UNIVERSITY OF NOTTINGHAM

School of Law

LL.M. in European Law 1999/00

Dissertation

'Intellectual Property Rights and New Technologies in the EC'

'I hereby declare that I have read and understood the regulations governing the submission of LL.M. dissertations, including those relating to length and plagiarism, as contained in the LL.M. Manual and that this dissertation conforms to those regulations.'

Richard D. Clare

TABLE OF CONTENTS

I.	**INTRODUCTION**	**1**
II.	**IPRs UNDER THE TREATY RULES ON FREE MOVEMENT OF GOODS AND SERVICES**	**2**
A.	***Preface***	**2**
1.	**The Existence/Exercise Dichotonomy**	**2**
2.	**The "Specific Subject-Matter" of IPRs**	**4**
3.	**The "Exhaustion of Rights" Doctrine**	**5**
4.	**Patents**	**6**
5.	**Trade Marks**	**8**
6.	**Copyright and Neighbouring Rights (Performance and Rental Rights)**	**11**
B.	**Some Comments on the Interplay between the Rules on Free Movement of Goods and Services and IPRs**	**14**
III.	**IPRs UNDER THE TREATY RULES ON FREE COMPETITION**	**17**
A.	***Preface***	**17**
1.	**Licensing Agreements under Article 81 TEC**	**19**
a.	*The ECJ approach*	**19**
aa.	Licensing Agreements and Territorial Protection	**19**
ab.	Other Anti-Competitive Arrangements in Licensing Agreements	**21**
b.	*The Commission approach*	**22**
aa.	Individual Exemption for Licensing Agreements	**22**
ab.	Block Exemptions for IPRs	**23**
2.	**The Application of Article 82 TEC to IPRs**	**26**
a.	*The Concept of Dominance*	**26**
b.	*The Concept of Abuse*	**27**
B.	**Some Comments on the Interplay between IPRs and the Competition Rules of the TEC**	**29**
IV.	**NEW TECHNOLOGIES - HARMONISATION AND UNIFICATION OF IPRs IN THE EC**	**30**

A.	***Preface***	**30**
B.	***Patents***	**33**
1.	**The European Patent Convention and the Community Patent Convention**	**33**
2.	**The Biotechnology Patent Directive and the Council Regulation on Supplementary Protection Certificates (SCPs)**	**34**
C.	***Trade Marks***	**35**
D.	***Copyright and Related Rights***	**36**
1.	**The Propasal for a Council Directive on the Harmonisation of Copyright**	**36**
2.	**The Software Directive**	**38**
3.	**The Database Directive**	**39**
4.	**Other Copyright Harmonisation Measures**	**40**
E.	***Design Rights***	**41**
V.	**CONCLUSION**	**42**