

# CHASING THE DRAGON:

## U.S. COPYRIGHT POLICY AGAINST PIRACY IN CHINA

OVER THE PAST DECADE, intellectual property has increasingly dominated the world economy, and intellectual property rights have become the core issue of international trade. Since the implementation of the World Trade Organization's (WTO's) Trade-Related Aspects of Intellectual Property Rights (TRIPs) requirements, extending and harmonizing intellectual property rights has become one of the most significant policy agenda items in many countries.

The ongoing debate over intellectual property rights in U.S.-China trade illustrates this point well. While U.S. exports to China have been growing faster than sales to any other country in the last decade, exceeding \$16 billion in 2000, China has been criticized as the evil pirate free-riding on U.S. information products.<sup>1</sup> By engaging in unfair competition, this pirate has helped bring about the greatest trade deficit in U.S. history. Indeed, every year, the U.S. loses more than \$2 billion in revenue due to intellectual property piracy in China.<sup>2</sup> Policy problems in harmonizing this conflict became more acute when China officially gained WTO membership, following the approval of its accession protocol, including the TRIPs Agreement. Similar to most developing countries, China's priority has been the integration into the global economy and the acquisition of a modern industrial sector through the transfer of advanced technology from the West. While foreign countries saw this as a positive investment opportunity, they were also very concerned about the lack of an effective legal system to protect intellectual property rights. As China welcomes the access to global markets that WTO membership brings, it must acknowledge its WTO obligation to provide strong enforcement of intellectual property rights.

Although a substantial body of studies has focused on the role of international intellectual property rights in economic development, the only thing on which there is consensus is that "there is a complex feedback relationship between the scope of a country's intellectual

BY SEUNG-HWAN MUN

*Seung-Hwan Mun is a doctoral candidate in the Department of Radio-Television-Film at the University of Texas at Austin, where he earned his master's degree. He has taught several undergraduate classes on communication technology and research methods. Currently, he is a graduate research associate with the Telecommunications and Information Policy Institute, where he works on various research projects on media regulation, broadband Internet policy, and intellectual property rights.*

property laws and its stage of economic development."<sup>3</sup> Developed western countries have long emphasized the positive benefits of strengthened intellectual property rights.<sup>4</sup> On the other hand, intellectual property rights in developing or underdeveloped countries have been portrayed as "protection for monopoly imports" of benefit to exporters at the expense of a developing country's imports.<sup>5</sup> Gaps in economic and technological standing in the world community have been a starting point to explain the divergence in each country's policies regarding intellectual property. Ironically, this inveterate argument tends to deter viable policy discussions over intellectual property rights protection in the global economy by reducing all problems to a country's economic wealth.

Most policy studies by economists deal only with the quantifiable costs and benefits of the intellectual property policy.<sup>6</sup> However, as Bettig notes, "the positivistic and apparently empirical nature of economic analyses makes economists more forceful in the policymaking process than those making predictions or voicing concerns that are based more on an intuitive, philosophical, or even historical basis."<sup>7</sup> Despite the issue's importance, the academic debate so far has been one-sided, "focusing primarily on the unfair competition aspect."<sup>8</sup> On the contrary, little attention has been paid to historical, political, and cultural differences concerning intellectual property rights. Countries in different stages of development face very different benefits and costs from intellectual property protection due to dissimilarities in economic, historical, political, and cultural factors. Thus, general principles of intellectual property rights can be better understood through the examination of the significant differences in these factors between countries. Without

this multiplicity of views, it is unlikely that strong unilateral/bilateral copyright enforcement and reforms can resolve the piracy problem.

In order to reconfigure the U.S.-China intellectual property debate, this paper focuses on a range of historical, socio-economic, cultural, and political differences between the United States and China and how differences in the Chinese intellectual property system contribute to copyright infringement, particularly in optical media products. Using the findings, this paper will evaluate U.S. intellectual property protection policy toward China, and suggest a new approach to resolve the current intellectual policy conflicts between the U.S. and China.

### THE U.S. COPYRIGHT INDUSTRY AND PIRACY IN CHINA

#### *THE U.S. COPYRIGHT INDUSTRY*

The U.S. copyright industries continue to be one of the fastest growing segments of the U.S. economy. In 2002, the copyright industries contributed approximately \$1.25 trillion to the U.S. economy, accounting for nearly 12 percent of the U.S. gross domestic product.<sup>9</sup> Foreign sales and exports of the "core copyright industries"<sup>10</sup> continue to grow rapidly. Total revenue generated from exports and foreign sales of the core copyright industries was estimated to be \$89.26 billion in 2002, an amount larger than the U.S. International Trade Administration's export estimates of other industries such as chemicals (\$83.59 billion), food and live animals (\$40.30 billion), automobiles (\$50.36 billion), and aircrafts (\$43.88 billion) in the same year.<sup>11</sup> However, certain copyright industries, most notably pre-recorded records and tapes, have experienced slower growth

**Table 1**  
**Estimated Revenues Generated by Foreign Sales/Exports of Selected U.S. Core Copyright Industries: 1992-2002**  
(in billions of dollars)

Industry	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Pre-Recorded Records, Tapes, etc.	6.58	7.44	8.74	9.76	9.83	10.01	9.90	10.27	9.76	9.51	8.47
Motion Pictures, TV, Video	7.05	8.36	9.34	10.24	11.58	12.34	12.93	13.7	14.50	14.69	17.00
Computer Software	21.94	24.32	26.44	29.14	34.81	40.28	41.87	50.65	56.88	60.74	59.97
Newspaper, Books, Periodicals	3.62	3.67	3.79	3.97	3.96	4.22	4.51	4.79	4.33	4.03	3.82
Total	39.19	43.79	48.31	53.11	60.18	66.85	69.21	79.41	85.47	88.97	89.26

Source: Adapted from Siwek, S. E., *Copyright Industries in the U.S. Economy: The 2004 Report* (Washington, DC: International Intellectual Property Alliance, 2004).

and even declines in legitimate foreign sales due in part to the proliferation of new technologies that facilitate the distribution of pirated music. Despite the fact that the U.S. continues to experience large and growing trade deficits, total revenues generated in foreign markets by these four industry groups combined have grown. Overall, consistent positive trends indicate that copyright industries are key to the growth of the U.S. economy in both domestic and global markets (see Table 1).

**U.S.-CHINA INTELLECTUAL  
PROPERTY POLICY RELATIONS**

Originally, the concept of intellectual property rights did not operate outside of the state in which they were granted.<sup>12</sup> This territorialism has long been a problem for intellectual property in international trade. Throughout the 19th century, a number of countries, regarding themselves as “net exporters” of intellectual property, began to feel a need to protect their creative literary and artistic works by way of bilateral treaties.<sup>13</sup> In trade relationships with China, the U.S. has relied on various bilateral agreements to protect intellectual property. However, adequate protection of U.S. intellectual properties in China has not been accomplished.

Compared with other countries, the development of U.S.-China trade relations concerning intellectual property is recent. The first official relation was the 1979 Agreement on Trade Relations, which provided for equal protection of copyright, patent, and trademark in both countries.<sup>14</sup> China soon implemented a broad range of intellectual property systems to facilitate economic growth and establish the basic standards of intellectual property protection contemplated by the 1979 Agreement. In response to both internal economic pressures and its obligations under the agreement, China joined the World Intellectual Property Organization (WIPO) in 1980, and the Paris Convention for the Protection of Industrial Property in 1984, and enacted the 1982 Trademark Law, the 1984 Patent Law, and the 1990 Copyright Law.<sup>15</sup>

However, the problem of piracy of U.S. intellectual property in China came to the forefront of U.S. trade policy concerns in the early 1980s as China emerged from economic and political isolation and

entered into trade negotiation with the U.S. At that time, worldwide piracy of U.S. intellectual property gained the attention of major copyright-related industries and policymakers. In 1989, the U.S. Trade Representative (USTR) intended to designate China a “priority foreign country” under Special Section 301, which would have authorized sanctions for trade violations.<sup>16</sup> As a result, China and the U.S. reached a Memorandum of Understanding (MOU) in May 1989, to prevent China’s designation as a priority foreign country and give it more time to comply with the American Trade Act provisions.<sup>17</sup> From the U.S. viewpoint, although China took measures to improve copyright protection, the enacting of Chinese copyright laws lagged behind and proposed patent legislation did not cover important sectors. As a result, in 1991 the U.S. again

threatened to identify China as a priority foreign country under the Special 301 provision of the Trade Act for its failure to protect U.S. copyrighted products.<sup>18</sup> To avoid a trade war and to provide effective procedures and remedies to prevent Chinese infringements of intellectual property

rights,<sup>19</sup> both countries entered a second MOU in January 1992 committing China to adopt internationally compatible copyright protection and to extend patent protection to pharmaceutical and chemical products.

When, in early 1995, USTR listed China as a priority foreign country a third time, Special 301 investigations resumed. China once again averted a trade war with the U.S. by agreeing to the 1995 Enforcement Agreement, a new bilateral accord designed to eliminate the rampant piracy of intellectual property.<sup>20</sup> Yet despite the agreement, the U.S. questioned China’s ability to implement the 1995 MOU and its apparent reluctance to punish pirates. In May 1996, the USTR again declared China a priority foreign country, threatening \$2 billion in trade sanctions for failure to comply with the 1995 MOU. China averted these sanctions by conciliatory actions aimed at establishing the structural changes envisioned by the agreement.<sup>21</sup> In addition, China issued Regulations on the Certification and Protection of Famous Trademarks in August 1996 to bring its trademark regulations up to par with WTO member countries.<sup>22</sup>

---

*Gaps in economic and technological standing in the world community have been a starting point to explain the divergence in each country’s policies regarding intellectual property.*

---

More recently, preparing to enter the WTO, China amended all intellectual property laws—including copyright, patent, and trademark laws—and created several enforcement tools. For instance, between 1999 and 2001 the Chinese authorities launched a variety of anti-counterfeiting and anti-piracy campaigns, including large-scale seizures and crack-downs on pirated and counterfeit products.<sup>23</sup> As part of national anti-piracy campaigns during the period, the Chinese authorities conducted more than 20,000 raids against optical media pirates in 2001 and seized more than 51 million VCDs, CDs, and CD-ROMs, and 4.9 million DVDs. Between 1995 and 2001, Chinese enforcement authorities seized 133 replication lines. However, it is necessary to bear in mind that these statistics are just a small fraction of the massive levels of pirated optical media products circulating in China.<sup>24</sup> Despite some progress during this period, piracy levels remain high. Copyright infringement levels hover around 90 percent in all sectors, making additional USTR bilateral action against China legitimate. Consequently, USTR recommended elevating China from the “watch list” to the “priority watch list” in April 2005, demonstrating continued concern at the lack of compliance with copyright protection.<sup>25</sup>

#### PIRACY IN CHINA

Notwithstanding the coercive copyright protection policy, the U.S. government failed to create any sustainable and continuous protection for American products. Intellectual property piracy remains rampant in China, constituting 90 percent of the vast

Chinese market. Also, losses to U.S. and Chinese companies continue at high levels.<sup>26</sup>

Piracy of motion pictures in digital format continues to damage U.S. companies, given the vast global growth in optical media format for serving the home video market. For example, in 2003, 85 percent of the DVDs manufactured in China were pirated products, which threatens further investment by U.S. motion picture companies in China’s DVD business.<sup>27</sup> As Table 2 indicates, the nationwide piracy level increased to 95 percent in 2004. The amount of losses due to greater piracy levels also increased from \$120 million in 1999 to \$280 million in 2004. Optical disc versions of recent U.S. hit movies are often available in the pirate market long before theatrical release in China. National box office revenues suffer as a result. Pirated videos of Hollywood hits frequently sell within one week of their original U.S. release, reportedly for \$1 per copy.<sup>28</sup>

According to the 2001 International Federation of the Phonographic Industry (IFPI) report, audio piracy is rampant in China, with illegal recordings accounting for more than 90 percent of the market.<sup>29</sup> Anti-piracy action impacted Shanghai, where piracy at the retail end fell to a manageable level.<sup>30</sup> Nevertheless, Internet piracy recently emerged as another threat against the recording industry. An increasing number of sites hosted on Chinese servers contain MP3 files that infringe copyrights. For instance, websites such as [www.9sky.com](http://www.9sky.com) and [www.chinaMP3.com](http://www.chinaMP3.com) offer links to thousands of pirated songs.<sup>31</sup> The loss from piracy in business software is another major Chinese concern. Software losses occur at

**Table 2**  
**Estimated Trade Losses and Levels of Piracy in China: 1999-2004**  
(in billions of dollars/percent)

Industry	1999		2000		2001		2002		2003		2004	
	Loss	Level	Loss	Level	Loss	Level	Loss	Level	Loss	Level	Loss	Level
Motion Pictures	120.0	90%	120.0	90%	160.0	88%	168.0	91%	178.0	95%	280.0	95%
Sound Recordings/ Musical Compositions	70.0	90%	70.0	85%	47.0 <sup>i</sup>	90%	48.0	90%	286.0	90%	202.9	85%
Business Software	437.2	91%	765.2	93%	714.6	93%	1637.3	92%	1787.0	92%	1488.0	90%
Entertainment Software	1,382.5	95%	NA	99%	455.0	92%	N/A	96%	568.2	96%	510.0	N/A
Books	128.0	N/A	130.0	N/A	130.0	N/A	40.0	N/A	40.0	N/A	50.0	N/A
Totals	2137.7		1085.2		1506.6		1893.3		2859.2		2530.9	

Source: Adapted from IIPA, *2001 Special 301 Report: People's Republic of China, 2001*; IIPA, *2005 Special 301 Report: People's Republic of China, 2005*.

i. The estimated loss<sup>i</sup> exported discs, which have decreased substantially in the last few years. This number is also based on sales at pirate prices. Using a “displaced sales” methodology, the industry estimate for losses would be US\$418.5 million.

both the corporate and retail market levels, with counterfeited software and hard disk loading occurring as part of the sale of computers. The increase of global markets exacerbates the problem. Some of the most sophisticated software counterfeits worldwide come from Southern China. High quality counterfeits produced in large quantities serve not only the Chinese market but also worldwide distribution using multilingual software packages.<sup>32</sup>

With the rapid growth of markets for PC games, console games, and handheld devices, videogame piracy in China continues to increase. IIPA estimates that PC-based videogame piracy stands at 99 percent and console-based games are not far behind at 90 percent.<sup>33</sup> In addition, Internet piracy of videogames grows rapidly with the increase of Internet use in China. The videogame industry estimates that 25 percent of the current piracy in China is due to downloading videogames off the Internet.<sup>34</sup> Currently, there are more than 200,000 Internet cafes in China where customers can download pirated games and burn CD-Rs.<sup>35</sup>

In addition to domestic piracy, it is estimated that half of the pirated optical media products trading in China are imported from neighboring territories in East Asia, including Taiwan, Malaysia, Thailand, and Myanmar. Although the piracy of U.S. exports during 1995-1996 almost resulted in a U.S.-China trade war, exports from China are currently negligible.<sup>36</sup> The problem is now spreading to other countries. According to a Motion Picture Association of America (MPAA) report, Malaysia and Taiwan are rising hubs for optical disc piracy in the Asia Pacific region.<sup>37</sup>

### REASONS FOR PIRACY

Despite their obligations to the MOU, the Enforcement Agreement with the U.S., and other international commitments, why have the Chinese been reluctant to protect U.S. copyright products? Does it mean that U.S. policy efforts failed to understand the nature of copyright systems in China? If so, what is the reason that U.S. copyright policy toward China appears ineffective? To give a fuller account of reasons for piracy in China, I will discuss

four factors hindering copyright protection in the Chinese context.

#### ECONOMIC FACTORS

A major factor affecting piracy in China is the widespread availability of counterfeit and easy accessibility to vendors of pirated products. According to journalist Ted Anthony, "From soap to software, purses to parkas, Chinese cities are endpoints of a vast market of fake goods."<sup>38</sup> Likewise, pirated copies can be bought in well-known shopping arcades throughout China. Vendors of pirated goods make no effort to hide their locations. Above all, the low prices of pirated products fuel demand. The production of optical media goods like CDs, DVDs, and software on CD-ROMs have small marginal costs, little more than that of a blank disk. According to the Informa Media Group's report, the average cost of a pirated VCD is \$0.60 to \$1.20; a pirated DVD is \$2.00 to \$2.50.<sup>39</sup> The retail price of pirated movies is far cheaper when compared with the \$4 to \$5 average cost of a movie ticket in Beijing.<sup>40</sup>

Another economic factor exacerbating the piracy problem is the infancy of the local copyright industry. In China, the indigenous entertainment media and computer software industry are not yet well established, resulting in little local resistance to the high levels of piracy. In addition, since the establishment of the People's Republic of China in 1949, the Communist government has exercised strict control over the dissemination of media products. As a result, the media and publishing industries are among the most heavily regulated in China.<sup>41</sup> Many media products are unavailable despite great market demand; thus some consumers may settle for black-market products or pirated goods.

Piracy, in general, harms not only foreign copyright holders, but also the development of the domestic copyright industry. In China, however, consumer surplus gained from the cheap price of pirated products and the huge market demand is incredibly high. Piracy has little influence on domestic producer surplus because the original resources of pirated products are imported from foreign producers. In fact, digital and optical pirated copies identical to the originals hardly create consumer injuries.

---

*In China, the indigenous entertainment media and computer software industry are not yet well established, resulting in little local resistance to the high levels of piracy.*

---

Consequently, the current piracy in China may be interpreted as protectionism for infant local industries. Based on historical evidence, Ha-Joon Chang, a professor at the University of Cambridge, provides sufficient evidence to deny the popular myth that institutional development should precede economic development.<sup>42</sup> According to Chang, economic development resulted from, but did not cause, stronger intellectual protection. Although most developed countries established intellectual property laws in the first half of the 19th century, these early legal systems were lax and inadequate until they achieved certain levels of economic and technological development.<sup>43</sup> As David Post, law professor of Temple University, explains, "If country A imports more literary and artistic works from country B than it exports to country B, it will be better off denying protection to works written by country B's authors even if that means foregoing protection for its own writers in country B."<sup>44</sup> For example, while the United States is now the victim of Chinese piracy, U.S. law was initially highly "protectionist." The first U.S. Copyright Act did not provide foreign authors with copyright protection because the U.S. mainly imported British copyright products. Discrimination against foreign authors remained a central feature of U.S. copyright law throughout the late-18th and 19th centuries.<sup>45</sup> In fact, the two major exporters of literary property, Great Britain and France, first instigated international copyright. "[F]rom the very first French-Belgian treaty and the early American refusal to undertake international copyright obligations, copyright has been a protectionist card that nations play according to their current notion of what arrangements will best promote the national interest," Post writes.<sup>46</sup>

Interestingly, U.S. Secretary of the Treasury Alexander Hamilton first systematically developed the theory of infant industry protection. Likewise, throughout history, protectionism helped maintain America's status as a copyright importer.<sup>47</sup> While it would be foolish to project this onto China's long-term economic piracy benefits, its short-term benefits are an economic excuse to develop infant copyright industries and expand the consumer surplus at the expense of foreign producers.

#### *POLITICAL FACTORS*

One of the major obstacles in enforcing intellectual property laws is the vast size and population of China. Since the notion of intellectual property is recent—little more than a decade old—and copyright law did not appear until the 1990s, it seems much of the population does not know about such

legislation.<sup>48</sup> In addition to the difficulties resulting from vast geography and population, the decentralized government system of China hampers policy enforcement. The Chinese government decentralized many of its powers to reduce the level of bureaucracy and empower the provinces with a higher degree of autonomy.<sup>49</sup> The enforcement of copyright laws under the system, however, is inefficient in many ways. Given that a decentralized government system surrendered much of its control to the provinces, a national policy of proper enforcement would be extremely costly and troublesome. These circumstances create administrative difficulty, with the lack of resources and power to effectively monitor nationwide pirating activity and impose internationally accepted copyright policy. Furthermore, corrupt connections between local government agencies and piracy businesses make the situation worse. For example, some administrative agencies involve themselves politically or financially with powerful business interests engaged in pirating activities. Some piracy plants are even state-owned, or have strong connections with the regional government officers.<sup>50</sup> It may be far more sensible for government officers to build a good relationship with pirate businesspersons than to enforce a law which may devastate local communities through loss of jobs and prosperity.

The lack of transparency in the enforcement system inhibits copyright enforcement. Despite significant raiding activities in major cities throughout China, resulting punishments are unclear.<sup>51</sup> While foreign governments claim that civil penalties remain insufficient to discourage piracy, the penalties are hardly enforced in practice regardless of the explicit law in China.<sup>52</sup> Bill Thompson, senior managing director of Pinkerton China, who investigates fraud across the country, states that "less than one percent of all counterfeiting cases reported in China are prosecuted."<sup>53</sup> In this manner, the lack of political transparency discourages enforcement authorities from using criminal law to prosecute pirates.

#### *CULTURAL FACTORS*

The significance of historical events and the cultural differences between China and the U.S. are among the most important—but frequently neglected—reasons for the widespread resistance to copyright laws in China. The notion of sharing creative works and ideas stems from Confucianism and is prevalent in all aspects of life in China as "learning by copying." This Confucian emphasis on learning by copying applied "to all aspects of life in China . . . [and] copy-

ing, by tradition, is a mark of respect and homage."<sup>54</sup> Likewise, the concept of learning by imitating the works of masters evolved centuries before the growth of the modern economy or modern technology. Copying has long been considered a desirable tradition, especially in education and the fine arts in China: "Copying a masterpiece was historically considered an art form in its own right, while Chinese students have been taught for centuries to copy their teachers as accurately as possible before attempting to create."<sup>55</sup> The Chinese education system relied on the principle of copying; for more than 2,000 years, faultless reproduction of the classical works of the past demonstrated the highest academic qualification.<sup>56</sup> Copying is not only culturally admired but educationally encouraged because it is generally believed that earnest endeavors to reproduce the works of a master provide inspiration for younger generations. At a very young age Chinese children traditionally were taught to memorize and copy the classics and histories. These cultural attitudes originating from Confucianism are still very much alive today and are the main sources of influence upon the present system of intellectual property in China.<sup>57</sup>

From the difference in cultural attitudes, scholars explain why the legal concept of copyright emerged in European society but not in Asia. Although the Chinese developed writing during the third millennium B.C. and introduced paper to the world, it was not until the 1980s that China established a modern copyright system.<sup>58</sup> Indeed, it was not until 1910 that China introduced a substantive copyright law. Also, the country did not establish a patent law until 1912 or a trademark law until 1923.<sup>59</sup> This reflects the fact that the concept of intellectual property is relatively new to China and many of their Asian countries influenced by Confucianism.

Furthermore, the legal concept of copyright is a predominantly Western concept of intellectual property. In Western countries, individual freedom has been emphasized over benefits for the society by acknowledging the importance of individual creativity and original works. However, the notion of intellectual property is foreign to many Eastern

societies. William Alford, a professor at Harvard Law School, states, "Laws premised on the values and institutions of an economically advanced capitalist democracy [in Western countries] will not generate identical results when transplanted to a different setting."<sup>60</sup> He argues that there was nothing equivalent to the concept and enforcement of intellectual property law in imperial China because of the prevailing political culture.<sup>61</sup> Even in the early 20th century, Western models of intellectual property legislation failed, as China considered them irrelevant to its circumstances. A common flaw in many international agreements is the failure to

reconcile the differences in Western and Chinese values. As Wingrove observes, "What is often not appreciated in the West is that intellectual theft is a totally foreign concept in much of Asia. . . . On the contrary, the copying of works of almost any kind has for centuries

been regarded as honorable and necessary."<sup>62</sup>

A more relevant factor in contemporary China is more than 40 years of mandated intellectual property sharing by the Communist state.<sup>63</sup> The inception of Western intellectual property laws involved an essential connection between the rise of capitalism and the extension of commodity relations into literature and art. For example, the efforts of mercantile interests to obtain monopoly control of the publishing industry shaped English legal copyright protection, just as guilds shaped patent and trademark protection laws. Copyright supported the expansion of creative human activities as a commodity, and granting rights to printers brought intellectual property rights to capitalism. As a result, copyright, often enacted and enforced by the state, legitimized the concentration of ownership of creative works in the hands of the expanding capitalist class.<sup>64</sup> Therefore, copyright laws established in the Western world are more widely accepted in capitalist regimes than in China's long-established Communist regime.

While the Communist government does not emphasize Confucianism, its views on the function of intellectual property are very similar. Both Communism and Confucianism claim it wholly necessary

---

*Piracy, in general, harms not only foreign copyright holders, but also the development of the domestic copyright industry. In China, however, consumer surplus gained from the cheap price of pirated products and the huge market demand is incredibly high.*

---

to control the flow of ideas to the populace, and this control is to be exercised by a very small group of persons for the benefit of society as a whole. Under the socialist economic system, wealth and property belong to the state rather than private owners. Thus, there is little resistance to state ownership of all creative ideas and expression. On the other hand, numerous Maoist campaigns strengthened aversion to private property within the socialist economic system.<sup>65</sup> Therefore, implementation of copyright and other intellectual property rights contravene one of the most fundamental beliefs in the Communist state. Consequently, it would be difficult for the Chinese government to adopt the capitalist conception of protecting intellectual property rights.

#### *TECHNOLOGICAL FACTORS*

Intellectual property has been continually developing, constantly reacting to new developments in technology.<sup>66</sup> Throughout history, technological innovations lowering both copying and distribution costs have paralleled social needs for strengthened intellectual property protection. As the origin of copyright was a reaction to the development of the printing press, the emergence of new media technology continuously redefined intellectual property rights. For instance, with the rapid advance of computer and network technology, copying, editing, re-creating, and distributing intellectual property are getting cheaper and more common.<sup>67</sup> Correspondingly, mainstream legal analysts agree that new technologies enabling mass copying and distributing seriously threaten the commercial interests of copyright holders.<sup>68</sup>

While the rapid development of technology is not China's issue alone, the advance of technology magnifies the level of piracy in China. Optical media piracy started in the mid-1990s and continues to accelerate. As shown in Table 2, levels of optical media piracy in China remain above 90 percent, while the expanding phenomenon of commercial CD-R "burning" contributes to the massive output of pirated products in China. Internet use in China (the fastest growing worldwide) eases the distribution of pirated products.<sup>69</sup> Also, the increasing volume of music file-sharing in both China and neighboring countries gives rise to concern about the Internet as a piracy-facilitating medium. In addition to the Internet, the rapid diffusion of home video equipment contributes to demand for pirated copies of optical media products. There are more than 23.4 million DVD players and 84.4 million VCD players in China.<sup>70</sup>

#### **PROBLEMS WITH U.S. INTELLECTUAL PROPERTY RIGHTS POLICY**

Despite both governments' increased efforts to combat piracy and despite the public's heightened awareness of intellectual property rights, the coercive American foreign intellectual property policy failed to create any sustainable and continuous protection for American products. As a result, intellectual property piracy remains rampant in China. The proliferation of pirated goods in and around China demonstrates the inadequacy of the current system of protection for U.S. intellectual property.

One of the fundamental points that U.S. intellectual property policy ignores is the range of sensitive political, economic, and cultural differences between these countries. Professor William Alford points out that "current attempts to establish intellectual property law, particularly on the Chinese mainland, have been deeply flawed because of their failure to address the difficulties of reconciling legal values, institutions and forms generated in the West with the legacies of China's past and the constraints imposed by present circumstances."<sup>71</sup> U.S. trade pressure on China has historically ignored deep-seated cultural and historical resistance to protecting intellectual property rights, confusing form with substance. Indeed, having strict bi- or multilateral intellectual property laws is one thing, but implementing them is another. The U.S. government failed to understand China's profoundly non-Western historical and cultural roots, which hinder implementing an effective intellectual property rights system. It is not surprising that East Asian countries, sharing historical and cultural similarities with China, show relatively higher piracy rates despite heterogeneous political systems, economic growth, and technical capabilities. Without reforms sensitive to these differences, the piracy problem will continue—and perhaps increase—as the Chinese economy grows.

Second, U.S. policy has not fully demonstrated the Chinese benefits expected from stronger intellectual property protection. Many believe that markets for information products and services can thrive only when intellectual property rights are securely protected.<sup>72</sup> However, there is a prevailing uncertainty in China due to the dearth of intellectual property infrastructure such as economic, legal, political, and cultural systems.<sup>73</sup> For developing countries such as China, the lack of copyright infrastructure can make the social costs of strengthened intellectual property protection higher than its benefits. Thus, China's unique economic system

makes it difficult to forsake the short-term economic benefits of piracy for the long-term benefits of strengthened copyright protection. Under these conditions, external pressure from the USTR or now the TRIPs represents a transitional step, rather than an ultimate policy implementation, to assure China's self-interest in protecting and enforcing intellectual property law.

Similarly, the U.S. pays little attention to bottom-up policy implementation. As a domestic copyright industry matures, it also diverges. Some portions of that industry begin to perceive that their self-interest lies in equitable copyright treatment for foreigners.<sup>74</sup> Likewise, Chinese domestic companies will produce sufficient pressures for local governments and courts to enforce the law to the same levels as in developed countries when they recognize the benefits of intellectual property rights.<sup>75</sup> Thus, besides the direct policy pressure on the Chinese government, it is also important to convince the Chinese copyright industries of their interest in intellectual property protection.

Finally, U.S. confrontational policy in the Chinese intellectual property system is misleading for a viable business relationship in copyright industries between two countries. As the U.S. copyright industry grows increasingly dependent on exports, confrontational policy might hurt business. Due to constant threats by the U.S. government and uncertain trade relations between the two countries, many risk-averse American businesses have limited their business in China. Unreliable as long-term suppliers, some American businesses were replaced by foreign competitors. Threats to American trade sparked a resurgence of nationalism and xenophobia in China. Evidence of this resurgence includes China's standoff with the U.S. over the collision between one of its jet fighters and a U.S. reconnaissance plane.<sup>76</sup> If such sentiment continues to grow, it may lead to boycotts of U.S. copyright products or harassment of the U.S. copyright industry. China's responses to U.S. threats of trade sanctions demonstrate that coercive policy often leads to retaliation

and may result in a global trade war that would threaten both economies.<sup>77</sup>

## CONCLUSION

Law does not exist independent of its social surroundings. In *Legal Values in Western Society*, the legal philosophers Stein and Shand argue that law reflects history, morals, and social attitudes corresponding to the special needs of a society at a particular time because it evolves in response to social circumstances and conditions of the society.<sup>78</sup> This implies that law tends to have a different character and function in different societies. Copyright law is inextricably linked to tradition, history, politics, and culture. From this standpoint, this paper analyzed what factors hampered the U.S. policy enforcement of copyright protection in China.

Since the late 1970s, China has adopted and

revised intellectual property laws in accordance with international treaties, including trade agreements with the United States. Recently, China agreed upon international minimum standards for intellectual property protection such as the TRIPs Agreement. Yet economic, political, cultural, and technological factors led to ineffective implementation of copyright protection in the country. This paper argued that the uniqueness of Confucian culture and Communist ideology throughout the history of China created a stumbling block to the U.S. policy implementation. Also, China's contemporary economic and technological environments exacerbated the conventional problem. Without careful consideration of these characteristics, traditional ways of U.S. policy enforcement such as coercive bilateral actions are unlikely to bring the complete answer to current piracy problems in China. This is true not only for trade relations between the U.S. and China, but also for the negotiations surrounding WTO/TRIPs in the global scope.

Changes in Chinese copyright law cannot result from stronger imposition by U.S. forces alone. The

---

*Copying is not only culturally admired but educationally encouraged because it is generally believed that earnest endeavors to reproduce the works of a master provide inspiration for younger generations. At a very young age Chinese children traditionally were taught to memorize and copy the classics and histories.*

---

ineffectiveness of copyright protection in China has little to do with the substance of regulations, but rather the divergence between the two countries in conceptual underpinnings of copyright protection in terms of economics, politics, and culture. Thus, it is important that U.S. officials remember the obvious differences when negotiating with Chinese officials. Any durable agreement between China and the U.S. must be founded upon mutual gain, keeping in mind that China's economic interests, politics, history, and culture differ from those of the U.S. and are a prime impediment to the growth of intellectual property law in China. While considerable problems in U.S. policy exist, it is also true that the Chinese government has been reluctant to expend the resources to enforce them properly. Chinese officials must realize that intellectual property rights are highly regarded among Westerners. As professor Alford asserts, for policymakers of the two countries, it is crucial to "move beyond the written rule itself to a consideration of the broader social and intellectual circumstances, and, in particular, the political culture within which law arises and within which it must operate."<sup>79</sup>

**LBJ**

## NOTES

1. E. Alden and R. McGregor, "Saving Private Enterprise," *The Financial Times* (April 7, 2001), p. 10.
2. P. K. Yu, "Piracy, Prejudice, and Perspectives: An Attempt to Use Shakespeare to Reconfigure the U.S.-China Intellectual Property Debate," *Boston University International Law Journal*, vol. 19 (Spring 2001), p. 2.
3. D. G. Post, *Some Thoughts on the Political Economy of Intellectual Property: A Brief Look at the International Copyright Relations of the United States*. Online. Available: <http://www.temple.edu/lawschool/dpost/Chinapaper.html>. Accessed: Oct. 20, 2005.
4. P. Samuelson, *Intellectual Property and Economic Development: Opportunities for China in the Information Age*. Online. Available: <http://www.sims.berkeley.edu/~pam/papers/chinaip.html>. Accessed: Oct. 20, 2005.
5. For developing countries' perspective, see K. P. Jayakar, "Cross-Sectoral Differences in Intellectual Property Enforcement in Developing Countries: The Role of State-Industry Linkages," *The Information Society*, vol. 19 (2003), pp. 155-169; R. C. Dreyfuss, "Coming of Age with TRIPS: A Comment on J. H. Reichman, The TRIPS Agreement comes of Age: Conflict or Cooperation with the Developing Countries?" *Case Western Reserve Journal of International Law*, vol. 33 (Spring 2001), p. 179; E. Su, "The Winners and the Losers: The Agreement of Trade-Related Aspects of Intellectual Property Rights and Its Effect on Developing Countries," *Houston Journal of International Law*, vol. 23 (Fall 2000), p. 169.
6. For examples of such studies, see A. V. Deardorff, "Welfare Effects of Global Patent Protection," *Economica*, vol. 59 (1992), pp. 35-51; E. Helpman, "Innovation, Imitation and Intellectual Property Rights," *Economica*, vol. 61 (1993), pp. 1247-80; J. Lee and E. Mansfield, "Intellectual Property Protection and U.S. Foreign Direct Investment," *Review of Economics and Statistics*, vol. 78 (1996), pp. 181-186; B. Seyoum, "The Impact of Intellectual Property Rights on Foreign Direct Investment," *The Journal of World Business*, vol. 31 (1996), pp. 50-59; M. A. Thompson and F. W. Rushing, "An Empirical Analysis of the Impact of Patent Protection on Economic Growth," *Journal of Economic Development*, vol. 12 (1996), pp. 61-79.
7. R. V. Bettig, *Copyrighting Culture: The Political Economy of Intellectual Property* (Boulder: Westview Press, 1996), p. 107.
8. Yu, "Piracy, Prejudice, and Perspectives," p. 93.
9. S. E. Siwek, *Copyright Industries in the U.S. Economy: The 2004 Report* (Washington DC: International Intellectual Property Alliance, 2004), p. 4.
10. The "core" copyright industries encompass those industries that create copyrighted materials as their primary product. These industries include the motion picture industry (television, theatrical, and home video), the recording industry (records, tapes, and CDs), the music publishing industry, the book, journal, and newspaper publishing industry, the computer software industry (including data processing, business applications, and interactive entertainment software on all platforms), legitimate theater, advertising, and the radio, television, and cable broadcasting industries.
11. *Ibid.*, p. 16.
12. P. Drahos, "Thinking Strategically about Intellectual Property Rights," *Telecommunications Policy*, vol. 21, no. 3 (1997), p. 201.
13. *Ibid.*, pp. 202-203.
14. W. Long, "Intellectual Property in China," *St. Mary's Law Journal*, vol. 31 (1999), p. 89.
15. Information Office State Council of the People's Republic of China. *Intellectual Property Protection in China: China's Basic Position Regarding the Protection of Intellectual Property Rights*. June 1994. Online. Available: [http://english.peopledaily.com.cn/whitepaper/9\(1\).html](http://english.peopledaily.com.cn/whitepaper/9(1).html). Accessed: Oct. 24, 2005.
16. The Trade Act of 1974 includes a provision, Special Section 301, which authorizes sanctions against foreign countries in violation of trade agreements or even, absent such violations, when they unfairly restrict foreign trade.

17. M. Oksenberg, P. Potter, and W.B. Abnett, "Advancing Intellectual Property Rights: Information Technologies and the Course of Economic Development in China," *The National Bureau of Asian Research*, vol. 7, no. 4 (Nov. 1996), p. 7.
18. Yu, "Piracy, Prejudice, and Perspectives," pp. 9-11.
19. W. Alford, *To Steal a Book is an Elegant Offense: Intellectual Property Law in Chinese Civilization* (Stanford, CA: Stanford University Press), pp. 114-115.
20. Yu, "Piracy, Prejudice, and Perspectives," p. 12.
21. *Ibid.*, pp. 14-15.
22. *Ibid.*, p. 15.
23. P. K. Yu, "The Second Coming of Intellectual Property Rights in China," *Occasional Papers in Intellectual Property*, no.11 (New York: Benjamin N. Cardozo School of Law, Yeshiva University, 2002), p. 28.
24. International Intellectual Property Alliance (IIPA), "People's Republic of China," *2002 Special 301 Report* (2002). Online. Available: <http://www.iipa.com/rbc/2002/2002SPEC301PRC.pdf>. Accessed: Oct. 22, 2005.
25. IIPA, "People's Republic of China (PRC)," *2005 Special 301 Report*, (2005), p. 183, Online. Available: <http://www.iipa.com/rbc/2005/2005SPEC301PRCrev.pdf>. Accessed: Oct. 23, 2005.
26. *Ibid.*, p. 183.
27. *Ibid.*, p. 188.
28. *Ibid.*
29. IFPI, *2001 IFPI Music Piracy Report* (London: IFPI, 2001), p. 6. Online. Available: <http://www.ifpi.org/site-content/library/piracy2001.pdf>. Accessed: Oct. 22, 2005.
30. *Ibid.*, p. 6.
31. IIPA, *2005 Special 301 Report*, p. 189.
32. *Ibid.*, pp. 190-192.
33. IIPA, *2002 Special 301 Report*, p. 34.
34. *Ibid.*, pp. 34-35.
35. IIPA, *2005 Special 301 Report*, p. 190.
36. R. J. Ruppenthal, "TRIPS through the Far East: High Tech Product Piracy and the Need for Alternative Regional Solutions: Note and Comment," *Wisconsin International Law Journal*, vol. 20 (Winter 2001), p. 148.
37. MPAA, *Anti-Piracy*, 2002. Online. Available: <http://mpaa.org/anti-piracy/index.htm>. Accessed: Sept. 20, 2005.
38. T. Anthony, "Despite crackdowns, promises, fakery persists as China moves into world trade pantheon," *Associated Press* (April 17, 2002). Online. Available: Factiva, <http://global.factiva.com/en/eSrch/search.asp>. Accessed: Oct. 24, 2005.
39. IIPA, *2005 Special 301 Report*, p. 188.
40. *Ibid.*, p. 188.
41. Yu, "Piracy, Prejudice, and Perspectives," pp. 28-32.
42. H. Chang, *Kicking Away the Ladder: Development Strategy in Historical Perspective* (London: Anthem Press, 2002), p. 129.
43. *Ibid.*, pp. 83-85.
44. Post, *Political Economy of Intellectual Property*.
45. *Ibid.*
46. *Ibid.*
47. Chang, *Kicking Away the Ladder*, p. 61.
48. K. Ho, *A Study into the Problem of Software Piracy in Hong Kong and China*. 1995. Online. Available: [http://sc.info.gov.hk/gb/www.ipd.gov.hk/eng/intellectual\\_property/study\\_aids/piracy\\_hk\\_china\\_copyrt/piracy\\_hk\\_china\\_c.htm](http://sc.info.gov.hk/gb/www.ipd.gov.hk/eng/intellectual_property/study_aids/piracy_hk_china_copyrt/piracy_hk_china_c.htm). Accessed: Oct. 24, 2005.
49. J. C. Spierer, "Intellectual Property in China: Prospects for New Market Entrants," *Harvard Asia Quarterly* (Summer 1999). Online. Available: <http://www.fas.harvard.edu/~asiactr/haq/199903/9903a010.htm>. Accessed: Oct. 24, 2005.
50. M. A. Sparkman, "Paper Policies: China Still Struggles with IPR Protection" (Elliott School of International Affairs, the George Washington University, April 12, 2001). p. 4.
51. IIPA, *2002 Special 301 Report*, p. 40.
52. Spierer, "Intellectual Property in China."
53. Anthony, "Despite crackdowns, promises, fakery persists as China moves into world trade pantheon."
54. N. Wingrove, "China Traditions Oppose War on IP Piracy," *Research-Technology Management* (May-June, 1995), p. 6.
55. P. Yatsko, "Knocking out the Knockoffs," *Fortune Magazine* (Oct. 2, 2000), p. 213.
56. R. R. Wang, "Globalizing the Heart of the Dragon: The Impact of Technology on Confucian Ethical Values," *Journal of Chinese Philosophy*, vol. 29, no. 4 (December 2002), p. 565.
57. Wingrove, "China Traditions Oppose War on IP Piracy," p. 6.
58. For further discussion, see Bettig, *Copyrighting Culture*; Alford, *To Steal a Book is an Elegant Offense*; E. W. Ploman and L. C. Hamilton, *Copyright: Intellectual Property in the Information Age* (London: Routledge and Kegan Paul, 1980); I. Lee, "Culturally-based Copyright Systems?: The U.S. and Korea in Conflict," *Washington University Law Quarterly*, vol. 79 (Winter 2001), p. 1103; G. R. Butterson, "Pirates, Dragons and U.S. Intellectual Property Rights in China: Problems and Prospects of Chinese Enforcement," *Arizona Law Review*, vol. 38 (1996), pp. 1081-1123.

59. Yu, "The Second Coming of Intellectual Property Rights in China," pp. 5-7.
60. W. Alford, "Pressuring the Pirate," *L.A. Times* (Jan. 12, 1992), p. M5.
61. Alford, *To Steal a Book is an Elegant Offense*, p. 19.
62. Wingrove, "China Traditions Oppose War on IP Piracy," p. 6.
63. Alford, *To Steal a Book is an Elegant Offense*, pp. 56-59.
64. Bettig, *Copyrighting Culture*, pp. 12-15. For detailed analysis on the development of copyright in Middle Age Europe, see E. Eisenstein, *The Printing Press as an Agent of Change* (Cambridge: Cambridge University Press, 1979).
65. For instance, during the Proletariat Cultural Revolution, the Communist government heavily criticized scientists, writers, artists, lawyers, and intellectuals and routinely condemned them to harsh prison terms. See Alford, *To Steal a Book is an Elegant Offense*, p. 63. As Tiefenbrun notes, "In a socialist society, owning property is tantamount to a sin. Thus, stealing an object that is owned by someone else is less corrupt than owning it outright yourself." See S. Tiefenbrun, "Piracy of Intellectual Property in China and the Former Soviet Union and Its Effects upon International Trade: A Comparison," *Buffalo Law Review*, vol. 46, no.1 (1998), pp. 37-38.
66. J. Boyle, "The Second Enclosure Movement and the Construction of the Public Domain." A preliminary discussion draft for the Conference on the Public Domain at Duke Law School, November 2001, p. 42.
67. R. Davis, "The Digital Dilemma," *Communications of the ACM*, vol. 4, no. 2 (February 2001), pp. 77-83.
68. *Ibid.*, pp. 78-79.
69. "Digital piracy rife in cyber world," *China Daily* (April 4, 2005). Online. Available: [http://english.people.com.cn/200504/04/eng20050404\\_179350.html](http://english.people.com.cn/200504/04/eng20050404_179350.html). Accessed: Oct. 25, 2005.
70. IIPA, *2005 Special 301 Report*, p. 188.
71. Alford, *To Steal a Book is an Elegant Offense*, p. 2.
72. K. E. Maskus, *Intellectual Property Rights in the Global Economy* (Washington, DC: Institute for International Economics, 2002), pp. 145-157.
73. Su, *The Winners and the Losers*, p. 169.
74. Post, *The Political Economy of Intellectual Property*.
75. R. J. T. Corbett, "Protecting and Enforcing Intellectual Property Rights In Developing Countries," *International Lawyer* (Fall 2001), pp. 1103.
76. J. Pomfret, "New Nationalism Drives Beijing; Hard Line Reflects Public Mood," *Washington Post* (April 4, 2001), A1 (attributing the recent standoff with Washington to the growing nationalist sentiments among the Chinese people).
77. For instance, the United States' \$13 billion in annual exports to China would be put at risk, jeopardizing over 200,000 jobs. See C. Grassley, *Normal Trade Relations with China, Congressional Testimony* (July 9, 1998). Online. Available: <http://grassley.senate.gov/releases/1998/p8r07-05.htm>. Accessed: Oct. 24, 2005.
78. P. Stein and J. Shand, *Legal Values in Western Society*. (Edinburgh: Edinburgh University Press, 1974), p. 42.
79. Alford, *To Steal a Book is an Elegant Offense*, p. 119.

---

## WORKS CITED

Alden, E. & McGregor, R. "Saving private enterprise." *The Financial Times* (April 2003), p. 10.

Alford, W. P. "Pressuring the Pirate." *L.A. Times* (Jan. 12, 1992), p. M5.

\_\_\_\_\_. *To Steal a Book is an Elegant Offense: Intellectual Property Law in Chinese Civilization*. Stanford: Stanford University Press, 1995.

Anthony, T. "Despite crackdowns, promises, fakery persists as China moves into world trade pantheon." *Associated Press* (April 17, 2002). Online. Available: Factiva, <http://global.factiva.com/en/eSrch/search.asp>. Accessed: Oct. 24, 2005.

Bettig, R. V. *Copyrighting Culture: The Political Economy of Intellectual Property*. Boulder: Westview Press, 1996.

Boyle, J. "The Second Enclosure Movement and the Construction of the Public Domain." A preliminary discussion draft for the Conference on the Public Domain at Duke Law School, Nov. 9-11, 2001.

Butterton, G. R. "Pirates, Dragons and U.S. Intellectual Property Rights in China: Problems and Prospects of Chinese Enforcement." *Arizona Law Review*, vol. 38 (1996), pp. 1081-1123.

Chang, H. *Kicking Away the Ladder: Development Strategy in Historical Perspective*. London: Anthem Press, 2002.

Corbett, R. J. T. "Protecting and Enforcing Intellectual Property Rights In Developing Countries," *International Lawyer* (Fall 2001), pp.1083-1103.

Davis, R. "The Digital Dilemma." *Communications of the ACM*, vol. 4, no. 2, (February 2001), pp.77-83.

Deardorff, A. V. "Welfare Effects of Global Patent Protection," *Economica*, vol. 59 (1992), pp. 35-51.

"Digital piracy rife in cyber world." *China Daily* (April 4, 2005). Online. Available: [http://english.people.com.cn/200504/04/eng20050404\\_179350.html](http://english.people.com.cn/200504/04/eng20050404_179350.html). Accessed: Oct. 25, 2005.

Drahos, P. "Thinking strategically about intellectual property rights." *Telecommunications Policy*, vol. 21, no. 3 (1997), pp. 201-211.

- Dreyfuss, R.C. "Coming of Age with TRIPS: A Comment on J.H. Reichman, The TRIPS Agreement Comes of Age: Conflict or Cooperation with the Developing Countries?" *Case Western Reserve Journal of International Law*, vol. 33 (Spring 2001), pp. 179-185.
- Eisenstein, E. *The Printing Press as an Agent of Change*. Cambridge: Cambridge University Press, 1979.
- Grassley C. "Normal Trade Relations with China." Congressional Testimony at Iowa Hearing on China Normal Trade Relations Status, Senate Committee on Finance. July 9, 1998. Online. Available: <http://grassley.senate.gov/releases/1998/p8r07-05.htm>. Accessed: Oct. 26, 2005.
- Helpman, E. "Innovation, Imitation and Intellectual Property Rights," *Economica*, vol. 61 (1993), pp.1247-80.
- Ho, K. *A Study into the Problem of Software Piracy in Hong Kong and China*. Online. Available: [http://sc.info.gov.hk/gb/www.ipd.gov.hk/eng/intellectual\\_property/study\\_aids/piracy\\_hk\\_china\\_copyrt/piracy\\_hk\\_china\\_c.htm](http://sc.info.gov.hk/gb/www.ipd.gov.hk/eng/intellectual_property/study_aids/piracy_hk_china_copyrt/piracy_hk_china_c.htm). Accessed: Oct. 24, 2005.
- IFPI. *2001 IFPI Music Piracy Report*, 2001. Online. Available: <http://www.ifpi.org/site-content/library/piracy2001.pdf>. Accessed: Oct. 22, 2005.
- IIPA. "People's Republic of China." *2002 Special 301 Report on Global Copyright Protection and Enforcement* (2002). Online. Available: [http://www.iipa.com/pdf/2002\\_Sep10\\_WTO\\_China.pdf](http://www.iipa.com/pdf/2002_Sep10_WTO_China.pdf). Accessed: Oct. 22, 2005.
- \_\_\_\_\_. "People's Republic of China (PRC)," *2005 Special 301 Report* (2005). Online. Available: <http://www.iipa.com/rbc/2005/2005SPEC301PRCrev.pdf>. Accessed: Oct. 23, 2005.
- Information Office, State Council of the People's Republic of China. *Intellectual Property Protection in China: China's Basic Position Regarding the Protection of Intellectual Property Rights*. Online. Available: [http://english.peopledaily.com.cn/whitepaper/9\(1\).html](http://english.peopledaily.com.cn/whitepaper/9(1).html). Accessed: Oct. 24, 2005.
- Jayakar, K. P. "Cross-Sectoral Differences in Intellectual Property Enforcement in Developing Countries: The Role of State-Industry Linkages." *The Information Society*, vol. 19 (2003), pp.155-169.
- Lee, I. "Culturally-based Copyright Systems?: The U.S. and Korea in Conflict," *Washington University Law Quarterly*, vol. 79, no. 3 (Winter 2001), pp. 1103-1160.
- Lee, J. and Mansfield, E. "Intellectual Property Protection and U.S. Foreign Direct Investment," *Review of Economics and Statistics*, vol. 78 (1996), pp. 181-186.
- Long, W. "Intellectual Property in China," *St. Mary's Law Journal*, vol. 31 (1999), pp. 63-98.
- Maskus, K. E. *Intellectual Property Rights in the Global Economy*. Washington, DC: Institute for International Economics, 2000.
- Mosher, S. M. *Hegemon: China's Plan to Dominate Asia and the World*. San Francisco: Encounter Books, 2000.
- MPAA. *Anti-Piracy*. Online. Available: <http://mpaa.org/anti-piracy/index.htm>. Accessed: Sept. 20, 2005.
- Oksenberg, M., Potter, P., and W. B. Abnett. "Advancing Intellectual Property Rights: Information Technologies and the Course of Economic Development in China." *The National Bureau of Asian Research*, vol. 7, no. 4, (November 1996), pp.1-35.
- Ploman, E. W. & Hamilton, L. C. *Copyright: Intellectual Property in the Information Age*. London: Routledge and Kegan Paul, 1980.
- Pomfret, J. "New Nationalism Drives Beijing; Hard Line Reflects Public Mood." *Washington Post* (April 4, 2001), p. A1.
- Post, D. G. *Some Thoughts on the Political Economy of Intellectual Property: A Brief Look at the International Copyright Relations of the United States*. Online. Available: <http://www.temple.edu/lawschool/dpost/Chinapaper.html>. Accessed: Oct. 20, 2005.
- Ruppenthal, R. J. "TRIPS through the Far East: High Tech Product Piracy and the Need for Alternative Regional Solutions: Note and Comment." *Wisconsin International Law Journal*, vol. 20 (Winter 2001), pp. 143-176.
- Samuelson, P. *Intellectual Property and Economic Development: Opportunities for China in the Information Age*. Paper prepared for the 1998 International Symposium on the Protection of Intellectual Property for the 21st century. Online. Available: <http://www.sims.berkeley.edu/~pam/papers/chinaip.html>. Accessed: Oct. 20, 2005.
- Seyoum, B. "The Impact of Intellectual Property Rights on Foreign Direct Investment," *The Journal of World Business*, vol. 31 (1996), pp. 50-59.
- Shiva, V. *Biopiracy: The Plunder of Nature and Knowledge*. Boston: South End Press, 1997.
- \_\_\_\_\_. "North-South Conflicts in Intellectual Property Rights." *Peace Review*, vol. 12, no. 4, (2000), pp. 501-508.
- Siwek, S. E. *Copyright Industries in the U.S. Economy: The 2004 Report*. Washington DC: International Intellectual Property Alliance, 2004.
- Sparkman, M. A. "Paper Policies: China Still Struggles with IPR Protection." Elliott School of International Affairs, the George Washington University, April 12, 2001. (Draft).
- Spierer, J. C. "Intellectual Property in China: Prospectus for New Market Entrants." *Harvard Asia Quarterly* (Summer 1999). Online. Available: <http://www.fas.harvard.edu/~asiactr/haq/199903/9903a010.htm>. Accessed: Oct. 24, 2005.
- Stein, P. & Shand, J. *Legal Values in Western Society*. Edinburgh: Edinburgh University Press, 1974.
- Su, E. "The Winners and the Losers: The Agreement of Trade-Related Aspects of Intellectual Property Rights and Its Effect on Developing Countries,"

- Houston Journal of International Law*, vol. 23 (Fall, 2000), pp.169-218.
- Thompson, M. A. & Rushing, F. W. "An Empirical Analysis of the Impact of Patent Protection on Economic Growth," *Journal of Economic Development*, vol. 12 (1996), pp. 61-79.
- Tiefenbrun, S. "Piracy of Intellectual Property in China and the Former Soviet Union and Its Effects upon International Trade: A Comparison." *Buffalo Law Review*. vol. 46, no. 1 (1998), pp. 1-70.
- Wang, R. R. "Globalizing the Heart of the Dragon: The Impact of Technology on Confucian Ethical Values." *Journal of Chinese Philosophy*, vol. 29, no. 4 (December 2002), pp. 553-569.
- Wingrove, N. "China Traditions Oppose War on IP Piracy." *Research-Technology Management* (May-June, 1995), pp. 6-7.
- Yatsko, P. "Knocking out the Knockoffs." *Fortune Magazine* (Oct. 2, 2000), p. 213.
- Yu, P. K. "Piracy, Prejudice, and Perspectives: An Attempt to Use Shakespeare to Reconfigure the U.S.- China Intellectual Property Debate." *Boston University International Law Journal*, vol. 19 (Spring 2001), pp. 1-87.
- \_\_\_\_\_. "The Second Coming of Intellectual Property Rights in China." *Occasional Papers in Intellectual Property*, no. 11, New York: Yeshiva University Benjamin N. Cardozo School of Law, 2002.