

# Contents

<b>1 Intellectual Property: Concept, History, and Contentions.....</b>	<b>1</b>
1.1 The Concept of Intellectual Property .....	1
1.2 A Brief History of Intellectual Property .....	2
1.3 The Contentions and Implications of IPR Protection .....	5
1.4 China's TRIPS Compliance and the Jurisprudential Significances .....	7
References .....	9
<b>2 Private-Public Dynamics: The Paradox of Intellectual Property Philosophy .....</b>	<b>11</b>
2.1 The Nature and the Theoretical Basis of Intellectual Property Rights .....	12
2.1.1 The Nature of Intellectual Property Rights .....	12
2.1.2 IPRs' Theoretical Basis: The Significance and Limit of Property Rights .....	17
2.2 Formation of Intellectual Property: The Circular "Founding Violence" .....	23
2.2.1 Historical Construction: From Privileges to Rights .....	23
2.2.2 The Circular Construction of Intellectual Property Rights .....	25
2.2.3 The Injection of the "Founding Violence" .....	27
2.3 Alienation of Intellectual Property: The Violence Against Founding Violence .....	29
2.3.1 Alienation as Violence: The Second Violence .....	29
2.3.2 Alienation as Justice: The Violence Against Founding Violence .....	32
2.3.3 Constant Deconstruction as Justice .....	34

2.4	The Paradoxical Dynamics in Function .....	36
2.4.1	Domestic Paradoxical Dynamics: Biting the Hand that Feeds.....	36
2.4.2	International Paradoxical Dynamics: IPRs Versus Public Health .....	38
	References.....	41
<b>3</b>	<b>Public-Private Dynamics in China's IP Regime and TRIPS Compliance .....</b>	<b>45</b>
3.1	Intellectual Creations in Ancient China: A Brief Historical Account .....	46
3.1.1	Intellectual Property Law in China: From Ancient to Modern.....	46
3.1.2	"Elegant Offense" Versus "Fair Use" .....	49
3.2	The Three-Stage Evolution and the Delicate Public-Private Balance .....	53
3.2.1	Stage One: The 1950s' Collective Orientation and the Public-Private Dynamics.....	53
3.2.2	Stage Two: The Dominance of the Public Concern in the 1960s .....	56
3.2.3	Stage Three: Post-1984 Evolution and the Delicate Public-Private Balance .....	58
3.3	Olympic Marks Protection: One World Different Dreams .....	63
3.3.1	USA and Canada: Private Rights with Private Teeth .....	63
3.3.2	China: Public Protection for Private Rights .....	69
3.4	The US-China Dynamics and China's TRIPS Compliance .....	72
3.4.1	US-China Dynamics and China's Aggressive IPR Administration .....	72
3.4.2	<i>Ex Officio</i> Action Under TRIPS .....	77
3.4.3	China's TRIPS Implementation: Legitimate Nonuniform Compliance .....	81
	References.....	94
<b>4</b>	<b>IP Perceptions Survey: The Dynamics in Reality .....</b>	<b>97</b>
4.1	The Legal System as Socially Derived Cultural Product.....	97
4.2	An Overview: Hypothesis and Methods .....	99
4.2.1	Hypothesis: Cultural Imperatives, Legal Orientations, and IPR Protection .....	99
4.2.2	Research Methods: Method and Participants Overview .....	101
4.3	Measures, Reliabilities, and Mean Differences .....	102
4.3.1	Cultural Imperatives.....	102
4.3.2	Legal Orientations.....	104
4.3.3	IP Right Protection.....	107

4.4	Further Discussion: Culture, Legal Orientations, and IPRs.....	109
4.4.1	The Dynamics Between Private Property, Legal Relativism, and IP Protection .....	109
4.4.2	Perception Dynamics: Interdependence, Private Rights, and Certainty of Law .....	112
	References.....	113
5	<b>TRIPS’ Legitimacy Deficit and the Myth of Modern Law</b> .....	115
5.1	TRIPS and the Development Deficit: The Cult of Knowledge and Progress .....	116
5.1.1	TRIPS’ Negative Consequences for Developing Countries.....	116
5.1.2	TRIPS and the “Tech-Knowledgization” of the Development Deficit .....	119
5.2	The Self-Sufficient Ontological Myth and the Author Function .....	122
5.2.1	TRIPS for China: Economic Opportunity or Ontological Challenge .....	122
5.2.2	The Self-Sufficient Ontological Myth of Intellectual Property Philosophy .....	125
5.2.3	Author Function and the Enlightenment’s Obsession with Origin.....	128
5.3	The Self-Sufficient Legitimacy Deficit of Modern Law .....	130
5.3.1	The Power of Precedent: Law’s Constant Return to Origin.....	130
5.3.2	The Oppressive Assimilation Force and Modern Law’s Legitimacy Deficit .....	133
5.3.3	Mythology of Modern Law: The Self-Sufficient Legitimacy Deficit .....	136
5.4	Critique Through “Selective Adaptation” and a New Theory of Legitimacy.....	137
5.4.1	Contractarian Legitimacy and the Significance of Consent.....	137
5.4.2	The Evolving Nature of Member Consent in the WTO Framework .....	140
5.4.3	Critique: Something More than Consent .....	143
5.4.4	Selective Adaptation as the Quest for Legitimacy .....	146
5.4.5	Cultural Relativism’s Limit and Limit’s Cultural Relativism.....	149
	References.....	154
6	<b>Conclusion: Ontology, Legitimacy, and Time</b> .....	159
	References.....	166
	<b>Further Reading</b> .....	167
	Cases and Laws.....	167
	WTO Documents and Cases .....	168