

Abbe BROWN: “Judging (for) the future? Innovation, energy and conflict/resolution.”

Since the World Trade Agreement and TRIPS, nearly all states must have an intellectual property (“IP”) system. So, innovators can obtain IP in different countries, and be able to control the use of new technologies. It is not only IP law which might be relevant to such proposed use: depending on the facts, there may also be human rights, competition and world trade laws, as well as laws relevant to information control, and legislation and regulation aimed specifically at the industry in question. Yet the power conferred on IP, and its mandatory place in the legal landscape, means that IP can have a disproportionate impact on society’s responses to new challenges and developments.

A relevant test-bed is energy - in its widest sense, including oil and gas, carbon capture and different forms of renewable energy. In this sector, there are high levels of technology and innovation and data is of great importance; there is an international industry; there are national, European and international regulation, legislation and treaties, including the Kyoto and Nagoya Protocols; there are large and small companies and consumers; and issues of public concern are involved, such as fundamentally keeping the lights on, ensuring the sustainability of the planet and paying for the UK or for Scottish independence.

Using energy related scenarios, this poster will explore the relationship between these diverse laws and forms of regulation, from the perspective of judges and regulators. It will consider the importance of the forum, the initial cause of action, and the extent to which other legal fields can and should be considered in any event – and to what end.