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1

Understanding and Profiting from Intellectual Property: A Beginning

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Focus and structure

1.1 Aims and purposes

1.2 Rationale and intended readership

1.3 Methodological delineation

1.4 Structure and thematic overview

A beginning: A route map for the book

Note

Focus and structure

This book investigates intellectual property (IP) within the context of international business (IB), and presents IP fundamentals, IP environments, IP management and IP strategies in a way which is relevant to both business practice and research. It aims to provide practitioners and analysts with guidelines and an action framework on how to profit from IP. The author has consulted the widest possible range of resources, including primary and secondary data and grey literature, to serve these research aims and objectives, and has structured the book thematically to guide readers towards a full and clear understanding of IP in the IB world.

This first chapter aims to set a clear picture of the book by addressing four topics. First, it clarifies the focus of the book, by addressing the aims and purposes. Second, the reasons behind the writing of the book and its intended readership are discussed. Third, the methodological approaches that have been followed in different areas of the subject are briefly presented. Finally, the contents of each chapter are outlined to provide the reader with a route map through the book.

1.1 Aims and purposes

The book aims to provide practitioners and analysts with guidelines on how to profit from IP, particularly in world business. Four major aspects of IP are addressed. First, *IP fundamentals* are outlined to establish an overall understanding of the subject, covering conceptual issues and different schools of thought, before narrowing the focus down to IP in the IB context. Second, it discusses the question of *IP environments*, providing readers with critical insights into the factors that affect IP-related business activities in different countries. Third, the section on *IP management* emphasizes the importance of managing IP valuation, people and products. Finally, it examines *IP strategies*, focusing on business dissemination (that is, the process of gaining value from the spread and development of IP), including a systematic introduction to different possible business strategies for IP-related activities, specific explanations about various forms of IP licensing, and diverse corporate strategies against piracy.

This book has a dual purpose in its aim to provide its audience with a critical understanding of the significance and implications of IP issues in world business.

- The first is to provide knowledge and understanding about IP in world business. It offers a critical understanding of IP from the perspective of practitioners, demonstrating the strategic importance of IP to corporate success, and presenting a comprehensive discussion of how the IP environment is analysed and IP assets can be managed and strategized for onward dissemination.
- The second is to enhance readers' ability to conduct cross-border IP analysis by understanding how to acquire and interpret data and evaluate the relevance and validity of the data. This understanding will assist them in planning appropriate responses and solutions to IP-related activities from corporate, industrial and international perspectives, and in negotiating IP-related collaboration.

1.2 Rationale and intended readership

This book was written to address two needs. First, it is to offer practitioners a 'guidebook' on how to profit from IP. Although there has been much interdisciplinary research on IP, a book addressing the subject systematically from an IB angle is still lacking. Practitioners associated with IP businesses – such as creators, IP owners, business managers, research institutions and government organizations – need a comprehensive

understanding of IP and IB to assist them in managing cross-border IP activities. While existing publications primarily emphasize the creation and protection of IP, this book steers in the direction of IP dissemination, i.e. deriving value from IP. Second, there is a need for an educational and analytical guide for corporate researchers, academics and students: indeed, the idea of writing this book was driven initially by classroom demand. Having designed a module to teach MBA and MA business and management students, the author found she had to prepare everything from scratch – writing cases, collecting statistical data for analysis, and synthesizing existing theories and practice – a process which convinced her a book on IP from the business angle would be of value to both practitioners and analysts.

There are also academic voids to fill as far as IP in the context of IB is concerned. As a business subject and practice, IP has gained in importance in recent decades. While it is still mainly perceived as a legal and economic subject, it is becoming more recognized as an interdisciplinary subject due to its importance in history, sociology, politics and the natural sciences. With the signing of the Agreement on the Trade-Related aspects of IP Rights (TRIPS) by the member states of the World Trade Organization (WTO), IP has become an integral part of business practice and an essential element of business transactions. However, there appears to be little research linking IP and IB that supports practice with a synthesis of contemporary theory: this book is written with this intention.

1.3 Methodological delineation

This book combines analyses of primary and secondary data and ‘grey literature’, and is organized thematically, that is, the data in each chapter has been collected and analysed in various ways to provide evidence to demonstrate particular IP features. For primary data sources, two methods of collecting and analysing data have been used. One involves survey data (e.g. data collected from corporate managers involved in IP-related businesses), which tends to reveal statistical facts about IP businesses. For example, for the discussion on measuring different IP systems (IPS) in the world (in the IP Facts section of Chapter 4), the author has coded data based on government documentations and questionnaire surveys with government bodies and international organizations. The other primary data source is interview data and case analysis, such as is used in Chapter 11, where the discussions are all based on cases collected from interviews with corporate managers.

A rich array of secondary sources is also employed. All data sources, including journal papers, books, periodicals and magazines, and Internet resources have their merits and demerits. Journal papers and books, such as specialist monographs, tend to target a particular specialist field, and lay great emphasis on their thoroughness in covering the relevant literature and the soundness of their methodology and interpretation of results. However, this type of work can take a long time to be published, particularly in the leading journals, and thus the data is often out of date. Such problems can be overcome by using professional resources, such as books, magazines and periodicals published by specialists in a particular field and oriented towards practitioners that place greater emphasis on the freshness of their information. This type of data complements academic publications by addressing particular problems and offering pragmatic solutions, although perhaps lacking methodological detail. Web data from a variety of sources are also used: while this shares similar merits and demerits with professional data, it is even more up to date, and can add the different angles of views from government sites, practitioners, journalists and IP owners, and can thus be even better grounded in practice to provide insights for IP businesses. The author has taken care to use Internet information selectively to avoid unreliable sources and ensure the trustworthiness of information. Many of the book's cases have been written from a synthesis of professional and Internet sources to bring them up to date and to allow a wide range of views to be taken into account.¹

This book has also benefited from a wide range of 'grey literature', mostly in the form of reports from companies, government bodies, international organizations and so on that are not widely publicized. Such sources provide the author with quasi-primary data on which to conduct original analysis. For example, the World IP Organization (WIPO) compiles IP statistics on a yearly basis, presenting data by country of origin, types of IP applications, and granting of IP rights to domestic and foreign applicants. On their own, such data present a broad-brush picture of the technological and other creative activities in a particular country. However, they may not indicate, for instance, whether different countries treat domestic and foreign IP applicants equally. The availability of such 'grey' data has allowed the author to subject it to further analysis to answer more detailed questions, such as in Chapter 3, where raw WIPO data from the US and China – two countries perceived as being at the extremes of IP protection (IPP) – are compared to show where their processing of applications differs.

This integrated approach to consulting a wide range of information sources benefits the book, allowing its thematic discussions to take into account a wide range of views from professionals to academics, besides allowing the author to make her own contribution to the discussions. The approach is also methodologically beneficial: the breadth of methods used allows the research outcomes to take advantage of the merits of each method, while their individual demerits can be overcome by triangulation to achieve maximum validity and reliability.

1.4 Structure and thematic overview

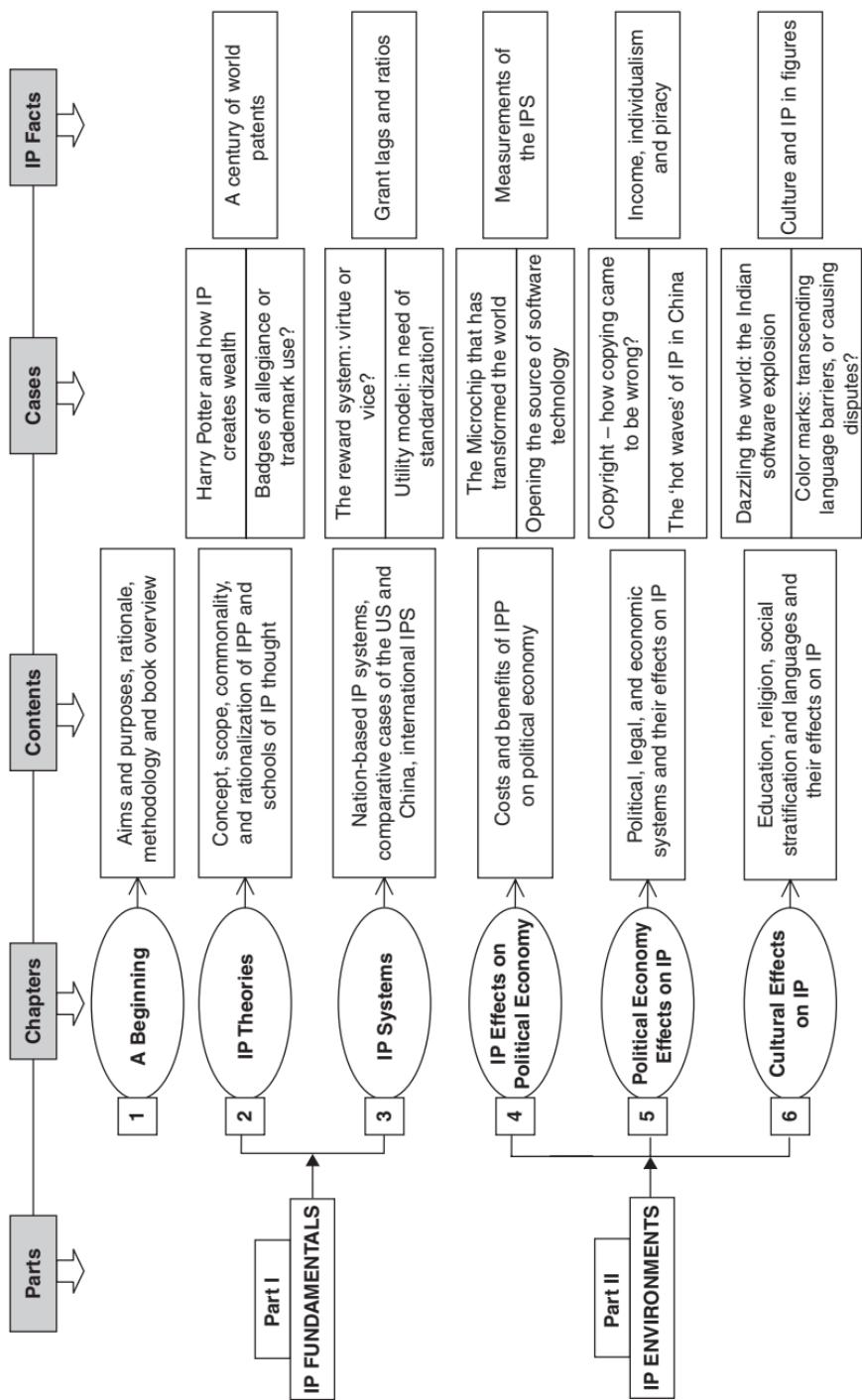
The book is structured thematically to address a range of IP topics within the framework of IB: its 'route map' is shown in Figure 1.1. Each chapter follows a common structure to aid clarity. Besides a 'Focus and structure' section, a chapter 'Summary' and a 'References and further reading' section, the theme of each chapter is introduced by a case discussion (the 'Opener'). The main body of the chapter constitutes discussions of the chapter's specific theme and the relevant IP issues in relation to world business. The 'Closer' cases elaborate further thematically relevant real-life IP cases. Besides the case studies, each chapter contains an 'IP Facts' section, addressing the chapter's theme from a statistical point of view. Thus, besides additional simple cases within each chapter's thematic discussion, 20 opening and closing cases are outlined and 10 'IP Facts' sections presented to supplement chapter discussions.

The book's overall structure is as follows:

Chapter 1: Understanding and Profiting from Intellectual Property: A Beginning sets the route map for the book, and outlines its aims and purposes; the rationale behind the book (for the benefit of both practitioners and analysts), and the methodology used to draw its conclusions.

Part I: Intellectual Property Fundamentals

Chapter 2: Intellectual Property Theories addresses some fundamental issues to aid the reader's overall understanding of the subject. It clarifies different types of IP concepts, discusses the ever-expanding scope of IP, the common characteristics of different types of IP, and the motivations for countries to strengthen their IPP. Finally, this chapter sets the academic context by discussing the increasingly interdisciplinary schools of thought on IP.



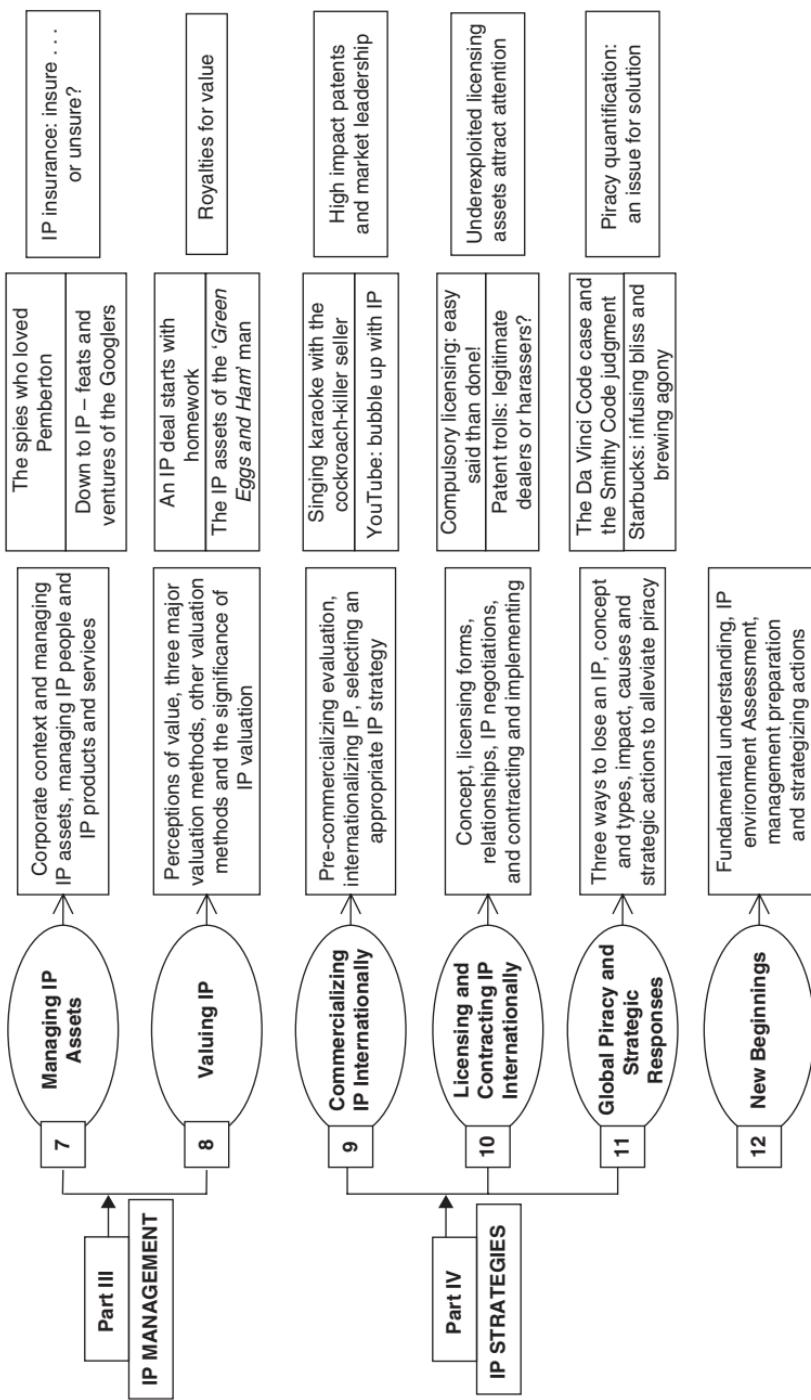


Figure 1.1 A route map for the book

Chapter 3: Intellectual Property Systems shows how IPS across the world are still fundamentally country-based, despite the efforts to internationalize IPP, administration and enforcement. To illustrate such differences, the similarities and differences of the IPS operations in China and the US are considered.

Part II: Intellectual Property Environments

Chapter 4: The Effects of Intellectual Property on Political Economy highlights the costs and benefits to a country of IPP. Why is IPP beneficial for the political economy of a country? What conditions are needed to allow countries to achieve optimal benefits from IP? Is IP suited to all countries? What are the costs to a country of strengthening its IPP?

Chapter 5: The Effects of Political Economy on Intellectual Property turns the previous chapter's discussions around to consider how a country's political economy systems impact on the development of IP. The nature of a country's political economy environment – be it a democratic or a totalitarian political regime, a capitalist or a planned economy, operating within a common or civil law regime – can all have bearings on the establishment and strengths and weaknesses of IP.

Chapter 6: The Effects of Culture on Intellectual Property discusses how national cultural elements can influence a country's attitudes towards IP. Education, religion, social structure and language all have their role to play in influencing ways of thinking about IP.

Part III: Intellectual Property Management

Chapter 7: Managing Intellectual Property Assets focuses on the corporate management of IP related assets. This includes outlining the corporate context as it affects managing IP resources, categorizing IP firms according to their capabilities in dealing with IP and their tactics for managing IP information.

Chapter 8: Valuing Intellectual Property analyses the different methods available for valuing IP assets. As a background context, the chapter first discusses various perceptions about value. Then the three major valuation methods – the cost, market and income approaches – are discussed in terms of their pros and cons, and how they are used. Other methods are also discussed briefly. Finally, the chapter emphasizes the importance of conducting IP valuation for different business purposes.

Part IV: Intellectual Property Strategies

Chapter 9: Commercializing Intellectual Property Internationally stresses the dissemination of IP throughout the international market, and discusses the two stages involved in the commercial decision-making process. Stage one is the pre-commercializing evaluation, where the feasibility of a company expanding its IP products or services to another country is examined, in terms of the analysis of corporate capacity, the motivations for the expansion, the IP environments and IP competition in the targeted country, as well as matters of timing, etc. Stage two is the assessment of strategy fits and the selection of the best strategy in the circumstances.

Chapter 10: Licensing and Contracting Intellectual Property Internationally is the most frequently adopted strategy for IP commercialization. This chapter outlines the concept of licensing, and clarifies the complicated forms of licensing and the relationships between licensor and licensee inherent in different types of licensing activity. The importance of licensing deal negotiations, and the need for the inclusion of specific elements designed to prevent future frictions, are also discussed.

Chapter 11: Global Piracy and Strategic Responses systematically examines the unwelcome companion of IB – globalized piracy. It starts with the clarification of the three ways to lose an IP and different forms of piracy, and then focuses on its impact and its causes in relation to IP environments, supply and demand reciprocity and corporate factors. The suggestion here is that relying entirely on governments to tackle piracy is not an immediate solution for companies, who should instead take their own strategic actions to alleviate specific piracy problems: ten strategies frequently adopted by multinationals are discussed.

Chapter 12: Understanding and Profiting from Intellectual Property: New Beginnings sets the route map for practitioners and analysts for actions and challenges to understand and profit from IP. The map shows a four-stage process of assessing IP, including the route to follow, actions to take and outcomes to anticipate for the profitability of IP.

A beginning: A route map for the book

Practitioners and analysts alike have noted that business is becoming more internationalized than ever, that operating environments are becoming more fast-moving and unpredictable, and that innovation

and creativity are becoming the keys to securing competitive advantage. Thus, concerns about IP will increasingly occupy management thinking and research attention. In social terms, too, there are major problems on the agenda: must piracy at some level be accepted as inevitable, or should originators commit huge resources to defending their turf? And how can the need for maintaining high rewards for creativity to pay for continuous original development be squared against the needs for, for instance, cheap drugs for HIV sufferers in Africa? Such problems challenge the currently dominant (Western) world view of the optimum balance between the private and the public good: fine brains and subtle analysis will be needed to sort out both ethics and practice for the future. IP is important now, and promises to become increasingly so in the future – both practitioners and analysts therefore need to *understand IP* and know how to *profit from IP* in the international arena. This route map (Figure 1.1) sets out a beginning of journey for them to do so.

Note

1. The author tends to compile case and IP facts references into an endnote and most academic references into 'References and further reading' at the end of each chapter.

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