

BOOK REVIEW

## IP Laws and Regimes in Major Asian Economies: Combing Through Thousand Threads of IP to Peace in Asia

by Kung-Chung Liu. Abingdon: Routledge, 2022. 254 pp. Hardback: £104.00.

Jyh-An Lee and Yangzi Li

The Chinese University of Hong Kong

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### Introduction

In *IP Laws and Regimes in Major Asian Economies: Combing Through Thousand Threads of IP to Peace in Asia*, Kung-Chung Liu, Professor of Law at Singapore Management University and Renmin University of China, undertakes a pioneering and systematic study of the characteristics and evolution of intellectual property (IP) laws and regimes in ten major Asian economies, namely China, Hong Kong, India, Indonesia, Japan, Korea, Malaysia, Singapore, Taiwan, and Thailand. We recommend this book to those interested in law and development, Asian economies, Asian laws, institutions of creativity and innovation, and international and comparative IP law.

Over the course of ten chapters, the book adopts both theoretical and empirical approaches to explore Asian IP laws. Chapter 1 introduces the Asian legal culture and Asia's growing importance in the global economy. It goes on to illustrate the structural features of the IP landscape in major Asian economies and highlights national IP strategies and specialised IP judges and courts. Chapters 2 to 4 explore the legislative and judicial developments of patent law, trademark law, and copyright law in major Asian economies and emphasise their uniqueness in international comparison. Chapter 5 examines the pre-established damages for copyright infringement and trademark counterfeiting and offers policy proposals based on the Asian model. Chapter 6 analyses the problem of the overprotection of trade secrets in Asia, suggesting possible solutions to this problem. Chapter 7 examines the changing role of China in the global economy, from a follower of the Western world in terms of IP protection to a game changer. It then explores the challenges China faces in relation to international competition. Chapter 8 discusses China and India as two countries with contrasting levels of economic development based on their different IP rules, practices, and attitudes towards the film, pharmaceutical, and automobile industries, and calls for learning cooperation between these two Asian economies. Chapter 9 considers the challenges of adopting international exhaustion in all categories of IP law, using Taiwan as a case study, and draws lessons for other Asian economies. Chapter 10 discusses how Singapore's rising position in global value chains has been achieved by taking advantage of IP regimes, and identifies implications for other Asian economies.

The book's structure is a testament to Kung-Chung Liu's comprehensive expertise in all aspects of IP, including patent law, copyright, trademarks, and trade secrets. However, he introduces a subjective dimension by highlighting what he perceives as the foremost IP concerns in Asia – for example, damages, compulsory licensing, international exhaustion, and standard-essential patents (SEPs) –, and which jurisdictions he considers to be sufficiently representative for case study, namely China, India, Taiwan, and Singapore. While there are other pressing IP issues and

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jurisdictions in Asia worthy of study, the author's preferences reflect his own background, networks, and past experience in the field.<sup>1</sup>

### New Angles to Study Asian IP Laws

The book contributes to IP scholarship by providing an Asian angle. The author argues that IP is a common language in Asia, where most jurisdictions are led by development-oriented governments that are committed to voluntary reform of domestic IP laws. Historically, most Asian economies have been importers of IP and other legal regimes due to external forces, particularly pressure from their Western trading partners. Unlike equivalent laws in Western countries, Asian IP laws and regimes have been built through active government initiatives in a top-down approach.

The book presents a comprehensive range of Asian patent, trademark, and copyright cases with descriptive, theoretical, and empirical inquiries. It presents not only micro-perspectives on individual genres of IP laws and respective developments in each jurisdiction, but also a macro-Asian-viewpoint on the overall development of IP laws and the knowledge economy in a global setting. Moreover, it adopts interdisciplinary approaches to address Asian IP issues, including political, economic, and livelihood perspectives. The book also showcases success stories from Japan, Korea, Taiwan, China, and Singapore, where the effective utilisation of IP laws played a pivotal role in advancing their technologies and economies. Finally, the author offers several creative suggestions on some of the most challenging and unresolved issues in the field – for example, compulsory licensing of patents for life-saving drugs; the fair, reasonable, and non-discriminatory licensing of SEPs; trademark use, limitation and compulsory licensing; and limitations and exceptions relating to copyright.

### Overlooked Potential: The Future of Asian IP Law

In addition to the new angles mentioned above, the author pursues three other ambitious goals. First, he argues that Asia's successful experience in economic and technological developments based on its IP regime offers valuable insights for other jurisdictions. While Asia has been a recipient and importer of IP law, it has established itself as a successful model for using IP to foster technological and economic developments. Second, the author advocates for the Asianisation of IP law, ie, the building of an IP system based on the needs of Asian economies rather than the interests and values of the Western world. Third, the author claims that an Asianisation of IP law has the potential to overcome distrust, ease tension, reduce wasteful duplication in both the public and private sectors, facilitate the creation and exploitation of IP rights in Asia, and ultimately be conducive to an Asian innovation renaissance, peace, and prosperity.

Although the author provides an important lens through which to examine Asian IP laws, there is room to nitpick his arguments. First, compared to Europe and North America, the legal, political, economic, and social situations in Asian economies are quite diverse. Thus, it remains controversial whether the various stories of successful development and shared values in a number of Asian jurisdictions can justify the claim of Asianisation of IP law. Second, while economic prosperity and technological capability do sometimes provide a solid foundation for exporting legal institutions, they do not always lead to this outcome. Third, given the complicated geopolitical factors, the goal of using the IP regime to foster regional peace is impracticable and unrealistic. Fourth, while the goal of Asianising IP law and exporting Asian IP practices may sound romantic, it is

<sup>1</sup>See eg, Kung-Chung Liu & Reto M Hilty (eds), *Remuneration of Copyright Owners: Regulatory Challenges of New Business Models* (Springer 2017); Reto M Hilty & Kung-Chung Liu (eds), *Compulsory Licensing: Practical Experiences and Ways Forward* (Springer 2019); Kung-Chung Liu & Uday S Racherla (eds), *Innovation, Economic Development, and Intellectual Property in India and China: Comparing Six Economic Sectors* (Springer 2019); Kung-Chung Liu & Reto M Hilty (eds), *SEPs, SSOs and FRAND: Asian and Global Perspectives on Fostering Innovation in Interconnectivity* (Routledge 2020).

unclear what the best strategies are for implementing these ideas in the increasingly interconnected global economy.

However, these potential shortcomings cannot detract from the merits of the book and, more generally, the author's scholarly achievements. Liu is passionately committed to realising his vision of Asian IP law. In an extraordinary manner, he has devoted his academic career to defining the scope, characteristics, and value of Asian IP laws, and to this end has published an edited tetralogy of annotated leading patent, copyright, trademark, and trade secret cases in major Asian jurisdictions.<sup>2</sup> This series has the noble aim of demonstrating that those who study IP law should not only study Western cases, but also those from Asia.

The present book once again confirms Liu's prominent position in international IP scholarship. With Asia playing an increasingly important role in global technology competition, the book lays a solid foundation for the future study of international and comparative IP law.

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<sup>2</sup>Kung-Chung Liu (ed), *Annotated Leading Patent Cases in Major Asian Jurisdictions* (City University of Hong Kong Press 2017); Kung-Chung Liu (ed), *Annotated Leading Copyright Cases in Major Asian Jurisdictions* (City University of Hong Kong Press 2019); Kung-Chung Liu (ed), *Annotated Leading Trademark Cases in Major Asian Jurisdictions* (Routledge 2019); Kung-Chung Liu & Reto Hilty (eds), *Trade Secret Protection: Asia at a Crossroads* (Routledge 2021).