List of Works Cited

Articles:

- Adeleke, Fola, Investor–State Arbitration and the Public Interest Theory, Online Proceedings, Working Paper No. 2014/12, Soc. Int'l Econ. L., 1, (2014)
- Bacalski, Juan, Mexico's Pharmaceutical Patent Dilemma and the Lessons of India, 23 Ariz. J. Int'l & Comp. L., 717, (2006)
- Baker, Brook K. Et al, Corporate Power Unbound: Investor-State Arbitration of IP Monopolies on Medicines Eli Lilly V. Canada and the Trans-Pacific Partnership Agreement, (Northeastern Pub. Law and Legal Theory Faculty Research Paper Ser., Paper No. 242, 2015) 1,
- Bernasconi-Osterwalder, Nathalie, STATE-STATE DISPUTE SETTLEMENT IN INVESTMENT TREATIES, (IISD Best Practice Ser. 2014), 1,
- Bijlmakers, Stephanie, Effects of Foreign Direct Investment Arbitration on a State's Regulatory Autonomy Involving the Public Interest, 23 Am. Rev. Int'l Arb. 245, (2012)
- Billingsley, James, Eli Lilly and Company V. The Government of Canada and the Perils of Investor-State Arbitration, 20 Appeal 27 (2015)
- Dreyfuss, Rochelle et al, From Incentive to Commodity to Asset: How International Law is Reconceptualizing Intellectual Property, 36 Mich. J. Int'l L. 557, (2014-2015)
- Dumberry, Patrick, The Protection of Investors' Legitimate Expectations and the Fair And Equitable Treatment Standard under NAFTA article 1105, 31(1) J. Int'l Arb. 47, (2014)
- Erstling, Jay, et al, Usefulness Varies by Country: The Utility Requirement of Patent Law in the United States, Europe and Canada, Faculty Scholarship Paper 3(1) Cybaris, 1, (2012)
- Falconi, Adam, CETA: An Opportunity to Fix Canada's Broken Pharmaceutical Patent Linkage System, 27 I.P.J., 325, (2015) 158
- Griffiths, Johnathan, On the Back of a Cigarette Packet: Standardized Packaging Legislation and the Tobacco Industry's Fundamental Right to Intellectual Property, 4 I. P. Q. 243, (2015)
- Grosse Ruse-Khan, Henning, LITIGATING INTELLECTUAL PROPERTY RIGHTS IN INVESTOR-STATE ARBITRATION: FROM PLAIN PACKAGING TO PATENT REVOCATION, (Uni. Of Cambridge Faculty of Law Legal Studies Research Paper Ser., Paper No. 52/2014, 2014), 1
- Grosse Ruse-Khan, Henning, et al, PATENTABILITY OF PHARMACEUTICAL INVENTIONS UNDER TRIPS, DOMESTIC COURT PRACTICE AS A TEST FOR INTERNATIONAL POLICY SPACE, (Max Planck Institute for Innovation and Competition Research Paper Ser., Paper No. 16-02, 2016) 1,

- Henckles, Carloline, Protecting Regulatory Autonomy through Greater Precision in Investment Treaties: The TPP, CETA and TTIP, 19 J. Int't Econ. L., 27, (2016)
- Hicks Laurinda L., et al, Convergence of National Intellectual Property Norms in International Trading Agreements, 2 Am. U. J. Int'l L. & Pol'y, 769, (1997)
- Ho, Cynthia M., SHOULD ALL DRUGS BE PATENTABLE?: A COMPARATIVE PERSPECTIVE, 17 Vand. J. Ent. & Tech. L. 295, 340 (2015).
- Humm, Vanessa, American Trade News Highlights for Summer 2013, The Rise of the Investor State Suit and the Call for Reform, 5 Law & Bus. Rev. Am. 425, (2013)
- Jaime, Margie-Lys, Relying Upon Parties' Interpretation in Treaty-Based Investor-State Dispute Settlment: Filling the Gaps in International Investment Agreements, 46 Geo. J. Int'l L. 261, (2014-2015)
- Kalicki, Jean, et al, Fair, Equitable and Ambiguous: What is the Fair and Equitable Treatment in International Investment Law?, 22(1) ICSID Rev. Foreign Invs't L. J., 24, (2007)
- Karamanian, Susan L., Balancing Investor Protections, the Environment and Human Rights: The Place of Human Rights in Investor-State Arbitration, 17 Lewis & Clark L. Rev., 423, 432 (2013)
- Klopschinski, Simon, The WTOs DSU ARTICLE 23 AS GUIDING PRINCIPLE FOR THE SYSTEMIC INTERPRETATION OF INTERNATIONAL INVESTMENT AGREEMENTS IN THE LIGHT OF TRIPS, J. Int'l Econ. L., 211, (2016)
- Liddell, Kathleen, et al, Fair and Equitable Treatment and Judicial Patent Decisions, 19 J. Int'l Econ. L., 145, (2016)
- Mercurio, Bryan, Awakening the Sleeping Giant: Intellectual Property Rights in International Investment Agreements, 15(3) J. Int't Econ. L., 871 (2012)
- Mercurio, Bryan, Safeguarding Public Welfare?—Intellectual Property Rights, Health and the Evolution of Treaty Drafting in International Investment Agreements, 6 J. Int'l Econ. L., 252, (2015)
- Petersmann, Ernst-Ulrich, The Judicial Task of Administering Justice in Trade and Investment Law and Adjudication, 4(1) J. Int'l Dis. Sett., 5, (2013)
- Potesta, Michele, Legitimate Expectations in Investment Treaty Law: Understanding the Roots and the Limits of a Controversial Concept, 28(1) ICSID For. Inv. L.J., 88, (2013)
- Okediji, Ruth L., Is Intellectual Property "Investment"? Eli Lilly v. Canada and the International Intellectual Property System, 35 U. Pa. J. Int'l L. 1211, 1219 (2013-2014)
- Schreuer, Christoph, et al, AT WHAT TIME MUST LEGITIMATE EXPECTATIONS EXIST? in A Liber Amicorum: Thomas Wälde Law Beyond Conventional Thought, 265, (Jacques Werner & Arif Hyder Ali 1st ed. 2009)
- Siebrasse, Norman, HGS v. LILLY: How Soon Is Too Soon to Patent?, 24 I. P. J., 41, (2011).

- Snodgrass, Elizabeth, Protecting Investor's Legitimate Expectations: Recognizing and Delimiting the General Principle, 21(1) ICSID For. Inv. L.J., 1, (2006)
- Stone, Jacob, Arbitrairness, The Fair and Equitable Treatment Standard, and the International Law of Investment, 25(1) L.J.I.L., 77, (2012)
- Taubman, Anthony, Australia's Interests under TRIPS Dispute Settlement: Trade Negotiations by Other Means, Multilateral Defense of Domestic Policy Choice, or Safeguarding Market Access?, 9 Melb. J. Int'l L., 217, (2008)
- Vadi, Valentina, Towards a New Dialectics: Pharamaceutical Patents, Public Health and Foreign Direct Investment, 5(1) NYU J. Intell. Prop. & Ent. L., 113, (2015)
- Vadi, Valentina Sara, Through the Looking-Glass: International Investment Law through the Lens of Property Theory, 8 Manchester J. Int'l Econ. L., 22, (2011)
- Voon, Tania, et al, Intellectual Property Rights in International Investment Agreements: Striving for Coherence in National and International Law, (Melbourne Legal Studies Research Paper, Paper No. 675, 2013)

Cases:

Apotex Holdings Inc. & Co. v. USA, ICSID Award, Case No. ARB(AF)/12/1, (2014)

Apotex Inc. v. Wellcome Foundation Ltd., [2002] 4 SCR 153, 2002 SCC 77 (Can.)

Australia — Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging, WT/DS467/20 (2013)

Eli Lilly & Co. v. Canada, ICSID, Case No. UNCT/14/2 (2012)

Eli Lilly & Co. v. Novopharm Ltd., [2011] FC 1288 (Can.)

Eli Lilly & Co. v. Teva Canada Ltd., [2011] FCA 220 (Can.)

Glamis Gold Ltd. v. USA, ICSID Award (2009)

Grand River Enterprises Six Nations Ltd., et al. v. USA, ICSID Award (2011)

International Thunderbird Gaming Corp. v. Mexico, Award (2007)

Metalclad Corp. v. Mexico Award, ICSID Case No. ARB(AF)/97/1 (2001)

Mobil Investments Canada Inc. & Murphy Oil Corp. v. Canada, ICSID Decision on Liability and on Principles of Quantum, Case No. ARB(AF)/07/4 (2012)

Mondev I'ntl Ltd. v. USA, ICSID (Additional Facility) Award, Case No. ARB(AF)/99/2 (2002)

Panel Report, Canada – Term of Patent Protection, WT/DS170/AB/R (2000)

Panel Report, United States-Section 110(5) of the U.S. Copyright Act, WT/DS160/R (2000)

Philip Morris Asia Ltd. v. Australia, PCA Case No. 2012-12 107 (2011)

Philip Morris Brands Sàrl et al. v. Uruguay, ICSID Case No. ARB/10/7 (2009)

Pope & Talbot Inc. v. Canada, Award on the Merits of Phase II (2001)

- S.D. Myers Inc. v. Canada Partial Award (2004)
- Waste Management Inc. v. Mexico, ICSID (Additional Facility) Award, Case No. ARB(AF)/00/3 (2004)

Legislative Materials:

- 1994: General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, THE LEGAL TEXTS: THE RESULTS OF THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS 17 (1999), 1867 U.N.T.S. 187
- 2012 U.S. Model Bilateral Investment Treaty, Treaty Between The Government of the United States of America and the Government Of [Country] Concerning The Encouragement and Reciprocal Protection of Investment (2012)
- Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, THE LEGAL TEXTS: THE RESULTS OF THE URUGUAY ROUND OF MULTILAT-ERAL TRADE NEGOTIATIONS 320 (1999), 1869 U.N.T.S. 299, 33 I.L.M. 1197
- Agreement between the Swiss Confederation and the Oriental Republic of Uruguay on the Reciprocal Promotion and Protection of Investment, Oct. 7, 1988, 1976 U. N. T. S. 413
- Berne Convention for the Protection of Literary and Artistic Works, Sep. 9, 1886, 331 U.N.T.S. 217
- Constitution Act, 1867, § 91(22), 30 & 31 Vict. Ch. 3 (U. K.), as reprinted in R.S.C., No. 5 (Appendix 1985)
- Convention on the Recognition and Enforcement of Foreign Arbitral Awards, Jun 10, 1958, 330 U.N.T.S.
- Copyright Act of 1976, 17 U.S.C. (2012)
- General Agreement on Trade in Services, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1B, THE LEGAL TEXTS: THE RESULTS OF THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS 284 (1999), 1869 U.N.T.S. 183
- German Model Treaty-2008, Treaty between the Federal Republic of Germany and ... concerning the Encouragement and Reciprocal Protection of Investments (2008)
- International Centre for Settlement of Investment Disputes (ICSID), Rules of Procedure for the Institution of Conciliation and Arbitration Proceedings, Mar. 18, 1965, ICSID/15/Rev. 1 (2003)
- North American Free Trade Agreement, U.S.-Can.-Mex., Dec. 17, 1992, 32 I.L.M. 289 (1993)
- Notes of Interpretation of Certain Chapter Eleven Provisions (Free Trade Commission, July 31, 2001)
- OECD, The Multilateral Agreement on Investment Draft Consolidated Text, DAFFE/MAI(98)7/REV1 (1998)
- Paris Convention for the Protection of Industrial Property, Mar. 20, 1883, 21 U.S.T. 1583, 828 U.N.T.S. 305

- Patent Act, § 2, R.S.C., c. P-4 (Can.)
- Patents (Amendment) Act, § 3(d), No. 15 of 2005, India Code (2005)
- Treaty between the Federal Republic of Germany and Pakistan for the Promotion and Protection of Investment, Ger.-Pak., Nov. 25, 1959, 457 U.N.T.S. 24
- UNCITRAL Arbitration Rules, Dec. 15, 1976, 15 I. L. M. 701 (1976)
- Understanding on Rules and Procedures Governing the Settlement of Disputes, Marrakesh Agreement Establishing the World Trade Organization, Annex 2, THE LEGAL TEXTS: THE RESULTS OF THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS 354 (1999), 1869 U.N.T.S. 401
- Vienna Convention on the Law of Treaties, opened for signature May 23, 1969, 1155 U.N.T.S. 331

Books:

- Dolzer, Rudolf, et al, Principles of International Investment Law, 1st ed. (2008)
- Drahos, Peter, et al, Information Feudalism, Who Owns the Knowledge Economy, (2002)
- Gervais, Daniel, The TRIPS Agreement: Drafting History and Analysis, 3^{rd} ed. (2008)
- FOLSOM, RALPH. H., NAFTA, FREE TRADE AND FOREIGN INVESTMENT IN THE AMERICAS IN A NUTSHELL (2014)
- FOLSOM, RALPH H., PRINCIPLES OF INTERNATIONAL TRADE LAW (2014)
- HORNER, JESSI J., CANADIAN LAW AND THE CANADIAN LEGAL SYSTEM (2007)
- JUDGE, ELIZABETH F., ET AL, INTELLECTUAL PROPERTY: THE LAW IN CANADA, (2011)
- Kratz, Martin P.J. Q.C., Canada's Intellectual Property Law in a Nutshell, 2^{nd} ed., 202 (2010)
- Kläger, Ronald, 'Fair and Equitable Treatment' in International Investment Law (2011)
- MILES, KATE, THE ORIGINS OF INTERNATIONAL INVESTMENT LAW, EMPIRE, ENVIRON-MENT AND THE SAFEGUARDING OF CAPITAL (2013)
- PASTOR, ROBERT A., THE NORTH AMERICAN IDEA, THE VISION OF A CONTINENTAL FUTURE (2011)
- PERRY, STEPHEN J., ET AL, CANADIAN PATENT LAW, 2nd ed. (2014)
- Schill, Stephan W., The Mulitilaterization of International Investment Law (2009)
- SOUTH CENTER, The TRIPs Agreement, A Guide for the South, The Uruguay Round Agreement on Trade-Related Intellectual Property Rights (2000)
- The Oxford Handbook of International Investment Law, (Peter Muchlinski, Federico Ortino & Christoph Schreuer eds., 2008)
- Van Den Bossche, Peter, The Law and Policy of the World Trade Organization, $2^{\rm nd}$ ed. (2010)

List of Works Cited

Vanhonnaeker, Lukas, Intellectual Property Rights As Foreign Direct Investments: From Collision to Collaboration (2015)

Other:

- Fair and Equitable Treatment, UNCTAD Series On Issues In International Investment Agreements II, (2012)
- Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law, Report by the Study Group of the International Law Commission, (2006)
- The Role of International Investment Agreements in Attracting Foreign Direct Investment to Developing Countries, UNCTAD Series on International Investment Policies for Development, (2009)

Webistes:

Treaty Protection for Global Patents: A Response to a Growing Problem for Multinational Pharmaceutical Companies, Jones Day Publications (2012) available at: http://www.jonesday.com/treaty protection/