time to sift through the information and distill the practical answer of permissibility of parallel importation, which is; yes, it is permitted, so long as the source of the imported goods is the same as the source of the goods sold in the United States, and they are of the same quality.

Mr. Hiebert knows the problems and states them clearly. Mr. Hiebert knows the answers, yet is unable to state them succinctly for the practical, not academic, reader.