

American Pharmaceutical Concerns: Intellectual Property Right Issues in China and India

Table of Contents

Introduction to the Problem: The City of Yiwu and Counterfeiting	1
The Western Concept of Intellectual Property	2
Copyrights	3
Patents	3
Trademarks	4
Trade Secrets	4
China's Concept of Intellectual Property	5
The World Trade Organization	7
The Trade Related Aspects of International Property Rights Agreement (TRIPS).....	9
Current Chinese Efforts to Protect Intellectual Property	12
China's Prospects beyond the WTO	15
How to Avoid Piracy in China	16
India and the Pharmaceutical Industry	17
The Indian Pharmaceutical Industry	17
History of Indian Patent Law	18
India and the World Trade Organization.....	18
India's Efforts to Comply with TRIPS	19
The Future of the Pharmaceutical Industry in India	19

Introduction to the Problem: The City of Yiwu and Counterfeiting¹

Yiwu is the Counterfeit Capital of China. Everyday, approximately 200,000 distributors buy up to 2,000 tons of goods from the city's wholesale black market. In Beijing, a five-hour train ride from Yiwu, you can find a makeshift outdoor market dubbed "Treasure Street," where buyers can purchase wholesale counterfeit products. Ya Bao Lu is a modern building housing 300 private showrooms each representing a factory in China where the fake goods are produced. The fake goods are endless and sometimes dangerous: antibiotics made of talcum powder and birth control pills filled with rice flour. According to the Shenzhen Evening News, 192,000 people died last year in China because they took fake drugs.

¹ Nothing in this paper shall be considered legal advice to any reader, nor shall it be deemed to create an attorney-client relationship between the author and the reader. You should undertake your own due diligence when determining intellectual property laws in general and any investment you may choose to make in China. You should also independently seek the services of legal counsel.

On average, 20 percent of all consumer products in the Chinese market are counterfeit. If the product sells, it is counterfeited; Rolexes, Gucci handbags, Duracell batteries, Gillette razor blades, Safeguard soap, and Head & Shoulders shampoo, just to name a few. The Chinese joke that in China, "everything is fake but your mother." With places like Yiwu and Treasure Street providing counterfeit items ranging from car-inspection stickers and college diplomas to designer clothing and computer software, you cannot help but agree.

In December 2001, China joined the World Trade Organization (WTO) and in doing so, may eventually make Yiwu's outrageous counterfeit business practices a thing of the past. Despite China's continuing efforts to align its standards of intellectual property protection with WTO standards, such as the TRIPS agreement, the country is still faced with the daunting task of embracing (and enforcing) western notions of property rights. For most Chinese, trademark piracy is too tempting to turn down. No one really knows why the Chinese are the best and the most prolific in violating every notion of western intellectual property rights. It could be a matter of economics, or it could be cultural.

The Western Concept of Intellectual Property

Think of intellectual property as the protection of ideas. It is any original creative work that can be protected by law. As the term itself refers to a group of intangible property rights, it is no wonder that the scope of what is considered intellectual property is immense. From television shows to fashion designer logos, computer software to plant varieties, industrial processes to genetic engineering, these are all works that are considered to be intellectual property. However abstract these artistic, commercial and scientific works may be, they enjoy similar private property rights awarded to tangible assets. Intellectual property rights are designed with the creator in mind by protecting their ingenuity and consequently ensuring some sort of economic reward for the fruit of their labor. From the corporate perspective, intellectual property operates as an important commercial asset. As companies establish themselves and their products within an industry, its sales and competitive edge depend on the goodwill transmitted through its name, brand names and logos. Failure to properly manage their intellectual property can be financially damaging to the company and can smear the company's reputation as a producer of quality

products. There are four major pillars of intellectual property: the copyright, trademark, patent and trade secrets. Each will be discussed below.

Copyrights

The copyright protects creative works from being reproduced, performed, displayed, or disseminated by unauthorized users by bestowing on the owner the exclusive rights to such works. Almost all copyrights are identified by the symbol "©", the abbreviation "Copr." or the word Copyright, the year the copyright was first established and in some cases, the name of the owner of the copyright. As you can probably guess, the owner of a copyright is usually the author of the work. In cases where an employee of a firm is the creator of the copyrighted work, the first owner is actually the employer. Original written and non-written works, including books, computer software, plays, television shows, songs, advertisements, paintings; sculptures, and movies, can be protected by a copyright. Once copyrighted, these works cannot be copied or published without permission from the creator. The copyright does not keep the works from being available to the general public, rather like any other tangible property, the copyright can be sold or licensed to others, but not without providing the owner with appropriate royalties.

Copyright laws in the United States date as far back as 1790 when Congress passed the first copyright law. In fact, Article I, Section 8 of the U.S. Constitution states that Congress is given the power, "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." While this certainly laid the groundwork for intellectual property rights in the U.S., current copyright protection is based on more recent legislation, namely the Copyright Act of 1976. This act outlines the time span of patents as being the author's life span plus fifty years.

Patents

Letters patent, more commonly known as a patent, are another example of an intellectual property right. Generally speaking, the patent is a document issued by a government, hence 'letters patent', granting a special right or privilege. This special right or privilege is the protection of a technical innovation. In the United States, patents can be granted for improvements, discovery or innovations relating to art, manufacturing, and even genetic engineering. In order to

qualify an innovation as a patent, the invention must be new, it must involve an inventive step and it must be capable of being applied across an entire industry. The invention can be some sort of novel equipment, industrial process or even a method of operation never before seen or made public. Like copyrights, ownership of patents can be transferred as easily as any good that can be bought or sold.

Trademarks

The trademark is what makes us associate golden arches with McDonalds or a swoosh with Nike. Trademarks are why we can readily distinguish similar goods from one another. A trademark can be a word, sign, slogan, just about anything that a consumer can use to identify the source of the goods and distinguish it from a competitor. Trademarks identify quality of the product and the goodwill of the owner by a mere symbol. The trademark protects this symbol by preventing others from using it by providing exclusive use to the owner of the trademark thus making it available to others only through licensing or by sale of the trademark. The franchising of fast food restaurants is just one example of the licensing of trademarks. One thing to note is that while companies certainly enjoy this sort of product identification, they do run the risk of losing their status as trademarks. Aspirin, cellophane, and escalator, just to name a few 'lost trademarks', were initially intended by their manufacturers to be used as trademarks but instead have been relegated to more common product identification.

Trade Secrets

The final form of intellectual property is trade secrets. A trade secret is a secret kept by commercial entities in order to be successful or maintain success. There are as many forms of trade secrets as there are patents, copyrights and trademarks: a formula, computer program, process, method, device, technique, pricing information, customer lists or other non-public information all could be trade secrets. Probably the most widely understood trade secret is the formula for Coca Cola. Trade secrets are very different from patents, copyrights and trademarks. While patents and copyrights require you to disclose your information in the application process (information that eventually becomes public), trade secrets require you to actively keep the information secret. Trade-secret protection can potentially last longer than that of patents (20

years) and copyrights (100 years). A trade secret is a trade secret so long as it really is a secret. In other words, if someone else discovers the same information using independent means, it is no longer a trade secret.

China's Concept of Intellectual Property

Intellectual property rights have not been the focus of much attention throughout China's history. One does not have to delve deep into China's history to uncover its intellectual property laws. Little attempt was made to protect patents and trademarks before the 1990s. Perhaps one of the earliest indications of China's attempt to adopt Western concepts in intellectual property protection was with the Agreement on Trade Relations Between the United States of America and the People's Republic of China of 1979. According to this agreement,

Each Party shall seek, under its laws and with due regard to international practice, to ensure to legal or natural persons of the other Party protection of patents and trademarks equivalent to the patent and trademark protection correspondingly accorded by the other Party...each Party shall take appropriate measures, under its laws and regulations and with due regard to international practice, to ensure to legal or natural persons of the other Party protection of copyrights equivalent to the copyright protection correspondingly accorded by the other Party."

By entering into this agreement, China was made a member of the World Intellectual Property Organization in 1980 and the Paris Convention for the Protection of Intellectual Property in 1984 and subsequently led to the establishment of new trademark and patent laws within China.

Many of China's current intellectual property laws were developed within the past 15 years. The Trademark Law of 1982 serves as the oldest of the major laws. Based on first-to-file system, registration for trademarks under this law is valid for 10 years after approval, with a 10-year renewal option. It is important to note here that in the United States, the law protects the inventor's creation as long as he or she can prove that they were the first to complete an invention, regardless of when they filed their patent. By contrast, in China, the law protects the first to file, not the first to invent. With respect to trademarks, Chinese legislation gives scant protection to the owner; their laws only provide protection for marks that are already "famous," thus making it difficult, if not impossible, to protect new or relatively unknown trademarks.

The United States soon realized after entering the 1979 Trade Relations Agreement with China that protection of intellectual property rights in China was verging on the hopeless. China

certainly passed laws on the recognition of intellectual property rights, but tailored them so that they would only “promote socialist legality with Chinese characteristics.”² As a result, the United States attempted to solve China’s intellectual property rights problem through measures granted by Section 301 of the Trade Act of 1974, which permitted the President to investigate and impose sanctions on countries engaging in unfair trade practices that threaten the United States’ economic interests.³ A 1988 amendment to Section 301 required the United States Trade Representative (USTR) to identify foreign countries that provided inadequate intellectual property protection or that denied American intellectual property goods fair or equitable market access.⁴ Should a country, say China, be identified as such, an investigation into the act, policy, or practice of the identified country would be conducted in addition to consultation with the country regarding its offense. Furthermore, trade activity with the offending country could be suspended or withdrawn unless an agreement or some other accommodation between the U.S. and the offending country was made.

At the request of American business executives, China was placed on the “Priority Watch List” (maintained by the USTR of countries whose intellectual property practices or market access barriers warrant special attention) by the USTR in 1989. As a consequence of this international pressure, China passed a copyright law in 1990, but it was more symbolic than substantive. For example, foreign works copyrighted in other countries would be given no protection unless they first registered for copyright protection in China.

The Chinese also wreaked havoc with traditional notions of trademark and patent protection. These laws carried a distinctly socialist flavor. The government placed limits on the rights granted by the patent and trademark laws. The Patent law of 1984 granted patent protection to ‘job-related invention-creation’ but it limited ownership to the work unit, the enterprise, or the joint venture.⁵ Like the Trademark Law, the Patent Law operates on a first to file basis. According to Article 9 of this law, “where two or more applicants file applications for

² Yu, Peter K., “From Pirates to Partners: Protecting Intellectual Property in China in the Twenty-first Century,” *American University Law Review*, www.law.american.edu/journal/lawrev/50/yu.pdf

³ *ibid*

⁴ *ibid.*

⁵ *ibid.*

patent for the identical invention-creation, the patent right shall be granted to the applicant whose application was filed first." China's "first-to-register" system requires no evidence of prior use or ownership, leaving registration of popular foreign marks open to third parties.

Not surprisingly, these modest and superficial attempts at dealing with intellectual property rights violations did nothing to stem the tide of massive counterfeiting. Threats of U.S. sanctions likewise went nowhere, and were in fact met by incredible Chinese threats of counter-sanctions. Now everyone's hope is pinned to the WTO and the belief that the Chinese cherish their WTO membership so much that they will finally act to protect intangible property rights.

Some sources blame the Chinese culture for the lack of acceptance and perhaps in many cases the resistance to the concept of intellectual property. In his work titled, "A Study into the problem of software piracy in Hong Kong and China," Kenneth Ho relates the influences of Confucianism and its emphasis on learning through copying to the Chinese current attitude towards intellectual property. While Western sensibility would lead us to perceive copying as an inferior imitation of an original, and in fact cheating, "in many Asian nations the highest compliment one can be paid is to be copied."⁶

The World Trade Organization

With its headquarters in Geneva, Switzerland, the World Trade Organization, WTO, currently operates as the only global international organization that deals with the rules of trade between nations. The WTO was formed in 1995 following the Uruguay Round of Negotiations on the General Agreement on Tariffs and Trade, aka GATT. Founded in 1947 with membership of 123 governments, GATT operated as a provisional international organization focusing on international trade with the primary goal to preserve stability among nations following World War II by facilitating economic recovery through the reduction of tariffs and other barriers to trade. GATT tried to arrange mutually advantageous relationships between nations by eliminating discriminatory treatment in international trade agreements. Although it inherited many of the same basic principals as GATT, the WTO now operates as a global commerce agency with its

⁶ Swinyard, W.R., quoted in Kenneth Ho, "A Study into the Problem of Software Piracy in Hong Kong and China,"

own secretariat and the same legal status as the United Nations. Virtually every country in the world is now a member of the WTO.

The basic organization of the decision-making bodies of the WTO is three tiered, governed by the Ministerial Conference. Meeting at least every two years, this body is comprised of all members and operates as the main governing body of the WTO. Below the Ministerial Conference is the General Council, also comprised of all members. The Council oversees operation of the WTO between meetings of the Ministerial Conference. It is this body that operates one of the most primary functions of the organization, the dispute resolution process. Finally within this structure are the specialized standing committees which include the Council for Trade in Goods, the Council for Trade in Services, and the entity of most interest to the subject of this paper, the Council for Trade-Related Aspects of Intellectual Property Rights, aka TRIPS. These committees meet more regularly than the other bodies to discuss issues regarding international trade policies.

While world economic recovery is no longer its primary focus, the WTO's main objectives now are to administer WTO trade agreements, provide a forum for trade negotiations, handle trade disputes, monitor national trade policies, provide technical assistance and training for developing countries, and cooperate with other international organizations such as the World Bank and the United Nations.⁷ Any state or separate customs territory possessing full autonomy in the conduct of external trade may apply for membership. Other requirements include the acceptance of the results of the Uruguay Round of Multilateral Trade Negotiations.

Perhaps the most important criteria for those nations wishing to become member nations is compliance with international trade rules as set forth by the WTO legislation such as the Trade Related Aspects of Intellectual Property Rights also known as the TRIPS agreement. For China, acceding to the WTO required the reworking of many of its laws to bring them into conformity with international trade rules, particularly those laws that dealt with intellectual property rights.

⁷ From the WTO website, http://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm

The Trade Related Aspects of International Property Rights Agreement (TRIPS)

The Trade Related Aspects of International Property Rights Agreement, more commonly known as TRIPS, is the benchmark for intellectual property rights. Effective January 1, 1995, this agreement covers areas of intellectual property such as copyright, trademarks, patents, industrial designs, varieties of plants, layout-designs of integrated circuits, and undisclosed information including trade secrets and test data.⁸ Member states must adopt or conform their laws within their respective legal systems to comply with the TRIPS agreement. TRIPS is like an instruction manual for member nations of the WTO as it provides direction as to how they are to manage intellectual property rights by providing minimum standards for intellectual property protection, procedures for enforcement of these rules, and subjects disputes between Members to the WTO's dispute settlement procedures.

The TRIPS agreement is not solely responsible for setting the standards for intellectual property protection. In fact, TRIPS embodies the terms of earlier agreements dealing with this matter, namely the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works. TRIPS extracts many provisions from each of these agreements and appends additional requirements where the previous agreements were considered deficient. As for enforcement of intellectual property rights, TRIPS provides procedures and remedies for intellectual property protection in the domestic capacity. It also outlines civil and administrative procedures and remedies, provisional measures and special requirements related to border measures and criminal procedures.

As with all other WTO agreements, the obligations outlined by the TRIPS agreement are to be fulfilled by every member of the WTO. Developing countries are provided with a longer time frame to integrate and conform to the TRIPS standards, as is the case with China.

It is important to remember that TRIPS only provides the minimum standard by which intellectual property is to be protected. Different member countries may have varying levels of intellectual property protection but all meet the TRIPS requirements. These varying levels of

⁸ From "Overview: the TRIPS Agreement," www.wto.org

protection can prove to be a problem between countries as demonstrated by U.S. businesses' reluctance to enter into trade with China.

The World Trade Organization is invested with the power to enforce global commerce rules through the imposition of economic sanctions. With 144 member-nations as of January of this year, members are expected to raise standards of living, expand the production of trade in goods and services, and ensure that developing countries participate and consequently benefit from expanding international trade.⁹ In order to maintain its objective to liberalize restrictive and biased home country trade policies, members of the WTO have the right to challenge other countries' local, state, and even national laws if they feel that they impede international trade. Since the organization of the WTO comes complete with a judicial authority, once this body issues a ruling, the non-complying country is faced with only three options, it must either pay permanent compensation to the challenging country, be subjected to trade sanctions, or change its laws to conform to WTO requirements, as seen in China in regards to intellectual property rights. By conducting its affairs in such a manner, the WTO believes that it is providing developing countries the opportunity to take advantage of freer trade through expanded access to industrialized country markets.

For China, entrance into the WTO became a priority for their nation for many reasons, one being image. Membership will signify that China is a growing economic power in the international community. As a member of the WTO, China will have the opportunity to take part in the development of new international rules on trade in the WTO and given its immense size and market potential, the country will certainly play a major role in these negotiations.

From the perspective of U.S. firms, China's entrance into the WTO is a double-edged sword. China has been one of the fastest growing economies over the past several years making it very attractive for foreign firms to conduct their business there. However, China is also home to a thriving black market. A significant portion of its economy is based on counterfeiting and the violation of most intellectual property laws known in the Western World.

⁹ From <http://www.greenyearbook.org/igo/wto.htm>

It will not be easy to eradicate counterfeiting in China without hurting the domestic economy. Piracy employs both directly and indirectly 3 to 5 million people in China. It is so pervasive that local government-established companies operate as outlets for these goods. Many of the most flagrant brand violators are state enterprises and run by the same governments that should be policing them.

The legal system in China is ill prepared to handle the numerous intellectual property right violations. China's laws are fairly new and they are a mixed bag of unfairness and arbitrariness. China does not protect creators; it protects the person who races to the registration office first, even if the idea was not his to begin with. China draws a distinction between "famous" trademarks and those that are not so famous. The legal profession in China is sub-standard by Western standards, and the judiciary is equally inept and inexperienced.

The government's enforcement arm, the State Intellectual Property Office (SIPO) often cannot afford to pay for the training of experts and other enforcement avenues to combat infringement. Of the nearly 20,000 patent applications filed in 1993, only 15 percent had been granted by 1997. The delays are likely to get even worse. Last year, SIPO received 250,000 new patent applications, but only processed 40,000 applications in 2002. Notably, because a Chinese patent has no legal effect until issued, any delay increases the risk of piracy. Local police, when asked to assist in an enforcement raid, will sometimes ask for a hefty "fee" for their assistance. Sometimes, the local police will simply warn the counterfeiter of an impending raid. Other times, local residents will even resort to violence to thwart an enforcement raid, in order to protect their economic livelihood.

The younger Chinese generation's penchant for things Western fuels the demand for famous western brands. This, coupled with the lack of strong legal protection for brands, makes counterfeiting a safe and profitable enterprise. Foreign firms find themselves competing with cheap, low quality imitations of their goods thereby hurting their market share and destroying the goodwill for those products that depend on reputations for good quality. Counterfeits of name brand consumer products are in some instances placing the health of consumers at risk.

China's mishandling of intellectual property rights is not only detrimental to foreign firms, but domestic ones as well. Many Chinese companies are not properly prepared to protect those works that may be considered intellectual property.

After nearly fifteen years of negotiations, China finally gained status as a member of the World Trade Organization. China seems wholly optimistic about its entry in the WTO as demonstrated by a few official celebrations. A commemorative stamp was issued depicting traditional ornamental columns erected in front of imperial palaces in ancient China, the WTO sign and the China World Trade Tower in Beijing, a symbol of China's opening-up policy. Books on the WTO became best sellers in Beijing bookstores. Today, China continues to expand its efforts to protect intellectual property and to comply with its WTO commitments. The Intellectual Property Strategic Academy was recently established to provide consultative services on intellectual property to help businesses keep pace with global competition.

During its first year as a WTO member, China has made some progress with respect to protecting intellectual property rights. It has amended existing laws and regulations that are compatible with WTO objectives. Just prior to entry into the WTO, China passed new copyright, trademark and patent laws. These laws generally imposed statutory damages for intellectual property right violations, created a preliminary injunction cause of action for victims, provided for more judicial review, and widened the scope of forms of intellectual property that would be recognized and protected in China. Unfortunately, however, counterfeiting continues and it is rampant.

Current Chinese Efforts to Protect Intellectual Property

The protection of intellectual property continues to be a work in progress for China as it makes efforts to fulfill its WTO commitments and protect its own domestic markets. China is reworking its legal system to provide an improved environment for the good of economic and social development. The Supreme Court has been subjected to lectures and training courses on WTO rules and senior judges have even been sent to study laws in developed countries.

Laws and regulations that do not conform to the WTO are being either reworked, eliminated, or replaced by new legislation. Intellectual property rights have come to be the focus

of much attention as the battle against infringement continues to wage on. The Beijing High People's Court released a set of patent regulations recently detailing the infringements upon patent rights. Wang Zhenqing, vice-president of the Beijing High People's Court, said the new rules, which add up to 129 entries, extend patent protection to almost all fields, including the protection of Olympics-related patents (China will be the host country for the 2008 summer Olympics).

Most recent developments in the protection of intellectual property rights in China have been made in the area of trademark infringement. In effect as of January 22, 2002, China's recent amendments to its Trademark Law introduced provisions that give holders of registered trademarks and interested parties the right to seek preliminary injunctions to stop infringement and preserve evidence. Known as "The Interpretation on the Issue of the Law Applicable to Stopping the Infringement of Exclusive Rights in Registered Trademarks and Preservation of Evidence Prior to Litigation," it addresses matters such as the court with relevant jurisdiction, the matters that must be included in petitions for preliminary injunctions, the evidence that must be presented, the provision of security by petitioners, time limits for granting injunctions that courts must comply with, time limits for instituting an action after an injunction has been granted and non-preliminary interlocutory rulings.

The Copyright Law of 1990 was amended for the first time in October 2001. Known as the "Decision of the Standing Committee of the National People's Congress on Amendment of the 'Copyright Law of the People's Republic of China,'" these new amendments govern assignments of copyright, expand the list of works that are protected, introduce collective organizations that can assert rights on behalf of their members, expand the list of rights copyright holders possess (adding, among others, the right of transmission by computer information network) and change the rules on permitted use without authorization.

One suggestion to improve current enforcement mechanisms of intellectual property rights is to increase the presence and effectiveness of private (i.e., court and contractual) means

of resolving intellectual property disputes.¹⁰ This idea, which is endorsed by Donald C. Clarke of the University of Washington School of Law, premises that the current system of enforcement in China, which is dominated by government agencies at the local level, is ineffective and too localized in nature to be a true watchdog of intellectual property rights.

Clarke argues that while China does have courts, currently these courts suffer from problems such as difficulty in issuing injunctions, difficulty in enforcing any rulings it makes, and relatively small damage awards so as to fail to truly deter intellectual property right infractions. Should China be willing to change these problems in its courts, so that these courts may more effectively enforce private measures of recourse for intellectual property infringements, then more foreign investors would be willing to work directly in China. However, there appears to be little indication that China would be willing to make any sweeping changes in the near future. Therefore, Clarke argues, the best mode of recourse at this point is to use TRIPS and the WTO to pressure China to reform its courts with respect to intellectual property issues in accordance with China's commitments to these organizations and agreements.

¹⁰ Clarke, Donald, "Private Enforcement of Intellectual Property Rights in China," National Bureau of Asian Research Analysis, vol. 10, no. 2, p. 29 (April 1999).

China's Prospects beyond the WTO

There is no question that China's economic prospects look promising with its entry into the WTO. The international ramifications of entrance into the WTO are undoubtedly positive for the Chinese economy. Today, China is the world's fifth largest trading entity with exports totaling \$232 billion dollars in 2000. According to Shaun Donnelly, the Acting Assistant Secretary of the Bureau of Economic and Business Affairs of the U.S. State Department, "China's WTO accession integrates it more firmly into the Pacific and world economies and gives China a greater stake in regional and global stability." On the domestic front, domestic stability is another matter. The new markets in China that are now available to WTO member may prove to be detrimental to undercapitalized private and state-owned businesses. Chinese goods will face new and strong competition from the WTO colleagues.

Unemployment in China, already a problem, is bound to rise as China integrates itself into the WTO community. Although the current official unemployment rate is at 3.4%, this figure is misleading because in urban areas, unemployment actually ranges from 15% to 20%. Furthermore, approximately 80 to 120 million rural workers make up a so-called "floating population" that migrates from farming to construction. These migrant workers are often unemployed and do not show up in official unemployment rates. The World Bank estimates that 400 million Chinese live below the poverty line and the average annual household income per household is \$1,396. Despite these statistics, experts still cite China's economy as a "beacon of growth."¹¹ Even as the world is facing an economic turndown, China continues to be the fastest expanding major economy in the world.

China has good reason to strengthen its intellectual property protection. By doing so, China can more effectively capitalize on its inherent strengths in a new multinational industrial system.¹² This new multinational industrial system is known as the "value chain", and within the value chain, nations tend not to focus on entire industries from beginning to end but rather focus

¹¹ John Schauble, "China's Economy Burning Bright,"

¹² Naughton, Barry, "The Global Electronics Revolution and China's Technology Policy," National Bureau of Asian Research Analysis, vol. 10, no. 2, p. 5 (April 1999).

