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# INTELLECTUAL PROPERTY LAW IN CHINA

HONG XUE



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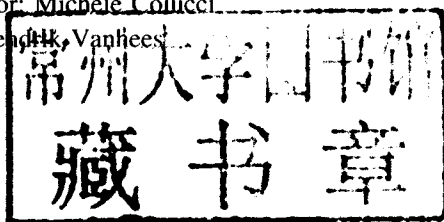
**Hong Xue**

This book was originally published as a monograph in the International  
Encyclopaedia of Laws/Intellectual Property Law.

General Editor: Roger Blanpain

Associate General Editor: Michele Colucci

Volume Editor: Hendrik Vanhees



**Wolters Kluwer**

Law & Business

AUSTIN BOSTON CHICAGO NEW YORK THE NETHERLANDS

*Published by:*  
Kluwer Law International  
PQ Box 316  
2400 AH Alphen aan den Rijn  
The Netherlands  
Website: [www.kluwerlaw.com](http://www.kluwerlaw.com)

*Sold and distributed in North, Central and South America by:*  
Aspen Publishers, Inc.  
7201 McKinney Circle  
Frederick, MD 21704  
United States of America  
Email: [customer.service@aspenpublishers.com](mailto:customer.service@aspenpublishers.com)

*Sold and distributed in all other countries by:*  
Turpin Distribution Services Ltd.  
Stratton Business Park  
Pegasus Drive, Biggleswade  
Bedfordshire SG18 8TQ  
United Kingdom  
Email: [kluwerlaw@turpin-distribution.com](mailto:kluwerlaw@turpin-distribution.com)

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*Printed on acid-free paper.*

ISBN 978-90-411-3382-3

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Printed in Great Britain.

# The Author



Dr Hong Xue is a Professor of Law and Director of the Institute for the Internet Policy & Law at Beijing Normal University (BNU). Before joining BNU, she was an associate professor with the Faculty of Law, University of Hong Kong. Prof. Xue specializes in intellectual property law, information technology law, and Internet governance. Prof. Xue is a fellow of the Yale Information Society Project. Prof. Xue was elected as one of the Ten Nationally Distinguished Young Jurists by the China Law Society. She works in many governmental and non-governmental organizations. She is the only Asian Scholar in the Executive Committee of the International Association for Promotion of the Advanced Teaching and Research of Intellectual Property (ATRIP), the Editorial Board of World Intellectual Property Journal, and

the Expert Advisory Board of Diplo Foundation. After serving as a founding member of the ICANN At-Large Advisory Committee, she was appointed to the Internet Corporation for Assigned Names and Numbers (ICANN) President's Advisory Committee on Internationalized Domain Names, the Nomination Committee, and the Fellowship Selection Committee. She is one of the founders of the Internet Users Organization in the Asia-Pacific Region.

## **The Author**

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# List of Abbreviations

General Principles	General Principles of Civil Law of the People's Republic of China
CNY	Chinese Yuan Renmibi
Internet Regulations	Regulations for Protection of the Right of Communication via the Information Network
IPR	Intellectual Property Right
NPC	National People's Congress
PRC	People's Republic of China
SIPO	State Intellectual Property Office
Software Regulations	Regulations on the Protection of Computer Software
WTO	World Trade Organization

## **List of Abbreviations**

# General Introduction

## §1. GENERAL BACKGROUND

### I. Geography

1. China is the third-largest country in the world, behind Russia and Canada. China is a very diverse land including deserts, mountains, and fertile river basins. Much of western China is mountainous with the Himalaya, Tian, and Pamir ranges. Western China also has a large desert. Central China consists of mountainous regions. Rivers also play a major role in China, both for transportation and for irrigation. Much of the northern wheat fields and southern rice fields are irrigated from rivers.

### II. Cultural Composition

2. China has a civilian history of more than 5,000 years full of artistic, philosophical, political, and scientific advancement. Though regional differences provide a sense of diversity, commonalities in language and religion connect a culture distinguished by such contributions as Confucianism and Taoism. Confucianism was the official philosophy throughout most of Imperial China's history, and traditional Chinese culture is heavily influenced by it.

3. With the rise of Western economic and military power over China beginning in the mid-nineteenth century, however, non-Chinese systems of social and political organization gained adherents in China. Since then, China has been in the conflicts of the strengths of Chinese and Western cultures. In essence, the history of twentieth-century China is one of experimentation to find a new system of social, political, and economic organization that would allow for the reintegration of the nation in the wake of dynastic collapse.

### III. Political System

4. The Constitution is the fundamental law of the China. The existing Constitution was adopted for implementation by the Fifth Session of the Fifth National People's Congress on 4 December 1982. Amendments were made to the Constitution, respectively, at the First Session of the Seventh National People's Congress on 12 April 1988, the First Session of the Eighth National People's Congress on

29 March 1993, and the Second Session of the Ninth National People's Congress on 15 March 1999.

5. The Communist Party of China is the country's sole political party in power. The People's Republic of China was founded by the Communist Party of China, which is the ruling political party of the Chinese people.

6. The socialist system led by the working class and based on the alliance of the workers and farmers is the fundamental system of the People's Republic of China.

7. The National People's Congress is the highest organ of State power. Local people's congresses are local organs of State power.

#### **IV. Population Statistics**

8. The population of China is more than 1.3 billion people. This is about one-fifth of the world's population.

#### **§2. HISTORICAL BACKGROUND**

9. The Chinese contemporary legal system for the protection of intellectual property has been developing with the economic reform and the opening-up to the foreign trade. Since the 1990s, China has been continuously adjusting the intellectual property system that was largely established during the 1980s to meet the need of the socialist market economy and the accession to the World Trade Organization (WTO). At the dawn of the new century, China harvested the fruits of a decade's labours – a handful of new laws and regulations. On 11 December 2001, China finally became a member of the WTO, and Chinese intellectual property laws entered into post-WTO times.

10. The State Council approved the Guidelines for the National Strategy of Intellectual Property on 9 April 2008. These guidelines were drafted by the State Intellectual Property Office and other relevant government departments. They aim at perfecting China's system of intellectual property, promoting creativity and innovation in the Chinese people and economy, and supporting the exploitation of resulting intellectual property.