

COPYRIGHT AND INTERNATIONAL NEGOTIATIONS

Copyright and International Negotiations provides a historical study of the development of Chinese copyright law in terms of China's contemporary political economy and the impact that international copyright law has had. The analysis shows how China's copyright system is intertwined with censorship and international copyright law and how this has affected freedom of expression. China still enforces an old censorship regime that clamps down on free expression despite a modern system of copyright rules which should function as an engine of free expression. The book explores the development and architecture of Chinese copyright law in parallel with international copyright law, clarifies China's nuanced patterns of the control of free expression through copyright law, and identifies a breakthrough for neutralising the impact of China's censorship policies through copyright law.

GE CHEN is a Research Associate at the Mercator Institute for China Studies (MERICS), a Berlin-based think-tank. Dr. Chen has held many research and academic posts in China, Germany, and the United Kingdom and provided legal consulting services to both Chinese and German governments in a variety of legal projects under the Sino-EU Dialogue on the Rule of Law.

CAMBRIDGE INTELLECTUAL PROPERTY AND INFORMATION LAW

As its economic potential has rapidly expanded, intellectual property has become a subject of front-rank legal importance. *Cambridge Intellectual Property and Information Law* is a series of monograph studies of major current issues in intellectual property. Each volume contains a mix of international, European, comparative and national law, making this a highly significant series for practitioners, judges and academic researchers in many countries.

Series editors

Lionel Bently *Herchel Smith Professor of Intellectual Property Law,
University of Cambridge*

Graeme Dinwoodie *Professor of Intellectual Property and Information
Technology Law, University of Oxford*

Advisory editors

William R. Cornish, *Emeritus Herchel Smith Professor of Intellectual
Property Law, University of Cambridge*

François Dessemontet, *Professor of Law, University of Lausanne*

Jane C. Ginsburg, *Morton L. Janklow Professor of Literary and Artistic
Property Law, Columbia Law School*

Paul Goldstein, *Professor of Law, Stanford University*

The Rt Hon. Sir Robin Jacob, *Hugh Laddie Professor of Intellectual
Property, University College, London*

Ansgar Ohly, *Professor of Intellectual Property Law, Ludwig Maximilians
Universitat Munchen, Germany*

A list of books in the series can be found at the end of this volume.

COPYRIGHT AND INTERNATIONAL NEGOTIATIONS

An Engine of Free Expression in China?

GE CHEN

Mercator Institute for China Studies, Berlin



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press
978-1-107-16345-4 — Copyright and International Negotiations
Ge Chen
Frontmatter
[More Information](#)

CAMBRIDGE
UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

4843/24, 2nd Floor, Ansari Road, Daryaganj, Delhi – 110002, India

79 Anson Road, #06–04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning and research at the highest international levels of excellence.

www.cambridge.org

Information on this title: www.cambridge.org/9781107163454

10.1017/9781316681435

© Ge Chen 2017

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2017

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data

Names: Chen, Ge, author.

Title: Copyright and international negotiations : an engine of free expression in China? / Ge Chen.

Description: New York : Cambridge University Press, 2017. | Series: Cambridge intellectual property and information law | Includes bibliographical references and index.

Identifiers: LCCN 2016047638 | ISBN 9781107163454 (Hardback)

Subjects: LCSH: Copyright–China. | Freedom of speech–China. | Foreign trade regulation–China. | China–Foreign economic relations. | BISAC: LAW / Intellectual Property / General.

Classification: LCC KNQ1160.5 .C54 2017 | DDC 346.5104/82–dc23 LC record available at <https://lcn.loc.gov/2016047638>

ISBN 978-1-107-16345-4 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party Internet Web sites referred to in this publication and does not guarantee that any content on such Web sites is, or will remain, accurate or appropriate.

It is desirable that we should have a supply of good books; we cannot have such a supply unless men of letters are liberally remunerated; and the least objectionable way of remunerating them is by means of copyright.

– T. B. Macaulay, 5 February 1841

Knowledge is essential for so many human activities and values, including freedom, the exercise of political power, and economic, social and personal development. The Access to Knowledge movement takes concerns with copyright law and other regulations that affect knowledge and places them within an understandable social need and policy platform.

– Knowledge Ecology International

To realise the freedom of press, the current censorship regime must be abolished thoroughly.

– Xinhua Daily, 26 June 1945

Cambridge University Press
978-1-107-16345-4 — Copyright and International Negotiations
Ge Chen
Frontmatter
[More Information](#)

CONTENTS

Acknowledgements xi
Table of Cases xiii
Table of Treaties, Statutes and Legal Documents xvi
List of Abbreviations xxii

Introduction 1

1 A Tale of Two Engines 11

1.1. Copyright as an Instrument of Regulating Free Expression in China 11

1.1.1. Access to Remuneration and Access to Knowledge: The Instrumentality of Copyright 11

1.1.2. Proprietary and Nonproprietary Copyright Rationales: How Is Copyright Related to Free Expression? 14

1.1.3. Regulating Free Expression in Different Dimensions of Copyright 19

1.1.4. China’s Dualistic Approach of Interest Balancing in Copyright Protection and the Control of Free Expression 21

1.2. International Negotiations: A Historical Model of Prompting China to Compromise Censorship through Development of Copyright Law 32

1.2.1. International Law, Legal Transplantation, and International Negotiations 32

1.2.2. The Introduction of the BC into China in the Late Qing Dynasty 35

1.2.3. The Earlier Bilateral Commercial Negotiations Concerning Copyright Protection at the End of the Qing Dynasty 37

1.2.4. The Influence of the Commercial Negotiations on Copyright Protection at the End of the Qing Dynasty 44

1.2.5. The 1910 Copyright Code of the Qing Dynasty: A Product of Compromise 47

1.2.6. The Aftermath: International Copyright Negotiations and Copyright Legislation of the ROC 49

1.3.	Access Rules as a Legal Instrument in Copyright Law toward Regulation of Free Expression	51
1.3.1.	International Copyright Law as a Legal Source: The Need to Restrike the Balance as a Global Issue	52
1.3.2.	The Proprietary and Nonproprietary Significance of Integrating Rebalance Needs into Free-Expression-Oriented Norms	57
1.3.3.	Access Rules as a Legal Instrument of Regulating Free Expression	58
1.3.4.	An <i>Acquis</i> of Fragmented Access Rules in Positive Copyright Law	60
1.4.	Conclusion	68
2	Little Gain Makes Work Hard	71
2.1.	The Birth of Copyright Law in the PRC: Compromising China's Censorship-Oriented Copyright Legislation in the Context of International IP Negotiations	71
2.1.1.	Copyright Protection in the PRC Pending the End of the 1980s: Unfettering Intellectual Creation?	71
2.1.2.	Calling for a Compromise: The Initial International Negotiations of the PRC after the Reform and Opening Up and the Establishment of a National Copyright Framework	82
2.1.3.	Setting the Standards: The International Negotiations of the PRC toward Acceding to the BC and the UCC	90
2.2.	The BC and the UCC as Traditional International Legal Sources for Deriving a Framework of Free-Speech-Oriented National Access Rules	99
2.2.1.	The National Treatment: Free Expression in Cross-Border Context	100
2.2.2.	The Minimum Standards: Materialising the Protection of Speech	100
2.2.3.	Automatic Protection: Relieving the Formalities of Granting A2R	104
2.2.4.	The Provision on Censorship	104
2.2.5.	The Berne Appendix	105
2.3.	Controlling Free Speech: The Anti-A2R Structure of Access Rules under the 1990 Copyright Act of the PRC	106
2.3.1.	The Institutional Nature of the 1990 Copyright Act: A2R Overshadowed by Censorship	106
2.3.2.	General Access Rules	108
2.3.3.	Specific Access Rules Based on Proprietary Considerations	111
2.3.4.	Specific Access Rules Based on Nonproprietary Considerations	115
2.4.	An Evaluation of the Access Rules under the 1990 Copyright Act against the BC and the UCC	117

CONTENTS

ix

2.4.1.	Different Treatments of Domestic and Foreign Works	118
2.4.2.	Vague Standards that Restrict A2R	121
2.4.3.	The Question of the Legitimacy of Censorship in Copyright Law	122
2.5.	Conclusion	124
3	Power Is Knowledge	127
3.1.	The Need to Enforce Universal Copyright Standards: Furthering the Compromise of China's Censorship-Oriented Copyright Law in the International Trade Negotiations toward China's Accession to the WTO	128
3.1.1.	The Dawn of Knowledge Economy: Copyright Development in the PRC Pending the Beginning of the Twenty-First Century	128
3.1.2.	The 1995 and 1996 Sino-US IP Negotiations on IPR Enforcement and the Resulting Agreements	135
3.1.3.	The Multilateral Trade Negotiations toward Acceding to the WTO	139
3.2.	TRIPS as the New International Copyright Source for Advancing a Framework of National Access Rules toward the Free Flow of Information	144
3.2.1.	Principles Affecting Members' Pro-A2K Copyright Policy	144
3.2.2.	The Idea/Expression Dichotomy as an A2K-Oriented Rule	146
3.2.3.	The Three-Step Test as a Pro-A2K Rule	147
3.3.	Controlling the Free Flow of Information: The Anti-A2K Enforcement of TRIPS through Access Rules under the 2001 Copyright Act	150
3.3.1.	Enforcing New Copyright Standards in the Chinese Copyright System	150
3.3.2.	General Access Rules that Reinforce A2R	154
3.3.3.	Access Rules with the Potential of Restricting A2K	155
3.3.4.	The Anti-A2K Mechanism of Administrative Copyright Enforcement	160
3.4.	An Evaluation of the Access Rules under the 2001 Copyright Act against TRIPS	167
3.4.1.	National Treatment in Place: The Starting Point for Reinforcing A2R	168
3.4.2.	Enforcing the Minimum Standards: The Potential of Restricting A2K	169
3.4.3.	Administrative Enforcement as an Anti-A2K Approach	170
3.4.4.	The Conflict between Censorship and Idea/Expression Dichotomy	171
3.5.	Conclusion	171

4	Toward Free Expression?	174
4.1.	A Free-Expression-Oriented Copyright Taxonomy: China's IP and Trade Negotiations in the Twenty-First Century	174
4.1.1.	Accession to the WIPO Internet Treaties: China's Multilateral IP Negotiations at WIPO	174
4.1.2.	Censorship in Focus: The Sino-US Copyright Dispute at the WTO	176
4.1.3.	China's Bilateral IP-Related Trade Negotiations	183
4.1.4.	The ACTA and the TPP: China's Role in Recent Multilateral IP-Related Negotiations and the Prospects of a Free-Expression-Oriented Legal Framework	189
4.2.	Standing at the Crossroad: Reviewing China's Censorship-Oriented Copyright Law and Policies	198
4.2.1.	Free Expression as a Prerequisite for Further Economic and Social Development: The Externalities of A2R and A2K	198
4.2.2.	The Need to Readjust Copyright Strategies in Terms of International Negotiations and the Domestic Economic and Social Development	202
4.2.3.	Reconsidering Some Kernel Access Rules in Terms of Free Expression	208
4.3.	Redesigning National Access Rules in the New Copyright Act of the PRC in the Light of Free-Expression-Oriented International Standards	220
4.3.1.	The Process of Drafting a New National Copyright Act	220
4.3.2.	The Guiding Principles for Future Copyright Reforms	222
4.3.3.	The Legal Framework of Access Rules under the New Final Revision Draft	223
4.4.	Conclusion	230
	<i>Bibliography</i>	233
	<i>Index</i>	248

ACKNOWLEDGEMENTS

This book is based on my thesis to obtain a doctorate in law at the University of Göttingen. The laws and materials are updated to the end of 2015.

First of all, I would like to express my sincere gratitude to Professor Peter-Tobias Stoll, my PhD supervisor, who led me into this meaningful research and taught me the Germanic methodology of legal thinking. Had it not been for his continuous support, patience, and company over the years, I would not have been able to carry out this research project to the end. I would also like to say thanks to Professor Andreas Wiebe, a member of the PhD committee, who gave insightful comments and questions on an earlier draft.

I take this opportunity to thank Professor Lionel Bently and Professor William R. Cornish for chairing this significant series in which I could present my research. My thanks go, in particular, to Lionel, a great teacher and friend, for letting me know how to present complex legal thinking in an understandable and precise way.

I am sincerely thankful to the two anonymous reviewers of the manuscript, who provided relevant comments and criticism for its further improvement.

I wish to thank Professor Graeme Dinwoodie for our unforgettable talk on international copyright law and my research. I also wish to acknowledge the enthusiastic help by Dr Rogier Creemers.

I am particularly grateful to the Konrad-Adenauer Foundation for the generous financial support for my PhD project between 2008 and 2012. Its support also came in the form of regular seminar programs, which gave me enlightenment and spiritual pleasure.

I wish to say thanks to the Institute for Sino–German Legal Studies of Nanjing University, the Institute for International Law and European Law of the University of Göttingen, the Programme for Comparative Media Law and Policies (PCMLP) at the Centre for Socio-Legal Studies (CSLS) of the University of Oxford, the Centre for Research in the Arts,

Social Sciences and Humanities (CRASSH), the Centre for Intellectual Property and Information Law (CIPIL), and the Wolfson College of the University of Cambridge. I've benefitted a lot from these institutions where I've worked over the years. Thanks to all those who gave me help in different forms: Professor Björn Ahl, Dr Jennifer Davis, Dr David Erdos, Dr Hagen Kruger, Dr Roslyn Fuller, Dr Iginio Gagliardone, Dr Andrew McKenzie-McHarg, Justice Professor Andreas L. Paulus, Dr Nicole Strem-lau, Jia Xu, Dr Hui Xue, and all those whose names I might fail to mention here.

I take this opportunity to express my gratitude to the Cambridge University Press for publishing this book and to Kim Hughes, Gillian Dadd, Rebecca J. Roberts, Helen Francis, Fiona Allison, and Sarah Lambert at the Cambridge University Press for their laudable work and friendly support throughout the production of this book.

I want to thank Anand Shanmugam, Karen Slaght, and Robert Swanson for helping me make it through in the final phase of editing this work.

I am thankful to the Mercator Institute for China Studies for offering me support and a nice workplace.

I wish to give my deepest thanks to my parents for their love and full-hearted support.

Finally, I owe all my thanks to Wenjun, my dearest life partner, for the incredible years of understanding and patience, and to our little daughter for the joy that she's brought to us.

CASES

ICJ Reports

- Case concerning the Application of the Convention of 1902 Governing the
Guardianship of Infants (*Netherlands v. Sweden*) (1958)
Case concerning the Pulp Mills on the River Uruguay (*Argentina v. Uruguay*) (2010)

WTO Panel Reports

- US–Section 110(5) Copyright Act, WT/DS160/R (2000)
Canada–Pharmaceutical Products, WT/DS114/R (2000)
China–IPR, WT/DS362/R (2009)

WTO Appellate Body Reports

- Japan–Beverages, WT/DS8/AB/R, WT/DS10/AB/R, WT/DS11/AB/R (1996)

CJEU Cases

- Case 70/10, *Scarlet Extended SA v. Société belge des auteurs, compositeurs et éditeurs
SCRL*, Judgment of the Court (Third Chamber) (24 November 2011)
Case 314/12, *UPC Telekabel Wien GmbH v. Constantin Film Verleih GmbH und
Wega Filmproduktionsgesellschaft GmbH*, Judgment of the Court (Fourth Chamber)
(27 March 2014)

Domestic Cases

Canada

- CCH Canadian Co. Ltd v. Law Society of Upper Canada* (2004) 1 SCR 339,
2004 SCC 13

China

- Chen v. Superstar Digital Technology Co. Ltd* [陈兴良诉超星数字数字技术有限公司], Beijing Haidian District People's Court (2002) Hai Min Chu Zi [海民初字第]
No. 5702, 27 June 2002

- Gao v. Nanan District Four Kilometer Primary School* [高丽娅诉南岸区四公里小学], Chongqing First Intermediate People's Court (2005) Yu Yi Zhong Min Chu Zi [渝一中民初字第] No. 603, 09 December 2005
- Guangxi Radio and Television Guide v. Guangxi Coal Miners Daily* [广西广播电视报诉广西煤矿工人报社预告表使用权纠纷案], Heshan People's Court (1991) He Fa Min Pan Zi [合法民判字] No. 46, 25 December 1991; Guangxi Liuzhou District Intermediate People's Court (1994) Liu Di Fa Min Zhong Zi [柳地法民终字] No. 127 (25 November 1994), in Gazette of the SPC of the PRC [《中华人民共和国最高人民法院公报》], 1996, vol. 1, 50
- Hu v. National Examination Centre of the Ministry of Education* [胡浩波诉教育部国家考试中心侵犯著作权纠纷案], Beijing Haidian District People's Court (2007) Hai Min Chu Zi [海民初字第] No. 16761, 20 November 2007 *Hu v. Yanbian Publishing House et al.* [胡浩波诉延边大学出版社等侵犯著作权纠纷案], Beijing Xicheng District People's Court (2007) Xi Min Chu Zi [西民初字第] No. 0962, 10 December 2007
- Jiang v. CNKI et al.* [蒋星煜诉上海虹口书城、清华同方光盘股份有限公司、中国学术期刊 (光盘版) 电子杂志社、清华同方知网 (北京) 技术有限公司], Shanghai Second Intermediate People's Court (2005) Hu Er Zhong Min Wu (Zhi) Chu Zi [沪二中民五 (知) 初字第] No. 326, 15 December 2006
- Wang et al. v. Cenpok Telecommunication Technology Co. Ltd* [王蒙等六位作家诉世纪互联通信技术有限公司], Beijing Haidian District People's Court (1999) Hai Zhi Chu Zi [海知初字第] No. 57, 18 September 1999
- Zheng v. Shusheng Digital Technology Co. Ltd* [郑成思诉北京书生数字技术有限公司], Beijing Haidian District People's Court (2004) Hai Min Chu Zi [海民初字第] No. 12509, 20 December 2004; Beijing First Intermediate People's Court, (2005) Yi Zhong Min Zhong Zi [一中民终字] No. 3463, 10 June 2005

Germany

- Tonband, 17 BGHZ 266 (1955)
 BGH, *Inkassoprogram*, [1985] GRUR 1041 (9 May 1985)

UK

- Gyles v. Wilcox, Barrow, and Nutt* (1741) 2 Atk. 141
Twentieth Century Fox v. Newzbin Co. Ltd [2010] EWHC 608 (Ch) (29 March 2010)
Twentieth Century Fox et al. v. British Telecommunications Plc [2011] EWHC 1981 (Ch)

US

- Authors Guild Inc. et al. v. Google Inc.*, No. 13-4829-cv (2nd Cir. 2015)
Campbell v. Acuff-Rose Music Inc., 510 US 578 (1994)
Folsom v. Marsh, 9 F. Cas. 342, No. 4, (CCD Mass. 1841)

TABLE OF CASES

XV

Harper & Row v. Nation Enterprises, 471 US 539 (1985)
Mattel Inc. v. Walking Mountain Productions, 353 F 3d 792 (9th Cir. 2003)
Princeton University Press v. Michigan Document Services Inc., 99 F 3d 1381 (6th Cir. 1999)
Sony Corporation of America et al. v. Universal City Studios Inc., 464 US 451 (1984)
SunTrust Bank v. Houghton Mifflin, 60 USPQ 2d 1225 (11th Cir. 2001)
Time Inc. v. Bernard Geis Associates, 293 F. Supp. 130 (SDNY 1968)
Viacom International Inc. v. YouTube Inc., No. 07 Civ 2103, 2010 WL 2532404 (SDNY 2010)
Video Pipeline Inc. v. Buena Vista Home Entertainment Inc., 342 F 3d 191 (3d Cir. 2003)

TREATIES, STATUTES AND LEGAL DOCUMENTS

International Conventions/Treaties

Agreement on Trade-Related Aspects of Intellectual Property Rights (1994)
Anti-Counterfeiting Trade Agreement (2011)
Berne Convention for the Protection of Literary and Artistic Works, Paris Act (1971)
General Agreement on Tariffs and Trade (1947)
Trans-Pacific Partnership (2015)
Universal Copyright Convention (1952/1971)
Vienna Convention on the Law of Treaties (1969)
WIPO Copyright Treaty (1996)
WIPO Performances and Phonograms Treaty (1996)

EU Directives

2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society
EC Directive 2006/116/EC on the Term of Protection of Copyright and Certain Related Rights
Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), OJ L 178, 17/07/2000

Bilateral Treaties

Implementing Accord between the Department of Energy of the US and the State Scientific and Technological Commission of the PRC on Cooperation in the Field of High Energy Physics (1979)
Memorandum of Understanding on the Enactment and Scope of Copyright Law in the PRC (1989)
The Memorandum of Understanding between the US and the PRC on the Protection of Intellectual Property Rights (1992)

TABLE OF TREATIES

xvii

PRC–US: Agreement on Trade Relations (1979)
 PRC–US: Agreement Regarding Intellectual Property Rights (1995)
 PRC–US: China Implementation of the 1995 Intellectual Property Rights Agreement
 (1996)

National Legislations*China***Historical Laws Prior to the Founding of the PRC**

Copyright Code of the Qing Dynasty (1910)
 Copyright Code of the ROC (1915)
 Copyright Act of the ROC (1928)
 The Implementing Rules of the Copyright Act of the ROC (1928)

**Statutory Laws of the PRC Promulgated by the National
People's Congress**

Copyright Act of the PRC (1990/2001/2010)
 Copyright Act of the PRC (Drafts)
 Constitution of the PRC (2004)
 Criminal Act of the PRC (2015)
 Cyber Security Act of the PRC (Draft 2015)
 General Principles of Civil Law of the PRC (1986)
 National Security Act of the PRC (2015)

Regulations Issued by the State Council/Its Ministries of the PRC

Brief Illustration to the Revised Draft of the Copyright Act of the PRC (2012)
 Implementation Rules of the Provisional Regulations on the Copyright Protection
 of Books and Periodicals (1985)
 Illustration to the Revision Draft of the Copyright Act of the PRC (2000)
 Interim Provisions on the Administration of Internet Publication (2002)
 Interim Regulations Concerning the Protection of Copyright of Published
 Works (1954)
 Interim Regulations Concerning the Remuneration for Books of Arts and Social
 Sciences (1958)
 Interim Regulations on the Administration of Audio-video Products (1982)
 Interim Regulations on Remuneration for Book Manuscripts (1980)
 Measures for the Administrative Protection of Internet Copyright (2005)
 Measures for the Implementation of Copyright Administrative Punishment (1997/
 2003/2009)
 Measures for the Registration in Computer Software (1992)
 Measures on Registration of the Contract Concerning the Pledge of Copyright (1996)

- Notice on Ordering Online Music Service Providers to Stop the Dissemination of Unauthorised Music Works (2015)
- Notice on Prohibiting the Use of Illegally Made Copies of Computer Software (1995)
- Notice on Properly Raising the Remuneration for Book Manuscripts (1990)
- Notice on Registration of the Contract Concerning Copyright Authorisation in Publishing and Reproducing Overseas Electronic Publications and Computer Software (1996)
- Notice on Implementing the Bilateral Copyright Clauses under the Memorandum of Understanding Concerning the Protection of Intellectual Property Rights between the Government of the US and the PRC (1992)
- Outline of the National IP Strategies (2008)
- Provisional Measures for the Remuneration for Manuscripts of Works of Fine Arts (1985)
- Provisional Measures of Remuneration Payment Concerning the Phonograms of Broadcasting Stations and Television Stations (2009)
- Provisional Regulations on the Copyright Protection of Books and Periodicals (1985)
- Provisional Regulations on the Copyright Protection for Audio-Visual Publications (1986)
- Provisional Regulations on the Remuneration for Book Manuscripts (1984)
- Regulations on the Administration of Book Publishing (2008)
- Regulations on the Administration of Movies (2001)
- Regulations on the Administration of Newspaper Publication (2005)
- Regulations on the Administration of Periodical Publication (2005)
- Regulations on the Administration of Publication (2001)
- Regulations on the Administration of Publication of Audio and Video Products (2004)
- Regulations on Broadcasting and Television Administration (1997/2013)
- Regulations of Copyright Collective Management (2004)
- Regulations on Editorial Organisations and State Owned Publishing Houses (1952)
- Regulations on Encouraging Inventions (1963)
- Regulations on Encouraging Improvements in Technology (1963)
- Regulations for the Implementation of the Copyright Act (1991/2002/2011/2013)
- Regulations on the Implementation of the International Copyright Conventions (1992)
- Regulations on the Protection of Computer Software (1991/2001)
- Regulations on the Protection of the Right of Communication of Information on Networks (2006/2013)

Judicial Interpretations of the SPC/SPP of the PRC

- Interpretation on Several Issues of Applying the SCNPC's Decision on Sanctioning the Crimes of Infringing Copyright (1995)
- Interpretations on Several Specific Issues Concerning the Applicable Laws for Handling Criminal Cases relating to Intellectual Property Right Infringement (2004)

TABLE OF TREATIES

xix

Interpretation on Several Issues Concerning the Application of Law in the Trial of Cases Involving Copyright Disputes relating to Computer Networks (2000)
 Interpretation on Several Issues Concerning the Application of Law in the Trial of Cases Involving Copyright Disputes relating to Computer Networks (2000/2003)
 Interpretation on Several Issues concerning the Specific Application of Law in the Handling of Defamation through Information Networks and Other Criminal Cases (2013)
 Interpretation Concerning the Application of Laws in the Trial of Civil Disputes over Copyright (2002)
 Interpretation II of the Issues concerning the Specific Application of Law in Handling Criminal Cases of Infringement of Intellectual Property Rights (2007)
 Notice on Several Issues in Implementing the Copyright Act of the PRC (1993)
 Rules on Several Issues Concerning the Application of Law in the Trial of Civil Disputes Involving the Right of Communication of Information on Networks (2012)

Germany

Gesetz über Urheberrecht und verwandte Schutzrechte (German Act on Copyright and Related Rights) (1965/2012)

France

HADOPI law on Creation and Internet law ("Loi favorisant la diffusion et la protection de la création sur Internet") (2009)

UK

The Statute of Anne (1709)
 The UK Digital Economy Act (2010)

US

Constitution of the USA (1787)
 Digital Millennium Copyright Act (1998)
 The Omnibus Trade and Competitiveness Act (1988)

UN Document

Road Map towards the Implementation of the United Nations Millennium Declaration.
 Report of the Secretary-General, UN GA/56/326 (6 September 2001)

WIPO Document

Records of the Intellectual Property Conference of Stockholm (1967)

WTO/GATT Documents

- Accession Protocol of the People's Republic of China to the WFO, WT/L/432
 (10 November 2001)
- China's Status as a Contracting Party: Communication from the People's Republic of
 China, L/6017 (14 July 1986)
- DSB Establishes a Panel on China's Protection of IPR and a Compliance Panel to
 Review US Implementation in "Zeroing" Case, WT/DS362/7 (21 August 2007)
- Excerpt from the Minutes of the Council's Meeting, WTO Doc IP/C/M/64
 (26–27 October 2010)
- Requests for Consultations by the United States, China-Measures Affecting the
 Protection and Enforcement of Intellectual Property Rights, WT/DS362/1 (10 April
 2007)
- Submission by the Africa Group, Barbados, Bolivia, Brazil, Dominican Republic,
 Ecuador, Honduras, India, Indonesia, Jamaica, Pakistan, Paraguay, Philippines,
 Peru, Sri Lanka, Thailand and Venezuela on TRIPS and Public Health, IP/C/W/296
 (19 June 2001)

USTR Documents

- 1995 National Trade Estimate – People's Republic of China
- 2011 US–China Joint Commission on Commerce and Trade Outcomes (20–21
 November 2011)
- 21st US–China Joint Commission on Commerce and Trade Fact Sheet (15 December
 2010)
- 24th US–China Joint Commission on Commerce and Trade Fact Sheet (19–20
 December 2013)
- Fact Sheet: 23rd US–China Joint Commission on Commerce and Trade (19 December
 2012)
- Fact Sheet for "Special 301" on Intellectual Property (25 May 1989)
- Fact Sheet: US–China Joint Commission on Commerce and Trade (29 October 2009)
 Out-of-Cycle Review Results (2005)
- Special 301 Report Section 306, China [05 January 2003]
- Special 301 Report Finds Progress and Need for Significant Improvements: Results of
 China OCR Released, China Elevated to Priority Watch List (29 April 2005)
- Statement by Ambassador Barshefsky (17 June 1996)
- US–China Joint Fact Sheet on the 25th US–China Joint Commission on Commerce and
 Trade (16 December 2014)
- US–China Trade Relations: Entering a New Phase of Greater Accountability and
 Enforcement, Top-to-Bottom Review (February 2006)
- WTO Case Challenging Weakness in China's Legal Regime for Protection,
 Enforcement of Copyrights, Trademarks (April 2007)

TABLE OF TREATIES

xxi

European Union Documents

10th China–EU Summit, Beijing, 28 November 2007, Joint Statement, 1607 0/07 (Press 279), Brussels

A Maturing Partnership – Shared Interests and Challenges in EU–China Relations, Commission Policy Paper for Transmission to the Council and the European Parliament, Brussels, 10/09/03, COM (2003)

EU–China 2020 Strategic Agenda for Cooperation, Beijing, 21 November 2013

European Union External Action Service, Joint Statement of the 12th EU–China Summit, 30 November 2009

EU Strategy to Enforce Intellectual Property Rights in Third Countries – Facts and Figures, Brussels, MEMO/04/255, 10 November 2004

EU–China Summit Joint Statement: The Way forward after Forty Years of EU–China Cooperation, 29 June 2015, Brussels

Joint Press Communiqué of the 14th EU–China Summit, Beijing, 14 February 2012, 6474/12, Press 50

Joint Statement of the 8th EU–China Summit, art 15, IP/05/1091, Brussels, 5 September 2005

Memorandum of Understanding on Reinforcing the EU–China IP Dialogue Mechanism, Brussels, 29 June 2015

Miscellaneous

International Intellectual Property Alliance (IIPA), IIPA's 2008 Special 301 Recommendations (2008) app. A 1

Provisions on Several Issues Concerning Dealing with Foreign-related Cases (1995)

ABBREVIATIONS

A2K	access to knowledge
A2R	access to remuneration
ACTA	Anti-Counterfeiting Trade Agreement
AIPLA Q J	<i>American Intellectual Property Law Association Quarterly Journal</i>
AJIL	<i>American Journal of International Law</i>
Am Econ Rev	<i>American Economic Review</i>
Am U L Rev	<i>American University Law Review</i>
APP	Administration of Press and Publication
Ariz L Rev	<i>Arizona Law Review</i>
ARWU	Academic Ranking of World Universities
Atk.	Atkyns' Chancery Reports (England)
BC	Berne Convention for the Protection of Literary and Artistic Works
BGH	Bundesgerichtshof
CCD Mass.	Circuit Court for the District of Massachusetts
CCIA	Computer & Communications Industry Association
CCMO	copyright collective management organization
CCP	Chinese Communist Party
Chi J Int'l L	<i>Chicago Journal of International Law</i>
CJEU	Court of Justice of the European Union
cl.	clause
col.	column
Columbia J Art L	<i>Columbia Journal of Arts and Law</i>
Const.	Constitution
Cornell Int'l L J	<i>Cornell International Law Journal</i>
CPPCC	Chinese Peoples' Political Consultative Conference
DMCA	Digital Millennium Copyright Act
DS	Dispute Settlement
DSB	Dispute Settlement Body
DSM	Dispute Settlement Mechanism
E Asian Executive Rep	East Asian Executive Report

LIST OF ABBREVIATIONS

xxiii

EC	European Communities
ECETJC	EU–China Economic and Trade Joint Committee
ECIPE	European Centre for International Political Economy
ECJCMHE	Editing Committee of the Journals of the Chinese Modern History of Economy
ER	The English Reports
Eur J Int'l L	<i>European Journal of International Law</i>
EU	European Union
EWHC	England & Wales High Court
F 3d	Federal Reporter, 3rd Series
F. Cas.	Federal Cases
Fed. Cir.	Federal Circuit
Fordham Intell Prop Media Ent L J	<i>Fordham Intellectual Property Media and Entertainment Law Journal</i>
F. Supp.	Federal Supplement
GAOP	General Administration of Publication
GAOR	General Assembly Official Record
GA Res	General Assembly Resolution
GATT	General Agreement on Tariffs and Trade
GPCL	General Principles of Civil Law
GRUR	<i>Gewerblicher Rechtsschutz und Urheberrecht</i>
Harvard J Asiat Stud	<i>Harvard Journal of Asiatic Studies</i>
Harvard L Rev	<i>Harvard Law Review</i>
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court of Justice
IDG	International Data Group
IIC	<i>International Review of Intellectual Property and Competition Law</i>
IIPA	International Intellectual Property Alliance
ILM	International Legal Materials
ILSA J Int'l Comp L	<i>International Law Students Association Journal of International and Comparative Law</i>
Intell Prop Q	<i>Intellectual Property Quarterly</i>
IP(R)	intellectual property (rights)
ISP	Internet Service Provider
JBE	<i>Journal of Business Economics</i>
JCCT	Joint Commission on Commerce and Trade
J Cop Soc USA	<i>Journal of the Copyright Society of the USA</i>
J Intell Prop L	<i>Journal of Intellectual Property Law</i>
J Int'l Commercial L Tech	<i>Journal of International Commercial Law and Technology</i>
J Legal Stud	<i>Journal of Legal Studies</i>

xxiv	LIST OF ABBREVIATIONS
JWT	<i>Journal of World Trade</i>
L Contemp Probs	<i>Law and Contemporary Problems</i>
LR	Law Reports
MAPIC	Measures for the Administrative Protection of Internet Copyright
MFN	most favoured nation treatment
MICAP	Measures for the Implementation of Copyright Administrative Punishment
Mich St L Rev	<i>Michigan State Law Review</i>
MOC	Ministry of Culture
MOU	Memorandum of Understanding Concerning the Protection of Intellectual Property Rights between the Government of the United States and the People's Republic of China
NCB	National Copyright Bureau
NGO(s)	Non-governmental Organisation(s)
Northwestern J Tech IP	<i>Northwestern Journal of Technology and Intellectual Property</i>
NPB	National Publication Bureau
NSW	New South Wales
NYT	New York Times
NYU J Int'l L Pol	<i>New York University Journal of International Law and Politics</i>
OJ	Official Journal of the European Union
P2P	peer-to-peer
Pub L No.	Public Law number
Pmbl.	preamble
PRC	People's Republic of China
QB	Queen's Bench
RCCM	Regulations of Copyright Collective Management
Rep.	Report(s)
Reuter Asia-Pac Bus Rep	Reuter Asia-Pacific Business Report
Reuter Bus Rep	Reuter Business Report
RICA	Regulations for the Implementation of the Copyright Act
RIDA	<i>Revue internationale du droit d'auteur</i>
RIICC	Regulations on Implementing the International Copyright Convention
RMI	rights management information
ROC	Republic of China
RPCS	Regulations on Protection of Computer Software

LIST OF ABBREVIATIONS

XXV

SARFT	State Administration of Radio Film and Television
SCC	Supreme Court of Canada
SCNPC	Standing Committee of the National People's Congress
SCR	Supreme Court Reports
SDNY	Southern District of New York
SPC	Supreme People's Court of the People's Republic of China
SPP	Supreme People's Procuratorate of the People's Republic of China
Stat.	Statutes
Texas Int'l L J	<i>Texas International Law Journal</i>
TIAS	Treaties and International Act Series
TPM	technological protection measure
TPP	Trans-Pacific Partnership
TPSEPA	Trans-Pacific Strategic Economic Partnership Agreement
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
UCC	Universal Copyright Convention
U C Davis L Rev	<i>University of California, Davis Law Review</i>
UCLA L Rev	<i>University of California, Los Angeles Law Review</i>
UGC	user-generated contents
UK	United Kingdom
UN	United Nations
UNESCO	United Nations Educational, Scientific, and Cultural Organization
UN GA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UNTS	United Nations Treaty Series
US	United States of America
USC	United States Code
USPQ	<i>United States Patent Quarterly</i>
USSR	Union of Soviet Socialist Republics
UST	United States Treaties
USTR	United States Trade Representative
Vand J Transnat'l L	<i>Vanderbilt Journal of Transnational Law</i>
Vand L Rev	<i>Vanderbilt Law Review</i>
Wall Str J	Wall Street Journal
WCT	WIPO Copyright Treaty
WIPO	World Intellectual Property Organization
WL	Westlaw Identifier

xxvi

LIST OF ABBREVIATIONS

World Intell Prop Rep	World Intellectual Property Report
WPPT	WIPO Performances and Phonograms Treaty
WT	World Trade
WTO	World Trade Organization
Yale L J	<i>Yale Law Journal</i>