

Table of Contents

The Author	3
List of Abbreviations	11
General Introduction	13
§1. GENERAL BACKGROUND	13
§2. HISTORICAL BACKGROUND	13
I. Jurisdictions and Court System	13
II. Judges and Lay Judges	14
III. Basic Pleadings	15
IV. The Litigation Proceedings	16
V. Burden of Proof and Evidentiary Doctrine	17
VI. Fact Finding	18
VII. Attorney-Client Privilege	20
VIII. Monetary Compensation	23
IX. Cross-Border Actions and Foreign Litigants	24
Selected Bibliography	25
Chapter 1. Copyright and Neighbouring Rights	37
§1. SOURCE: LEGISLATION	37
I. Copyright Protection is a Constitutional Right	37
II. International Body of Law Manifesting Copyright Protection	37
III. EC Law Regarding Copyright Protection	38
IV. Swedish Copyright Law	39
§2. SUBJECT MATTER OF PROTECTION	40
I. Different Categories of Protected Works	40
II. Limitations or Exemptions to the Copyright Protection	40
§3. CONDITIONS OF PROTECTION	44
I. Formal Requirements	44

Table of Contents

II. Substantive Requirements.	45
§4. OWNERSHIP.	49
§5. TRANSFER OF COPYRIGHT.	50
I. Assignment of Copyright and Licenses Thereto.	50
II. Collective and/or Supportive Compensation Systems.	51
III. Statutory Contract Licenses.	52
§6. CONTENT OF EXCLUSIVE RIGHTS.	53
I. Two Distinctive Types of Protection.	53
II. Exploitation Rights.	53
III. Moral Rights.	57
§7. SPECIAL CATEGORIES OF WORKS.	59
I. Computer Software.	59
II. Databases.	60
A. Introduction.	60
B. The Result of a Substantial Investment.	61
C. Protects a Database and Not Fact Entries.	62
D. Parts of a Database Can Constitute a Separate Database.	63
E. The Scope of Protection.	63
F. Market and Competition Aspects of Database Protection.	65
III. Photographs.	66
§8. DURATION OF PROTECTION.	68
§9. NEIGHBORING RIGHTS.	69
I. Performing Artists.	69
II. Certain Producers.	69
III. Radio and TV Organizations.	70
§10. INFRINGEMENT AND REMEDIES.	70
I. Successful Civil Enforcement.	70
II. Criminal Prosecution.	73
III. Technological Implications.	73
IV. Damages.	74
Chapter 2. Patents.	76
§1. SOURCES: LEGISLATION.	76
I. Patent Protection in Return for Public Disclosure.	76
II. International Body of Law Manifesting Patent Protection.	76
III. The Swedish Patent Legislation.	78
§2. PATENTABLE SUBJECT MATTER.	79
I. Patentable Inventions.	79

Table of Contents

II. Subject Matter Not Regarded as Inventions	80
III. Further Limitations in the Law on Patents	82
§3. CONDITIONS OF PATENTABILITY	83
I. The Patentability Criteria	83
II. Novelty	83
III. Inventive Step	87
IV. Person of Ordinary Skill in the Art	89
V. Clarity	90
VI. Enabling Disclosure	92
VII. The Field of Exclusive Right	93
§4. FORMALITIES	94
I. Patent Office Proceedings	94
II. Disclosure Obligations Regarding Prior Art	95
III. Patent Office Appeals and Oppositions	96
IV. Patent Agents Contra Attorneys at Law	96
§5. OWNERSHIP AND TRANSFER	96
I. Inventor's Ownership	96
II. Employer-Employee Relationship	97
III. The Research Exemption	97
IV. Voluntary Licensing	98
V. Compulsory Licensing	99
§6. SCOPE OF EXCLUSIVE RIGHTS	99
§7. LIMITATIONS AND EXCEPTIONS TO THE PATENT FIELD	100
I. Patentable Subject Matter	100
II. Methods of Treatment	101
III. The 'Ethical' Exception	101
IV. The Biological Products and Process Exceptions	103
V. Distinguish Intellectual Property Rights from Property Rights	105
§8. DURATION OF PROTECTION	106
I. Term of Protection	106
II. Nullification Actions at the District Court of Stockholm	107
III. Modification of Patents	111
§9. INFRINGEMENT AND REMEDIES	112
I. Lack of Harmonized Infringement Procedures in Europe	112
II. Standing to Sue	113
III. Patent Infringement Liability	113
IV. Infringement Action	114
V. The Scope of Protection of a Swedish Patent	115
VI. The Public Use Exception to Patent Infringement Liability	118

Table of Contents

§10. RELATION TO OTHER INTELLECTUAL PROPERTY LAWS.	119
Chapter 3. Utility Models.	120
Chapter 4. Trademarks.	121
§1. SOURCES: LEGISLATION.	121
I. The Legislation.	121
II. Trademark Rights.	121
§2. SUBJECT MATTER OF PROTECTION.	122
I. Marks and Signs that May Serve as Trademarks.	122
II. Trademark Symbols.	123
§3. CONDITIONS OF PROTECTION.	125
I. Distinctive Character Requirement for Registration Marks.	125
II. Distinctive Character Requirement.	126
III. Acquiring Distinctive Character by Use.	127
§4. FORMALITIES.	128
I. Obtaining a Trademark.	128
II. Registration of Trademarks.	128
III. Opposition Proceedings.	129
IV. Trademark Protection for Acceptance Marks.	130
§5. OWNERSHIP AND TRANSFER.	132
I. Transfer of Ownership.	132
II. Licensing.	133
III. Co-ownership.	133
§6. SCOPE OF EXCLUSIVE RIGHTS.	134
§7. LIMITATIONS OF THE SCOPE OF TRADEMARK PROTECTION.	134
I. Statutory Limitations for Trademark Registration.	134
II. Prior Use Defence: Confusingly Similar.	135
III. Descriptive Use Defences.	136
IV. Use of Own Name Defence.	137
V. Technical Function Defence.	137
VI. Product Compatibility Defence.	138
VII. Descriptive Use of Trademarks.	138
VIII. Decorative Use Defence.	139
IX. Exhaustion of Rights.	139
§8. USE REQUIREMENTS.	141
I. The Five-Year Grace Period.	141
II. Genuine Use.	143

Table of Contents

III. Alterations of Distinctive Character	143
IV. Revocation Actions	143
§9. DURATION OF PROTECTION; RENEWAL; TERMINATION	145
§10. INFRINGEMENT AND REMEDIES	145
I. Lack of Harmonization Regarding Infringement	145
II. Trademark Infringement Liability	147
III. Procedures and Remedies	148
IV. The Scope of Protection of a Trademark	150
V. Freedom of Speech Defence	153
Chapter 5. Trade Names	155
Chapter 6. Industrial Designs	156
§1. SOURCES: LEGISLATION	156
§2. SUBJECT MATTER OF PROTECTION	156
§3. CONDITIONS OF PROTECTION	156
I. The Novelty Requirement	156
II. Requirement for Uniqueness	157
§4. FORMALITIES	158
I. Formal Requirements	158
II. No Substantive Examination at the Swedish Patent Office	158
III. European Registration at the OHIM	159
§5. OWNERSHIP AND TRANSFER	160
§6. SCOPE OF EXCLUSIVE RIGHTS	161
§7. LIMITATIONS OF THE SCOPE OF PROTECTION	161
I. Shapes of Goods	161
§8. DURATION OF PROTECTION	162
§9. INFRINGEMENT AND REMEDIES	162
I. Infringing Acts	162
II. Scope of Protection	163
III. Remedies	165
§10. RELATION TO OTHER INTELLECTUAL PROPERTY LAWS	165
Chapter 7. Plant Variety Protection	166

Table of Contents

§1. SOURCES: LEGISLATION.	166
§2. THE PROTECTION OF PLANT VARIETIES.	166
§3. RELATION TO OTHER INTELLECTUAL PROPERTY LAWS.	166
Chapter 8. Chip Protection	168
§1. SOURCES: LEGISLATION.	168
§2. THE PROTECTION OF SEMICONDUCTORS.	168
Chapter 9. Trade Secrets/Confidential Information	169
§1. SOURCES: LEGISLATION.	169
§2. THE PROTECTION OF TRADE SECRETS.	169
Index	173