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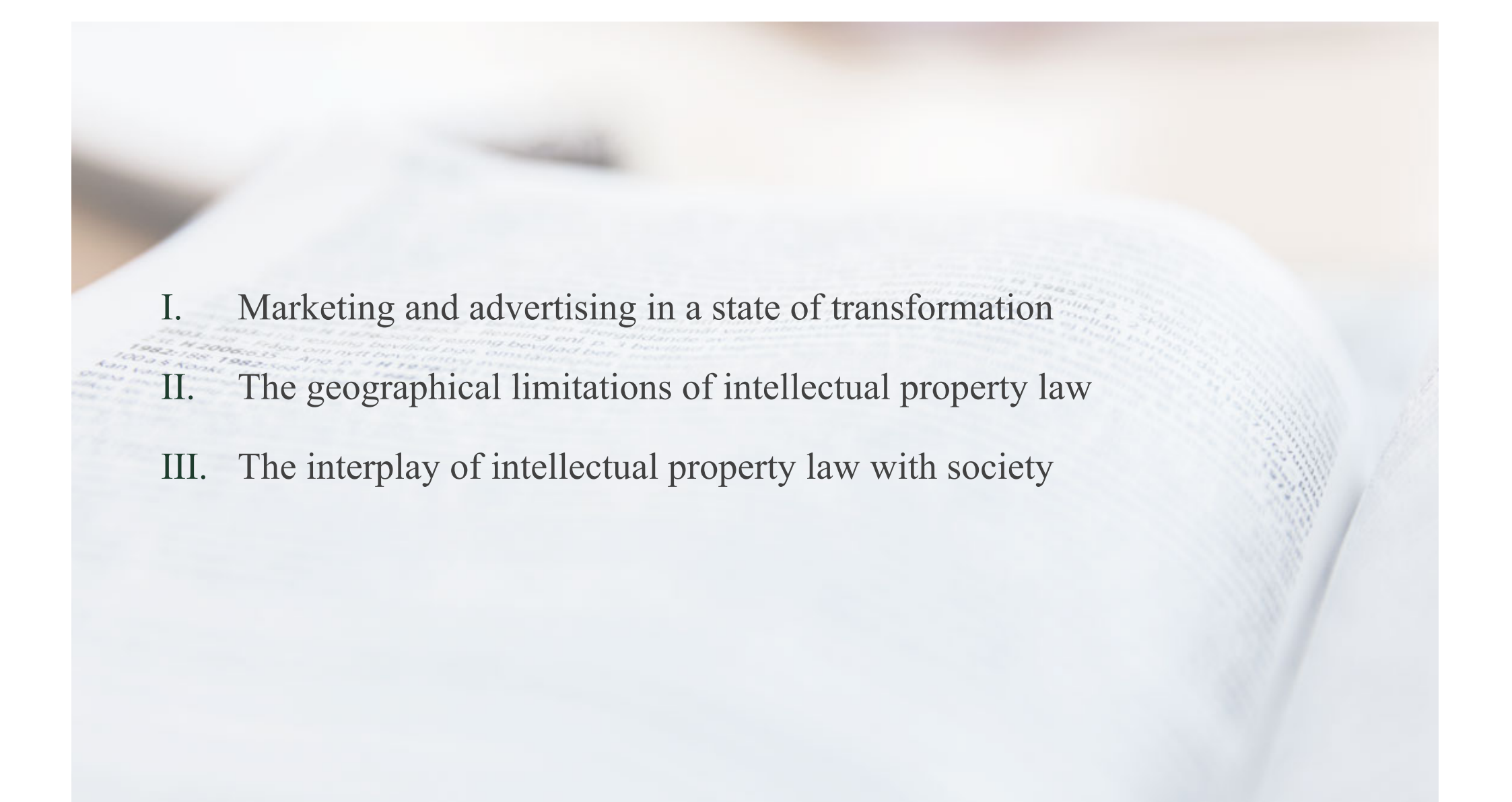
The Future of Working with IPR Litigation in the Cyber World

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- I. Marketing and advertising in a state of transformation
 - II. The geographical limitations of intellectual property law
 - III. The interplay of intellectual property law with society

Introduction

Marketing and advertising in a state of transformation

3-year perspective

- Transition from one-way communication to a more nuanced dialogue
- Complex situation: the seller maps the buyer's conduct
 - Privacy
 - Marketing
- The use of influencers in marketing
 - Who bears the responsibility for the marketing?
 - Non-sponsored contributions and undesired association

Marketing and advertising in a state of transformation

How is counsel's role affected?

- Heightened degree of knowledge required for legal practitioners
- The importance of understanding new technology and new phenomena
 - Google Analytics
 - Influencers
- Competence is required in relation to both contract drafting and when conducting litigation

The geographical limitations of intellectual property law

3-year perspective

- A territorial matter from a historical perspective
- Where geographically is infringement in fact committed?

The geographical limitations of intellectual property law

- *AMS Neve Limited v Heritage Audio SL* (2018 EWCA Civ 86)
 - Case concerning infringement of EU trademark
 - The defendant had marketed copies of sound equipment on its website in Spain
 - The claimant contended that the British Court (IPEC) had jurisdiction, since the marketing was directed towards consumers in Great Britain
 - The UK Court of Appeal has requested a preliminary ruling from the CJEU

In circumstances where an undertaking is established and domiciled in member state A and has taken steps in that territory to advertise and offer for sale goods under a sign identical to an EU trademark on a website targeted at traders and consumers in member state B:

1. Does an EU trademark court in member state B have jurisdiction to hear a claim for infringement of the EU trademark in respect of the advertisement and offer for sale of the goods in that territory?
2. If not, which other criteria are to be taken into account by that EU trademark court in determining whether it has jurisdiction to hear that claim?
3. Insofar as the answer to (ii) requires that EU trademark court to identify whether the undertaking has taken active steps in member state B, which criteria are to be taken into account in determining whether the undertaking has taken such active steps?

The geographical limitations of intellectual property law

How is counsel's role affected?

- The importance of international co-operations
- An understanding of international private law

The interplay of intellectual property law with society

3-year perspective

- Religion
- Politics
- Brexit
 - What happens, for example, with coexistence agreements for the EU area?
 - The British government's "White Paper" – focuses on patents and geographical origin designations
 - "Automatic and free conversion of EU trademarks and community design rights to the British equivalents"

The interplay of intellectual property law with society

How is counsel's role affected?

- Follow political discussions
- The border towards other legal areas and towards society

Summary

- What do we know within a 9-year perspective?
- The intellectual property law competence is not enough
- The importance of understanding marketing, international private law, politics and other areas of society
- Work in larger teams – international level, regional (Nordic) level and law firm level

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