

INTELLECTUAL PROPERTY AND CHINESE CULTURE

The U.S. has long accused China, both at the government level and private sectors, of stealing American intellectual property.

What is Intellectual Property (IP)? According to the World Intellectual Property Organization (WIPO), intellectual property refers to "...creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names, and images used in commerce. IP is protected in law by, for example, patents, copyrights, and trademarks, which enable people to earn recognition or financial benefit from what they invent or create."

At the surface, the dispute between the U.S. and China looks simple enough. The Chinese agreed to provide intellectual property protection in exchange for being accepted by the World Trade Organization (WTO) in 2001. Once China became a member of the WTO and started to enjoy the member benefits of free trade, the Chinese government, at least in the U.S. government's opinion, provided little intellectual property rights protection. However, the clash between the two countries over intellectual property rights is complicated. As one born and raised in Shanghai, China, I want to share some cultural and historical perspectives that go beyond economic conflicts.

For one, Chinese people understand intellectual property differently than Americans. The western idea of intellectual property is based on the concept of individual value. For

centuries, Chinese people were not aware of the existence of such a concept called intellectual property. Chinese culture is built on a set of relationships defined by the Confucian doctrine which promotes "Yin" and "Yang" balance, common good and sharing the benefits. Confucian philosophy considers that all types of creativity are for the benefit of the general public and the idea of making profits from intangible creative activities is not ethical. For example, the Confucian notion of writing a book is to share your knowledge with others. Selling the book and making a profit would be considered unethical behavior.

Also, the traditional Confucian idea of sharing coincided with the communist theories of abolishing private property rights. Since the Communist Party took over the country in 1949, it has been promoting collective rights over individual rights. Any copying or imitating was considered a high form of flattery. The first patent law did not come until the 1980s, while in the U.S. the first patent law was established in 1790.

Historically, developing countries tend to violate intellectual property rights. Even the U.S. was once guilty of intellectual property theft in its early stage. Throughout the late 18th and early 19th centuries, cotton textiles dominated British exports. High-speed textile machines such as the Artright spinning frame was a cutting-edge technology during its time. Great Britain imposed severe sanctions for exporting machines, even prohibiting the emigration of

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skilled textile workers or machinists. Artisans who violated the ban could lose their property or even be convicted of treason. However, American entrepreneurs had no respect for British intellectual property rights. The entrepreneurs publicly set bounties to entice skilled British workers for smuggling trade secrets such as machine blueprints out of the country. One of these artisans was Samuel Slater, who worked as an apprentice in one of the pioneer industrial-scale spinning mills in Great Britain. He memorized the designs of the textile machines and emigrated to the U.S. when he was 21 years old. Later he designed the first water-powered textile mill in the U.S. He was once called “Father of the American Industrial Revolution” by former president Andrew Jackson while in Great Britain, he was called “Slater the Traitor.”

There is no easy fix to the problem of intellectual property theft in China. Addressing this matter needs a

delicate touch and solving this matter is not as simple as the U.S. telling China to stop. According to the current administration, China’s alleged intellectual property theft cost U.S. companies as much as \$600 billion per year. The U.S. government cannot turn a blind eye to China’s piracy since the U.S. government is supposed to protect the interests of American citizens. China also needs to realize that patents, copyrights, and trade secrets provide an incentive for people to innovate. China’s economy is no longer closed to international trade, and it plays a significant role in the global economy. It should fully embrace the modern idea of individual property rights. China might also need an extended transition period during which they do not have to strictly meet international intellectual property standards to secure their economic development. As the Confucian philosophy suggests, understanding the true nature of a problem is the first step toward its resolution.

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The views in this publication are as of November 2018 and are prepared for educational purposes only.

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