## CONTENTS

Ir	Introduction Prologue		ix
P			xi
А	bout	the Authors	xiii
Chap	ter 1	: Patents	1
А	. Sc	ope of Patent Rights Available	1
	1.	Basis for Practicing	1
	2.	Jurisdictions	2
	3.	Types of Patent Rights Available and Their Terms	3
	4.	Non-Patentable Subject Matter	4
В	. Pr	osecution of Patent Applications	12
	1.	Invention Patent Application	12
	2.	Utility Model Patent Application	39
	3.	Design Patent Application	49
	4.	Special Section on Computer-Program–Related	
		Invention Patent Applications	56
	5.	Special Section on Chemistry and	
		Biotech Invention Patent Applications	64
	6.	Reexamination Procedure	72
	7.	Post Grant Procedure—Invalidation	77
	8.	Foreign Filing License	82
С	. En	forcement of Patent Rights	85
	1.	Infringement	85
	2.	Passing-Off	92
	3.	Jurisdictions	94
	4.	Interpretation of Scope of Protection	98
	5.	1	103
	6.	Remedies Available	110
	7.	Bifurcated System	121
	8.	Defense of the Alleged Infringer	125
	9.	Proposed Amendments to the Law	126

D.	Reward and Remuneration Obligations Owed	
	to Employee Inventors	128
	1. Background	128
	2. Current Chinese Law and Practice	130
	3. Proposed Revised Regulations	
	for China Service Inventions	133
	4. Practice Points for a U.S. Practitioner	136
	5. Graphical User Interfaces	137
E.	Summary of Statutes, Regulations,	
	and Judicial Interpretations	148
	1. Laws	148
	2. Rules and Regulations	149
	<ol> <li>Laws</li> <li>Rules and Regulations</li> <li>Judicial Interpretations and Notifications</li> </ol>	149
Chapte	r 2: Copyright Law of China Introduction	151
А.	Introduction	151
	1. Copyright in Ancient China?	151
	2. From the Great Qing Copyright Law	
	to the Guomindang Copyright Law	152
	3. Copyright Protection of the People's Republic	
	of China (1949 1986)	153
	4. The General Principles of the Civil Law	
	of the Chinese People's Republic	154
	5. Copyright Law of 1990	155
	6. Amendments of 2001 and 2010	156
	7. The Ongoing Reforms	156
В.	Sources of Chinese Copyright Law	158
	1. Law	158
	2. The State Council Regulations	159
	3. Judicial Interpretations	160
С.	Copyrightable Subject Matter	161
	1. Theoretical Underpinnings	161
	2. Statutory Subject Matter	165
	3. Protection of Alien Authors	174
	4. Noncopyrightable Subject Matter	175
D.	Authors' Rights	177
	1. Introduction	177

	2. Moral Rights	177
	3. Economic Rights	181
	4. A Brief Comparison between the U.S. and	
	Chinese Systems of Authors' Rights	187
E.	Neighboring Rights	188
	1. Publisher's Rights	189
	2. Performer's Rights	190
	3. Producer's Rights in Sound and Video Recordings	191
	4. Broadcasters' Rights in Their Programs	192
F.	Exceptions and Limitations	193
	1. Fair Use	194
	<ol> <li>Fair Use</li> <li>Statutory License Uses</li> <li>Term, Acquisition, and Transfer</li> <li>of Copyright Interests</li> </ol>	197
G.	Term, Acquisition, and Transfer	
	17.0	199
	1. Copyright Registration and the Principle	
	of Automatic Protection	199
	2. Copyright Protection for Foreign Authors	199
Н.	Copyright Collective Management	203
	1. The Relevant Regulations	203
	2. Current CMOs in China	205
	3. The Operation of CMOs in China	208
	4. Oversight of CMOs	210
	5. Challenge and Issues for Collective	
	Management in China	212
I.	Secondary Liability and Paracopyright	214
	1. Secondary Liability	214
	2. Technological Protection Measures	220
	3. The Notice-Takedown Rule	222
J.	Enforcement	224
	1. Infringement of Copyright	224
	2. Civil Actions	228
	3. Administrative Actions	233
	4. Criminal Actions	234
К.	A Look Ahead	236
	1. The Ongoing Revision Process	236
	2. Objectives of Changes under Consideration	244
	3. Possible Further Reforms	245

Chapte	er 3: Trademark Law of the People's Republic	
of China		
А.	Significant Changes to PRC Law	248
B.	Good and Bad Faith	249
С.	Trademark Application	250
D.		251
E.	Invalidation and Cancellation	253
F.	Administrative Supervision of Trademark Licensing	255
G.	Standards for Assessing Infringement	255
Н.	Administrative Enforcement	257
I.	Judicial Enforcement	258
J.	Well-Known or Famous Mark Protection	260
К.	Private Trademark Agencies	262
L.	Governing Internal Trademark Office Conduct	263
Chapte	er 4: Trade Secret Protection in China	265
A.	Introduction	265
В.	Trade Secrets from an Economic Perspective	
	and Introductory Definition	267
	1. Trade Secret in Roman Law	269
	2. Evolution of the Concept of Trade Secrets	
	in the 19th Century	271
С.	Evolution of the Concept of Trade Secrets and	
	Its Definition in Western Countries	273
D.	Trade Secrets by Definition in China	275
	1. Approaches to Trade Secret Protection	279
Е.	Other Legislation Affecting the Protection	
	of Trade Secrets	280
	1. Contract Law	281
	2. Company Law	282
	3. Labor Law	282
	4. Labor Contract Law	283
F.	Nondisclosure and Noncompete Agreements	283
G.		
	of a Protective Environment for Trade Secrets	285

ц	Establishing and Enforcing a Confidentiality Policy	
11.	for Protecting Trade Secrets	286
	1. Enforcing a Confidentiality Policy	280
I.	Enforcement	287
1.	1. Administrative Action	289
	<ol> <li>Administrative Action</li> <li>Civil Court Action</li> </ol>	209
	<ol> <li>Criminal Court Action</li> <li>Criminal Court Action</li> </ol>	290
J.	The European Union and Protection of Trade Secrets	290 291
	Conclusion	291
К.	Textbooks	294 295
		295 295
	Logislation	295 296
	Legislation	290 297
	Internet Sources	297
Chapte	Articles and Other Sources Legislation Internet Sources er 5: Intellectual Property Rights and Antitrust in China An Overview of AML AML Provisions Relating to WR	
	and Antitrust in China	299
A.	An Overview of AML	299
B.	AML Provisions Relating to HPR	303
	Implementation of the AML Relating to IPR	304
	Competition Aspects of the Patent Law	308
E.	The Interaction of the AML and IPR	310
	1. Merger Reviews under the AML and IPR	311
	2. Abuse of Monopoly Power Involving IPR	313
F.	Conclusion	318
	ALC .	
Appen	dix A: Labour Contract	319
Appendix B: Intellectual Property Rights Agreement		333
Appen	dix C: Declaration Concerning Reward	
	and Remuneration	343
Index		345

Contents vii