

Contents

1	Introduction	1
1.1	Strategic IP Policy for China's Current Stage of Development	3
1.2	Survey Data About Foreign and Chinese Firms' Perceptions of China's Current IP Regime	6
1.3	Challenges to Reforming China's IP Regime	8
1.4	Method and Materials Used for This Book	11
1.5	Roadmap of the Book	14
	References	15
2	Statutory IP Laws	21
2.1	Evolution of China's Core IP Laws and Regulations	21
2.2	IP Laws Still Deserving Reform	25
2.2.1	First Priority Challenges for Innovation	26
2.2.2	Second Priority Challenges for Innovation	34
2.3	Regulations and Other Measures	38
2.4	Summary	38
	References	40
3	Chinese Patenting Trends and the Role of the State	43
3.1	Chinese Patenting Trends: An Overview	43
3.1.1	Domestic Filings	43
3.1.2	Grants	45
3.1.3	Ownership	50
3.1.4	Patent Quality	53
3.2	Factors Contributing to China's Patenting Surge, Including the Role of the Chinese State	61
3.3	Summary	66
	References	66

4	IP Measures for Transmission and Exploitation of Technological Knowledge	73
4.1	Firms' Patent Commercialization and Technology Transfer: Major Trends and Policies	73
4.2	University Technology Commercialization and Transfer: Major Trends and Policies	84
4.3	Other Policies	87
4.4	Summary	88
	References	89
5	New/Experimental IP-Related Measures	93
5.1	Technology-Reactionary Experiments	94
5.1.1	Graphical User Interface (GUI)	94
5.1.2	Software and Business Method Patents (BMP)	95
5.1.3	Expedited Patent Examination for Select Industries	96
5.1.4	E-Commerce Regulation	96
5.1.5	Data Storage and Protection	99
5.1.6	Regulation of the Sharing Economy	101
5.2	Other Experiments	102
5.2.1	Protection of Pharmaceutical and Chemical Test Data	102
5.2.2	Employee Invention Remuneration and Reward Regulations	104
5.2.3	IP Demonstration Cities	106
5.2.4	Blacklists for IP Infringers	107
5.3	Summary	109
	References	110
6	Administration of IP Rights	115
6.1	Snapshot of IP Administration in China	115
6.2	Main Administration Challenges at Different IP Offices	120
6.2.1	Processing Times	120
6.2.2	Quality of Examination	123
6.2.3	Efficiency and Quality of the Invalidation Process	127
6.2.4	Coordination Between Central-Level Bureaus and Provincial and Local Bureaus in Making IP Strategies and Administering IP Rights	129
6.3	Summary	131
	References	131
7	IP Enforcement	133
7.1	Overview	133
7.2	Efficiency and Effectiveness of the Courts	140

7.2.1	General Structure of the IP Court System	140
7.2.2	Challenges and Ongoing Judicial Reforms	143
7.2.3	Statistical Analysis of Efficiency and Effectiveness of Sample IP Cases	150
7.2.4	Cases Involving Foreign Parties and the Problem of Protectionism	167
7.3	Efficiency and Effectiveness of Criminal Enforcement	170
7.4	Efficiency and Effectiveness of Customs	175
7.5	Efficiency and Effectiveness of Local IP Offices in Administrative Enforcement	179
7.6	Efficiency and Effectiveness of Arbitration and Mediation	187
7.7	Summary	191
	References	193
8	Implications for Businesses	197
8.1	Risk Management Tools for Managing IP in China	197
8.1.1	Identification of Risks from the IP Regime	197
8.1.2	Analyzing Risks from the IP Regime	200
8.1.3	Prioritizing and Planning for Risks from the IP Regime	202
8.1.4	Managing and M&E of Risks from the IP Regime	205
8.2	General Best Practices for Managing IP in China	206
8.2.1	Craft and Implement a Corporate IP Strategy in China	207
8.2.2	Understand the IP Law and Policy Landscape	207
8.2.3	Adopt Preventive Measures to Protect IP	207
8.2.4	Confront IP Infringement When Discovered	211
	References	212
9	Implications for Policymakers	215
9.1	Recommendations to Improve Substantive IP Laws	215
9.2	Recommendations to Improve Patent Quality	217
9.3	Recommendations to Improve Measures for Transmission and Exploitation of Technological Knowledge	218
9.4	Recommendations to Improve New/Experimental IP-Related Measures	220
9.5	Recommendations to Improve IP Administration	220
9.6	Recommendations to Improve IP Enforcement	221
10	Conclusions	223
10.1	Core IP Laws	224
10.2	Patenting Trends and the Role of the State	225
10.3	IP Measures for Transmission and Exploitation of Technological Knowledge	226

10.4	New/Experimental IP-Related Measures	227
10.5	Administration of IP Rights	227
10.6	IP Enforcement	228
10.7	The Way Ahead	230
Annex A: IP Lawsuit Damages Awarded in Different Regions in China		231
Annex B: IP Administrative Enforcement by Local Governmental Agents		235