

Title: Private Property in a Public Market: Intellectual Property Rights with Chinese Characteristics

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Brief Description:

China is the proverbial offender in the intellectual property arena. Today, reports about film and music piracy in China have made newspaper headlines throughout the world. While commentators have noted the political, social, economic and cultural barriers to protecting intellectual property in China, few scholars, if any, have tied the issue to the larger debate about protecting private property in a public (or socialist) market. This book seeks to fill the void by tackling this intriguing, yet challenging, issue.

When China introduced intellectual property rights in the early 1980s, it did not possess the needed enabling environment. At that time, its Confucian background, historical past, and copying culture militated against individual ownership of creative works. The country also lacked a private property regime, which Chinese leaders believed would create conflict within the socialist economy. Even worse, the Chinese media remained heavily censored, and the Chinese market was considered one of the most regulated markets in the world. Had the United States government and businesses not pushed aggressively for the introduction of intellectual property rights in China, these rights are unlikely to be introduced.

China therefore provides a modern anomaly—and a very interesting case study—in which the development of intellectual property rights precedes that of real property rights, which did not emerge until the late 1980s when land use rights were introduced. Even today, with the recently enacted Rural Land Contracting Law and the proposed redrafting of the civil code, China still lacks a well-functioning real estate market and has to yet to provide fully transferable property rights. Indeed, property rights in China are viewed very differently from those in the Western world; they are considered rights bestowed by the State, rather than natural, inalienable rights enjoyed by individuals.

Against this backdrop, the development of intellectual property rights in China therefore provides a fascinating subject for studying property rights in the market context. This study will enhance our understanding of the relationship between real and intangible property. The book also will provide unique insight into the environment needed to enable development of a just and accessible property law system that promotes good citizenship and successful socio-legal development.

Organization and structure:

This book consists of two different parts. The first part focuses primarily on intellectual property development in China and explores three central questions. First, whether private (real) property rights are needed to facilitate protection of intangible (intellectual) property? Second, whether individualism, reward and commodification are the prerequisites for developing a robust intellectual property regime? And finally, how should intellectual property protection be

balanced against the basic human and social-economic needs of a transitional economy? These questions are essential to our understanding of China in particular and property rights in general. Answering these questions will help us understand better both the economic transformation in China and the development of the global intellectual property system.

The second part of the book extends beyond China to focus on the global intellectual property system. This part compares China to other emerging economies in Asia, such as Japan, Korea, Singapore and India. It also explores other transitional and less developed countries, which arguably have similar needs, interests and goals as China, though to a different degree. By bringing together different markets and economies, this book demonstrates that intellectual property piracy is neither a cultural problem nor a socio-economic phenomenon. The book also underscores the need to tailor intellectual property rights to local market conditions, rather than searching for a “grand unified theory.”

Although the book has a primary focus on China, its findings will have application for readers in both developed and less developed countries. Today, many less developed countries are in active search of a socio-economic system that will enable them to increase agricultural and industrial production, attract domestic and foreign investment, create new jobs and promote indigenous authors and inventors. Although intellectual property provides such a vitally needed system, the success of this system will largely depend on whether intellectual property laws strike the appropriate balance between private protection and public access. Drawing on China’s experience, this book will demonstrate how policymakers should tailor intellectual property protection to local needs, interests and socio-economic goals.

The book is also relevant and important to readers in developed countries. Thanks to the Internet and the advent of new communications technologies, those intellectual property-related problems that are often associated with China and other “pirate” countries have now resurfaced in the developed world. A case in point is the rampant music piracy committed by individual file-sharers over the Internet. Indeed, the piracy landscape in the digital world was quite similar to the piracy landscape in China. By tying China’s piracy problems to similar problems in the digital context in developed countries, this book will draw on China’s experience to illustrate the strengths and weaknesses of our current intellectual property system.

This book will nicely complement other books in the series. It will allow readers to understand not only the development of property rights in China, but also the intertwined relationship among private property, legal rights, markets and society. Those who read the book will be able to answer all, or many, of the following questions:

- How do property rights interact with government regulation (especially in a highly regulated transitional economy)? How do property rights interact with the development of open markets, economic infrastructure and international trade?
- What is the role of privatization of State-owned property in a transitional economy? How should we approach privatization? What distinctions should we make among public, private and State property? How should we create and structure public-private partnerships in a transitional economy?

- Would property rights enhance citizenship, political freedom and the rule of law? Are property rights needed to advance democratic institutions? What role does private property play in political, economic and social transformation? How can property rights promote civic participation and inclusion?
- How can property rights promote social entrepreneurship? How can we structure the property system based on values other than short-term economic growth and wealth maximization? How can we achieve sustainable development? How should we balance property rights against other social needs, such as poverty reduction, promotion of public health and increased access to information and knowledge?
- How can global financial institutions, such as The World Bank, the IMF and the Asian Development Bank, influence social-economic transformation in a transition economy? How should global property law systems become institutionalized?

In addition, the book will offer policy recommendations on institutional and legal reforms to facilitate interests among policymakers, think tanks and private foundations. As with other books in the series, this book also will discuss how these reforms can facilitate market development and global trade, foster democratic forms of governance and advance social justice.

Key Selling Points:

- *Timely.* The book is very timely and touches on two areas of key public interest. First, intellectual property issues are making front-page news every day, thanks to Napster, Mickey Mouse, iTunes and open source software. Second, China and its recent economic transformation have attracted major attention from the public media. As people grapple with the growing market and vast business opportunities in China, media interest will continue to grow. Published before the 2008 Beijing Olympics, this book is likely to be very well received.
- *Multidisciplinary.* The book takes on a unique multidisciplinary perspective that puts intellectual property rights in a global context. Drawing on research in law, economics, social science, cultural studies and development theories, this book seeks to address issues concerning enterprise privatization, capital market liberalization, and implications for property reforms for democracy, human rights and civil society. The book also will enable readers to understand the tension between intellectual property rights and the socialist economy, as well as the larger debate about the development of the global economic system and property regime. The book will help readers understand better how to develop business and market in transitional economies while reflecting on the recent development of intellectual property law in the developed world.
- *Complementary.* This book will be complementary to two of the author's latest book projects. The first book is *The Networks of Contradictions: Understanding the Information Society in China*. This book is co-edited by the author and Professor Jack Linchuan Qiu of Chinese University of Hong Kong and will bring together essays on the social, economic and technological transformation brought about by the Internet in China. The second book is *The Paranoid Pirates and the Schizophrenic Swashbucklers: Reinventing U.S.-China Intellectual Property Policy in the Post-WTO Era*, an original

authored volume that focuses on the wrong-headed U.S.-China intellectual property policy in the late 1980s and early 1990s. Those who enjoy this book are very likely to purchase the proposed volume.

Length: Approximately 250 pages in length.

Date of Completion: August 31, 2006.

Market assessment:

Several academic and professional books have been published on intellectual property protection in China. A representative sample of these books includes:

Academic Books:

- William P. Alford, *To Steal a Book Is an Elegant Offense: Intellectual Property Law in Chinese Civilization* (Stanford University Press 1995)
- Shujen Wang, *Framing Piracy: Globalization and Film Distribution in Greater China* (Rowman & Littlefield 2003)
- Assafa Endeshaw, *Intellectual Property in China: The Roots of the Problem of Enforcement* (Acumen Publishing 1996)

Professional Books:

- Daniel C.K. Chow, *A Primer on Foreign Investment Enterprises and Protection of Intellectual Property in China* (Kluwer Law International 2002)
- Mark A. Cohen et al. (eds.), *Chinese Intellectual Property Law and Practice* (Kluwer Law International 1999)
- Peter Feng, *Intellectual Property in China* (Sweet & Maxwell, 2d ed. 2003)
- Mary L. Riley (ed.), *Protecting Intellectual Property Rights in China* (Sweet & Maxwell 1997)
- Catherine Sun, *China Intellectual Property for Foreign Business* (Lexis/Butterworths Asia 2003)
- Xue Hong & Zheng Chengsi, *Chinese Intellectual Property Law in the 21st Century* (Sweet & Maxwell 2002)
- Zheng Chengsi, *Intellectual Property Enforcement in China: Leading Cases and Commentary* (Sweet & Maxwell 1997)

So far, none of these books has explored the tension between intellectual property ownership and the Chinese socialist society. The closest theoretical study in this area is William Alford's *To Steal a Book Is an Elegant Offense*, which contains a chapter on the Communist Revolution, the various class struggles in the 1950s and 1960s and the Great Proletariat Cultural Revolution. However, that book is very different and will not affect the market appeal of the proposed book. Alford took a historical approach and explained why China's past did not pave the way for modern protection of intellectual property rights. Moreover, the book was published a decade

ago and did not reflect the recent economic transformation in China, in particular the run-up to its accession to the World Trade Organization.

Unlike the academic books, the professional books are published more recently. However, they are primarily focused on the legal audience (academics, practitioners and business consultants). Many of those books explain in detail the various provisions of China's copyright, patent, trademark and trade secret laws. They also discuss possible legal and business strategies in protecting intellectual property in China.

In sum, the proposed book is unique, informative and authoritative. It will provide a fresh look at intellectual property ownership and protection in China, China's socialist system and recent economic transformation and the development of the global intellectual property system. Written in a highly engaging style, the book will have a strong market appeal and will be accessible to academics, students, legal practitioners, policymakers, business managers, consultants, journalists, industry specialists and general readers.

Target Audience:

- public, academic/university, corporate and government agency libraries with collections in law, business/management, economics, finance, public policy, international affairs and Asian studies
- professors, students and researchers interested in intellectual property, technology and information management, economics, China studies and global development
- government officials, IGO policymakers and NGO executives
- business executives, senior corporate managers and finance managers
- board members, shareholders and foundation managers, especially those who work in Asia or with businesses in the region
- intellectual property agents, journalists, industry experts and media professionals
- business and industry consultants

Author's Information:

Peter K. Yu is Associate Professor of Law and the founding director of the Intellectual Property & Communications Law Program at Michigan State University College of Law. He holds various appointments in the College of Communication Arts & Sciences at Michigan State University and is a research associate of the Programme in Comparative Media Law & Policy at the Centre for Socio-Legal Studies, University of Oxford. Born and raised in Hong Kong, Professor Yu is a leading expert in international intellectual property and communications law. He also writes extensively and speaks frequently on international trade and the transition of the legal systems in China and Hong Kong.

Professor Yu has edited three books, all with Kluwer Law International, and is currently writing a casebook/legal textbook on international intellectual property law for Carolina Academic Press. Most recently, he has been engaged by Praeger/Greenwood to compile a multi-volume book set on *Intellectual Property and Information Wealth*, which will be published in 2006. Professor Yu has spoken at leading research institutions from around the world, including Harvard Business

School, the Centre for Socio-Legal Studies at the University of Oxford, University of Michigan Business School, UC Berkeley Graduate School of Journalism, USC Annenberg School for Communication, University of Hong Kong Faculty of Law and University of Ottawa Faculty of Law. His commentary and research have appeared on ABC News, Fox News, the *San Francisco Chronicle*, *The Atlanta Journal-Constitution*, *The Detroit News*, CNN.com, Forbes.com, FindLaw, *The Legal Times*, *IP Law & Business* and CNET Radio.

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(current as of July 1, 2004)

ACADEMIC APPOINTMENTS

Michigan State University College of Law

Associate Professor of Law (July 2004-Present)

Assistant Professor of Law (2003-2004)

Director, Intellectual Property & Communications Law Program (2003-Present)

Courses: Copyright Law
Directed Study
International Intellectual Property Law
Interdisciplinary Topics in CyberSecurity (university-wide course co-taught with faculty members from other MSU colleges)
Special Topics in Telecommunication: P2P Filesharing (co-taught with faculty members from other MSU colleges)
Topics in Intellectual Property and Communications Law: Copyright Wars and the Music Industry
Topics in Intellectual Property and Communications Law: IPR and International Technology Transfer
Trademark and Unfair Competition Law

Teaching Award: Nomination for Distinguished Faculty Award by the Student Bar Association (2004)

Committee: Faculty Appointments Committee (2003-Present)
Faculty Development and Programs Committee (2004-Present)

Faculty Advisor: Asian Pacific American Student Law Society
Entertainment and Sports Law Journal (co-advisor)
Intellectual Property Law Society

Michigan State University

Adjunct Professor of Telecommunication, Information Studies and Media, College of Communication Arts & Sciences (2003-Present) (courtesy appointment)
Faculty Associate, The James H. and Mary B. Quello Center for Telecommunication Management & Law, College of Communication Arts & Sciences (2003-Present)
Advisory Committee, The MSU CyberSecurity Initiative
Faculty Advisor, Hong Kong International

Programme in Comparative Media Law & Policy, Centre for Socio-Legal Studies, Wolfson College, University of Oxford

Research Associate (1999-Present)

Benjamin N. Cardozo School of Law, Yeshiva University

Acting Assistant Professor of Law (2001-2003)

Executive Director, Intellectual Property Law Program (2000-2003)

Deputy Director, Howard M. Squadron Program in Law, Media & Society (1999-2003)

Courses: Chinese Information Law, Technology & Society
Communications Law in Transition Newsletter Workshop
International Copyright
International Trade and Intellectual Property
International Trademark
LL.M. Seminar in Intellectual Property
Telecommunications Workshop

Faculty Advisors: Asian Pacific American Law Students Association
Cardozo Journal of Conflict Resolution (Annual Survey of WIPO Internet Domain Name Decisions)

EDITORIAL APPOINTMENTS & PROFESSIONAL ACTIVITIES

Founder & Editor, Michigan State University College of Law Public Law & Legal Theory Working Paper Series

Series Editor, Intellectual Property and Information Technology Law Series (book series from Kluwer Law International)

Co-Series Editor, Communications Law and Policy in Transition (book series from Kluwer Law International)

External Examiner in Media Law, University of Hong Kong Faculty of Law (2002-2003)

Host and Steering Committee, 11th Conference of Asian Pacific American Law Faculty (CAPALF)

Board of Editors, *Journal of the Copyright Society of the U.S.A.* (2001-Present)

Editor, *American Law Review* (in Chinese language) (2002-Present)

Editorial Board, Gigalaw.com (2000-Present)

Board of Directors, U.S.-China Lawyers Society (2002-Present)

Committee Member, Litigation Committee, Asian American Bar Association of New York (2001-Present)

Referee/Reviewer, Aspen Law Publishers, Kluwer Law International, John Wiley & Sons, Routledge, *University of British Columbia Law Review*, and *Journal of Copyright Society of the U.S.A.*

Board of Directors, Asian American Bar Association of New York (2002-2003)

Committee Member, Young Lawyers Committee, Intellectual Property Law Section, New York State Bar Association (2001-2003)

Founding Managing Editor, *Communications Law in Transition Newsletter* (1999-2001)

Managing Editor, *Post-Soviet Media Law & Policy Newsletter* (1997-1999)

Project Coordinator, European Survey of Information Society II (European Commission) (1999-2001) (responsible for surveys in Albania, Bosnia-Herzegovina, Poland, and Syria)

U.S. Program Director, "Legislation Principles for a Telecommunications Legal Regulation System in Russia" Program (USAID/IREX) (1998-2000)

PUBLICATIONS

Books

EXTENDING MICKEY'S LIFE: *ELDRED V. ASHCROFT* AND THE COPYRIGHT TERM EXTENSION DEBATE (Kluwer Law International, forthcoming 2004) (editor)

THE MARKETPLACE OF IDEAS: TWENTY YEARS OF *CARDOZO ARTS & ENTERTAINMENT LAW JOURNAL* (Kluwer Law International 2002) (editor)

RUSSIAN MEDIA LAW AND POLICY IN THE YELTSIN DECADE: ESSAYS AND DOCUMENTS (Kluwer Law International 2002) (coedited with Monroe E. Price and Andrei Richter)

Articles and Book Chapters

P2P and the Future of Private Copying, 76 U. COLO. L. REV. (forthcoming 2005)

The Networks of Contradictions and a Tale of Two Chinas, in *THE NETWORKS OF CONTRADICTIONS: UNDERSTANDING THE INFORMATION SOCIETY IN CHINA* (Peter K. Yu & Jack Linchuan Qiu eds., forthcoming 2005)

Sustainable Development and the Information Ecosystem, 2005 MICH. ST. L. REV. (forthcoming)

Currents and Undercurrents in the International Intellectual Property Regime, 38 LOY. L.A. L. REV. (forthcoming 2004)

Intellectual Property at a Crossroads: Why History Matters?, 38 LOY. L.A. L. REV. (forthcoming 2004)

Digital Challenge and the Copyright Response (commissioned book chapter for the Internet Governance Project)

The Trust and Distrust of Intellectual Property Rights (to be published in a conference volume edited by Prof. Peter Leuprecht)

Lessons from the Cat and Mouse Game in China (to be published in a conference volume published by the IP Academy of Singapore)

Symposium, *World Intellectual Property Organization and the European Union*, in 9 INTERNATIONAL INTELLECTUAL PROPERTY LAW & POLICY (Hugh C. Hansen ed., forthcoming 2004)

Four Common Misconceptions About Copyright Piracy, 26 LOY. L.A. INT'L & COMP. L. REV. (forthcoming 2003)

The Escalating Copyright Wars, 32 HOFSTRA L. REV. 907 (2004), also available in Michigan State University-DCL College of Law Occasional Papers in Intellectual Property and Communications Law No. 1, 2003

Symposium, *China and the WTO: Progress, Perils, and Prospects*, 17 COLUM. J. ASIAN L. 1 (2003) (with Gordon Chang, Jerome Cohen, Elizabeth Economy, Sharon Hom, and Li Qi)

The Copyright Divide, 25 CARDOZO L. REV. 331 (2003)

The Never-ending ccTLD Story, in *ADDRESSING THE WORLD: NATIONAL IDENTITY AND INTERNET COUNTRY CODE DOMAINS* (Erica Schlesinger Wass ed., 2003), reprinted as adapted in *The Origins of ccTLD Lawmaking*, 12 CARDOZO J. INT'L & COMP. L. (forthcoming 2004)

Dis-networking Rules in a Networked World, STS NEXUS, Spring 2003, at 6 (Supp.)

Traditional Knowledge, Intellectual Property, and Indigenous Culture: An Introduction, 11 CARDOZO J. INT'L & COMP. L. 239 (2003)

Symposium, *Protection for Traditional Knowledge*, in 8 INTERNATIONAL INTELLECTUAL PROPERTY LAW & POLICY (Hugh C. Hansen ed., 2003)

An Action Plan to Reinvent U.S.-China Intellectual Property Policy, in COMMENTARIES ON LAW AND PUBLIC POLICY: 2002 YEARBOOK (Robert W. McGee ed., 2003)

The Harmonization Game: What Basketball Can Teach About Intellectual Property and International Trade, 26 FORDHAM INT'L L.J. 218 (2003)

The European Union's Privacy Directive, in The GIGALAW.COM GUIDE TO INTERNET LAW (Doug Isenberg ed., 2002) (reprinted from GigaLaw)

THE SECOND COMING OF INTELLECTUAL PROPERTY RIGHTS IN CHINA (Benjamin N. Cardozo School of Law Occasional Papers in Intellectual Property No. 11, 2002), *also available in* 8 INTERNATIONAL INTELLECTUAL PROPERTY LAW & POLICY (Hugh C. Hansen ed., 2003)

World Trade, Intellectual Property, and the Global Elites: An Introduction, 10 CARDOZO J. INT'L & COMP. L. 1 (2002)

Toward a Nonzero-sum Approach to Resolving Global Intellectual Property Disputes: What We Can Learn from Mediators, Business Strategists, and International Relations Theorists, 70 U. CIN. L. REV. 569 (2002)

Bridging the Digital Divide: Equality in the Information Age, 20 CARDOZO ARTS & ENT. L.J. 1 (2002)

Piracy, Prejudice, and Perspectives: Using Shakespeare to Reconfigure the U.S.-China Intellectual Property Debate, 19 B.U. INT'L L.J. 1 (2001), *excerpted in* TERRY HALBERT & ELAINE INGULLI, LAW AND ETHICS IN THE BUSINESS ENVIRONMENT (4th ed. 2002)

From Pirates to Partners: Protecting Intellectual Property in China in the Twenty-first Century, 50 AM. U. L. REV. 131 (2000)

Succession by Estoppel: Hong Kong's Succession to the ICCPR, 27 PEPP. L. REV. 53 (1999)

Fictional Persona Test: Copyright Preemption in Human Audiovisual Characters, 20 CARDOZO L. REV. 355 (1998), *translated into Chinese* 1 AM. L. REV. (2003) (recipient of First Prize in The Nathan Burkan Memorial Writing Competition at Cardozo Law School, the Gerald Rose Memorial Competition for Best Paper in Intellectual Property at John Marshall Law School, and the Second Prize in the Judge John R. Brown Scholarship Foundation Award for Excellence in Legal Writing) (student note)

One Radio, Two Competing Interests: The Problem of Radio Television Hong Kong, POST-SOVIET MEDIA L. & POL'Y NEWSL., June 15, 1998, at 48

The Detroit News Op-eds

Digital Revolution Would Help Connect Detroit and Suburbs, Mar. 17, 2004, at 11A

Music Industry Needs to Embrace Digital Revolution, Feb. 8, 2004, at 13A

China Shows Less Interest in Capturing Taiwan, Dec. 10, 2003, at 13A

Music Industry Hits Wrong Note Against Piracy, Sept. 14, 2003, at 13A

FindLaw.com / CNN.com Columns

Globophobia: Why the Miami Protesters' Arguments Against the Free Trade Agreement of the Americas Are Flawed? (Nov. 25, 2003) (reprinted on CNN.com)

Hong Kong's Crisis Over Proposed Anti-subversion Legislation: Why It Implicates Not Only Political Freedoms, but Also China-Hong Kong Tensions (July 24, 2003)

SARS and the Patent Race: What Can We Learn from the HIV/AIDS Crisis? (May 29, 2003)

How the International Intellectual Property System, Meant to Create Global Harmony, Has Created Conflict Instead (Nov. 14, 2002)

How the Motion Picture and Recording Industries Are Losing the Copyright War by Fighting Misdirected Battles (Aug. 15, 2002)f

The Fifth Anniversary of Hong Kong's Reversion to China: How It Sheds Light on the Wrongheaded Debate About China (July 1, 2002)

New Technology and the Supreme Court: How Movie Censorship in the Early Twentieth Century Sheds Light on Contemporary Issues of Free Speech on the Internet (May 23, 2002)

Terrorism and the Global Digital Divide: Why Bridging the Divide Is Even More Important After September 11 (Feb. 11, 2002)

The Ramifications of China's Entry into the WTO: Will the Global Community Benefit? (Dec. 4, 2001)

Gigalaw.com Columns

Four Remaining Questions About Copyright Law After Eldred (Feb. 2003), reprinted in JURISNOTES.COM

Why the Entertainment Industry's Copyright Fight Is Futile (Aug. 2002) (reprinted from FindLaw)

A Summary of the Final Report of the Second WIPO Internet Domain Name Process (Jan. 2002), reprinted in JURISNOTES.COM

An Overview of the EU Information Society Directive (Nov. 2001), reprinted in JURISNOTES.COM

What Businesses Should Know About Cyberterrorism (Oct. 2001)

An Introduction to the EU Directive on the Protection of Personal Data (July 2001)

An Overview of the "Best Practices Report" for Country-Code Domains (July 2001)

Conflict of Laws Issues in International Copyright Cases (Apr. 2001), reprinted in JURISNOTES.COM

Barriers to Foreign Investment in Chinese Internet Industry (Mar. 2001)

What Lawyers Need to Know About the Digital Divide (Feb. 2001)

Evolving Legal Protection for Databases (Dec. 2000), reprinted in JURISNOTES.COM

The Basics of Community Trade Marks in the European Union (Nov. 2000), reprinted in JURISNOTES.COM

IP Law & Business / IP Worldwide Columns

Chilling Effect, IP L. & BUS., Mar. 2004, at 27 (reprinted as *Is Anti-Piracy Law Stifling Cybersecurity Innovation?*, LEGAL TIMES, Mar. 29, 2004, at 20)

These Chains Don't Bind, IP L. & BUS., Dec. 2003, at 17

What's Old Is New Again, IP L. & BUS., Sept. 2003, at 24

The Downside of Being Harry, IP L. & BUS., May 2003, at 26 (reprinted as *Everyone's Wild About Harry*, CORPORATE COUNSEL, May 2003, at 98)

Mickey Mouse, Peter Pan, and the Tall Tale of Copyright Harmonization, IP L. & BUS., Apr. 2003, at 24

Wrestling with Gator, IP L. & BUS., Jan. 2003, at 33

Hoops 'n Harmonization, IP WORLDWIDE, Nov. 2002, at 16

Freeing the Mouse, IP WORLDWIDE, Oct. 2002, at 24

Amicus Columns

Caveat Elector: Copyrighted Flaws in Electronic Voting Machines, Summer 2004

WORKS IN PROGRESS

Books

THE PARANOID PIRATES AND THE SCHIZOPHRENIC SWASHBUCKLERS: REINVENTING U.S.-CHINA INTELLECTUAL PROPERTY POLICY IN THE POST-WTO ERA

INTELLECTUAL PROPERTY AND INFORMATION WEALTH (Praeger, forthcoming 2006)
(multi-volume set)

INTERNATIONAL INTELLECTUAL PROPERTY LAW, POLICY & PRACTICE (Carolina Academic Press, forthcoming 2005) (casebook)

TRADITIONAL KNOWLEDGE, INTELLECTUAL PROPERTY AND INDIGENOUS CULTURE (Peter K. Yu ed., Kluwer Law International, forthcoming 2004)

THE DARK ARTS OF CYBERSPACE: UNDERSTANDING THE BACK ALLEYS OF THE INTERNET (coedited with Harry A. Valetk)

THE NETWORKS OF CONTRADICTIONS: UNDERSTANDING THE INFORMATION SOCIETY IN CHINA (coedited with Jack Linchuan Qiu)

Articles

A Theory of Global Intellectual Property Negotiation

The Art of Copyright War

The Double Backdoors in International Intellectual Property Lawmaking

The DMCA and Cybersecurity (with Richard J. Enbody)

Intellectual Property and the Sixth Estate

The Marginal Significance of Eldred v. Ashcroft in American Copyright Jurisprudence

CONFERENCES, PANELS, AND PRESENTATIONS

Organizer and Moderator, “W(h)ither the Middleman: Intermediaries in the Information Age,” Michigan State University College of Law, Apr. 8-9, 2005

Organizer and Presenter, Second Annual Intellectual Property and Communications Law and Policy Scholars Roundtable, Michigan State University College of Law, Feb. 18-19, 2005

Working Group on Property, Citizenship, and Social Entrepreneurism (PCSE), Syracuse University, Nov. 12-13, 2004

Panelist, “Crossing the Path: Moving from Practice to Law Teaching,” 2004 NAPABA Convention, Dallas, Texas, Nov. 11-14, 2004

Chair and Presenter, “The (Un)Bundling of International Intellectual Property Rights,” “Is the International Intellectual Property Regime Broken?,” 2004 International Law Weekend, New York, Oct. 14-16, 2004

Presenter, “Toward a Theory of Intellectual Human Rights,” “Addressing Critical National & International Issues,” Second National People of Color Scholarship Conference, The George Washington University Law School, Oct. 7-10, 2004

Presenter, “The Sweet and Sour History of Chinese Intellectual Property Rights,” “Intellectual Property in Late Developer Countries and Emerging Economies,” ESRC Research Seminar Series: “Intellectual Property Rights, Economic Development and Social Welfare: What Does History Tell Us,” Queen Mary Intellectual Property Research Institute, University of London, Oct. 1, 2004

Host and Co-organizer, 11th Conference of the Asian Pacific American Law Faculty, “APA Education in the Twenty-first Century,” Michigan State University College of Law, Sept. 24-25, 2004

Organizer and Moderator, “Challenges in International Patent Practice,” “Continuing Challenges in Patent Practice,” Michigan State University College of Law, Sept. 13, 2004

Presenter, “The (Un)Bundling of International Intellectual Property Rights,” 2004 Work-in-Progress Intellectual Property Colloquium, Boston University School of Law, Sept. 9, 2004

Presenter, Intellectual Property Rights (IPR) and Technology Transfer: An International Internship Program, Michigan State University, July 11-16, 2004

Panelist, “Media Ownership and Development in Asia,” 13th Asian Media Information and Communication Centre Conference, Bangkok, Thailand, July 1-3, 2004

Panelist, “Trade, Investment & Human Rights: Avenues for Promoting Workers’ Rights and Labour Standards,” Conference for Action: Human Rights for the Millions, Fordham University School of Law, June 24-26, 2004

Presenter, International Symposium on Human Rights, Human Dignity and the Information Society, McGill University Faculty of Law, June 17-18, 2004

Presenter, “DMCA and Cybersecurity,” “Digital Information” & Chair/Discussant, “Patents, Trademarks, Commodification, and Cost,” 2004 Annual Meeting of Law and Society Association, Chicago, May 27-30, 2004

Moderator, “Standard Settings, Infrastructures, and Designs,” “China’s Digital Future: The Impact of Information and Communications Technologies on Chinese Society,” Graduate School of Journalism, University of California at Berkeley, Apr. 31-May 1, 2004

Presenter, “Basic Principles of Copyright and Related Rights,” WIPO/UNITAR Workshop on International Intellectual Property, WIPO Coordination Office, New York, Apr. 26, 2004

Presenter, “Recent Developments in Asian Law,” 12th Fordham Annual International Intellectual Property and Policy Conference, Fordham University School of Law, Apr. 14-16, 2004

Presenter, “The Networks of Contradictions and a Tale of Two Chinas,” Centre for Innovation Law and Policy, University of Toronto Faculty of Law, Apr. 2, 2004

Panelist, “Asian Pacific Americans at Cardozo: Past, Present, and Future,” 2004 Asia Pacific American Alumni Panel, Benjamin N. Cardozo School of Law, Yeshiva University, Apr. 1, 2004

Organizer, “Intellectual Property, Sustainable Development, and Endangered Species: Understanding the Dynamics of the Information Ecosystem,” Michigan State University-DCL College of Law, Mar. 26-27, 2004

Chair and Presenter, “New Technology and the Supreme Court,” “Conceptualizing the Metrics,” Seventh Annual Conference of the Association for the Study of Law, Culture, and the Humanities, University of Connecticut School of Law, Mar. 12-13, 2004

Co-organizer and Chair, “Balancing Business, Consumer and Citizen Interests in the Digital Society,” “Harnessing the Swarm: Business Strategies, Rights Management and Policy for the New Media,” Fifth Annual Quello Communications Policy & Law Symposium, Washington, D.C., Feb. 24-25, 2004

Organizer and Presenter, “Intellectual Property and the Sixth Estate,” First Annual Intellectual Property and Communications Law and Policy Scholars Roundtable, Michigan State University-DCL College of Law, Feb. 20-21, 2004

Panelist, “Multinational Corporate Conduct and Responsibility in Asia,” “Globalization: The Modern Silk Road?”, 2004 Asian Business Conference, Harvard Business School, Feb. 13-14, 2004

Presenter, “RIAA, Verizon, and Your 914 File-sharing Clients,” Michigan Intellectual Property Law Association, Bloomfield Hills, Feb. 10, 2004

Moderator, Telecommunications Roundtable, “Regulatory Federalism: National, Regional, and State Developments,” The Michigan Forum on Telecommunications and Energy Regulatory Policy, Institute of Public Utilities, Michigan State University, Feb. 6, 2004

Panelist, “99 cent Songs and Other Novel Business Models for Digital Assets—Intellectual Property Rights in the Internet Age,” 2004 FuturTech Conference, University of Michigan Business School, Jan. 15-16, 2004

Presenter, "The Network of Contradictions," "Media Law in the People's Republic of China," Section on Mass Communication Law, AALS Annual Meeting, Atlanta, Jan. 5, 2004

Presenter, "The U.S. Copyright Wars Go Global," Department of Intellectual Property, HKSAR Government, Dec. 18, 2003

Presenter, "P2P File Sharing and the Widening Copyright Divide," Law Tech Talk Series, University of Hong Kong Faculty of Law, Dec. 15, 2003

Presenter, "What Broadcasters and Journalists Need to Know About Recent Copyright Law Developments," "Digital News, Social Change & Globalization" Conference, Hong Kong Baptist University, Dec. 11-12, 2003

Presenter, "The Digital Millennium Copyright Act and Its Impact on Cybersecurity Research," MSU CyberSecurity Workshop, Michigan State University, Nov. 15, 2003

Co-organizer and Presenter, "You Downloaded What? The Law, Economics and Ethics of Filesharing," College of Communication Arts & Sciences, Michigan State University, Nov. 13, 2003

Invited Participant, International Symposium on the Information Society, Human Dignity and Human Rights, Palais des Nations, Geneva, Nov. 3-4, 2003

Presenter (in absentia), "The Cat and Mouse Game in China: Rethinking Institutions, Participation and Processes," Workshop on Intellectual Property, Markets and Cultural Flows, New York University, Oct. 24-25, 2003

Presenter, "A Mickey Mouse Ruling for a Mickey Mouse Case: Why *Eldred v. Ashcroft* Does Not Matter," 2003 Work-in-Progress Intellectual Property Colloquium, Tulane Law School, Oct. 17-18, 2003

Presenter, "The Marginal Significance of *Eldred v. Ashcroft* in American Copyright Jurisprudence," Torys LLP Technology Law Speakers Series, University of Ottawa Faculty of Law, Oct. 7, 2003

Presenter, "The Marginal Significance of *Eldred v. Ashcroft* in American Copyright Jurisprudence," 2003 Central States Law School Association Annual Meeting, University of Toledo College of Law, Sept. 19-20, 2003

Invited Participant, Third Annual Intellectual Property Scholars Conference, Boalt Hall School of Law, University of California at Berkeley, Aug. 8-9, 2003

Roundtable Panelist, Intellectual Property Rights (IPR) and Technology Transfer: An International Internship Program, Michigan State University, July 13-18, 2003

Presenter, "Disnetworking Rules in a Networked World," "The Flow of Information and the Electronic Rivers of Cyberspace" & Discussant, "Rivers of Innovation: Intellectual Property Law and the Flow of Creative Works," 2003 Annual Meeting of the Law and Society Association, Pittsburgh, June 5-8, 2003

Conference Co-organizer, "China and the Internet: Technology, Economy, and Society in Transition," University of Southern California, May 30-31, 2003

Presenter, "Disnetworking Rules in a Networked World," "Networked World: Information Technology and Globalization," Santa Clara University, Apr. 25, 2003

Commentator, “World Intellectual Property Organization and the European Union,” 11th Fordham Annual International Intellectual Property and Policy Conference, Fordham University School of Law, Apr. 24, 2003

“The Escalating Copyright Wars,” 2003 Frontiers in Information and Communications Policy Lecture Series, Quello Center for Telecommunications Management & Law, Michigan State University, Apr. 16, 2003

Conference Fellow, “International Public Goods and Transfer of Technology Under a Globalized Intellectual Property Regime: A Law and Economics Conference,” Duke University School of Law, Apr. 4-6, 2003

Presenter, “Inequality in the Global Intellectual Property System,” “Economics and Inequality,” West Teachers of Colors Conference / Conference of Asian Pacific American Law Faculty, Seattle Univ. School of Law, Mar. 21-22, 2003

Conference Organizer and Panelist, “ICANN, ccTLD, and the Legacy Root: Domain Name Lawmaking and Governance in the New Millennium,” Benjamin N. Cardozo School of Law, Yeshiva University, Mar. 17, 2003

Presenter, “Basic Principles of Copyright and Related Rights,” Workshop on International Intellectual Property, WIPO/UNITAR Series on Intellectual Property, WIPO Coordination Office, New York, Mar. 13, 2003

Panel Organizer and Moderator, “That’s All Folks! Or Is It?: A Look at *Eldred* and Its Aftermath,” Benjamin N. Cardozo School of Law, Yeshiva University, Feb. 20, 2003

Presenter, “Four Common Misconceptions About Copyright Piracy,” “International Entertainment Law,” International Law Weekend, Loyola Law School—Los Angeles, Feb. 7-8, 2003

Panel Organizer and Moderator, “China and the WTO: Progress, Perils and Prospects,” Benjamin N. Cardozo School of Law, Yeshiva University, Nov. 14, 2002

Conference Organizer and Moderator, “Patent Law, Social Policy, and Public Interest: The Search for a Balanced Global System,” Benjamin N. Cardozo School of Law, Yeshiva University, Nov. 7, 2002

Conference Organizer and Presenter, “The Copyright Divide: A Comparative Inquiry into the Causes of Copyright Piracy,” Second Annual Intellectual Property Scholars Conference, Benjamin N. Cardozo School of Law, Yeshiva University, Aug. 8-9, 2002

Workshop Director, Inaugural Annual Intellectual Property CLE Workshop, Benjamin N. Cardozo School of Law, Yeshiva University, June 5, 2002

Panel Co-chair and Panelist, “Practicing Intellectual Property Law After China’s Entry into the WTO” and Panelist, “Ramifications of China’s Entry into the WTO,” 2002 Annual Conference of the U.S-China Lawyers Society, Kerhonkson, New York June 1-3, 2002

Panel Co-organizer, “*Eldred v. Ashcroft*: A Preview of the Constitutional Challenge to the Sonny Bono Copyright Term Extension Act,” New York State Bar Association, Weil Gotshal & Manges, LLP, New York, May 22, 2002

Conference Organizer and Moderator, “Creation, Control, and Censorship: The Free Engine of Expression or a Tool of Private Censorship?” Benjamin N. Cardozo School of Law, Yeshiva University, Apr. 15, 2002

Panelist, "The Second Coming of Intellectual Property Rights in China," "Ten Years of Intellectual Property Developments in China and a Look Ahead" *and* Commentator, "Protection for Traditional Knowledge," 10th Fordham Annual International Intellectual Property and Policy Conference, Apr. 4-5, 2002

Presenter, "Basic Principles of Copyright and Related Rights," Workshop on International Intellectual Property, WIPO/UNITAR Series on Intellectual Property, Mar. 25, 2002

Moderator, "Practicing Intellectual Property Law Without a Science Degree," Benjamin N. Cardozo School of Law, Yeshiva University, Mar. 19, 2002

Conference Organizer and Moderator, "Traditional Knowledge, Intellectual Property and Indigenous Culture," Benjamin N. Cardozo School of Law, Yeshiva University, Feb. 21-22, 2002

Panel Organizer and Moderator, "Asian American Lawyers in the Intellectual Property Field," Benjamin N. Cardozo School of Law, Yeshiva University, Nov. 8, 2001

Cofounder and Presenter, "Toward a Nonzero-sum Approach to Resolving Global Intellectual Property Disputes: What We Can Learn from Mediators, Business Strategists, and International Relations Theorists," First Annual Intellectual Property Scholars Conference, DePaul University College of Law, Aug. 9-10, 2001

Panel Co-organizer, "The Napster Litigation: What's Next for Peer-to-Peer Distribution?," New York State Bar Association, Weil Gotshal & Manges, LLP, New York, June 14, 2001

Panelist, "Current Trends in E-Commerce and Intellectual Property," NAPABA Northeast Regional Conference, Skadden Arps Slate Meagher & Flom, New York, May 5, 2001

Panel Organizer and Moderator, "The Fate of Child Pornography Prevention Act of 1996: A Preview of *Ashcroft v. Free Speech Coalition*," Benjamin N. Cardozo School of Law, Yeshiva University, May 1, 2001

Conference Organizer and Moderator, "Copyright Law as Communications Policy: Convergence of Paradigms and Cultures," Benjamin N. Cardozo School of Law, Yeshiva University, Apr. 2, 2001

Conference Organizer and Moderator, "World Trade, Intellectual Property, and the Global Elites: International Lawmaking in the New Millennium," Benjamin N. Cardozo School of Law, Yeshiva University, Mar. 7, 2001

Panel Organizer and Moderator, "Bridging the Digital Divide: Equality in the Information Age," Benjamin N. Cardozo School of Law, Yeshiva University, Nov. 15, 2000

MEDIA COVERAGE

Brock Read, *Record Companies Sue People at 14 Colleges for Alleged Music Piracy*, CHRON. HIGHER EDUC., May 7, 2004, at A33

Alessa Thomas, *Bill Might Make Sharing Files a Felony*, STATE NEWS, Apr 13, 2004

WJIM-AM NewsTalk 1240, Lansing, MI, Mar. 25, 2004 (interview by Jack Robbins on the EU Microsoft antitrust case)

International Scholars to Discuss Intellectual Property Law Issues During MSU-DCL Conference, MSU PRESS RELEASE, Mar. 25, 2004

Julia Hanna, *How Corporate Responsibility Is Changing in Asia*, HBS WORKING KNOWLEDGE, Feb. 23, 2004

MSU-DCL Roundtable Attracts International IP and Communications Law and Policy Scholars, MSU PRESS RELEASE, Feb. 19, 2004

You Downloaded What? Forum to Explore Implications of File Sharing, MSU PRESS RELEASE, Nov. 11, 2003

“File Sharing or File Stealing,” ABC 12 News, Nov. 3 2003

Faculty Spotlight, MSU NEWS BULL., Sept. 25, 2003, at 3

Early Afternoon with Kevin Vandenbroek, AM 590 WKZO, Kalamazoo, MI, Sept. 16, 2003 (interview on Internet file-sharing)

Joseph Montes, *DCL Begins Intellectual Property Classes*, STATE NEWS, Sept. 16, 2003

Bob Keefe, *Music Industry Hits Sour Note, Sues 261 Swappers*, ATLANTA J.-CONST., Sept. 9, 2003, at 1A (also published in AUSTIN AMERICAN-STATESMAN and DAYTON DAILY NEWS)

Michigan State University-DCL College of Law Introduces Intellectual Property and Communications Law Program, ASCRIBE NEWSWIRE, Sept. 8, 2003 (also published in MSU TODAY, Sept. 5, 2003)

Joseph Montes, *Ethics Lecture Program Commences*, STATE NEWS, Aug. 28, 2003

Kirk Yuhnke, *Local Internet Provider Subpoenaed*, FOX 47 NEWS, July 25, 2003

Linda Lin, *China and the Internet Conference at USC*, SING TAO DAILY (USA), May 31, 2003 (in Chinese)

“*The Escalating Copyright Wars*” *Topic of MSU Lecture*, MSU PRESS RELEASE, Apr. 11, 2003

Dan Ackman, *Pirates & Paranoids: Building Blocks of Chinese IP Law*, FORBES.COM, Feb. 11, 2003

David R. Baker, *Cisco Suit Could Test Chinese Intentions*, SAN FRAN. CHRONICLE, Jan. 28, 2003, at B1

International Law Weekend West 2003 Set for February 7 & 8 at Loyola Law School, Los Angeles, LOYOLA LAW SCHOOL, LOS ANGELES PRESS RELEASE, Jan. 27, 2003

The Early Morning Show (with David Lawrence), CNET Radio, October 8, 2001 (interview on cyberterrorism)

EDUCATION

Benjamin N. Cardozo School of Law, Yeshiva University

J.D., *cum laude*, June 1999

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|----------------|--|
| Honors: | Order of the Coif
Executive Editor, <i>Cardozo Law Review</i>
Managing Editor, <i>Post-Soviet Media Law & Policy Newsletter</i>
Assistant Editor, <i>Cardozo Studies in Law and Literature</i>
Dr. Samuel Belkin Scholar
Student Committee Member, ABA Subcommittee on Character Rights (1998-1999) |
| Awards: | Nathan Burkan Memorial Writing Competition, Cardozo School of Law First Prize (sponsored by ASCAP) |

Gerald Rose Memorial Competition, Best Paper on Intellectual Property Law
(sponsored by John Marshall Law School)
Judge John R. Brown Scholarship Foundation Award for Excellence in Legal
Writing, Second Place
Dr. Samuel Belkin Service Award (for exceptional contributions to law school)
Alumni Association Scholarship (awarded upon graduation)

Course Taught: *Post-Soviet Media Law & Policy Newsletter* Workshop (1997-1999) (under the
supervision of Prof. Monroe E. Price)

Research Assts: Prof. Marci A. Hamilton (1997-1999)
Prof. Monroe E. Price (1997-1999)

University of Wisconsin-Madison

B.A., English and Political Science, May 1996

Activities: President, Billiards Club
University Representative of the Big 10 Pool Tournament
University Representative of the ACUI Regional Pool Tournament
7th Annual Wisconsin State Team Championships (1994)
Vice-President, Chinese Students Association (Hong Kong)

BAR MEMBERSHIP

Member, New York State Bar, 2000 – Present