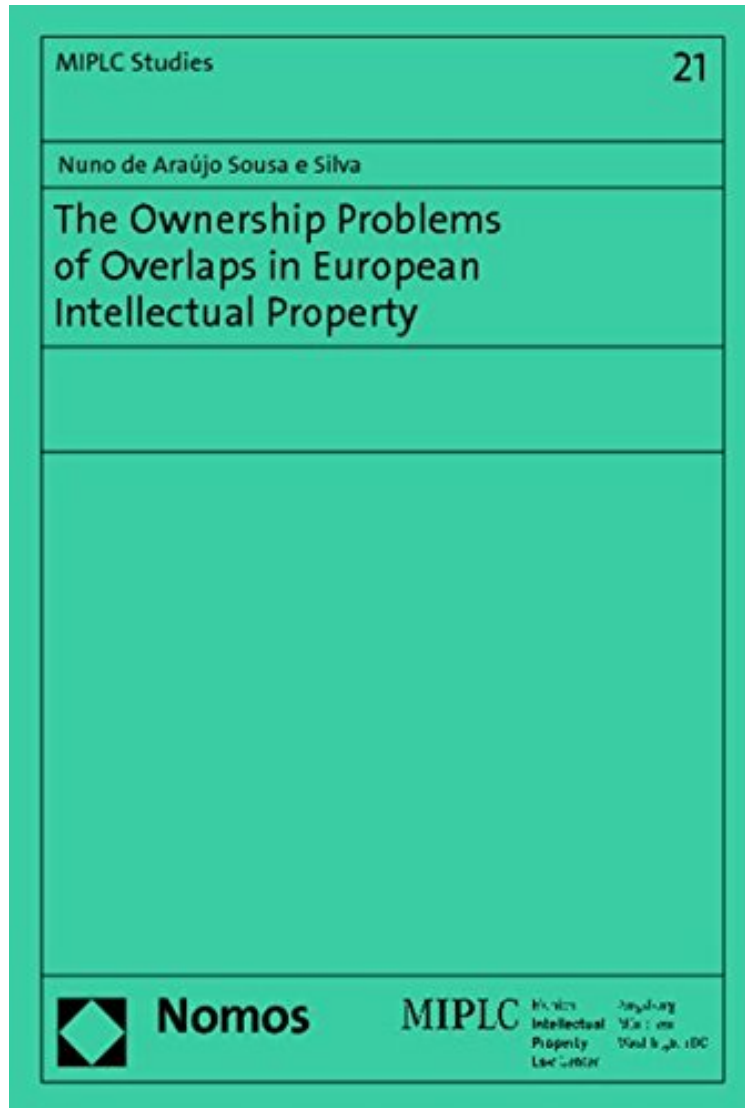


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Ownership Problems of Overlaps in European Intellectual Property (Miplc Studies)

Nuno de Araujo Sousa e Silva
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Intellectual Property rights are expanding and, thus, overlapping more than ever before. This poses challenges to a system devised as comprising a set of isolated compartments, each with its defined purpose. The diverging rules concerning ownership and entitlement can lead to different rights on the same object being owned by different persons. What happens then? This question is addressed under European law, focusing on the existing corpus of EU primary and secondary legislation and jurisprudence and the national laws of France, Germany and the UK. Five specific cases are considered: trade marks and designs, trade marks and copyright, designs and copyright, data-base sui generis right and copyright and copyright and patents in the field of computer programs. Some solutions to the problem, namely convergence of ownership rules, avoidance of overlaps, prevalence of the closest regime, abuse of rights, implied licences, and expanding copyright solutions by analogy, are analysed.