International Journal of Communication 8 (2014), 1516–1535 1932–8036/20140005

How the Copyright Law Was (Not) Made: Intellectual Property and China's Contested Reintegration with Global Capitalism

DONG HAN
Southern Illinois University Carbondale, USA

This article reconceptualizes the history of intellectual property in China since the 1970s, with a focus on the making and amending of the Copyright Law. It argues that intellectual property is a deliberate policy choice and a key part of China's market and media reform. Chinese reformers' pursuit of a Western developmental model as well as the rise of intellectuals and private businesses both contributed to and shaped copyright development, while the roles of ideological conflicts and foreign trade frictions were less significant than generally assumed. This research argues that intellectual property must be conceptualized historically against China's contested reintegration with global capitalism.

Copyright is nothing new to China. At least since the 19th century, the notion of authorship and the practice of paying for writing have been the cornerstone of the publishing industry and have survived even the most anticapitalism, antimarket years after the founding of the People's Republic (Han, 2010). Between 1910 and 1949, China had three copyright laws under different political regimes. How the current copyright law was developed and amended is a new chapter in this long and complex history.

This research works to reconceptualize intellectual property development in China since the 1970s. The focus is on how the statute of copyright (the copyright law) was made and amended. This topic is important not because legal codes are important in themselves, but because the making of the statute was at the center of a historical struggle to re-establish an officially sanctioned system of intellectual property. As part of a contested global process of cultural commodification (Schiller, 2007), copyright growth in China shows significant historical continuity and extensive connections with various social and political economic factors within and beyond Chinese borders. While it takes a much larger project to reconstruct a comprehensive historical account, this research presents preliminary findings and challenges general impressions in order to provoke further discussion and debate.

Four issues are in question. The first is nonconfrontational Western influence and involvement in the making of China's intellectual property system (in contrast to the better-known U.S.-China frictions in

Dong Han, donghanuiuc@gmail.com
Date submitted: 2013–07–31

the 1990s). This is an underresearched yet indispensable issue for understanding copyright in China. The second is the widely cited idea about conflicts between copyright and Chinese political culture and ideology. Contrary to general wisdom, documented opposition to copyright in contemporary China did not invoke either ideology or tradition. The third issue is the role of American pressure. Again, contrary to the general impression, U.S.-China conflicts are not as significant as they may appear. The fourth is the private sector's organized effort to shape copyright policy making in present-day China. In all four issues, the underlying concern is that copyright should not be treated as a package of end-of-history, neutral rules, but should instead be viewed as ever-changing social relationships that are transformed in specific Chinese and global contexts.

Learning from the West

The notion of "learning from the West" started in the mid-19th century when Chinese reformers worked hard to understand and learn from foreigners whose gunboats crushed the confidence and blind arrogance of the Middle Kingdom. Western military and industrial technologies, market institutions, political theories, and legal systems were introduced and played profound roles in China's transformation. The Qing Court made China's first copyright law in 1910 by following Western models. This statute set the foundation for (and shared much in common with) subsequent copyright statutes under different governments, including the current copyright law (Wang, 2006). However, contemporary Chinese lawmakers did not start with China's own history, but instead sought to relearn intellectual property from the West.

The earliest documented endeavor to development intellectual property in post-1949 China took place during the Cultural Revolution. China Council for the Promotion of International Trade (CCPIT), also known as China Chamber of International Commerce (CCOIC), was a "nongovernmental" organization under the Chinese government. Since its founding in 1952, CCPIT established extensive trade relations with many nations and regions, including major Western countries. It oversaw patent and trademark issues in foreign trade and for a long time was the de facto agency in charge of trademark registration in China. With the approval of Premier Zhou Enlai, in 1973 CCPIT accepted an invitation from the World Intellectual Property Organization (WIPO) and sent a small delegation to the WIPO's conference. The CCPIT delegation met with WIPO Director General Árpád Bogsch and visited intellectual property agencies in Switzerland and France. Ren Jianxin, later head of the Supreme People's Court (China's supreme judicial organ), led the CCPIT delegation. Later in his memoir, Ren (2008) called the 1973 visit an eye-opening journey, like (citing Bogsch) "Columbus discovering the new continent" (p. 6).[1] Upon return (and at Bogsch's advice), the delegation suggested making a patent law in their report to the Chinese government (Ren, 1998, 2008; Z. Wang, 2008).

The development of the copyright law started in the late 1970s. In 1978, the UK Publishers Association visited China and urged China to protect copyright. In 1979, the United States and China

[1] The parallel to Columbus is interesting. It is only from a Eurocentric (and capitalist) point of view that someone can claim that Columbus "discovered" a "new" continent. To what extent is contemporary China's transformation similar?

signed two bilateral agreements, one on high-energy physics and another on trade. During negotiations, the United States insisted on including copyright protection in both agreements. Chinese negotiators were clueless, but nonetheless agreed. Seizing the opportunity, the Chinese National Publication Administration sent a report to reform leaders and proposed a copyright law. General Secretary of the Communist Party Hu Yaobang gave his approval, and the National Publication Administration soon started to draft the bill (Shen, 1998; Song, 2007).

It began as a learning project. After Hu Yaobang's approval, the National Publication Administration took five measures to develop copyright.Four of the five measures were about learning from (and working with) other countries, and the other measure was about setting up a drafting team under an expert of English language and international affairs, not copyright. The National Publication Administration contacted Chinese embassies and consulates in nearly100 countries to collect copyright related information from abroad (Song, 2007). Meanwhile, the first generation of intellectual property scholars in China emerged from specialists in foreign relations or international law rather than civil law or economic law (Zheng, 2008), which in many ways relate to intellectual property more closely. At the onset of the "Reform and Open-up", intellectual property was on the priority list for Chinese reformers to learn from the West.

Starting in 1979, copyright officials and scholars from Japan, the UK, the United States, and the United Nations Educational, Scientific and Cultural Organization (UNESCO) came to China to lecture on copyright (Song, 2007). Between 1979 and 1992, the WIPO organized more than 30 training programs in China. The four-week program on patent law in 1980 was unprecedented in the WIPO's history in terms of scale and intensity. Its lecturers included top-rank WIPO officials such as Director General Bogsch as well as speakers from Germany, the UK, and Spain. Lecture notes were later edited into the first set of patent textbooks in China (Guo, 1998; Ren, 2008). After 1982, 16 (about half) of the WIPO training programs were devoted to copyright (G. Liu, 2008). Meanwhile, many Chinese went abroad for long- or short-term training and education, some of which were funded by the WIPO (Song, 2007; also see Yuan, 2007). The majority (if not all) of China's first generation of intellectual property officials and researchers took part in these training programs and trips. Many of them later became important policy makers.

Árpád Bogsch played a key role in WIPO's involvement in China and gradually became China's de facto primary consultant on intellectual property. In the early 1980s, Bogsch made frequent visits to China, meeting with reform leaders as well as local officials (Z. Wang, 2008). Before the patent and copyright laws were passed, Chinese visitors took the bills to him and discussed them word-by-word (Guo, 1998; Yuan, 2007; G. Liu, 2008; Yuan'guo Zhao, 2008). Bogsch was also extensively involved in the making of the trademark law (Wu, 1998). China in the 1980s was not known for transparency in politics, and consulting a U.S. passport holder who had defected from Hungary was by no means politically insignificant. Nonetheless, Bogsch's influence reached far and deep. At his suggestion, Renmin University (a top-rank Chinese university that channels most of its graduates to party and governmental positions) set up the Intellectual Property Teaching and Research Center and created a doctoral program in intellectual property. Many other Chinese universities soon followed suit (Yuan, 2007).

This piece of history is a sharp contrast to widely publicized U.S.-China frictions during the 1990s and beyond. Headquartered in Switzerland, the WIPO was the major conduit through which Chinese reformers learned from Western countries. Objections to intellectual property broke out occasionally at home, but copyright was largely spared. Before the patent law was passed in 1984, opponents argued that it was "a vain attempt to use a single model of the West to solve developmental problems in China's science and technology" (Z. Wang, 2008, p. 355). During a training session in 1981, someone from the audience confronted the lecturing Bogsch and said that a patent system in China would only benefit Western countries (ibid.). Several times Deng Xiaoping personally intervened to overcome opposition to the patent law (Yuan'guo Zhao, 2008). However, the story of copyright was different. The debate on copyright focused on strategy-related issues rather than the legitimacy of copyright under China's political system. Counterintuitive as it may sound, no records remain to show significant opposition to copyright itself.

Debating Copyright

It is generally agreed that developing the copyright law in contemporary China involved protracted debates. Some argue that there is a deep-rooted conflict between copyright and Chinese culture and ideology: Both Confucianism and socialist ideology see culture as public and social, and are thus fundamentally in opposition to copyright as private property. In addition, China's political system and culture are at the center of the problem:

> A system of state determination of which ideas may or may not be disseminated is fundamentally incompatible with one of strong intellectual property rights in which individuals have the authority to determine how expressions of their ideas may be used and ready access to private legal remedies to vindicate such rights (Alford, 1996, p. 119)

Following this line of reasoning, it may be logical to expect that copyright's legitimacy (rather than pragmatic concerns) would have been the core of the objections. However, a review of the debates from the late 1970s up to the passage of the law in 1990 finds the opposite. These debates centered on second-tier strategy-related issues.

This research examines two issues from the debates. One was "the biggest problem in drafting the copyright law" (Song, 2007, p. 422), according to the former director of the National Copyright Administration. Another directly addresses the problem of political control: censorship and copyright.

The first issue, which forfeited China's opportunity to pass the copyright law in the 1980s (and before significant American pressure), was an disagreement between governmental organs on how much copyright would cost China. Lawmaking in contemporary China typically starts with a governmental agency. It drafts the bill and then submits it to the State Council, the cabinet-like central executive organ. The State Council reviews and submits the bill to the National People's Congress (NPC), the national legislature. The NPC reviews the bill and passes it into law. Before NPC passage, all versions of the bill are referred to as "draft," or *cao'an* in Mandarin. In 1980, the first draft of the copyright law was finished at

the National Publication Administration, which was later merged into the Ministry of Culture. The Ministry of Culture renamed the bill the Provisional Measures of Copyright Protection and submitted it to the State Council in 1983. The State Council did not immediately submit the draft to the NPC, but spent two years establishing an administrative organ, the National Copyright Administration of China (NCAC) (C. Liu, 2008; Shen, 1998; Song, 2007). In 1986, the busy NPC enacted General Principals of Civil Law, which outlined general principals of copyright protection and in effect declared copyright's legitimacy in China's newly minted and market-oriented legal system. Shortly afterward, the copyright law was on the verge of passage.

On April 25, 1987, the Communist Party's mouthpiece paper, *People's Daily*, reported that the State Council was about to submit the draft of the copyright law to the NPC. High-profile media coverage demonstrated copyright proponents' optimism, which soon met with a heavy blow. Four months later, four ministries and governmental agencies jointly submitted a report to the State Council asking to table the legislation. They argued that the copyright system would force Chinese educational and research institutions to make huge payments to foreign copyright owners, whose textbooks were widely used in China. The report estimated that copyright-related expenses would amount to US$600 million per year, which would be "devastating to scientific research and education" (Song, 2007, p. 422). Consequently, the bill was stalled until October 1988, when the NCAC countered with a drastically lower estimate of US$3 million annually (Yuan, 2007; Song, 2007). During this dramatic turn of events, the opponents' most powerful weapon was not ideological or cultural assertions, but pragmatic calculations about expenses. If I may draw a parallel between China in the early 1980s and the United States in its early days of industrial development (Ben-Atar, 2004), these adversaries of the law did not sound like ardent socialists, but instead appeared to be sophisticated learners of the West. The bottom line, not the political line, was the key that swayed decision makers.

The second issue addresses the conflict between political control and copyright freedom/author control. Censorship was indeed a big problem, but the dispute and its resolution did little to substantiate liberal-democratic assumptions of intellectual property. Shortly before the NPC passed the copyright law in 1990, NPC representatives had sharp debates regarding copyright protection for subversive/seditious writings. This was one year after Tiananmen Square and the memories were fresh. Some representatives asked to add an article to exclude "reactionary" works from copyright protection, arguing that the law should not protect those who are against the Communist Party. Copyright proponents contended that copyright was about benefits in relation to publication and distribution; content should be governed by other statutes—for example, publication regulations. In the debate, neither side challenged the legitimacy of either copyright or censorship. They only disagreed on where to set up the censorship mechanism. Their compromise resulted in Article 4 of the Copyright Law of the People's Republic of China (1990): "Works that are legally prohibited to publish or distribute are not protected by this Law. The exercise of copyright should not violate the Constitution and Laws, and should not infringe public interest" (C. Liu, 2008; Shen, 1998; Song, 2007). In other words, the copyright of censored/censorable works is not protected. Copyright exists under political control, not against it.

In an interesting postscript, Article 4 came under Western scrutiny when the United States filed an intellectual property complaint with the World Trade Organization (WTO) in 2007. The problem was not

whether Article 4 restricted author control or how censorship contradicted the spirit of copyright. Instead, the issue was about "Art. 4 of China's Copyright Law which denies protection and enforcement to works that have not been authorized for publication or distribution within China" (China—Intellectual Property Rights (DS362), 2010, para. 5). In other words: Under China's media import control, did a foreign media company own the copyright of its products that were not (yet) approved to enter the Chinese market but were "pirated" nonetheless?

A well-known Chinese scholar believes that American worries were simply a misread of the law (C. Liu, 2008). Prior cases and court proceedings have made it clear that Article 4 is only about content control, not administrative procedures (Li, 2010; Wang, 2009). Nevertheless, in 2010 China amended Article 4, which now reads: "The exercise of copyright should not violate the Constitution and Laws, and should not infringe public interest. The state supervises and regulates the publication and distribution of works in accordance with the law" (Copyright Law of the People's Republic of China, 2010, para. 14). Jiang Zhipei, former head of the Intellectual Property Department of the Supreme People's Court, points out that the revision does not in any way change publication regulation in China (Gao, 2010).

Starting from Hu Yaobang's approval in 1979, it took 11 years to develop the copyright statute. According to Wang Hanbin, former director of the Legal Commission of the NPC, "The Copyright Law is the most complicated one among all bills reviewed by the Standing Committee of the NPC. It regulates the broadest array of social relations and took the longest time to review" (Shen, 1998, p. 33). Given the influence of some research, it is very tempting to attribute disagreements in lawmaking to cultural or ideological reasons. However, neither the historical research (e.g., Li & Chang, 2007) nor insiders' memoirs (e.g., C. Liu, 2008; Shen, 2008; Song, 2007) uncovers any significant challenges to copyright on political grounds.[2] Of course, this is not to argue that Chinese political culture or socialist values are compatible with copyright; instead this highlights the importance of contextualizing intellectual property in specific historical circumstances. Regarding the lack of ideology-driven opposition to the copyright law—were the opponents so marginalized that even their presence has been cleansed from official records, or did they have to legitimize their objection through pragmatic arguments? Had the ideological battle already been fought and lost (or won)? Can we conclude that, when the copyright law was on the agenda, Chinese elites had already reached a consensus of support? And how did this shed light on China's widely publicized face-off with the United States in the following decades?

Between Beijing and Washington

U.S.-China conflicts about intellectual property have been extensively researched but two questions remain insufficiently analyzed. First, what is the role of American pressure in China's copyright growth, which was initiated years earlier and led by domestic elites? Second, how should China's "resistance" to American demands be conceptualized against the background of global political economy

[2] Perhaps the only relevant clue comes from the debate on whether high *gaochou* (or *gaofei*, manuscript remunerations paid to writers) would give birth to new capitalists (Li & Chang, 2007). However, the debate took place early and soon disappeared, and no record shows similar arguments were made specifically in relation to copyright.

and China's transformation? To both questions, this research suggests counterintuitive answers. First, conflict with the United States was a half-way intervention, and its impact was very limited from a longer historical perspective. Second, Beijing and Washington shared much in common in intellectual property. Their common ground, not their conflicts, was more attention worthy, both historically and globally.

Although the United States insisted on copyright protection in its agreements with China in 1979, it did not express intellectual property concerns to China until 1985 (Maruyama, 1999; Yu, 2002). Yu (2002) argues that the United States in the early 1980s was eager "to lure China into the 'family of nations'" (p. 8). Maruyama (1999) notes that U.S.-China trade was limited at the time, and intellectual property did not cause many problems. However, American indifference was not confined to its relations with China—the United States did not play an active role in intellectual property on the global stage until 1982 (Sell, 2003). The turn in American policy was part of a profound change in global capitalist political economy, with the United States as the leading player.

The 1970s and onward witnessed the rise of neoliberalism and the ascending role of communication industries in Western economic growth (Harvey, 2005; McChesney & Schiller, 2003). Capitalism's centuries-old pursuit of new markets intensified in the cultural and information sectors and spurred a new round of growth (Schiller, 2007). Meanwhile, in the West intellectual property became the cornerstone for cultural industries through a long, contested historical process (May & Sell, 2006; Vaidhyanathan, 2001). Reflected in statistics was the increasing share of copyright industries in the U.S. economy. Data from the International Intellectual Property Alliance (IIPA, an industrial organization representing American cultural and information businesses) show that "total copyright industries" accounted for 11.25% of the U.S. economy in 2012 (Siwek, 2013).

At the same time, the U.S. trade deficit witnessed a dramatic increase, rising from $US6.1 billion in 1976 (after which the United States never gained a surplus) to $US752.4 billion in 2006 (the highest point) and falling back to $US474.9 billion in 2013 (United States Census Bureau, 2014b). The deficit with China (always part of the discussion on intellectual property) increased from $US4.5 billion in 1980 to $US318.4 billion in 2013, more than two-thirds of American deficit total (United States Census Bureau, 2014a; United States General Accounting Office, 1995, p. 3; *The U.S.-China intellectual property rights agreement*, 1997, p. 6). For U.S. politicians, exporting intellectual property products to the rest of the world (including China) could both balance foreign trade and please media and information businesses at home. Politico-economic transformations and global power relations thus translated into bilateral pressure on intellectual property.

On China's side, the 1970s began with Nixon's surprise visit and ended with Deng Xiaoping in power and the start of the market reform. Western markets, capital, and technology gradually became key to China's economic growth. This was the context in which Chinese reformers faced U.S. trade threat in the 1980s and 1990s. In truth, U.S. trade sanctions were nothing new to China—they had been in place soon after the founding of the People's Republic in 1949—but the new sanctions had a much greater impact.

The United States formally linked intellectual property to trade in 1984. Under Section 301 of the Trade Act of 1974, the United States could impose a trade sanction on a foreign country that conducted "unreasonable" trade practices as determined by the U.S. Trade Representative (USTR). In 1984, the Trade and Tariff Act amended the Trade Act and redefined "unreasonable" trade practice to include intellectual property issues. In 1988, the Omnibus Trade and Competitiveness Act further amended Section 301 and created the so-called Special 301, which authorized the USTR to designate "priority foreign countries"—that is, countries with serious intellectual property problems that refused to enter into "good faith" negotiations. In the following decade, Special 301 forced China into four agreements on intellectual property. The first one, in 1989, largely unknown, was particularly noteworthy not only as the first agreement but also because of its unique global context.

In Chinese and world history, 1989 was an eventful year. Months before the Berlin Wall fell and two weeks before Tiananmen Square, American and Chinese negotiators put ink on the U.S.-China Memorandum of Understanding on Enactment and Scope of PRC Copyright Law in Beijing. The U.S. government was reluctant to disclose background information of the negotiations (Alford, 1995), but the content of the memorandum of understanding (MOU) was no secret. In order to be removed from the priority foreign countries list, Chinese negotiators made a number of promises, including submitting the copyright bill to the NPC within the year and protecting computer software under copyright (Li, 2000). In spite of drama in bilateral relationships and international politics in the following months, China kept its promises. Among other things, the State Council submitted the copyright bill to the NPC by the end of 1989, and the law was passed the following year with a section to protect software products.

American pressure continued in the 1990s and produced three better-known agreements: the 1992 MOU, the 1995 MOU, and the 1996 Accord. American negotiators boasted of their influence and power. According to former USTR Michael Kantor, after the 1995 MOU American and Chinese governmental officials met 18 times in 11 months, "clearly the most intense set of meetings we have ever had with any country on any trade agreement in American history" (*The U.S.-China intellectual property rights agreement*, 1997, p. 7). But what about their Chinese counterparts? Were they dragged into it because trade with the United States was so important, or did they actually believe in intellectual property and were serious about solving the "problem"? Neither way (or both) can be taken for granted given China's revolutionary past, previous policy on self-reliant development, and present-day determination to keep out of international resistance to intellectual property.

A number of facts point to Chinese reform leaders' sincerity and eagerness to develop intellectual property, including research on "piracy" and law enforcement issues (e.g., Mertha, 2005). Indeed, did China ever counter American pressure on the basis of non-Western ideological or cultural interpretations of intellectual property? On the contrary, China more than once declared that it was in line with the West. During a visit to the United States in 2008, Chinese Vice Premier Wang Qishan wrote in *The Wall Street Journal*, "On IPR [intellectual property right], China has managed to accomplish in 30 years what took Western-developed countries more than 100 years" (Q. Wang, 2008, p. A23). In a similar vein, a Chinese researcher on intellectual property and Sino-U.S. relations stated,

> The protection of intellectual property is an issue that receives intense attention from the US. It is also a problem that China needs to solve step-by-step in its Reform and Open-up. It is only a matter of time that China took measures to protect intellectual property, thus China and the US share much in common in this regard. (Ling, 2007, p. 233)

To review U.S.-China frictions: Did they take place between deadly enemies or unhappy fellows?

Amending the Law in the 2010s: New Initiatives, New Players

The making and amending of China's copyright law did not only predate American pressure; it also outlived it. In 2011, the National Copyright Administration of China (NCAC) launched an effort to amend the copyright law for the third time. After its passage in 1990, the copyright law was amended in 2001 and 2010, respectively. The first was to comply with the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) under the WTO. The second was in response to the U.S. complaint filed with the WTO and settled in 2009 (mentioned above). The third, still unresolved, was initiated domestically without pressure from abroad.

This project amending the copyright law was part of China's developmental and cultural policies in the 2000s and early 2010s, when the Chinese party state repeatedly stated its intention to promote industrial growth in cultural and media sectors and to utilize intellectual property for that purpose. In 2006, the Party's Central Committee and the State Council jointly issued the first long-term national plan to develop the cultural sector, National Cultural Development Plan during the Eleventh Five-Year Plan (*guojia shiyiwu shiqi wenhua fazhan gangyao*), with an emphasis on cultural industries and intellectual property. In 2009, the State Council promulgated The Plan to Invigorate Cultural Industries (*wenhua chanye zhenxing guihua*). According to the *People's Daily*, this plan formally recognized cultural industries as one of China's strategic industrial sectors ("Tuidong wenhua chanye zhenxing de zhongda jvcuo," 2009). In March 2011, China laid out its Twelfth Five-Year plan, which placed communication sectors at the core of its new growth model (Hong, 2011). The project amending copyright law was started only four months later. According to Wu (2012), a leading intellectual property scholar and an insider on the copyright law project, this was perfectly in-line with state policy to establish legal protection for the growth of cultural trade and industries.

This copyright law project was also more "open" than the previous two. As mentioned previously, a law in China (whether creating a new law or amending an existing one) typically starts from a governmental agency—in the case of copyright, the NCAC. It is also typical for the NCAC to seek comments from other governmental agencies in the drafting process. However, things were somewhat different for this project. The NCAC did not draft the bill by itself, but instead asked leading scholars in universities/research institutions to separately produce three "expert drafts," which were then combined. In addition, the NCAC not only sought feedbacks from governmental agencies, but also published the bill on its official website and invited everybody to comment. Although publishing law bills and policy documents was nothing new after China's Open Government Information Regulations came into effect in

2008, the repercussions of the new copyright bill were huge (and probably beyond expectation) and shed light on new trends in the making of China's communications law and policy.

The NCAC first published a draft bill in March 2012, which in effect rewrote the copyright law and laid out new chapters and articles. Modeled from the expert drafts penned by scholars, part of the bill looked ill-suited and impractical to industrial insiders (Interview with Chinese media professional, February 2013). The private music sector revolted against several provisions. Well-known music producers and songwriters spoke up through media and Internet outlets including blogs and Twitter-like microblogs, which were increasingly popular and influential in the Chinese media landscape. One of the major targets for critics of the bill was Article 46.

Article 46 of the new bill created a compulsory license for musical works. Under the compulsory license, three months after a sound recording is distributed, anyone can use its songs to produce new sound recordings. No authorization is needed, and the only obligation is to pay copyright collecting societies, which will then forward the payment to rights owners. For a recording company, this means it can only have exclusive control over a song for three months, regardless of the terms and conditions negotiated with the songwriter. Researchers argued that Article 46 served multiple purposes. First, this would prevent a monopoly and allow small recording companies to use musical works owned by big labels. Second, it could prevent recording companies from wielding their market power to force individual musicians into long-term, unequal contracts. Third, given the yet-to-mature copyright market in China (and the difficulties in locating rights owners), it could help good-faith users to use music legally as well as help songwriters get remunerated (Yang, 2013; Zhang, 2012; Zhong, 2012). Music producers disagreed and argued that three months was too short a timeframe to recover investments. They claimed that Article 46 would result in massive copying and would ruin music production and industry in China. Some songwriters also argued that the article would deprive them of control over their work. Many of the producers and songwriters were well-known figures, and their arguments created remarkable publicity.

Meanwhile, a semigovernmental organization, the China Audio & Video Association's Sound Recordings Committee, played a key role in uniting the private music sector. Also known as Chang'gongwei in Mandarin, the Sound Recordings Committee is a special committee under the China Audio & Video Association (CAVA), a trade association under the Chinese government. According to CAVA's official website, Chang'gongwei's task is to "unite music recording corporations and personnel of various ownerships and funding sources"[3]—that is, to recruit and support private corporations in the industry. Chang'gongwei's Board of Directors, elected in 2011, included several members from private corporations, and their governmental/private sector dual identity gave their probusiness opinions "official" status. One month after the copyright bill was published, Chang'gongwei and the Pop Music Society of the Chinese Musicians Association, another national organization under the government, held a joint press conference and vehemently criticized several provisions, including Article 46 (Li, 2012). The pressure from media publicity and two governmental/private organizations soon put the NCAC on the defensive. After a brief resistance that cited antimonopoly considerations and Western practices (Qu, 2012; Zhong, 2012), the NCAC gave in and removed Article 46.

[3] See http://www.chinaav.org/Web/Articles.aspx?artid=0000007195.

The drama surrounding Article 46 is noteworthy in several ways. First, the article promoted an antimonopoly, proindividual policy that did not exist in China's copyright system before. Proposed by experts and endorsed by the NCAC, Article 46 showed a governmental agency's willingness (though not determination) to incorporate some business-unfriendly elements into the law. Some viewed it as "a proposal to change the law, which will benefit songwriters, performers as well as the public, and is in conformity with international conventions and major international legal theories" (Wang, 2012, p. 2). It is an interesting contrast to probusiness, antilabor transformation of copyright practices in state media corporations (Han, 2012). However, the swiftness with which the NCAC abandoned Article 46 was remarkable. Was the Chinese government becoming more open to "public" opinion, or was the private music sector becoming formidable in policy making? It is of course debatable whether Article 46 would really have worked in Chinese industrial and contemporary contexts (see Dai, 2012; Yang, 2013; Zhang, 2012; Zhong, 2012), but the interaction between the aggressive private sector and the wavering NCAC did not show any signs of cautious deliberation and rigorous scrutiny in the removal of the article.

Second, the music industry and popular artists worked in a well-coordinated manner challenging Article 46. Chang'gongwei as a government-sponsored organization staffed with private entrepreneurs quickly emerged as a major voice in the debate and prevailed. It is perhaps premature to assert that the Chinese state (or some governmental agencies) had forged an alliance with the private sector. Yet the orchestrated opposition to Article 46 and the blurred identity of Chang'gongwei cannot be taken lightly in contrast to the NCAC's determination *not* to represent public interest. In a press conference, the head of the NCAC's legal department stated that the NCAC did not represent *any* interests but worked to coordinate and to balance them (Qu, 2012). Yet in the absence of bottom-up labor or public organizations, where is the middle ground between the private sector and the public?

A third point of note is that a number of celebrity songwriters and musical artists spoke up against Article 46. Their fame helped their (sometimes flamboyant) opinions make news headlines and flood social media. Dry analyses and counter-arguments from a few scholars and NCAC officials were much less attention grabbing. At the same time, ordinary songwriters' voices were barely audible. Indeed, if Article 46 could prevent unequal copyright transfers to recording companies, nonelite songwriters without the negotiating leverage of celebrities would need it most. How does this inform the conceptualization of public and media opinions in the making of the copyright law?

How the Copyright Law Was (Not) Made

These four issues do not cover all aspects of intellectual property growth in China, but they give rise to questions that can only be addressed by taking longer and broader perspectives. For example, if copyright growth in China is initiated and pushed by Chinese elites, how do we understand this "domestic" move against either China's market reform or the transforming global communication landscape? Is copyright by definition loaded with liberal democratic values, or is it conditioned by (and contributing to) specific historical circumstances?

The copyright law's origin in the 1970s may seem odd not only in the face of widely publicized stories of "piracies" in the 1990s, but also against the larger history of Chinese market and law reform. Why was copyright on the reform agenda so early? It must be pointed out that laws of *intellectual*

property in China were made decades before the law of property. The trademark law, the patent law, and the copyright law were passed in 1982, 1984, and 1990, respectively. The property law was passed in 2007. In other words, output of *intellectual* labor had long been recognized as privately controlled and tradable before "nonintellectual" labor. What made the former stand out?

According to Shen (1998), the drafter of the first copyright bill and later head of the NCAC, it was in response to authors' and artists' request that the copyright law was put on the agenda in the late 1970s. Li (2007) documents how several distinguished writers and scholars pushed hard for a copyright law. In the late 1970s, Chinese intellectuals (a loosely defined term that includes people in the academia as well as "cultural workers" in state agencies—e.g., writers, musicians, and artists) were moving up the social ladder, reversing the trend after 1949. Many of them expected to restore their social rank from the prerevolutionary era and became allies with the reformers (Wang, Li, & Wang, 2003). A good index to their rise is their increasing membership share in the NPC in the early 1980s. According to the *People's Daily*, 11.99% of all NPC representatives in 1975 were intellectuals. Yet in 1983, the percentage had almost doubled at 23.5% ("Lijie Quanguo Renmin Daibiao Dahui daibiao goucheng tongjibiao," 2004). In addition, the practice of *gaochou* (manuscript remunerations) was rekindled and the rates of *gaochou* rose quickly (Li, 2007). Meanwhile, the reimported notion of intellectual property and the new market-oriented ideology worked together and induced the seamless transition from "respecting somebody's intellectual work" to "granting them property control." Former NCAC director Song Muwen stated:

> Under the instruction of Deng Xiaoping theory, respect for knowledge and talented people was on the rise, and intellectuals' creative labor began to win respect and attention from the society. *Inevitably*, the protection of intellectual property appeared on the agendas of the Party, the state, as well as relevant governmental agencies. (Song, 2007, p. 413, emphasis added)

This probably best reflects the "political culture" in regard to copyright at the time.

Given China's pursuit of copyright growth, it was not the United States' opponent on the battlefield of intellectual property. As a matter of fact, both countries desired to strengthen their bond in a larger geopolitical picture. According to Yu (2008), the United States always treated intellectual property as a second-tier issue in its relation with China, placed after national security and even other trade issues (e.g., currency exchange rates). Likewise, China had bigger things to worry about, including human rights and the Taiwan issue (Ling, 2007). For both countries, intellectual property issues with few "real" disagreements (yet significant publicity potential) served as convenient bargaining chips. In the 1990s, U.S.-China negotiations on intellectual property were always full of drama, yet the two countries never failed to reach agreements (if only at the last minute). Of course, this does not mean that the United States was insignificant in China's intellectual property growth. Quite the contrary: The United States played a leading role in the commodification of information and culture, the aggressive expansion of a global intellectual property regime, and the neoliberal ideological shift, all of which conditioned and contributed to China's social transformation and copyright growth. Yet decontextualized U.S.-China trade frictions do not help to understand this history.

The Chinese state's proactive role in building intellectual property has been consistent. Even in the most pressing times before WTO accession, China still managed to revise its copyright law to meet domestic and local conditions rather than solely to meet WTO standards (Yu, 2006). In 2009, the intellectual property dispute between the United States and China in the WTO was settled with a tie, a sharp contrast to U.S. victories at the negotiating table in the previous decade. Additionally, the settlement highlights how U.S. trade threats (like those in the 1990s) may cease to work: Under TRIPS, China has no obligation to allocate more resources to intellectual property than to other areas of law enforcement, thanks to a TRIPS section insisted on by India during negotiations (Yu, 2011). It needs noting that this is after a one-size-fit-all intellectual property regime has already been established under a global trade organization. Still, it is probably safe to say that Chinese reformers today do not feel that they are being pushed around as much as they were in the 1990s. This is the international context in which they initiated, in 2011, the third project to amend the copyright law.

Saying that the law was "amended" is actually not accurate: The law was literally being rewritten. This is again a top-down project initiated at the nod of then-premier Wen Jiabao (reminiscent of Party Secretary General Hu Yaobang in 1979). However, the NCAC's move to ask researchers in academia to draft the new law was novel. It is possible that the NCAC wanted someone who was not directly involved in the tangled rivalry between governmental agencies to draft the law from a detached third-person perspective. Memories must have still been fresh about the tug-of-war between the NCAC and the State Administration of Radio, Film and Television (SARFT), which represented state-owned broadcasters, regarding broadcast music royalties (Han, 2011a). It is also possible that the NCAC hoped to draw on academic research in universities and research institutions, since rapid changes in global industrial practices and technology were growing beyond the grasp of its own understaffed team. Whichever the case, the NCAC demonstrated a willingness to involve nongovernmental organizations and individuals in the lawmaking process.

Of course, it would be naïve to believe that the NCAC's gesture to invite public participation would be suffice to ensure that the copyright law was democratically deliberated and free from political wrangling. Given the earlier history of the law, it is possible that the real battle began only after the NCAC submitted the bill to the State Council. The private music sector's influence in shaping the copyright bill is neither an applaudable triumph of transparent policy making nor an indication of the full-fledged dominance of market powers. In addition, the dynamics of contestation may be different in other media sectors—for example, broadcasting, since private companies played key roles in the music sector (Montgomery, 2009). Nevertheless, the fight over Article 46 is significant for the opportunity it provides to peek into the shifting power relations and emerging alliance between ostensibly disparate political and economic powers. In this case, the attention-grabbing media and online campaigns, the semiofficial status of private music businesses, the collaboration with a government-affiliated trade association (the Chinese Musicians Association), and the easily-bent business-unfriendly policy motives all hint at new dynamics in China's communications landscape.

Space constraints prevent providing a comprehensive historical account here; the goal instead is for this article to serve as a stepping-stone for future research. Copyright (and other forms of intellectual property) is one dimension of a long, global process of cultural commodification (Schiller, 2007). The

history of copyright law in contemporary China must be contextualized against China's much-contested reintegration with global capitalism (Yuezhi Zhao, 2008). Due to the scope of this research, discussions here are mostly devoted to elites and reformers, who are relevant not because of their power but as part of the bigger picture. It needs noting that bottom-up resistance played important roles in the development of copyright in China (Han, 2011b, 2012). Moreover, social contestations that do not specifically address intellectual property may also impact China's copyright and cultural policy. As of the time of writing, copyright in China is making interesting turns (again). The new copyright bill is now stalled. After the widely publicized debate in 2012, the bill went to the State Council at the end of the year, but never moved to the NPC. In March 2014, the NPC removed the copyright law from its annual legislative agenda, a significant change from 2013 when the law was listed (as a second-tier project before the bill even came over). Apparently the new copyright law is not going to pass anytime soon. It is possible that this is part of a new round of wrangling between governmental agencies—the restructuring of the central government in 2013 might have injected new dynamics to old struggles. Among other things, two long-term rivals had come under one roof: The General Administration of Press and Publication (of which the NCAC was a part) and the SARFT merged and became the State Administration of Press, Publication, Radio, Film and Television. In addition, it may also be possible that the delay of the copyright law is part of a larger policy shift in China's cultural and communication sectors. The project to amend the copyright law was signed off on by former Premier Wen Jiabao against the backdrop of all-out promotion of industrialized cultural growth. Yet it remains to be seen whether the new Xi Jinping/Li Keqiang administration will clone their predecessors' cultural and developmental policies in the face of intensified social unrest. Since the 1970s, intellectual property has always been at the center of China's market and media reform and can only make sense against larger, historical contexts.

References

Alford, W. (1995). *To steal a book is an elegant offense: Intellectual property law in Chinese civilization*. Stanford, CA: Stanford University Press.

Ben-Atar, D. S. (2004). *Trade secrets: Intellectual piracy and the origins of American industrial power*. New Haven, CT: Yale University Press.

China – Intellectual Property Rights (DS362). (2010). Retrieved from http://www.wto.org/english/tratop_e/dispu_e/cases_e/1pagesum_e/ds362sum_e.pdf

Copyright Law of the People's Republic of China, Standing Comm. Nat'l People's Cong., Sept. 7, 1990, effective June 1, 1991, in Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui Gongbao [Standing Committee Gazette], No. 4, (1990). Retrieved from http://www.npc.gov.cn/wxzl/gongbao/1990-09/07/content_1479238.htm

Copyright Law of the People's Republic of China, Standing Comm. Nat'l People's Cong., Sept. 7, 1990, amended Feb. 26, 2010, effective April 1, 2010, in *Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui Gongbao* [Standing Committee Gazette], No. 2, (2010). Retrieved from http://www.npc.gov.cn/wxzl/gongbao/2010-05/10/content_1580456.htm

Dai, G. (2012). "Zhizuo luyin zhipin de fading xvke" zhidu chutan: Jianping woguo Zhuzuoquan Fa 2012 nian xiugai cao'an di 46 tiao [A discussion on the compulsory license for sound recordings: On Article 46 of the 2012 copyright bill]. *Jingji Yanjiu Daokan, 2012*(17), 177–178.

Gao, Y. (2010, March 1). Chilai de Zhuzuoquan Fa xiuding [The late coming amendment of the copyright law]. *Xinshiji, 9*, 73–74.

Guo, S. (1998). Gaige kaifang yilai zhishi chanquan de jiaoxue yanjiu: Xuehai pianduan zhuiyi [Recalling intellectual property teaching and research since the Reform and Open-up]. In C. Liu (Ed.), *Zhongguo zhishi chanquan ershi nian (1978–1998)* [Intellectual property system in China (1978-1998)] (pp. 199–209). Beijing, China: Zhuanli Wenxian Chubanshe.

Han, D. (2010). Can I own my writings and sell them too? A brief history of copyright in China from the Late Qing era to Mao's China. *Chinese Journal of Communication, 3*(3), 329–346.

Han, D. (2011a, November). *Domestic initiatives and global contexts: Reinventing copyright law in contemporary China.* Paper presented at the meeting of the National Communication Association, New Orleans, LA.

Han, D. (2011b). "Use" is an anagram of "sue": Cultural control, resistance, and the role of copyright in Chinese cyberspace. *Global Media and Communication, 7*(2), 97–113.

Han, D. (2012). Copyrighting media labor and production: A case of Chinese television. *Television & New Media, 13*(4), 283–306.

Harvey, D. (2005). *A brief history of neoliberalism.* New York, NY: Oxford University Press.

Hong, Y. (2011). Reading the Twelfth Five-Year plan: China's communication-driven mode of economic restructuring. *International Journal of Communication, 5*, 1045–1057.

Lijie Quanguo Renmin Daibiao Dahui daibiao goucheng tongjibiao [Statistics chart of representative compositions of every National People's Congress]. (2004). Retrieved from http://www.people.com.cn/GB/14576/15117/2350775.html

Li, G. (2012). Wei yinyueren de zunyan yu quanyi fasheng [To speak up for the dignity and rights of musicians]. *Renmin Yinyue, 2012*(5), 28–29.

Li, M. (2000). *Tebie 301 tiaokuan yu zhongmei zhishi chanquan zhengduan* [Special 301 and Sino-U.S. intellectual property disputes]. Beijing, China: Social Sciences Academic Press.

Li, M. (2007). Xinshiqi banquan baohu de fusu he jianzhang lizhi baohu de zhunbei [The revival of copyright protection and the preparation for lawmaking in the new era]. In M. Li, & Q. Chang (Eds.), *Zhongguo dangdai banquanshi* (pp. 113–166). Beijing, China: Intellectual Property Publishing House.

Li, M,. & Chang, Q. (Eds.). (2007). *Zhongguo dangdai banquanshi* [The history of copyright in contemporary China]. Beijing, China: Intellectual Property Publishing House.

Li, Y. (2010). Weijing pizhun de jingwai zuopin de baohu: Jianping woguo Zhuzuoquan Fa di 4 tiao di 1 kuan [The protection of unapproved foreign works: Analyzing Chinese copyright law, article 1]. *Dianzi Zhishi Chanquan, 2010*(1), 60–63.

Ling, J. (2007). *Zhishi chanquan yinsu yu zhongmei guanxi: 1989–1996* [The intellectual property factor and Sino-US relation: 1989–1996]. Shanghai, China: Shanghai Renmin Chubanshe.

Liu, C. (2008). Zhuzuoquan Fa qicao ersanshi [A couple things about drafting the Copyright Law]. In Zhishi Chanquan yu Gaige Kaifang Sanshi Nian Bianweihui (Ed.), *Zhishi chanquan yu gaige kaifang sanshinian* [Thirty years of intellectual property and the reform and open-up] (pp. 471–480). Beijing, China: Intellectual Property Publishing House.

Liu, G. (2008). Zhongguo jiaru guoji banquan gongyue de qianqianhouhou [Before and after China's accession into international copyright conventions]. In Zhishi Chanquan yu Gaige Kaifang Sanshi Nian Bianweihui (Ed.), *Zhishi chanquan yu gaige kaifang sanshi nian* [Thirty years of intellectual

property and the reform and open-up] (pp. 443–456). Beijing, China: Intellectual Property Publishing House.

Maruyama, W. H. (1999). U.S.-China IPR negotiations: Trade, intellectual property and rule of law in a global economy. In M. A. Cohen, A. E. Bang, & S. J. Mitchell (Eds.), *Chinese intellectual property law and practice* (pp. 165–212). The Hague, The Netherlands: Kluwer Law International.

May, C., & Sell, S. K. (2006). *Intellectual property rights: A critical history*. Boulder, CO: Lynne Rienners Publishers.

McChesney, R. W., & Schiller, D. (2003). *The political economy of international communications: Foundations for the emerging global debate about media ownership and regulation.* Geneva, Switzerland: United Nations Research Institute for Social Development.

Mertha, A. (2005). *The politics of piracy: Intellectual property in contemporary China.* Ithaca, NY: Cornell University Press.

Montgomery, L. (2009). Space to grow: Copyright, cultural policy and commercially-focused music in china. *Chinese Journal of Communication, 2*(1), 36–49.

Qu, J. (2012). Banqujv youguan renshi jiedu Zhuzuoquan Fa xiuding cao'an zhengyi tiaokuan [NCAC official interpreting controversial articles in the Copyright Bill]. Retrieved from http://www.gov.cn/jrzg/2012-04/25/content_2123627.htm

Ren, J. (1998). Huigu Zhongguo zhishi chanquan zhidu de jianli [Recalling the establishment of China's intellectual property system]. In C. Liu (Ed.), *Zhongguo zhishi chanquan ershinian (1978–1998* [Intellectual property system in China (1978-1998)]*)* (pp. 18–26). Beijing, China: Zhuanli Wenxian Chubanshe.

Ren, J. (2008). Tashang zhishi chanquan xindalu: Zhongguo zhuanli zhidu choubei jianli de lishi jianzheng [To set foot on the new continent of intellectual property: Witnessing the establishment of China's patent system]. In Zhishi Chanquan yu Gaige Kaifang Sanshi Nian Bianweihui (Ed.), *Zhishi chanquan yu gaige kaifang sanshi nian* [Thirty years of intellectual property and the reform and open-up] (pp. 1–18). Beijing, China: Intellectual Property Publishing House.

Schiller, D. (2007). *How to think about information.* Urbana, IL: University of Illinois Press.

Sell, S. K. (2003). *Private power, public law: The globalization of intellectual property rights*. Cambridge, UK and New York, NY: Cambridge University Press.

Shen, R. (1998). Youguan zhongguo Zhuzuoquan Fa zhiding de huigu [Recalling the making of Chinese copyright law]. In C. Liu (Ed.), *Zhongguo zhishi chanquan ershi nian (1978-1998)* [Intellectual

property system in China (1978-1998)] (pp. 27–53). Beijing, China: Zhuanli Wenxian Chubanshe.

Shen, R. (2008). Cong "tielu jingcha, geguan yiduan" shuoqi: Yi Zhonghua Renmin Gongheguo Zhuzuoquan Fa qicao guocheng zhong zhengyi jiaoda de wenti [Recalling major disputes in drafting the copyright law]. In Zhishi Chanquan yu Gaige Kaifang Sanshi Nian Bianweihui (Ed.), *Zhishi chanquan yu gaige kaifang sanshi nian* [Thirty years of intellectual property and the reform and open-up] (pp. 457–470). Beijing, China: Intellectual Property Publishing House.

Siwek, S. E. (2013). *Copyright industries in the U.S. economy: The 2013 report.* International Intellectual Property Alliance.

Song, M. (2007). *Qinli chuban sanshi nian: Xinshiqi chuban jishi yu sikao* [My thirty years of experience in publishing: Memoir and reflections on publishing in the new era]. Beijing, China: The Commercial Press.

Tuidong wenhua chanye zhenxing de zhongda jvcuo [An important measure to promote the development of the cultural industries]. (2009, September 27). *People's Daily*, p. 3.

United States Census Bureau. (2014a). *Trade in goods with China.* Retrieved from http://www.census.gov/foreign-trade/balance/c5700.html

United States Census Bureau. (2014b). *U.S. trade in goods and services—Balance of payments (BOP) basis*. Retrieved from http://www.census.gov/foreign-trade/statistics/historical/gands.pdf

United States General Accounting Office. (1995). *U.S.-China trade: Implementation of agreements on market access and intellectual property*. Washington, DC: USGPO.

The U.S.-China intellectual property rights agreement and related trade issues: Joint hearing before the Subcommittees on International Economic Policy and Trade and Asia and the Pacific of the Committee on International Relations, House of Representatives, and the Subcommittee of East Asian and Pacific affairs of the Committee on Foreign Relations, Senate. (1997). 104th Cong. 1 (testimony of Michael Kantor).

Vaidhyanathan, S. (2001). *Copyrights and copywrongs: The rise of intellectual property and how it threatens creativity.* New York, NY: New York University Press.

Wang, D., Li, M., & Wang, C. (2003). A dialogue on the future of china. In C. Wang (Ed.), *One China, many paths* (pp. 313–358). New York: Verso.

Wang, L. (2006). *Jindai Zhongguo Zhuzuoquan Fa de chengzhang: 1903–1910* [The growth of copyright law in modern China: 1913–1910]. Beijing, China: Peking University Press.

Wang, L. (2012, July 16). Guanyu Zhuzuoquan Fa cao'an di 46 tiao ji qita [About Article 46 of the copyright bill]. *Renmin Fayuan Bao*, p. 2.

Wang, Q. (2009). WTO zhongmei zhishi chanquan zhengduan: Meiguo yingde le shenme? Ping zhuanjiazu dui woguo Zhuzuoquan Fa di 4 tiao de caijue [Sino-US WTO intellectual property dispute: What did the U.S. win? Panel findings on Article 4 of China's Copyright Law]. *Journal of the East China University of Political Science and Law, 2009*(4), 23–31.

Wang, Q. (2008, June 17). No more Chinese knock-offs. *The Wall Street Journal* (Eastern edition), p. A23.

Wang, Z. (2008). Zhongguo zhuanli zhidu de koumenren [Forerunners of China's patent system]. In Zhishi Chanquan yu Gaige Kaifang Sanshi Nian Bianweihui (Ed.), *Zhishi chanquan yu gaige kaifang sanshi nian* [Thirty years of intellectual property and the reform and open-up] (pp. 347–364). Beijing, China: Intellectual Property Publishing House.

Wu, H. (2012). Zhuzuoquan Fa disanci xiugai de beijing, tili he zhongdian [Background, structure and foci of the third amending of the Copyright Law]. *Fashang Yanjiu, 2012*(4), 3–7.

Wu, Q. (1998). Shangbiao guoji tiaoyue zai Zhongguo shengxiao ershi nian [Twenty years of implementation of international trademarks conventions in China]. In C. Liu (Ed.), *Zhongguo zhishi chanquan ershi nian (1978–1998)* [Intellectual property system in China (1978–1998)] (pp. 154–163). Beijing, China: Zhuanli Wenxian Chubanshe.

Yang, M. (2013). Yinyue zoupin fading xvke luyin zhidu zhi wojian [My opinion on compulsory license for musical works in sound recordings]. *Baoding Xueyuan Xuebao, 26*(2), pp. 35-40.

Yu, P. K. (2002). *The second coming of intellectual property rights in China*. New York: Benjamin N. Cardozo School of Law, Yeshiva University.

Yu, P. K. (2006). From pirates to partners (episode II): Protecting intellectual property in post-WTO China. *American University Law Review, 55*, 901–1000.

Yu, P. K. (2008). Three questions that will make you rethink the U.S.-China intellectual property debate. *John Marshall Review of Intellectual Property Law, 7*(3), 412–432.

Yu, P. K. (2011). TRIPS enforcement and developing countries. *American University International Law Review, 26*, 727–782.

Yuan, J. (2007). Guojia Banquan Jv de chengli yu Zhongguo banquan lifa de qvzhe jinxing [The establishment of the National Copyright Administration and the zigzag path of copyright lawmaking]. In M. Li, & Q. Chang (Eds.), *Zhongguo dangdai banquan shi* [Thirty years of

intellectual property and the reform and open-up] (pp. 167–206). Beijing, China: Intellectual Property Publishing House.

Zhang, H. (2012). Zhuzuoquan Fa xuigai cao'an sanda zhengyi [Three key disputes on the amending of the copyright law]. *Zhongguo Baodao, 2012*(5), 78–81.

Zhao, Y. [Yuan'guo]. (2008). Zhuanli zhidu de jianli ningjv le Xiaoping tongzhi de xinxue [The establishment of the patent system includes comrade Xiaopin"s efforts]. In Zhishi Chanquan yu Gaige Kaifang Sanshi Nian Bianweihui (Ed.), *Zhishi chanquan yu gaige kaifang sanshi nian* [Thirty years of intellectual property and the reform and open-up] (pp. 297–306). Beijing, China: Intellectual Property Publishing House.

Zhao, Y. [Yuezhi]. (2008). *Communications in China: Political Economy, Power and Conflict.* Lanham, MD: Rowman & Littlefield.

Zheng, C. (2008). Banquan fa [Copyright law]. In R. Shen (Ed.), *Zheng Chengsi banquan wenji* [Collected works of Zheng Chengsi] (Vol. 1). Beijing, China: China Renmin University Press.

Zhong, Q. (2012). Zhuzuoquan bu jinjin shi siquan [Copyright is not just a private right]. *Zhongguo Banquan, 2012*(3), 11–13.