

Intellectual Property and TRIPS Compliance in China

Chinese and European Perspectives

Edited by

Paul Torremans

*School of Law, University of Nottingham, UK and Faculty of
Law, University of Ghent, Belgium*

Hailing Shan

*School of International Law, East China University of Politics
and Law, Shanghai, People's Republic of China*

Johan Erauw

Faculty of Law, University of Ghent, Belgium



**The University of
Nottingham**



NEW HORIZONS IN INTELLECTUAL PROPERTY

Edward Elgar

Cheltenham, UK • Northampton, MA, USA

Contents

<i>List of contributors</i>	vii
<i>Foreword: the recent development and current status of judicial protection of intellectual property in China</i> Hon. Dr H.C. Cao Jianming	ix
<i>Preface</i> Paul Torremans, Hailing Shan and Johan Erauw	xix
<i>Table of cases</i>	xxii
<i>Table of legislation</i>	xxiv
<i>Table of treaties and conventions</i>	xxx
Introduction: setting the scene <i>Paul Torremans</i>	1
PART I TRIPS COMPLIANCE: SUBSTANTIVE RIGHTS	
1 Are Chinese intellectual property laws consistent with the TRIPS Agreement? <i>Guo Shoukang and Zuo Xiaodong</i>	11
2 Substantive law issues in Europe a decade after TRIPS <i>Paul Torremans</i>	29
PART II TRIPS COMPLIANCE: ENFORCEMENT ISSUES	
3 The TRIPS Agreement and the changing landscape of international intellectual property <i>Daniel J. Gervais</i>	65
4 The fight against piracy: working within the administrative enforcement system in China <i>Kristie Thomas</i>	85
5 Problems and new developments in the enforcement of intellectual property rights in China <i>Jingzhou Tao</i>	107
6 Legal protection of copyright and trademarks in cyberspace in China <i>Hon. Jiang Zhipei</i>	125

PART III NON-MAINSTREAM RIGHTS AND TRANSFER OF TECHNOLOGY

- | | | |
|----|---|-----|
| 7 | Confidentiality agreements and non-competition clauses
<i>John Adams</i> | 141 |
| 8 | Protection of know-how in Chinese enterprises and employment relationships
<i>Hailing Shan</i> | 153 |
| 9 | Protection of traditional knowledge: protecting poor countries' intellectual property?
<i>Zhu Lanye</i> | 175 |
| 10 | Legal issues regarding contracts of technology import: a Chinese lawyer's perspective
<i>Zou Weining</i> | 184 |

PART IV THE DEVELOPMENT AGENDA, TRIPS AND CHINA

- | | | |
|----|--|-----|
| 11 | The WTO-TRIPs patent regime after Doha: promises and realities
<i>Sigrid Sterckx</i> | 195 |
| 12 | Intellectual property rights and WTO compliance: Chinese and European perspectives
<i>Fientje Moerman</i> | 212 |

PART V POSTSCRIPT

- | | | |
|----|--|-----|
| 13 | The agenda for the future
<i>Paul Torremans</i> | 219 |
| | <i>Bibliography</i> | 223 |
| | <i>Index</i> | 231 |