

Contents

<i>List of Tables</i>	<i>xiii</i>
<i>List of Figures</i>	<i>xiv</i>
<i>List of Photos</i>	<i>xv</i>
<i>List of Opener and Closer Cases</i>	<i>xvi</i>
<i>List of Intellectual Property Facts</i>	<i>xvii</i>
<i>List of Abbreviations and Acronyms</i>	<i>xviii</i>
<i>Preface and Acknowledgements</i>	<i>xxi</i>
Chapter 1: Understanding and Profiting from Intellectual Property: A Beginning	1
Focus and structure	1
1.1 Aims and purposes	2
1.2 Rationale and intended readership	2
1.3 Methodological delineation	3
1.4 Structure and thematic overview	5
A beginning: A route map for the book	9
Note	10
Part I: Intellectual Property Fundamentals	11
Chapter 2: Intellectual Property Theories	13
Focus and structure	13
Opener: Harry Potter and how intellectual property creates wealth	14
2.1 Intellectual property as a concept	15
2.2 Scope of intellectual property	18
2.2.1 Patent	19
2.2.2 Utility model	19
2.2.3 Industrial design	20
2.2.4 Mark	20
2.2.5 Copyright	21
2.2.6 Trade secret	22
2.3 Common characteristics of various intellectual property forms	22
2.3.1 Intangibility	23
2.3.2 Exclusivity	23
2.3.3 Legality	24
2.3.4 Territoriality	24
2.4 Dialectic rationalization of intellectual property protection	25

2.5 Academic schools of thought on intellectual property	28
Closer: Badges of allegiance or trademark use?	28
Intellectual property facts: A century of world patents	30
Summary	33
Notes	34
References and further reading	36
Chapter 3: Intellectual Property Systems	39
Focus and structure	39
Opener: The reward system: Virtue or vice?	40
3.1 Three-part nation-based intellectual property systems	42
3.2 Intellectual property systems in the US and China compared	44
3.2.1 Objectives	44
3.2.2 Legislative guidance	45
3.2.3 Administrative control	46
3.2.4 Judicial enforcement	50
3.3 An international intellectual property system	51
3.3.1 How does an international intellectual property system function?	51
3.3.2 Issues for an international intellectual property system	52
Closer: The utility model: In need of standardization!	55
Intellectual property facts: Grant lags and grant ratios	58
Summary	62
Notes	63
References and further reading	65
Part II: Intellectual Property Environments	69
Chapter 4: The Effects of Intellectual Property on Political Economy	71
Focus and structure	71
Opener: The microchip that has transformed the world	72
4.1 The effects of intellectual property on economic growth	74
4.2 The effects of intellectual property on international trade	76
4.3 The effects of intellectual property on foreign direct investment	78
4.4 The effects of intellectual property on welfare	79
4.5 The effects of intellectual property on licensing	80
4.6 The effects of intellectual property on technology transfer and innovation	82
4.7 Other effects of intellectual property	85
Closer: Opening the source of software technology	87

Intellectual property facts: Measurements of intellectual property systems	91
Summary	93
Notes	94
References and further reading	95
Chapter 5: The Effects of Political Economy on Intellectual Property	99
Focus and structure	99
Opener: Copyright – How copying came to be wrong?	100
5.1 The effects of political systems on intellectual property	102
5.2 The effects of legal systems on intellectual property	104
5.3 The effects of economic systems on intellectual property	106
Closer: The ‘hot waves’ of intellectual property in China	107
Intellectual property facts: Income, individualism and piracy	110
Summary	112
Notes	114
References and further reading	114
Chapter 6: The Effects of Culture on Intellectual Property	116
Focus and structure	116
Opener: Dazzling the world: The Indian software explosion	117
6.1 Education and intellectual property	119
6.2 Religion and intellectual property	120
6.3 Social stratification and intellectual property	122
6.4 Language and intellectual property	123
Closer: Color marks: Transcending language barriers, or causing disputes?	125
Intellectual property facts: Culture and intellectual property in figures	128
Summary	130
Notes	131
References and further reading	132
Part III: Intellectual Property Management	135
Chapter 7: Managing Intellectual Property Assets	137
Focus and structure	137
Opener: The spies who loved Pemberton	138
7.1 Corporate contexts and managing intellectual property assets	140
7.2 Managing intellectual property people	141
7.2.1 Corporate intellectual property positioning for resources need	141

7.2.2	Balancing resources distribution to maximize intellectual property creativity	143
7.2.3	Internal people-management: The imperatives	144
7.3	Managing intellectual property products and services	146
7.3.1	Managing the intellectual property portfolio	146
7.3.2	Corporate tactics of intellectual property generation, protection and dissemination	148
Closer:	Down to intellectual property – feats and ventures of the Googlers	153
Intellectual property facts:	Intellectual property insurance: Insure ... or unsure?	156
Summary		158
Notes		159
References and further reading		160
Chapter 8: Valuing Intellectual Property		162
Focus and structure		162
Opener:	An intellectual property deal starts with homework	163
8.1	Varied perceptions of intellectual property value	165
8.2	Three major valuation methods: Pros and cons	168
8.2.1	Market approach	168
8.2.2	Cost approach	170
8.2.3	Income approach	171
8.2.4	Method selection	173
8.3	Other methods in brief	173
8.4	The significance of intellectual property valuation	176
Closer:	The intellectual property assets of the <i>Green Eggs and Ham</i> man	179
Intellectual property facts:	Royalties for value	180
Summary		183
Notes		184
References and further reading		184
Part IV: Intellectual Property Strategies		187
Chapter 9: Commercializing Intellectual Property Internationally		189
Focus and structure		189
Opener:	Singing karaoke with the cockroach-killer seller!	190
9.1	Pre-commercializing evaluation	193
9.1.1	Intellectual property owner's capacity for profiting internationally	193
9.1.2	The driving forces behind internationalizing intellectual property	194

9.1.3 Targeting countries	195
9.1.4 Timing	196
9.2 Internationalizing intellectual property – Costs, profits, risks and control	196
9.2.1 International intellectual property trade	197
9.2.2 Intellectual property turnkey project	199
9.2.3 Intellectual property licensing and franchising	200
9.2.4 Intellectual property joint venture	203
9.2.5 Intellectual property operations with whole ownership abroad	205
9.3 Selecting an appropriate intellectual property strategy	207
Closer: YouTube – Bubble up with intellectual property	209
Intellectual property facts: High impact patents and market leadership	213
Summary	215
Notes	216
References and further reading	217
Chapter 10: Licensing and Contracting Intellectual Property Internationally	219
Focus and structure	219
Opener: Compulsory licensing: Easier said than done!	220
10.1 Licensing and its forms	224
10.2 Licensing relationships	226
10.3 Intellectual property negotiation	231
10.3.1 Negotiation – an art	231
10.3.2 Intellectual property negotiation – a complicated deal	231
10.3.3 Intellectual property negotiation – a team matter	232
10.3.4 Intellectual property negotiation – a protracted process	235
10.4 Intellectual property licensing contracting and implementation	240
Closer: Patent trolls: Legitimate dealers or harassers?	242
Intellectual property facts: Underexploited licensing assets attract attention	245
Summary	247
Notes	248
References and further reading	249
Chapter 11: Global Piracy and Strategic Responses	251
Focus and structure	251
Opener: The Da Vinci Code case and the Smithy Code judgment	252
11.1 Three ways to lose an intellectual property	254

11.2	Piracy and its typology	255
11.3	Impact: Where there's intellectual property, there's piracy	258
11.4	Causes: Globalization of piracy	259
11.4.1	Intellectual property environment factors	260
11.4.2	Supply and demand reciprocity	261
11.4.3	Corporate factors	262
11.5	Solutions: Strategic actions for alleviating piracy	263
11.5.1	Prevention is better than cure – proactive approaches	264
11.5.2	There is no panacea, but a cure is necessary – defensive weapons	270
11.5.3	External backing and unremitting acts – networking means	272
	Closer: Starbucks: Infusing bliss and brewing agony	275
	Intellectual property facts: Piracy quantification – an issue for solution	277
	Summary	280
	Notes	281
	References and further reading	283

Chapter 12: Understanding and Profiting from Intellectual Property: New Beginnings **286**

	Focus and structure	286
12.1	Fundamental understanding for intellectual property protection	287
12.2	Intellectual property environment assessment to select profiting base	289
12.3	Management preparation to equip intellectual property resources	290
12.4	Strategizing actions to profit from intellectual property	291
	New beginnings: A route map for actions and challenges	291

	<i>Index</i>	293
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1

Understanding and Profiting from Intellectual Property: A Beginning

Contents

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

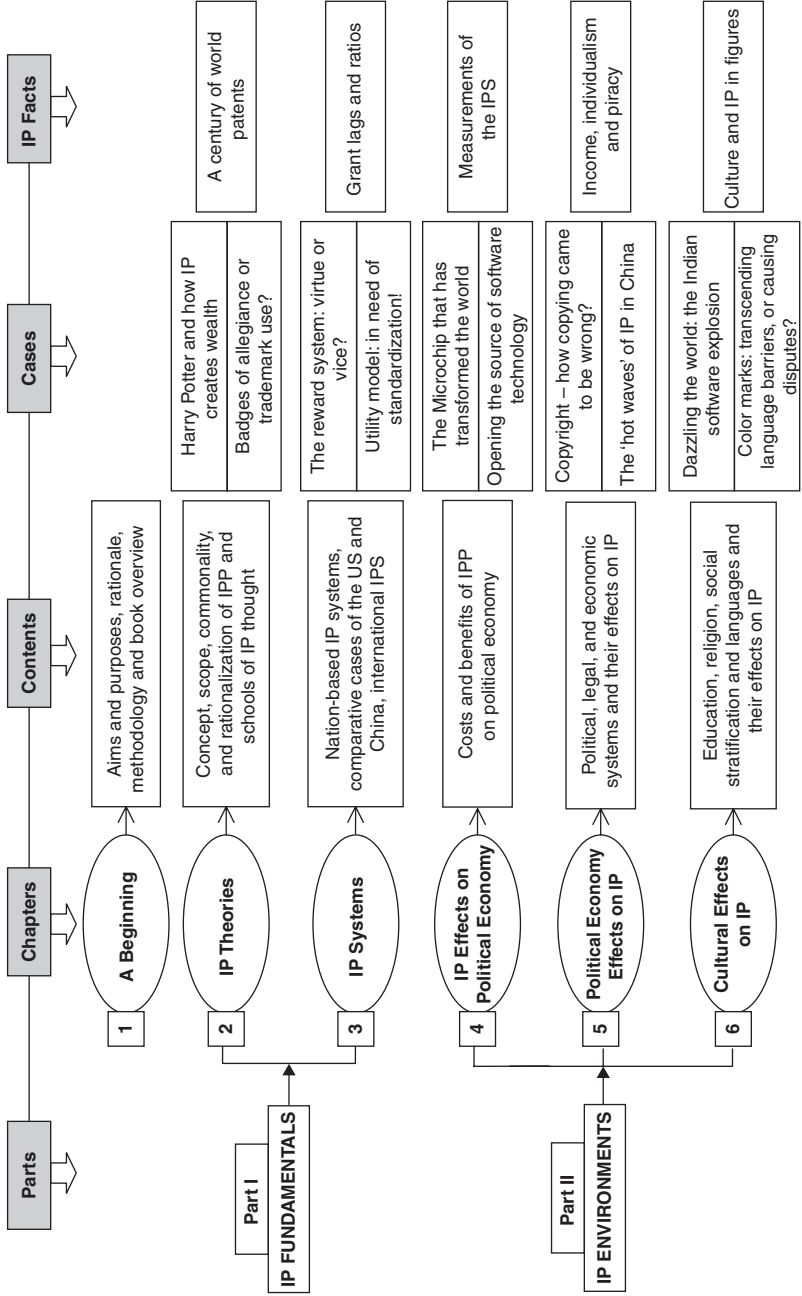
The book is structured thematically to address a range of IP topics within the framework of IB: its 'route map' is shown in Figure 1.1. Each chapter follows a common structure to aid clarity. Besides a 'Focus and structure' section, a chapter 'Summary' and a 'References and further reading' section, 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.



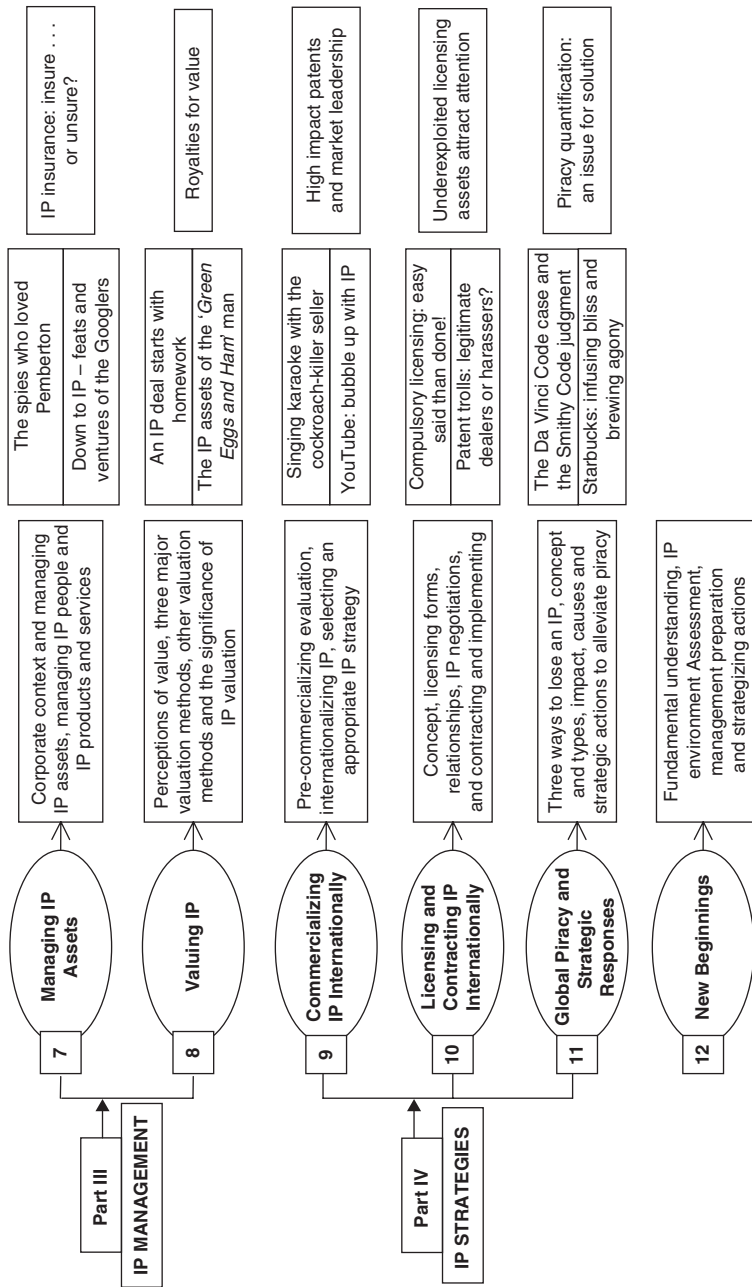


Figure 1.1 A route map for the book

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.

Index

Note: 'n' after a page reference indicates the number of a note on that page.

- Abbott Laboratories, 220, 221–2
- Acacia Technologies, 243
- academic schools of thought on IP, 28
- Accenture, 168
- Access Restriction Agreements, 145
- accounting standards, 172
- accumulation tactic, 150
- acquiring strategy, piracy problems, 266, 271–2
- acquisitions, *see* mergers and acquisitions
- Acron, 230
- administrative control, IP systems, 42, 43
 - comparison of the US and China, 46–50
- Afghanistan
 - Bin Laden T-shirts, 21
 - legal system, 105
- agencies in foreign countries, 198
- Aids Access Foundation, 221
- AIDS/HIV treatment
 - compulsory licensing, 220, 221–3
 - monopoly pricing of drugs, 86–7
- alliance relationship, licensing, 226, 228, 229
- All India Council for Technical Education, 118
- AMATI, 206
- Amazon
 - and Google, 155
 - and Wal-Mart, 145
- America Online (AOL), 155
- Anne*, *Statute of*, 100–2
- anti-generic tactics, 152–3
- anti-trust laws, 22
- AOL, 155
- Appert, Nicholas, 41
- Apple
 - market relationship, licensing, 230
 - patent trolls, 243
- arbitration, China, 47
- ARM, 230
- Arsenal Football Club, 28–30
- Aspirin, 152
- asset management, *see* managing IP assets
- assignment agreements, 145
 - internationalizing IP, 197, 198
- Aston-Martin, 168
- Astra, 205
- AstraZeneca merger, 205
- AT&T, 228
- AU, 229
- auctions, on-line, 256, 257
- Australia, color marks, 128
- Babbage, Charles, 192–3
- Baigent, Michael, 252
- balancing IP protection, 27–8
- bankruptcy, 178, 179
- Barshefsky, Charlene, 231–2
- Bausch & Lomb Inc., 183
- Beckett, Thomas, 101
- benchmarking, 151
- Berne Convention, 53
 - China's ratification, 109
 - international trade, 76
 - as minimum standard for IP integration, 76
- bibliometrics, 151
 - mobile communications industry, 215
- BinLadin, Yeslam, 21
- BlackBerry caes, 242
- BMW, 138
- BP
 - color mark, 126
 - re-branding from BP Amoco, 170
- Brazil, compulsory licensing, 222, 223
- Bright Tunes Music Corp., 255
- Brin, Sergey, 153

- Bristol-Myers Squibb, 220
 British Petroleum, *see* BP
 Brown, Dan, 252–3
 Brussels Convention, 53
 Budapest Treaty, 54
 China's ratification, 109
 Budweiser, piracy prevention, 264–8
 Buffett, Warren, 165
 Burst.com, 243
 business method patents, 15, 34n2
 Business Software Alliance (BSA), 278, 279
Business Week, 168
- Cadbury, 126, 127
 Canada
 compulsory licensing, 223
 Quebec province's legal system, 105
 underexploited IP assets, 245
 Canon, 143, 144
 Cap Candy, 15
 capitalist economies, 106, 107
 capitalization method for IP
 valuation, 173–6
 carrot relationship, licensing, 226, 227–8
 case law regimes, *see* common law regimes
 Casio, 227
 centrist economies, 106–7
 certification marks, 21
 characteristics of IP forms, *see*
 common characteristics of IP forms
 chemical industry
 foreign direct investment, 78
 licensing, 81
 Chen, Steve, 209
 Chiffons, 255
 Chile, costs of establishing IP
 protection, 85
 China
 acquisitions, 206
 as agricultural state, 26
 bilateral negotiations with the US,
 107–8, 231–4
 education, 119–20
 employment, 85
 fast food, 152
 'hot waves' of IP in, 107–10
 human resources distribution, 143, 144
 investment locations, 195
 IP system, 44–51; grant lags and
 grant ratios, 58–62
 language, 123–5
 legal system, 43, 105, 106, 108, 109
 licensing, 81; compulsory, 27
 negotiation styles, 232–4, 268
 Open Door Policy, 103, 122, 234
 patents, 33, 44; administrative
 control, 46–50; applications, 243;
 grant lags and grant ratios, 58–62;
 judicial enforcement, 50–1;
 legislative guidance, 45–6;
 objectives, 44–5
 piracy, 258–9, 264; compensation,
 271; DuPont, 272; film industry,
 277; investigation, 270;
 Microsoft, 273; software, 277
 political system, 103, 104
 religion, 121
 reward system, 26, 41, 42
 social stratification, 122–3
 Starbucks, 275–6
 utility models, 20
 WTO membership, 231
 chronometer, 40
 civil law regimes, 104–5
 China, 45, 106
 judicial enforcement, 43
 Coca-Cola
 corporate contexts, 141
 Harry Potter films, 15
 marks, 21
 piracy prevention, 266, 269
 secret formula, 138–9
 transportation costs, minimization
 of, 198
 codified knowledge, 16–17
 Coffee Food and Beverages Company
 Ltd., 275
 Colgate, 152
 collective marks, 21
 collective property, 86

- collectivism
 - economic systems, 107
 - piracy, 110–12, 260
 - social stratification, 122
 - color marks, 125–8
 - command economies, 106, 107
 - commercializability, value–valuation
 - decision chain, 164
 - commercializing IP internationally,
 - see* internationalizing IP
 - commercial settlement, piracy
 - problems, 266, 270–1
 - common characteristics of IP forms,
 - 22–5
 - exclusivity, 23–4
 - intangibility, 23
 - legality, 24
 - territoriality, 24–5
 - common law regimes (case law
 - regimes), 104
 - judicial enforcement, 43
 - USA, 45, 105–6
 - communication, 123–5
 - in Google, 154
 - about importance of
 - confidentiality, 146
 - mobile communications industry,
 - 213–15
 - see also* language; negotiation
 - Communist regimes
 - political systems, 102, 103
 - reward system, 26, 41, 192
 - social stratification, 122
 - see also specific countries*
 - compensation strategy, piracy
 - problems, 266, 270–1
 - competition
 - commercializing IP internationally;
 - licensing and franchising, 203;
 - pre-commercializing evaluation,
 - 194–5; risks, 198; timing, 196;
 - turnkey projects, 199–200
 - education, 120; India, 118
 - laws, 22
 - managing IP assets, 148
 - negotiations, 237
 - search engines, 155
 - software technology, 89
 - competitive intelligence, 150–1
 - compulsory licensing, 26–7, 220–4
 - concept, IP as a, 15–18
 - confidentiality agreements, 145
 - consortium relationship, licensing,
 - 226, 228–30
 - consumer campaign strategy, piracy
 - problems, 267, 274
 - contexts
 - communication, 123
 - corporate, 140–1
 - contracts, 145–6, 208
 - cultural issues, 234
 - implementation, 240–2
 - internationalizing IP, 219–20, 240–1
 - licensing and franchising, 203
 - negotiations, 238, 239
 - surveillance, 266, 268
 - turnkey projects, 199
- contractual joint ventures, 203
 - control issues, internationalizing IP,
 - 197, 198
 - licensing and franchising, 201
 - wholly owned enterprises, 206
 - Copyright, Designs and Patents Act
 - 1988, 253
 - copyrights, 15, 21–2
 - China, 46
 - corporate contexts, 141
 - Da Vinci Code* case, 252–3
 - Harry Potter books, 14
 - licensing, 82
 - piracy, 256, 262
 - scope, 17–18
 - software technology, 87–8, 90
 - Statute of Anne*, 100–2
 - YouTube, 211–12, 213
 - corporate assets, 17
 - corporate contexts, and managing IP
 - assets, 140–1
 - corporate espionage, 139
 - and competitive intelligence,
 - distinction between, 150–1
 - insurance against, 157
 - corporate factors, piracy, 262–3
 - corporate IP positioning for resources
 - need, 141–3
 - corporate know-how, *see* trade secrets
 - cost approach to IP valuation, 170–1,
 - 173

- cost issues
 - establishing IP protection, 85
 - internationalizing IP, 197, 198; joint ventures, 204; licensing and franchising, 202; turnkey projects, 199; wholly owned enterprises, 206, 207
- cost savings method for valuing IP, 174, 176
- counterfeiting, 255, 256–7
 - legitimizing, 266, 271–2
 - see also* piracy
- creativity, maximizing, 143–4
- cross-licensing, 228, 229
- culture, effects on IP, 116–17, 128–31
 - education, 119–20
 - Indian software explosion, 117–19
 - international joint ventures, 204
 - language, 123–5; color marks, 125–8
 - negotiations, 231, 232–4
 - piracy, 260, 271
 - religion, 120–1
 - social stratification, 122–3
- currency fluctuations, 172–3

- Daisuke, Inoue, 191–2
- Daguerrotype photography system, 41
- Darrel Lea Confectionery, 126, 127
- Da Vinci Code* case, 252–3, 280
- definitions of IP, 15–16
- Demark model for valuing IP, 175
- democracy, and participation in IP policy-making, 103
- departing employees, confidentiality issues, 146
- Detkins, Peter, 242
- developed countries
 - commercializing IP internationally, 195
 - economic growth, 74–5
 - extending the IP life cycle, 195
 - international IP system, 52–5
 - technology transfer and innovation, 82, 83
 - see also specific countries*
- developing countries
 - balancing IP protection, 27
 - commercializing IP internationally, 195
 - compulsory licensing, 223
 - costs of establishing IP protection, 85
 - drug prices, 87
 - economic growth, 75
 - extending the IP life cycle, 195
 - foreign direct investment, 78–9
 - indigenous knowledge, 125
 - licensing, 82
 - patents, 33
 - piracy, 262
 - systems, IP, 125
 - technology transfer and innovation, 82–3
 - underexploited IP assets, 245
 - welfare, 80
 - see also* emerging economies; least-developed countries; *specific countries*
- dialectic rationalization of IP protection, 25–8
- Dimson, Ibrahim, 139
- dispute resolution
 - China, 47, 48, 50–1, 121
 - color marks, 128
 - compulsory licensing, 224
 - contracts, 242
 - Google and Overture, 155–6
 - international IP systems, 52
 - USA, 48, 50–1, 120–1
- dissemination of IP
 - carrot relationship, licensing, 227
 - corporate tactics 148–53
 - effects of IP protection, 86
 - joint ventures, 204, 205
 - managing IP assets, 140
 - reward system, 40, 41
 - software technology, 88
 - underexploited IP assets, 245
- distribution piracy, 256, 257
- Donaldson, Alexander, 101, 102
- Doutor Coffee Co., 275, 276–7
- Dr Seuss Enterprises, 180
- Duhaney, Edmund, 139
- DuPont, piracy strategy, 267, 272–3

- easyGroup, 126, 127, 128
- easyMobile, 127, 128

- EBay, 257
- econometric method for valuing IP, 175, 176
- economic growth, effects of IP on, 74–5
- economic incentive argument for IP protection, 25
- economics, academic study, 28
 - see also* political economy
- economic scarcity, 86
- economic systems, effects on IP, 106–7
- piracy, 260
- education, 119–20
 - India, 117–18, 119
 - piracy, 120, 130, 260, 274
- Egypt, costs of establishing IP protection, 85
- Electronic Arts, 15
- Elpreya, 276
- embedded nature of IP, 23–4
- emerging economies
 - international IP system, 52, 55
 - international trade, 77
 - see also* developing countries; least-developed countries; *specific countries*
- employment, effects of IP protection on, 85–6
- end-user copying, 256, 258
- English language, 123, 124–5
 - Indian software industry, 118–19
- environment assessment
 - commercializing IP internationally, 195–6
 - to select profiting base, 289–90
- environment factors, piracy, 260–1
- equity joint ventures, 203
- Ericsson, 213, 214, 215
- ethical issues, 86–7
 - and religion, 130
- European Court of Justice (ECJ)
 - Arsenal trademark case, 29–30
 - color marks, 126, 127, 128
- European Parliament, software technology, 90
- European Patent Office (EPO), 25
 - software technology, 88
 - underexploited IP assets, 245
 - valuing IP, 166
- European Union (EU)
 - balancing IP protection, 27
 - color marks, 126
 - compulsory licensing, 222
 - insurance, IP, 156, 157, 158
 - investors in China, 195
 - piracy fines, 260
 - software technology, 90
 - underexploited IP assets, 245
 - utility model, 55–6
- Excelsior Coffee, 276–7
- excess operating profit method for valuing IP, 174
- exclusive licensing, 225
- exclusivity characteristics, IP forms, 24
- exit meetings, 146
- extending tactic, 150
- extending the life cycle of the IP, 195
- fashion industry, piracy, 262
- Fijisu, 144
- Fijitsu, 229
- film industry, piracy, 257–8, 277, 278, 279
- Film Register Treaty, 53
- folklore, expressions of, 18, 35n6
- food canning, 41
- football clubs, valuing IP, 169, 170
 - see also* Arsenal Football Club; Manchester United
- Ford, 168
- foreign applicants
 - patents; in China, 49, 59, 60–2; in USA, 49, 58–62
 - utility models, 56
- foreign direct investment (FDI), effects of IP on, 78–9, 81
- Forgent, 243
- forgery, 256–7
- France
 - patents, 33
 - reward system, 41
- franchising, internationalizing IP, 200–3, 210
- Gap, 168
- Geisel, Theodore Seuss (Dr Seuss), 179–80

- General Motors, 184n4
- generation of IP
 - corporate tactics, 148–53
 - managing IP assets, 140
- generic products, 152–3, 155
- geographical indications, 15, 34n2
- Georgio-Pacific Corp. v. United States Plywood Corp., 182
- Germany
 - color marks, 128
 - political system, 102
 - reunification, 102
 - underexploited IP assets, 246
 - valuing IP, 166
- Gerstner, Louis, 182
- Google, 153–6
 - acquisition of YouTube, 209, 212–13
- governments
 - carrot relationship, licensing, 227
 - China, 124, 234
 - compulsory licensing, 26–7, 220, 222–3, 224
 - economic systems, 106–7
 - establishing IP protection, 85
 - India, 117, 118
 - internationalizing IP; licensing and franchising, 203; turnkey projects, 199
 - lobbying strategy, piracy prevention, 267, 273–4
 - marks, 21
 - national security issues, 24
 - patent trolls, 244
 - piracy, 258–9, 263, 272; quantification, 278; Starbucks, 275, 277
 - political systems, 102–4
 - proactivity in seeking partnerships, 236
 - reward systems, 40–2
 - underexploited IP assets, 246
 - utility models, 56
- grant lags, 58–62
 - dissemination of IP, 86
- grant ratios, 58–62
- Green Cross International, 21
- greenfield developments, 205
- ‘grey literature’, 3, 4
- Hague Agreement, 54
- handling procedure agreements, 145
- Harrison, George, 255
- Harrison, John, 40
- Harry Potter books, 14–15
- Hasbro, 15
- high impact patents, 213–15
- historical (trended) cost approach to IP valuation, 170, 171
- Hitachi index for valuing IP, 174, 176
- HIV/AIDS treatment
 - compulsory licensing, 220, 221–3
 - monopoly pricing of drugs, 86–7
- homework, valuing IP, 163–5
- Honda, 272
- Hong Kong
 - investors in China, 195
 - political system, 102–3
- Hornblower, Jonathan, 223
- human resources, *see* people-management
- Hurley, Chad, 209
- Hyundai, 168
- IBM, 182
- ICI, 205
- Ig Nobel award, 216n3
 - Inoue, Daisuke, 192
- imitation, 254–5
 - education, 120
 - managing IP assets, 149; pricing, 152
 - strength of IP protection, 77–8
 - see also* counterfeiting; piracy
- improvement tactic, 150
- inbound licensing, 224, 225
- income
 - individualism and piracy, 110–12
 - and IP protection, relationship between, 91–3
- income approach to IP valuation, 171–3
- incremental innovation, 150
- India
 - language, 118–19, 123
 - medicine prices, 85
 - software explosion, 117–19
- Indian Institute of Technology (IIT), 117–18

- individualism
 - economic systems, 107
 - piracy, 110–12, 130, 260
 - social stratification, 122
- Indonesia, oil refinery sector, 199
- industrial designs, 15, 20
 - China, 49
- industrial property, 16, 17
- information asymmetries, reward system, 41–2
- Infosys, 118
- infringement of rights, 255
 - contracts, 242
 - intangible nature of IP, 23
 - patent trolls, 242, 243
 - stick relationship, licensing, 227
 - turnkey projects, 199
 - valuing IP, 178
 - YouTube, 211–12
 - see also* piracy
- Inktomi, 155
- in-licensing, 224, 225
- innovation, effects of IP on, 82–4
- instinctual approach for valuing IP, 175
- insurance, 156–8
- intangibility characteristics, IP forms, 23–4
- intangible
 - assets/resources/competencies, 16, 17
- integrated circuits, 15, 34n2
- Intel, 230
- intellectual assets, 17
- intellectual capital (IC), 16, 17
- intellectual property
 - definitions, 15–16
 - protection, *see* protection, IP
 - systems, *see* systems, IP
- intelligence, competitive, 150–1
- Intelligent Oven, 19, 35n7
- Interbrand, 168
- internal people-management, 144–6
- International Anti-counterfeiting Coalition, 273
- international IP system
 - functioning, 51–2
 - issues, 52–5
- internationalizing IP, 25, 189–90, 215–16
 - contracting, *see* contracting, internationalizing IP
 - costs, profits, risks and control, 196–207
 - driving forces, 194–5
 - franchising, 200–3
 - high impact patents and market leadership, 213–15
 - joint ventures, 203–5
 - karaoke, 190–3
 - licensing, *see* licensing, internationalizing IP
 - pre-commercializing evaluation, 193–6
 - selecting a strategy, 207–9
 - targeting countries, 195–6
 - timing, 196
 - trade, international IP, 197–8
 - turnkey projects, 199–200
 - utility models, 58
 - wholly owned enterprises, 205–7
 - YouTube, 209–13
- international politics, 104
- international trade, effects of IP on, 76–8
- International Trademark Association, 278
- International Union for the Protection of New Varieties of Plants (UPOV), 52
 - Convention, 54, 76
- Internet piracy, 256, 257–8
- inventiveness, as patent criterion, 19, 47
- IPScore method for valuing IP, 175
- Iran, legal system, 105
- iTunes
 - patent trolls, 243
 - Pay-as-You-Go strategy, 258
- Jaguar, 168
- Japan
 - balancing IP, 27
 - investors in China, 195
 - karaoke, 191
 - licensing, 81

Japan – *continued*

- managing IP assets, 144; location, 152
- negotiations, 235
- patents, 33
- Starbucks, 275, 276–7
- underexploited IP assets, 245, 246
- utility models, 20

Joint Electron Device Engineering Council (JEDEC), 228–30

joint ventures (JVs), 203–5, 208–9, 210

- judicial enforcement, IP systems, 42, 43
 - comparison of the US and China, 50–1

Junkins, Jerry, 227

junk patents, 244

karaoke, 190–3

Karim, Jawed, 209

Kentucky Fried Chicken (KFC)

- China, 152
- trade secrets, 22–3

Kilby, Jack, 72–3

Kiln, 156

know how licences, 224

Kodak, 178

labelling solution, piracy prevention, 264–8

Lacoste, 273

language, 123–5

- and color marks, 125–8
- Indian software industry, 118–19
- and piracy, 130
- re-branding, 184n4

Lasersight Inc., 183

layering tactic, 150

learning by WOE managers, 206–7

least-developed countries (LDCs)

- compulsory licensing, 223
- costs of establishing IP protection, 85

international trade, 76

see also developing countries; emerging economies; *specific countries*

legal systems, effects on IP, 104–6

- academic study, 28
- anti-trust laws, 22
- China, 43, 105, 106, 108, 109
- color marks, 128
- competition laws, 22
- insurance, IP, 156, 157
- judicial enforcement, 42, 43
- legislative guidance, 42–3;
 - comparison of the US and China, 45–6
- piracy, 260–1, 263
- religion, 120–1

legality characteristics, IP forms, 24

legitimizing counterfeiting business, 266, 271–2

Leigh, Richard, 252–3

Levi Strauss, 273

LG

- alliance relationships, licensing, 229
- brand value, 168

Libertel Group, 126, 127

licensing

- China, 50
- compulsory, 26–7, 220–4
- dissemination of IP, 86
- effects of IP on, 80–2
- foreign direct investment, 78
- Google, 156, 212
- Harry Potter books, 14–15
- intangibility, 23
- internationalizing IP, 200–3, 208, 210, 219–20, 247–8; compulsory licensing, 220–4; contracting and implementation, 240–1; forms, 224–6; joint ventures, 205; negotiating, 231–40; patent trolls, 242–5; relationships, 226–30; underexploited licensing assets, 245–7

managing IP assets, 149

overrun, 257

software technology, 88, 89, 90

USA, 50

valuing IP; perceptions, 166;

royalties, 182–3; significance, 177

YouTube, 211, 212

licensing inflow, 224, 225

licensing-out, 224, 225

- life cycle of the IP, extending the, 195
- limited right argument against IP protection, 26
- Lincoln, Henry, 252–3
- line extending tactic, 150
- Lisbon Agreement, 54
- Listerine, 152
- lobbying strategy, piracy problems, 267, 273–4
- Locarno Agreement, 54
- location, managing IP assets, 151, 152
- losing IP, 254–5
- Luxembourg, utility models, 20

- Macau, political system, 103
- Madrid Agreement (Indications of Source), 53
- Madrid Agreement (Marks), 54
 - China's ratification, 108
- Madrid Protocol, 54
- management preparation to equip IP resources, 290
- managing IP assets, 137–8, 158–9
 - Coca-Cola secret formula, 138–9
 - corporate contexts, 140–1
 - Google, 153–6
 - insurance, 156–8
 - people, 141–6
 - products and services, 146–53
- Manchester United (MU)
 - brand value, 169, 170
 - piracy, 257; strategy, 265, 267, 273
- Mansfield, Lord Justice, 101
- manufacturability, value–valuation decision chain, 163–4
- Marconi, 228
- market approach to IP valuation, 168–70, 173
- market-driven economies, 106, 107
- marketing, 151–2
- market relationship, licensing, 226, 230
- market monitoring, piracy prevention, 266, 269–70
- marks, 20–1
 - administrative control, 43
 - color, 125–8
 - franchising, 201
 - international IP system, 52
 - licensing, 200–1
 - see also* trademarks
- Matsushita, 229
- Mattel, 15
- McDonald's
 - China, 152
 - franchising, 200
 - marks, 21
- Médécins Sans Frontières, 221
- Merck, 220, 221
- mergers and acquisitions, 85–6
 - counterfeiting businesses, 266, 271–2
 - Google's acquisition of YouTube, 209, 212–13
 - high impact patents, 213
 - internationalizing IP, 205–6
 - valuing IP, 178–9
- Mexico, patents, 33
- microchips, world-transforming, 72–4
- Microsoft
 - dispute with Stac Electronics, 89
 - and Google, 155
 - licensing relationships; alliance relationship, 229; stick relationship, 227
 - managing IP assets, 142–3; anti-generic tactics, 153
 - MSN, 258
 - and OSI, 27
 - patent trolls, 243
 - piracy prevention, 266, 269–70, 273
- Millar, 101
- mixed economies, 106–7
- mobile communications industry, 213–15
- monopoly pricing, 85
- pharmaceutical products, 87
- Motorola, 213–15
- M-Sure, 157
- multinational enterprises (MNEs)
 - commercializing IP internationally; pre-commercializing evaluation, 193, 194; strategy, 207; timing, 196
 - compulsory licensing, 223
 - corporate espionage, 139

- multinational enterprises (MNEs) –
 continued
 developing countries' IP systems,
 125
 education levels, 120
 employment effects, 85–6
 licensing relationships, 227
 mergers and acquisitions, 85–6
 political systems, 104
- Murdoch, William, 223
- music industry, piracy, 257–8, 278,
 279
- Nairobi Treaty, 53
- National Broadcasting Company
 (NBC)
 radio technology, 228
 YouTube, 209–11
- National People's Congress (NPC) and
 Standing Committee, China,
 124
- natural right argument for IP
 protection, 25
- negotiation
 art, 231
 complicated nature, 231–2
 compulsory licensing, 223
 facts dealing, 238–9
 objective seeking, 238–9
 personality stripping, 238–9
 post-negotiation stage, 239–40
 pre-negotiation stage, 236–8
 protracted nature, 235–40
 team nature, 232–5
 types of negotiators, 232, 233
- neighbouring rights, 22
- Netherlands, utility models, 20
- networking strategy, piracy problems,
 267, 272–4
- Newcastle Football Club, 170
- Nice Agreement, 54
- Nike, 21
- Nokia, 213, 214, 215
- non-compete agreements, 145
- non-detrimental argument against IP
 protection, 26
- non-disclosure agreements, 145
- non-exclusive licensing, 225
- non-open economies, 52, 55
 see also specific countries
- novelty
 as industrial design rights criterion,
 20
 as patent criterion, 19, 47
- NTP, 242–3
- objectives, IP systems, 44–5
- obsolescence, 254
- oil exploration and refinery, 199
- Omnibus Trade and Competitiveness
 Act, 108
- on-line sales/auctions, 256, 257
- Open Source Initiative (OSI), 21, 27,
 90–1
- Open Source Software (OSS), 90–1
- option pricing method for valuing IP,
 175, 176
- Orange, 126–7, 128
- Organization for Economic
 Cooperation and Development
 (OECD), 279
- originality, *see* novelty
- outbound licensing, 224, 225
- outsourcing IP valuation, 173
- Overture Services, 155, 156
- Oxfam, 221
- Page, Larry, 153
- paid-royalty licences, 224
- Pakistan, Bin Laden T-shirts, 21
- Palm, 230
- Pantone, 126, 127, 128
- Paris Convention, 53
 China's ratification, 108
 international trade, 76
 as minimum standard for IP
 integration, 76
 utility models, 57, 58
- partnership strategy, piracy
 prevention, 266, 268
- patentability, value-valuation
 decision chain, 163, 164
- Patent Cooperation Treaty, 54
 China's ratification, 109
- Patent Law Treaty, 53
- patent licences, 224

- patents, 15, 19–20
 - administrative control, 43
 - Babbage, Charles, 193
 - business method, 15, 34n2
 - century of, 30–3
 - comparison of the US and China, 44–51
 - comparison with utility model grants, 56–7
 - compulsory licensing, 220–1, 223
 - counterfeiting, 256
 - cross-licensing, 228
 - dialectic rationalization, 25
 - dissemination of IP, 86
 - Google, 155
 - grant lags and grant ratios, 58–62
 - high impact, 213–15
 - identical inventions, 22, 47
 - impacts, 73; economic growth, 74–5; foreign direct investment, 78; international trade, 77–8; licensing, 80–2; technology transfer and innovation, 83–4; welfare, 79–80
 - insurance, 156, 157
 - internationalizing strategy, 208
 - junk, 244
 - karaoke machines, 192
 - managing IP assets; corporate tactics, 149, 152; people, 142; portfolio management, 148
 - mergers and acquisitions, 206
 - and national income levels, 91–3
 - petty, *see* utility models
 - piracy, 256, 262
 - software technology, 87–90, 91
 - trolls, 242–5
 - underexploited, 245–7
 - valuing; perceptions, 166; royalties, 182; significance, 176–7, 178
- patent thickets, 243, 244
- peer sharing, 256, 257–8
- Pemberton, John, 138
- people-management
 - balancing resources distribution to maximize IP creativity, 143–4
 - corporate IP positioning for resources need, 141–3
 - internal, 144–6
- Pepsi
 - Coca-Cola formula, 139
 - transportation costs, minimization of, 198
- personal negotiator style, 232, 233
- persuader negotiator style, 232, 233
- petty patents, *see* utility models
- pharmaceutical industry
 - compulsory licensing, 220, 221–3
 - ethical issues, 86–7
 - foreign direct investment, 78
 - generic products, 152
 - licensing, 81
 - patents, 25
 - piracy, 259, 264
 - pricing of drugs, 27, 85
 - R&D expenditure, 149
 - valuing IP, 171
- Phonograms Convention, 53
 - China's ratification, 109
- piracy, 251–2, 280–1
 - causes, 259–63
 - Da Vinci Code* case, 252–3, 280
 - education levels, 120, 130, 260, 274
 - impact, 258–9
 - income and individualism, 110–12
 - insurance against, 157
 - losing IP, 254–5
 - quantification, 277–81
 - software, *see* software, piracy solutions, 263–4; defensive weapons, 270–2; networking, 272–4; proactive approaches, 264–70
 - Starbucks, 275–7
 - typology, 255–8
- plagiarism, 253
- planned economies, 106, 107
- pluralistic legal systems, 105
- Poland, patents, 33
- Polaroid, 178
- political economy
 - effects of IP on, 71–2, 84–7, 93–4; economic growth, 74–5; foreign direct investment, 78–9; international trade, 76–8; licensing, 80–2; measurements of IP systems, 91–3; microchips, 72–4; software technology, 87–91;

- political economy – *continued*
 - technology transfer and innovation, 82–4; welfare, 79–80
 - effects on IP, 99–100, 112–14;
 - China, ‘hot waves’ of IP in, 107–10; copyright, 100–2;
 - economic systems, 106–7;
 - income, individualism and piracy, 110–12; legal systems, 104–6; political systems, 102–4
- political systems, effects on IP, 102–4
 - licensing and franchising, 203
 - turnkey projects, 199
- portfolio management, 146–8
- positioning IP for resource need, 141–3
- post anti-generic tactics, 153
- post-negotiation stage, 239–40
- practicality, as patent criterion, 19, 47
- practical negotiator style, 232, 233
- pre anti-generic tactics, 153
- precise negotiator style, 232, 233
- pre-commercializing evaluation, 193
 - driving forces behind
 - internationalizing IP, 194–5
 - IP owner’s capacity for profiting internationally, 193–4
 - targeting countries, 195–6
 - timing, 196
- premium pricing method for valuing IP, 174, 176
- pre-negotiation stage, 236–8
- price issues, 85
 - compulsory licensing, 221
 - managing IP assets, 151–2;
 - anti-generic tactics, 153
 - monopoly pricing, 85;
 - pharmaceutical products, 87
 - narrowing price gaps, piracy prevention, 266, 269
 - pirated products, 261–2
- primary research sources, 3
- priority rights, 47–9
- PRISM model for valuing IP, 175
- private distribution piracy, 256, 257
- process patents, 19, 20
- Procter and Gamble, 259
- product management, 146
 - generation, protection and dissemination of IP, 148–53
 - internationalizing IP, 197, 198
 - portfolio, 146–8
- product patents, 19–20
- profit
 - commercializing IP internationally, 197, 198, 208; licensing and franchising, 202;
 - pre-commercializing evaluation, 194, 195; turnkey projects, 199;
 - wholly owned enterprises, 206
 - environment assessment to select
 - profiting base, 289–90
 - pirated products, 262
- promoting IP products, 151, 152
- promotion argument for IP
 - protection, 25
- protection, IP (IPP)
 - balancing, 27–8
 - contracts, 145–6
 - corporate tactics, 148–53
 - costs of establishing, 85
 - dialectic rationalization, 25–8
 - and income, relationship between, 91–3
 - managing IP assets, 140
 - people-management, 145–6
 - see also specific protection mechanisms*
- public access argument against IP
 - protection, 26
- public distribution piracy, 256, 257
- public domain, 101
- public interest argument against IP
 - protection, 26–7
- Puma, 273
- quality issues, licensing and franchising, 200–1, 202
- QuickTime, 243
- Radio Corporation of America (RCA), 228
- Radio Manufacturers’ Association, 230
- radio technology
 - consortium relationship, 230
 - cross-licensing, 228
- Random House, 252–3

- RCA, 228
- reapplication strategy, piracy
 - problems, 267, 272–3
- Rebuck, Gail, 253
- re-creation cost approach to IP
 - valuation, 170
- Reid, Matthew, 28–30
- religion, 120–1
 - piracy, 130
 - social stratification, 122
 - theocratic legal systems, 105
- replacement cost approach to IP
 - valuation, 170
- replication, 256
- reputation, brand
 - Google, 212, 213
 - piracy, 259
 - Starbucks, 277
 - trademarks, 153
 - YouTube, 211, 213
- re-registration strategy, piracy
 - problems, 267, 272–3
- research and development (R&D)
 - impact on patent protection levels, 75
 - managing IP assets, 149
 - mobile communications industry, 215
 - Motorola, 215
 - piracy, 269
 - valuing, 166; cost approach, 171
- Research in Motion (RIM), 242
- residual profit method for valuing IP, 174
- restriction agreements, 145
- reverse engineering, 151
- reward argument for IP protection, 26
- reward system, 26, 192
 - virtue or vice?, 40–2
- rights, IP, 17–18
- risks, international business, 172, 197, 198
 - joining ventures, 204
 - licensing and franchising, 202–3
 - turnkey projects, 199
 - wholly owned enterprises, 207
- Rome Convention, 53
 - as minimum standard for IP integration, 76
- route map for actions and challenges, 291–2
- Rowling, J.K., 14–15
- royalties
 - intangibility 23
 - internationalizing IP, 208; mergers and acquisitions, 206
 - licensing relationships, 227
 - paid-royalty licences, 224
 - patent trolls, 243
 - protection, IP, 81
 - running royalty licences, 224
 - valuing IP, 180–3; perceptions, 166; significance, 177
- royalty savings method for valuing IP, 174, 176
- running royalty licences, 224
- Russia, piracy, 260
- Samsung
 - alliance relationships, licensing, 229
 - brand value, 168
 - construction equipment division, 86
 - high impact patents, 213, 214
- Sanofi-Aventis, 220
- Saudi Arabia, oil refinery sector, 199
- scarcity, economic, 86
- scope of IP, 18–19
 - copyright, 22
 - industrial design, 20
 - marks, 20–1
 - patents, 19–20
 - trade secrets, 22–3
 - utility model, 20
- secondary research sources, 3, 4
- semi-conductor industry, 81, 230
- Sequoia Capital, 209
- service management, 146
 - generation, protection and dissemination of IP, 148–53
 - internationalizing IP, 197, 198
 - portfolio, 146–8
- service marks, 21
- Seuss, Dr, 179–80
- Shakespeare, William, 86
- Singapore, technology transfers, 55
- Singapore method for valuing IP, 175

- Singapore Treaty, 53
- Sino-US High Energy Physics agreement, 107
- Sino-US Memorandum of Understanding on IP protection (MOU), 109
- Sino-US Trade agreement, 107
- social stratification, 122-3
- sociology, 28
- software
- consortium licensing, 230
 - human resources distribution, 143-4
 - India, 117-19
 - managing IP assets, 142-4
 - opening the source of, 87-91
 - piracy, 257, 258-9; cultural aspects, 129-30; income and individualism, 110-12; quantification, 277, 278, 279; stick relationship, licensing, 227
 - underexploited IP assets, 246
 - sole licensing, 224-5
- Sony
- alliance relationship, licensing, 229
 - Walkman lost as trademark, 156
- Southampton Football Club, 169, 170
- South Korea
- patents, 33
 - Starbucks, 275, 276
 - technology transfers, 55
- Soviet Union
- patents, 33
 - political system, 102
 - reward system, 41, 42
- Stac Electronics, 89
- Starbucks, 275-7
- Starpreya Coffee, 275, 276, 277
- State Council, China, 124
- state-directed economies, 106-7
- State Intellectual Property Office (SIPO), China, 46-9
- Statute of Anne*, 100-2
- steam power, 223
- stick relationship, licensing, 226, 227
- Strasbourg Agreement, 54
- strategic alliances, 203-4
- strategizing actions to profit from IP, 291
- supply and demand reciprocity, piracy, 261-2
- SurfIP method for valuing IP, 175
- Switzerland, marks, 21
- systems, IP (IPS), 39-40, 62-3
- comparison between the US and China, 44-51
 - grant lags and grant ratios, 58-62
 - international, 51-5
 - measurements, 91-3
 - reward system, 40-2
 - three-part nation-based, 42-3
 - utility model, 55-8
- tacit knowledge, 17
- Taiwanese investors in China, 195
- takeovers, *see* mergers and acquisitions
- Tanzania, costs of establishing IP protection, 85
- tariffs, 198
- Taylor, Robert, 101
- Tchaikovsky 86
- technical solutions, piracy prevention, 264-8
- technology development
- consumer campaigns, 274
 - and legal systems, 105
- technology transfer
- effects of IP on, 82-4
 - international; emerging economies, 55; foreign direct investment, 78, 79; welfare, 80
- Ten Tiger Electronics, 15
- terminology in IP, 16-17
- utility models, 57
- territoriality characteristics, IP forms, 24
- Texas Instruments (TI)
- acquisition of AMATI, 206
 - licensing relationships; market relationship, 230; stick relationship, 227
 - microchips, 72, 73
- Thailand, compulsory licensing, 220, 221-3, 224
- theocratic legal systems, 105
- theories, IP, 13-14, 33-4

- academic schools of thought, 28
- badges of allegiance or trademark use?, 28–30
- common characteristics of IP forms, 23–5
- concept, IP as a, 15–18
- dialectic rationalization of IP protection, 25–8
- scope of IP, 18–23
- wealth creation, 14–15
- world patents, century of, 30–3
- Thomson, James, *The Seasons*, 101
- three-part nation-based IP systems, 42–3
- Time Tron Corporation, 156
- timing of commercializing IP, 196
- Tiscali, 258
- TMIO company, 19, 35n7
- Toshiba
 - alliance relationships, licensing, 229
 - managing IP assets, 142, 144
- Tottenham Hotspur, 169, 170
- Trademark Law Treaty, 53
- trademark licences, 224
- trademarks, 15, 21
 - administrative control, 43
 - Arsenal Football Club, 28–30
 - China, 46
 - counterfeiting, 256
 - generic products, 153, 156
 - Google, 156
 - internationalizing IP, 208
 - licensing, 82
 - managing IP assets, 152
 - piracy, 256, 262, 272; quantification, 278
 - Starbucks, 275–6
- Trade Marks Act 1994, 29
- Trade-Related Intellectual Property agreement, *see* TRIPS agreement
- trade secrets, 22
 - Coca-Cola formula, 138–9
 - internationalizing IP, 207–8
 - mistakes, 146, 147
 - people-management, 144–5
- trade, international IP, 197–8
- traditional knowledge, 18, 35n6, 125
- transfer of IP assets, 23
- translation, 124–5
- transport issues, internationalizing IP, 198
- treaties, conventions and agreements (TCAs)
 - China, 108, 109
 - internationalizing IP, 25, 52
 - international trade, 76–7
 - nation-based nature of IP protection, 28
 - summary, 53–4
 - utility models, 58
- trended cost approach to IP valuation, 170, 171
- TRIPS agreement, 3, 54
 - administration, 52
 - China, 109, 110
 - compliance, 125
 - compulsory licensing, 220, 222, 223
 - minimum IP protection standards, 76
 - nation-based nature of IP protection, 27
 - patents, 47, 80
 - software technology, 88
 - systems, IP, 55
 - utility models, 58
- Tur, Robert, 212
- turnkey projects, internationalizing IP, 199–200, 210
- Ukraine, patents, 33
- underexploited IP assets, 245–7
- understanding for IP protection, 287–9
- UNESCO, 52
- United Arab Emirates, legal system, 105
- United Fruit, 228
- United Kingdom
 - Arsenal trademark case, 28–30
 - color marks, 126, 128
 - copyright, 18, 22
 - Copyright, Designs and Patents Act 1988, 253
 - industrial design, 20
 - industrialization, 26
 - language, 123
 - negotiations, 235

- United Kingdom – *continued*
 - patents, 33
 - political system, 102
 - reward system, 40
 - textile industry, 20
 - Trade Marks Act 1994, 29
 - utility models, 20
 - valuing IP, 166; football clubs, 169, 170
- United Nations, 279
- United Nations Educational, Scientific and Cultural Organization (UNESCO), 52
- United States Code Title 35 – Patent (USC35), 45, 46
- United States of America
 - balancing IP protection, 27
 - and China: bilateral negotiations
 - between, 107–8, 231–4; ‘hot waves’ of IP, 107–9
 - color marks, 126
 - compulsory licensing, 27, 222, 223
 - copyright protection, 17–18
 - international trade, 76, 77
 - IP system, 44–51; grant lags and grant ratios, 58–62
 - language, 123
 - legal system, 105–6
 - licensing, 81
 - managing IP assets, 144
 - negotiation styles, 232–4
 - Omnibus Trade and Competitiveness Act, 108
 - patents, 31–3, 44; administrative control, 46–50; applications, 243; grant lags and grant ratios, 58–62; judicial enforcement, 50–1; legislative guidance, 45–6; objectives, 44; trolls, 243–4
 - piracy, 278; investigation, 270
 - political system, 103, 104
 - Priority Watch List (PWL), 108, 109
 - religion, 120–1
 - social stratification, 122
 - software technology, 88
 - technology transfer and innovation, 84
 - underexploited IP assets, 245, 246
- United States Patents and Trademarks Office (USPTO), 45, 46–9
 - grant lags and grant ratios, 58
 - patent trolls, 244
- United States Trade Representatives (USTRs), 104, 108
- Universal Copyright Convention, 52, 54
 - China’s ratification, 109
- UPOV, 52
 - Convention, 54, 76
- utility, as patent criterion, 19, 47
- utility models, 15, 19–20
 - China, 49
 - standardization, need for, 55–8
- value–valuation decision chain, 163
- valuing IP, 162–3, 183–4
 - high impact patents, 213
 - homework, 163–5
 - methods, 168, 173–6; cost approach, 170–1; income approach, 171–3; market approach, 168–70; selection, 173
 - perceptions of IP value, 165–8
 - royalties, 180–3
 - Seuss, Dr, 179–80
 - significance, 176–9
- Viacom, 212
- Victor Talking Machine Company, 228
- Vienna Agreement, 54
- Vietnam, piracy, 277
- VLSI, 230
- voluntary licensing, 224
- Volvo, 86
- Wal-Mart, 145
- Warner Bros., 14–15
- Washington Treaty, 53
 - China, 108
 - as minimum standard for IP integration, 76
- Watt, James, 223
- wealth creation, 14–15
- welfare, effects of IP on, 79–80
- Westinghouse, 228
- wholly owned enterprises (WOEs), 205–7, 208–9, 210

- Williams, Joya, 138–9
- Willoughby & Partners, 30
- Wizards of the Coast, 15
- Woolworths Ltd., 126
- World Health Organization (WHO), 222
- World Intellectual Property Day, 119
- World Intellectual Property Organization (WIPO)
 - China, 109
 - color marks, 127
 - Convention, 54
 - Copyright Treaty, 53
 - definition of IP, 16
 - folklore, expressions of, 35n6
 - internationalizing IP, 25, 51–2
 - IP and IP rights, 18
 - legislative function, 51–2
 - objectives, 51
 - Performances and Phonograms Treaty, 54
 - piracy quantification, 279
 - statistics, 4
 - systems, IP, 43, 51–2, 55
 - traditional knowledge, 35n6
 - utility models, 58
- World on Line, 43
- World Trade Organization (WTO)
 - China, 109, 110
 - compulsory licensing, 220, 222
 - definition of IP, 15–16
 - integration of IP into trade, 51
 - internationalizing IP, 25, 51–2, 55
 - IP and IP rights, 18
 - legislative function, 51–2
 - members, 125
 - negotiations, 231
 - nickname, 231
 - objectives, 51
 - systems, IP, 51–2, 55
 - TRIPS, 3, 52
 - utility models, 58
- Wu Yi, 232–4
- Xerox, 152
- Xingbake, 275–6, 277
- Yahoo, 155
- YouTube, 209–13