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Public Opinion on Lack of Specialisation in Intellectual Property Right Courts in Chennai

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A B S T R A C T

By signing onto the World Trade Organization's (WTO) Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), signatories publicly recognized the importance of ef ectively protecting and enforcing intellectual property rights (IPR). Although TRIPS itself does not obligate its signatories to establish separate IPR courts, many governments have done so on their own accord. The majority of signatory countries have established some form of court or tribunal which specializes in IPR issues. These courts are referred to by various names, including the Specialized Intellectual Property Court, the Intellectual Property Court, The Patent Court, the Intellectual Property and International Trade Court, and the Court for Intellectual Property Disputes, to name a few. All of these courts exist mainly to adjudicate IPR disputes.The objective is to Assess public views on non-specialized IP courts in Chennai Identify perceptions about non-specialized IP courts in Chennai. Assess impact of lack of specialization on IP courts. Examine Chennai public sentiment toward non-specialized IPR courts. The methodology of the topic is empirical research under simple random sampling methods using graphs. The study aims to further the development of specialized IPR courts and tribunals by examining the advantages and disadvantages of specialized IPR court regimes and their contributions to the ef icient and ef ective adjudication of IPR-related disputes to develop a set of best practices guidelines for the establishment and administration of IPR courts. The goal of this study is to assist countries that are considering establishing specialized IPR courts and countries that wish to improve upon their existing regimes by qualifying the impact of IPR courts on improving judicial expertise, increasing court efficiency,and producing consistent case outcomes.

Keywords: Intellectual Property rights, specialisation, stakeholders, creative

1. Introduction

The significance of intellectual property rights (IPRs) in fostering innovation, creativity, and economic growth is widely recognized in the modern knowledge-driven economy. In India, the judiciary plays a pivotal role in upholding and safeguarding these rights through dedicated Intellectual Property Right (IPR) courts. Chennai, being a major hub for technological innovation and creative industries, houses one of the key IPR courts in the country. However, the lack of specialization in these courts has raised concerns among various stakeholders.The specialized IPR courts were established to address the complexities and intricacies involved in intellectual property disputes, providing a more in-depth understanding of the subject matter. This research aims to investigate the public opinion on this matter and its potential implications on the IPR ecosystem in Chennai. As the significance of IPRs continues to grow, so does the complexity of legal disputes arising from their infringement or protection. To address these intricate challenges, many countries like US have established specialized Intellectual Property Right (IPR) courts. However, a considerable number of jurisdictions still lack such specialized courts, leading to debates and concerns about the efficiency and effectiveness of their IPR adjudication processes.Intellectual property cases often involve highly technical subject matter, such as complex scientific, technological, or artistic concepts. Judges and legal practitioners may not possess specialized technical expertise, making it difficult to fully comprehend the intricacies of the cases and evaluate the evidence effectively.Specialized IPR courts may face resource constraints, affecting their ability to provide technical support, research assistance, and training for judges and legal practitioners. Adequate resources are essential for ensuring efficient and effective resolution of intellectual property disputes.

Objectives

* To assess public views on non-specialized IP courts in Chennai

* To identify perceptions about non-specialised IP courts in Chennai

* To assess impact of lack of specialisation on IP courts

* To examine Chennai public sentiment toward non-specialised IPR Courts

1.1 Review of Literature

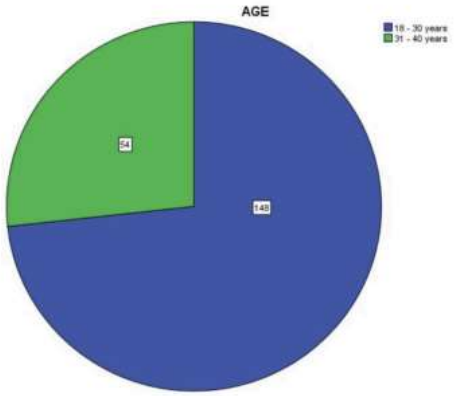
Our thesis is that asymmetries in technological capacities (between firms and countries) are likely to persist over rather long periods of time, beyond the legal mechanisms defying the appropriability and transferability conditions of technologies(Liu 2022). On that basis, we present an analysis of current markets for knowledge, exploring potential participation in and exclusion from those markets for developed and developing countries(Belmas and Shepard 2022). Legal appropriability mechanisms, i.e. prevailing intellectual property norms, classify as second order effect factors, with respect to production and technological capabilities in shaping innovative and imitative conducts(Correa 2021). This transformation has taken place as foreign trade and interaction among countries have become more necessary and more frequent; as different technological paradigms emerged, increasing articulation and diversification of production processes, thus augmenting the relevance of knowhow, technical information, knowledge and the consequent value of their appropriability(Intellectual Property Rights in a Age of Electronics and Information, n.d.). However, since the 1980s, there has been a radical reshaping in the management and the structure of IP regimes at the global level. Such changes are occurring in a context of growing trade integration and in a system of open economies, where trade liberalization has been coupled with pressures to strengthen intellectual property rights on an international scale(Depoorter, Menell, and Schwartz 2019). Business methods and genetic engineering are research fields of growing importance in the US, and are sectors in which national research centers and enterprises already possess a considerable relative advantage(World Intellectual Property Organization and China National Intellectual Property Administration (CNIPA) 2019). In the cautious language of TRIPS, this article recognizes the right to provide limited exceptions to the rights conferred by a patent, including the Bolar exception, also known as “early working”, which allows generic producers to import, manufacture and carry out experiments on patented products before the patent expires(Muscolo and Tavassi 2019). In other words, it allows firms to carry out experimental R&D to produce generic products without violating the patent. Certain thresholds of technological and production capacities, as well as public and private incentives to engage in such research efforts, are needed to engender a demand for using this flexibility, and most developing countries lack the first, i.e. the production capacities, or the second, i.e. the incentives and the appropriate sets of policies (Muscolo and Tavassi 2019; Heath and Sanders 2019). A complete analysis of the changes in the US IP law and their impact on the rate and direction of inventive activity is beyond the scope of this paper, however, we would like to stress the connection between the reshaping of IP regimes and the dynamics of research and industrial development in the US (World Intellectual Property Organization and China National Intellectual Property Administration (CNIPA) 2019). Business methods and genetic engineering are research fields of growing importance in the US, and are sectors in which national research centers and enterprises already possess a considerable relative advantage (Heinrich and Hesketh 2019). The analysis of TRIPS’ flexibilities shows that any use of existing policy space is subject to decisions that go beyond the pure IP domain and that concern trade, industrial and technology policy issues. Next, we examine the dynamics of patenting, stressing the relationship between IP and production structure specialization (Kung-Chung 2017). There is nothing accidental in the public authorities’ decision to restrict access to a discovery in order to preserve it by means of patent protection in those fields. This is clearly a de facto industrial policy, intended to preserve comparative advantages in given technological trajectories for certain economic agents (Dreyfuss and Strandburg 2011). An overview of current IP dilemmas and the analysis of the relationship between production structure and IP management are necessary steps in defining a strategic approach to industrial development (Hawk 2011). Intellectual property regimes are, as all economic and legal institutions, context and time specific, and they are subject to change. In terms of evolution of intellectual property rights, if a lesson can be derived from history, it is that systems evolved as pulled by the production side (Dimitrov 2009). The paper concludes stressing the importance of including IP issues into the renewed debate on policies and institutions shaping industrial development, avoiding incurring oversimplified IP for development agendas (Day 2008). As regards the behavioral foundations of innovative and imitative activities, we are quite skeptical about their reduction to linear and deliberate profit maximizing choices. “Getting the IPRs right” is not an optimal solution for fostering industrial development and catching up (United States. Congress. House. Committee on Ways and Means. Subcommittee on Trade 2008). A complete analysis of the changes in IP regimes and their impact on the rate and direction of inventive activity goes beyond the scope of this chapter; here we would like to stress the connection between IP regimes and industrial development (United States. Congress. House. Committee on the Judiciary. Subcommittee on Courts, the Internet, and Property 2003). Evidence shows that IP regimes usually convolve with production transformations, as pulled by the production side. Frontier countries, particularly the US, strategically use IP regimes as mechanisms to protect certain accumulated capabilities of national production and research agents (Janke 2003). When, in a given country, the introduction of IP protection could bring about a pecuniary gain in a given sector or area, the system was adapted, or a negotiation initiated to grant the right of appropriation of the relative rent (Tracy 2016). In contrast, sectors, lobbies (and countries) attempted to block the introduction of IP protection in cases in which they were net importers of the product or service in question (United States. Congress. Office of Technology Assessment 1986).

1.2 Methodology

This research has been adopted as an empirical study. Empirical research is based on observed and measured phenomena and derives knowledge from actual experience rather than from theory or belief. Key characteristics for an empirical research is Specific research questions to be answered And Description of the process used to study this population or phenomena, including selection criteria, controls, and testing instruments (such as surveys). The statistical tools are used for this research work is graph, chi square,correlation. SPSS graphics and diagrams are attached in this research work.cross table has been used for this research work.

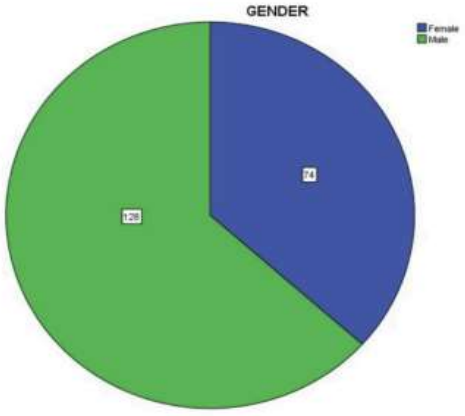
1.3 Analysis

Figure 1



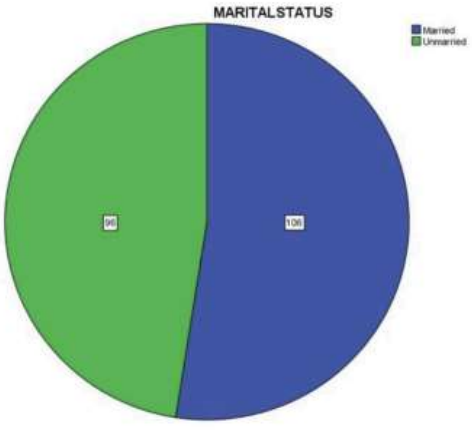
Legend : The bar graph represents the age group of the respondents**.**

Figure 2



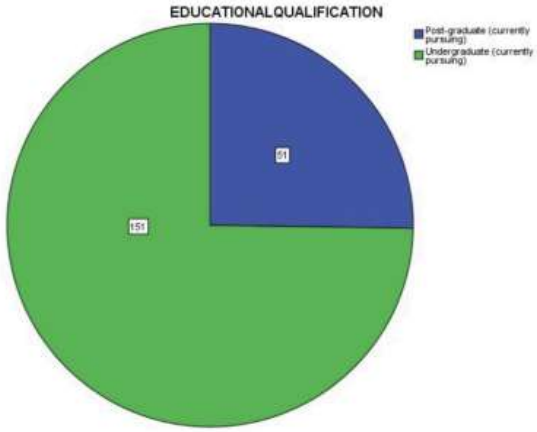
Legend: The bar graph represents the gender of the respondents.

Figure 3



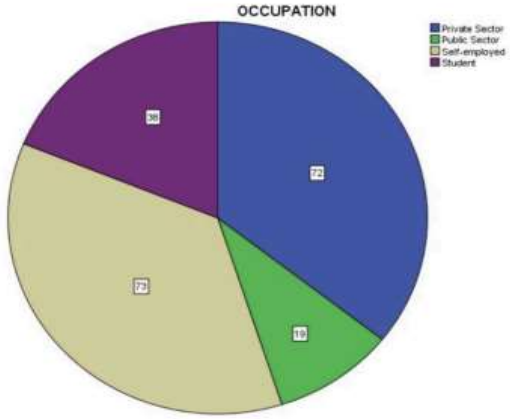
Legend: The bar graph represents the gender of the respondents.

Figure 4



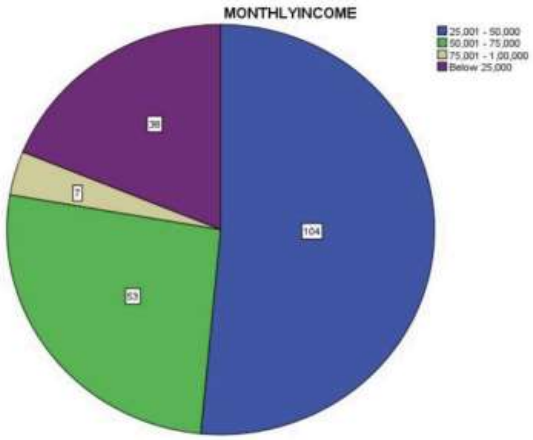
Legend: The bar graph represents the educational qualification of the respondents.

Figure 5



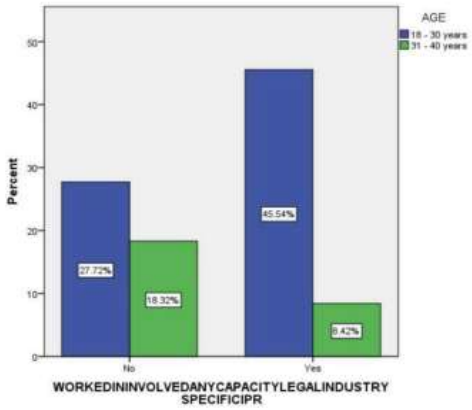
Legend: The bar graph represents the occupation of the respondents.

Figure 6



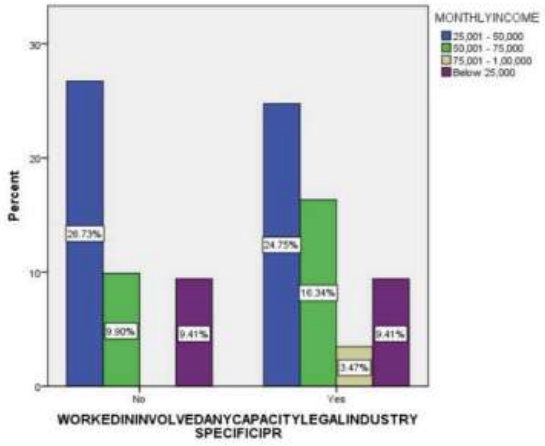
Legend: The bar graph represents the monthly income of the respondents.

Figure 7



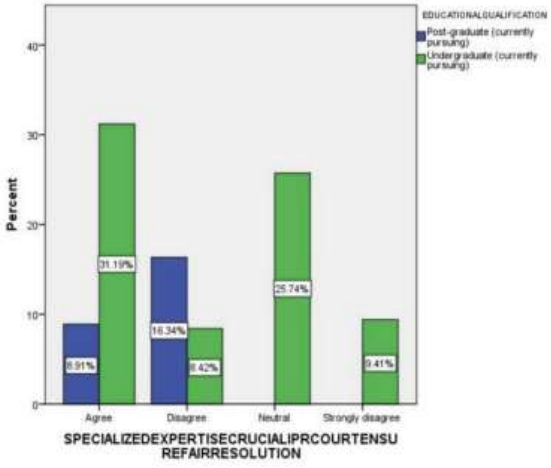
Legend: The bar graph represents whether work involved any capacity legal industry specific intellectual property rights to the age group of the respondents.

Figure 8



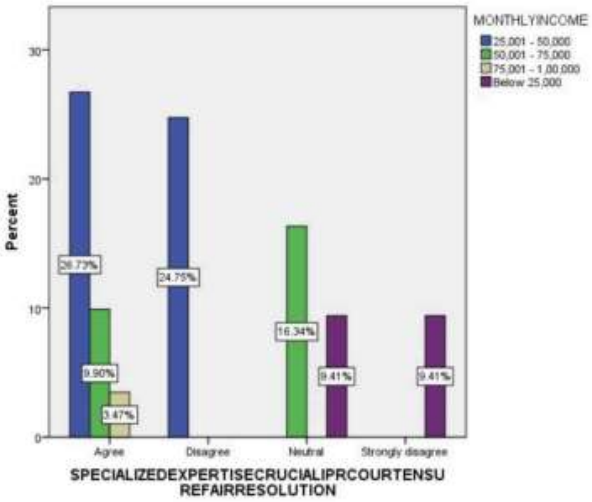
Legend: The bar graph represents whether work involved any capacity legal industry specific intellectual property rights to the monthly income group of the respondents.

Figure 9



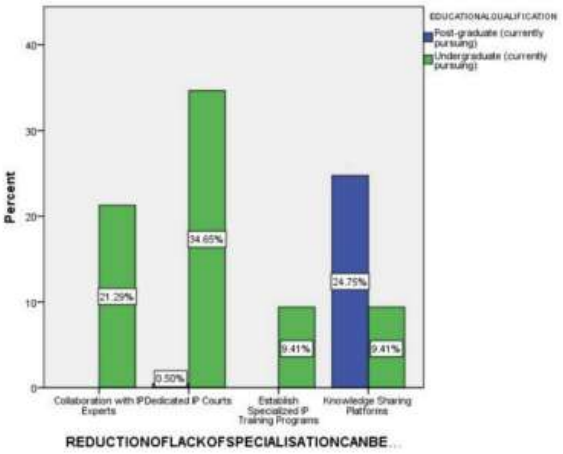
Legend: The bar graph represents whether specialized expertise crucial intellectual property rights courts ensure fair resolution to the education qualification group of the respondents.

Figure 10



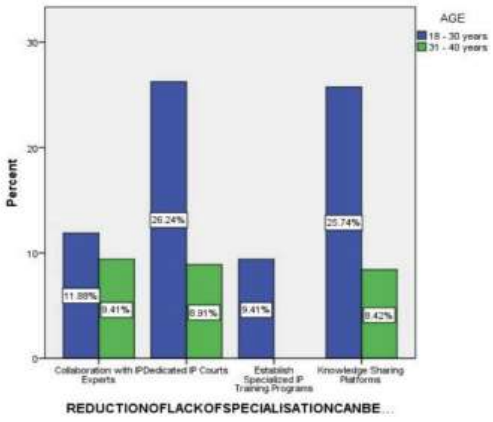
Legend: The bar graph represents whether specialized expertise crucial intellectual property rights courts ensure fair resolution to the monthly income group of the respondents.

Figure 11



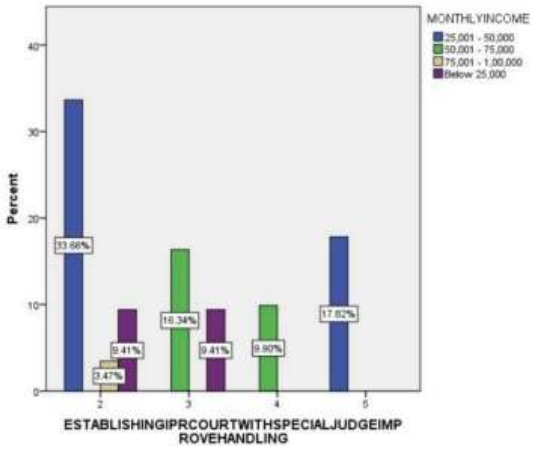
Legend: The bar graph represents whether reduction of lack of specialization can be to the education qualification group of the respondents.

Figure 12



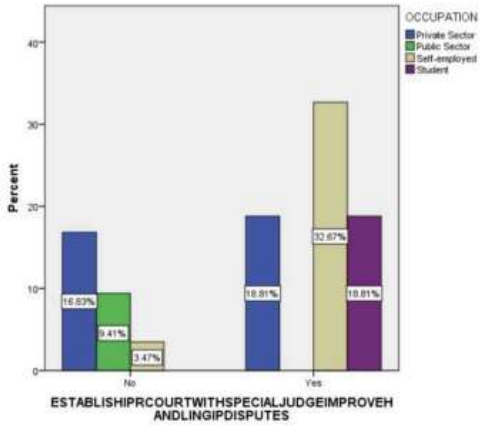
Legend: The bar graph represents whether reduction of lack of specialization can be to the age group of the respondents.

Figure 13



Legend: The bar graph represents whether establishing an intellectual property rights court with a special judge improves handling to the monthly income group of the respondents.

Figure 14



Legend: The bar graph represents whether establishing an intellectual property rights court with a special judge improves handling to the occupation group of the respondents.

2. RESULT:

In Figure:01 The majority of the response was between the age group of 19 to 30 years because most of the responses are collected from young people and adults 148%. **In Figure:02** The majority of respondents are male 128% because they are active in responding to the questionnaires. **In Figure 3** the majority of respondents were married 106% since the topic is about same-sex marriage so the response was collected from the married respondents. **In Figure:04** The majority of respondents are from undergraduate 151% as the response was collected from the students, teenagers and adults. **In Figure:05** The majority of respondents are from the students and young people73% so their corporate or an individual firm. **In Figure:06** The majority of respondents are from the 25000-50000 of 104% earring people. **In Figure:07** The majority of the respondents have opinionated 45.54% yes as that work involved any capacity legal industry specific intellectual property rights. **In Figure:08** The respondents have an opined view of 26.73% yes work involving any capacity legal industry specific intellectual property rights. **In Figure:09** The respondents 31.19% say that they agree in specialized expertise crucial intellectual property rights courts ensure fair resolution. **In Figure:10** The respondents also 26.73% agree with specialized expertise crucial intellectual property rights courts ensure fair resolution . **In Figure:11** The respondents 34.65% agree that IP courts are the platform for the reduction of lack of specialization. **In Figure:12** The respondents 26.24% agree that IP dedicated is the platform for the reduction of lack of specialization. **In Figure:13** The 33.66% basic income people respond that establishing an intellectual property rights court with a special judge improves handling. **In Figure:14** The 32.67% self-employed people respond that establishing an intellectual property rights court with a special judge improves handling.

3. DISCUSSION

In Figure:01 The majority of the response was between the age group of 19 to 30 years because most of the responses are collected from young people and adults. **In Figure:02** The majority of respondents are male because they are active in responding to the questionnaires. **In Figure 3** the majority of respondents were married since the topic is about same-sex marriage so the response was collected from the married respondents. **In Figure:04** The majority of respondents are from undergraduate as the response was collected from the students, teenagers and adults. **In Figure:05** The majority of respondents are from the students and young people so their corporate or an individual firm. **In Figure:06** The majority of respondents are from the 25000-50000 earring people. **In Figure:07** The majority of the respondents have opinionated yes as that work involved any capacity legal industry specific intellectual property rights. **In Figure:08** The respondents have an opined view of yes work involving any capacity legal industry specific intellectual property rights. **In Figure:09** The respondents say that they agree in specialized expertise crucial intellectual property rights courts ensure fair resolution. **In Figure:10** The respondents also agree with specialized expertise crucial intellectual property rights courts ensure fair resolution . **In Figure:11** The respondents agree that IP courts are the platform for the reduction of lack of specialization. **In Figure:12** The respondents agree that IP dedicated is the platform for the reduction of lack of specialization. **In Figure:13** The basic income people respond that establishing an intellectual property rights court with a special judge improves handling. **In Figure:14** The self employed people respond that establishing an intellectual property rights court with a special judge improves handling.

4. Conclusion

Based upon the case studies, this report finds that specialized IPR courts have many advantages. Specialized courts benefit the IPR owners and the government alike as they are more efficient and expedient. While all countries must consider their own needs and priorities, such as case loads and financial limitations, it is advisable for government officials to consider developing and maintaining some form of specialized IPR court. Considering that technology is highly specific and embedded in routines and procedures, that knowledge has a strong tacit component, and that learning is a trial and error process which entails non-substitutable experiences, those enmeshed in the patent controversy who often blame or bless patents for their effects on innovative conducts are losing their relevance. We hope that our reasoning contributes to an inclusion of intellectual property management in the current renewed discourse on policies and institutions shaping industrial development. Seeking more balanced and tailored IP systems is necessary, and emphasis should be placed both on industrial policies for creating technological and production capabilities and on strategic IP management to uphold the industrial development effort.

References

1. Belmas, Genelle, and Jason M. Shepard. 2022. *Major Principles of Media Law, 2023*. Cengage Learning.
2. Correa, Carlos M. 2021. *Access to Medicines and Vaccines: Implementing Flexibilities Under Intellectual Property Law*. Springer Nature.
3. Day, Rob. 2008. *Street Smarts for Global Business: A Practical Guidebook for Global Business Executives*. Rob Day.
4. Depoorter, Ben, Peter Menell, and David Schwartz. 2019. *Research Handbook on the Economics of Intellectual Property Law: Vol 1: Theory Vol 2: Analytical Methods*. Edward Elgar Publishing.
5. Dimitrov, Martin. 2009. *Piracy and the State: The Politics of Intellectual Property Rights in China*. Cambridge University Press.
6. Dreyfuss, Rochelle C., and Katherine J. Strandburg. 2011. *The Law and Theory of Trade Secrecy: A Handbook of Contemporary Research*. Edward Elgar Publishing. 7. Hawk, Barry E. 2011. *International Antitrust Law & Policy: Fordham Competition Law 2010*. Juris Publishing, Inc.
7. Heath, Christopher, and Anselm Kamperman Sanders. 2019. *Intellectual Property and International Dispute Resolution*. Kluwer Law International B.V.
8. Heinrich, Michael, and Alan Hesketh. 2019. "25 Years after the `Rio Convention'--Lessons Learned in the Context of Sustainable Development and Protecting Indigenous and Local Knowledge." *Phytomedicine: International Journal of Phytotherapy and Phytopharmacology* 53 (February): 332–43.
9. *Intellectual Property Rights in an Age of Electronics and Information*. n.d. DIANE Publishing.
10. Janke, Terri. 2003. *Minding Culture: Case Studies on Intellectual Property and Traditional Cultural Expressions*. WIPO.
11. Kung-Chung, L. I. U. 2017. *Annotated Leading Patent Cases in Major Asian Jurisdictions*. City University of HK Press.
12. Liu, Kung-Chung. 2022. *IP Laws and Regimes in Major Asian Economies: Combing through Thousand Threads of IP to Peace in Asia*. Taylor & Francis.
13. Muscolo, Gabriella, and Marina Tavassi. 2019. *The Interplay Between Competition Law and Intellectual Property: An International Perspective*. Kluwer Law International B.V. 15. United States. Congress. House. Committee on the Judiciary. Subcommittee on Courts, the Internet, and Intellectual Property. 2003. *International Copyright Piracy: A Growing Problem with Links to Organized Crime and Terrorism*

: Hearing Before the Subcommittee on Courts, the Internet, and Intellectual Property, One Hundred Eighth Congress, First Session, March 13, 2003.

14. United States. Congress. House. Committee on Ways and Means. Subcommittee on Trade. 2008. *U. S. Trade with China: Hearing Before the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, One Hundred Tenth Congress, First Session, February 15, 2007*.
15. United States. Congress. Office of Technology Assessment. 1986. *Intellectual Property Rights in an Age of Electronics and Information*.
16. World Intellectual Property Organization, and China National Intellectual Property Administration (CNIPA). 2019. *Intellectual Property Basics: A Q&A for Students*. WIPO. 19. Dimitrov, Martin. 2009. *Piracy and the State: The Politics of Intellectual Property Rights in China*. Cambridge University Press.
17. Dreyfuss, Rochelle C., and Katherine J. Strandburg. 2011. *The Law and Theory of Trade Secrecy: A Handbook of Contemporary Research*. Edward Elgar Publishing.