

Charting the Course of Intellectual Property Laws in the Privatization of Outer Space

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Every year, more nations add to the growing anthology of outer space law in an attempt to prepare for the time when the future becomes the present. However, many of these laws are bounded by the strictures of the dated governing international treaty infrastructure. Specifically, the seemingly contradictory aims of corporate profit and global benefit create possible complications. One such area is intellectual property.

The Outer Space Treaty remains the primary international authority governing nations with respect to outer space. However, it has already been 50 years since its ratification and it no longer represents the extent of international cooperation among States who are active in the space industry. Most of the recent international agreements on outer space law are entered into through bilateral and multinational agreements that specifically address commercial activity, including intellectual property. But these treaties generally do not contemplate the assertion of private ownership rights. This is problematic especially when current key space players are private parties using Internet-driven fortunes to fund activities. Intellectual property rights, and their recognition and protection are crucial. The challenge will be to create a universe where corporate profit and global benefit can coexist peacefully.

This Article examines how national legislatures are handling intellectual property in the outer space industry, how bilateral and multilateral agreements have addressed it and other private interests, and whether intellectual property can fit into the outer space treaty structure as it exists. This Article first looks at recent activities in outer space. This Article then examines the international treaty framework that has governed outer space activity since 1958. Finally, this Article analyzes bilateral and multilateral agreements that attempt to regulate national legislation and, thereafter, identifies some conflicts with the international framework.