

This is a section of [doi:10.7551/mitpress/14648.001.0001](https://doi.org/10.7551/mitpress/14648.001.0001)

Ownership of Knowledge

Beyond Intellectual Property

Edited by: Dagmar Schäfer, Annapurna Mamidipudi, Marius Buning

Citation:

Ownership of Knowledge: Beyond Intellectual Property

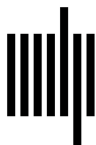
Edited by: Dagmar Schäfer, Annapurna Mamidipudi, Marius Buning

DOI: 10.7551/mitpress/14648.001.0001

ISBN (electronic): 9780262374644

Publisher: The MIT Press

Published: 2023



The MIT Press

2

INTELLECTUAL PROPERTY WITH CHINESE CHARACTERISTICS

Cynthia Brokaw

Examination of knowledge creation, possession, and dissemination in different cultures provides one avenue for the investigation of the various meanings of the ownership of knowledge. Such an examination can be particularly fruitful as a means of “provincializing” the understanding of intellectual property (IP) as a concept of universal utility. To this end, I focus here on the meanings of the ownership of knowledge as they arose in later imperial China—that is, the period from the eleventh through most of the nineteenth century—and then turn briefly to consider how these meanings were reformulated, rather dramatically, in the early years of the People’s Republic of China (PRC), a second moment that illuminates a related, but different, alternative framework for the ownership of knowledge. As this chronological leap suggests, I am interested less in tracing the development or history of conceptions of the ownership of knowledge than in what we can learn from analysis of strikingly different—if not entirely disjunctive—expressions of what “intellectual property” and the ownership of knowledge meant at two points in Chinese history: first, when Western conceptions were simply not relevant (the imperial period as I treat it here); and second, when Western legal protections of intellectual property were seen as a site of opposition (the early decades of the PRC).

Rather than cleaving to the term *intellectual property*, my discussion of Chinese regimes of knowledge expression and the ownership of inventions proceeds from a looser, more open-ended inquiry. Currently, normalized categories of intellectual property (which, as Marius Buning explains in chapter 3, in fact originated in very particular nineteenth-century European and American ideas of knowledge ownership) include copyright—the protection of text ownership; patents—the protection of the ownership of inventions; and trademarks—the protection of exclusive ownership of commercial brands. My focus is almost entirely on the ownership of the expressions of ideas and knowledge, with some attention to the ownership of craft inventions and patents (particularly in the discussion of the PRC). Although the development of publishers’ trademarks and the commercial branding of print in China are topics that sorely need investigation,

because trademarks communicate a different kind of knowledge ownership, I leave exploration of the role they played in Chinese concepts of intellectual property to future research.

This project, although it focuses on the past, developed out of an interest in searching in the present for alternatives to the now globalized regime of intellectual property that generally reflects the hegemony of Western notions of the ownership of knowledge. The global IP regime, in its conceptualization of intellectual property and the legal restrictions it places on knowledge sharing, faces increasing criticism and calls for reform or abolition. Attacks come from all sides. Critics of copyright argue that delaying the entry of works into the public domain—now, according to the United States Copyright Term Extension Act of 1998, for up to ninety-five years—is incommensurate with two of copyright's ostensible goals: the wide and rapid dissemination of information and the innovative use of new works. Inventors complain that instead of encouraging innovation—again, one of its stated goals—the patent system in fact inhibits the development of new inventions.¹ The concept of creation embedded in IP law is seen as problematic on two counts. Associated in various instantiations with a romantic notion of artistic and literary authorship and of technological invention as the work of individual genius, globally circulating IP regimes universalize legal constructions that developed from distinctively European origins.² By failing to acknowledge that creation and invention are social acts,³ the results of the contributions of many men and women, such understandings of IP privilege the knowledge-ownership claims of the individual over the open dissemination of knowledge. In global capitalism, this privileging of individual claims has been extended to serve the profit goals of private corporations. Geopolitics have normalized such understandings of intellectual property and IP law and thereby enabled multinational corporations in developed countries to inhibit the economic advancement of poorer countries by invoking copyright and patent protections and to exploit indigenous peoples in many countries by violating their “traditional” knowledge and resource rights.⁴

I turn to China to look at other ways of thinking about the ownership of knowledge. The case of China is particularly useful because it offers an opportunity to examine distinctive indigenous concepts of both knowledge production and knowledge control (“intellectual property with Chinese characteristics”)⁵ as they evolved through the late imperial period. Moreover, it offers the opportunity to observe, after China's struggles to adapt to globally circulating IP regimes in the early twentieth century, the decision taken in the early decades of the People's Republic to repudiate externally normative notions of intellectual property and its associated legal protections.

It is necessary first to confront the tendency of many Western (and some Chinese) scholars to ask why China did not develop intellectual property—or even any general notion of intellectual property—throughout its long premodern history. The implicit

assumption of this question—that somehow the Chinese *should* have developed IP law—has led to some misleading characterizations of Chinese conceptions of authorship, creation, and invention. I look critically at these characterizations, first, by examining Chinese notions of authorship and invention and, second, by looking at specific examples of Chinese authors—and, to a limited degree, inventors—who *did* emphatically assert their ownership of the knowledge they produced. From this I move to a discussion of “intellectual property with Chinese characteristics.” Finally, I conclude with a brief reflection on the recent efforts of the People’s Republic to abandon entirely the notion of intellectual property and individual ownership of knowledge.

INTELLECTUAL PROPERTY IN IMPERIAL CHINA

Answering the Wrong Question: Why Didn’t China Develop Intellectual Property Law?

The worldwide normalization of intellectual property law is nowhere more evident than in the ongoing conflict between the United States and the People’s Republic of China over the widespread and frequent violation of IP law in China. The long and tangled history of the concept of intellectual property and IP law in Europe and the US—a history that encompasses changing and conflicting understandings of authorship, natural rights, and state-society relations; long-term negotiations between states, authors, and publishers; and complex legal debates about the meaning of “intellectual property”⁶—is overlooked in the apparent assumption that there is something natural and inherently rational in the notion of intellectual property narrowly conceived as an object of legal protection.

In looking to China, then, difference becomes coded as lack. Legal and intellectual historians have tried to identify what it is in Chinese history or culture that prevented, or at least inhibited, the development of a notion of intellectual property. Among Western scholars, the consensus seems to be that long-held attitudes toward the ownership of knowledge, authorship, and creation precluded this development. William Alford highlights the constant “need to interact with the past” in the Chinese scholarly and literary tradition. The writings of the ancient sages had established the truth; it was then the duty of all those who followed to recover and explain that truth, not to attempt the vain creation of new truths:

The content of expectations concerning the appropriateness of individuals and groups exercising control over the expression of particular ideas derived, in turn, from the critical role that the shared past played in the Confucian understanding of both individual moral and collective social development. Simply stated, the need to interact with the past sharply curtailed the extent to which it was proper for anyone other than persons acting in a fiducial capacity to restrict access to its expressions.⁷

Theories of literature, calligraphy, and painting all centered on the artist's relationship to the past. As a result, the replication of writing or art from the past—what in the West might be considered at best, imitation, and at worst, plagiarism—never had the “dark connotations . . . it does in the West.”⁸

Philip Ivanhoe, in contrast, invokes underlying Chinese “attitudes and beliefs about the nature of truth” and the conviction that knowledge was “for” society, and therefore any measure that would limit its dissemination was immoral. He explains:

The idea is that the most important kind of knowledge is knowledge about the Way. Anyone who discovers some truth about the Way is uncovering some facet of a much greater pattern, something that by its very nature cannot be owned by any one person, for it belongs to everyone. Moreover, because the Way nurtures and benefits all under Heaven, knowledge about it exists for this greater good. On such a view, to regard any discovery or invention as one's own property manifests a profound ignorance of the nature of such truth and tends to interfere with the role that such knowledge is to play in the greater scheme of things.⁹

Ivanhoe (and he is not alone) is here arguing, in essence, that the Chinese did not conceive of knowledge—at least knowledge of the Way—as something that could be owned at all; existing for the greater good of all, it could never be legitimately possessed by any individual or group within human society.

Chinese Concepts of Human Creation: Authorship and Invention

Authorship There is something to be said for both of these arguments. It is certainly the case that Chinese scholarly authors (and artists) were often deeply engaged in interacting with the past. In this sense, what constituted a major realm of textual knowledge (although, it must be emphasized, not the only realm of textual knowledge) was not conceived in terms of innovation or invention. One could argue that the long and complex history of Confucian thought, for example, was driven by repeated efforts to engage with ancient writings attributed to Confucius. And this kind of knowledge—that is, the knowledge embedded in the Confucian Classics—was perceived (to varying degrees in different periods) as knowledge about the Way ideally accessible to all. Through much of imperial history, schooling began with memorizing a portion of these texts, and the civil service examination system assumed mastery of all of them.

But a closer look at Chinese notions of textual creation and invention might allow for a somewhat more complicated and nuanced understanding of how writing and textual knowledge were understood.¹⁰

As Michael Puett has argued, when discursive writing emerged in early China, it was understood as a product of moral and political degeneracy. The earliest sages, the creators of culture (e.g., agriculture, characters, fire), were rulers, not authors; as creators of perfect

order, they had no need for writing. With the decline of that perfect order, however, writing became the means of preserving some memory of that golden age and, more practically, the principles, beliefs, and practices that had sustained it. New sages arose from among the scholarly scribal class of the Zhou—Confucius was one of them—and they were the first authors, the first men who, deprived of the opportunity to rule, created (*zuo* 作) the works that recorded the Sagely Way for their own and future generations. Others might collect these works or write about them; they were simply “transmitters” (*shuzhe* 述者) or “discussers” (*lunzhe* 論者) of the works of the sages.¹¹

As the number of “sage” authors proliferated and the collections of “sagely” writings grew—and as it became clear that there was little agreement among them about the nature of the Way—there developed, roughly around the turn to the Common Era, some reservations about the necessary sageliness of these works and their authors, many of whom remained anonymous. As Stephen Owen explains: “The Sage maker (*zuozhe* 作者) formulates how things both should be and historically were. By the [Eastern] Han, this grander sense of sagely ‘making’ had diminished . . . to a weaker and broader sense of ‘writing’ or ‘composition.’”¹² To be sure, some of the early texts maintained their status as the creations of sages—or had that status bestowed on them as they were canonized in later Chinese history, the fate of the Five Classics attributed to Confucius. These are among the “past” works with which later scholars were expected to engage. But from the first century CE, anyone could be an author.

What did this debased kind of authorship mean? How did one become an author in an age far removed from the perfect order of the sages? A good author, an author worth reading, was, first, one who had mastered the scholarly literary tradition through wide reading and extensive memorization. He (they are almost all male) then might create a text that was an artful pastiche of passages drawn from this knowledge. The author was establishing his scholarly credentials—and, of course, assuming that his equally learned readers would know the sources of these passages. The artistry and brilliance of this act of writerly creation came from the skillful selection of passages to reproduce and their meaningful juxtaposition in the new text.

Charles Stone nicely explains the process in his discussion of the masterpiece of the historian and official Sima Guang 司馬光 (1019–1086), the massive *Comprehensive Mirror for Aid in Government* (*Zizhi tongjian* 資治通鑑). As Stone notes, this work is “almost entirely comprised of unattributed verbatim quotations from other works,” yet its author “is not only not considered a plagiarist, he is considered one of the foremost historians of his age.”¹³ Part of what makes his work great is the wide-ranging verbatim quotation; it revealed not only the author’s enormous erudition (and excellent memory), but also his commitment to accuracy. Rewording his sources—as would be demanded of a modern

Western historian—would have meant introducing inaccuracies into writings that were supposed to “speak for themselves.”¹⁴

The other part of what makes *Comprehensive Mirror* great is Sima Guang's brilliant arrangement of his quotations, the means he uses to signal his understanding of events. By juxtaposing quotations that seem to qualify or contradict one another, he requires the dedicated reader—who is expected to be able to identify the sources of the quotations and thus the purpose of the juxtaposition—to work out his interpretation. Robert LaFleur explains,

There is a dissonance of voices in the *Zizhi tongjian* that is not resolved by the author's commentaries. The reader is expected to play an integral role in shaping the meaning of the text, in working through the multiple assertions and meanings found in the quoted materials which make up the work. The *Zizhi tongjian* is hard to read, in short, beyond the most basic relation of events in time. It assumes a broad classical education as well as a reader capable of putting the text back together in his own vision.¹⁵

One could argue that Sima Guang represents a special case, as historians are by definition reliant on the use of previous writings. But a similar approach can be found in other works as well. *Plum in the Golden Vase* (*Jin Ping Mei* 金瓶梅), one of the great vernacular novels of the early modern period—and a work of unquestioned originality—opens with chapters lifted almost verbatim from another famous novel of the period, *Water Margin* (*Shuihu zhuan* 水滸傳). And much of the novel, as Shang Wei has pointed out, combines phrases and verses from the popular daily-life encyclopedias of the day.¹⁶ In this case, the unattributed quotations from texts that elite readers dismissed as trash points up the anonymous author's attack on nouveau riche merchant culture. Another roughly contemporary work, Tang Xianzu's 湯顯祖 (1550–1616) drama *Peony Pavilion* (*Mudan ting* 牡丹亭), includes many arias that string together separate lines from the great Tang poets and other well-known works, often for comic effect.¹⁷

The ways in which writing was taught suggests an understanding of authorship that included, if it did not consist entirely of, the notion that a text was created through the artful combination of passages and phrases borrowed from other works. Students were of course expected to be able to quote the Classics, and since every educated person knew the Classics, there was no need—indeed, it would be gauche and insulting—to provide a reference to a classical citation in one's writings. But the writer was also expected to be able to borrow from a wide range of other ancient texts, including poetry, histories, and philosophical essays. One of the basic children's textbooks for writing, *Treasury of Allusions for Young Students* (*Youxue gushi qionglin* 幼學故事瓊林), is an encyclopedia of phrases and allusions drawn from major works of Chinese literature and history. By providing the sources of the phrases and allusions, it introduced children to the literary and

historical canon; the phrases and allusions themselves were to be memorized so that the student could easily and quickly select excerpts to be combined into an essay, omitting, of course, the unnecessary source references. Popular literary encyclopedias often also offered lists of set phrases for the use of poorly educated writers hoping to achieve some elegance in composition. An essay produced by this method very often formed, as one scholar has put it, “a beautiful patchwork.”¹⁸ Similarly, the missionary John Livingston Nevius (1829–1893), writing in the late nineteenth century, described the typical examination essay as “a kind of literary mosaic, composed of ethical axioms, historical references, obscure allusions, and hints, poetical, biographical, and historical with which [the students’] memories are stored; while they almost unconsciously fall into the style and forms of expression with which their minds have become familiar in the course of their *memoriter* studies.”¹⁹

This rough characterization of concepts of authorship in imperial China might appear at first glance to support both Alford’s and Ivanhoe’s identifications of the reasons why China failed to develop a notion of intellectual property and IP law. The author was supposed to engage with the past quite literally by borrowing vigorously and repeatedly from it. Past knowledge was apparently seen as unowned (or as the property of all), so attribution of quotations from past writings was seen as unnecessary.

But not *all* Chinese writings were pastiches of passages from previous texts. Indeed, such works were generally not considered of any literary value unless, as was the case with Sima Guang’s great history, the novel *Plum in the Golden Vase*, and the drama *Peony Pavilion*, they were crafting the presentation of quotations in original, significant, and interesting ways. For the most part, writings like the “mosaic” examination essays described by Nevius and the stilted compositions produced by users of the popular literary encyclopedias would be dismissed as literarily worthless. Readers (and writers) distinguished between imitation and invention that might—or might not—draw on the literary past. Gu Yanwu 顧炎武 (1613–1682), the great Qing polymath, argued in his *Record of Daily Knowledge* (*Rizhilu* 日知錄) that writing should transmit new and essential knowledge—“what the ancients had not achieved and what future generations cannot do without.” His *Record* was intended to fulfill just this purpose.²⁰

Theories of literature and art emphasized the central importance of works of art as expressions of the individual self. What distinguished “good” painting and writing from the mediocre or bad was the power with which they conveyed the emotions and character of the individual artist or writer. This distinction was the basis for the disdain literati felt for professional artists and writers, who, it was assumed, worked to support rather than to express themselves. What made Li Bai 李白 (701–762), Du Fu 杜甫 (712–770), and Su Shi 蘇軾 (1037–1101) great poets was not their facility in recycling lines from earlier

writings but their ability to create their own distinctive voices. Critics of poetry often attacked writers for their lack of originality and failure to develop a distinctive voice. Xu Wei 徐渭 (1521–1593) complained of contemporary poets:

If a person imitates a bird's voice, even if his voice is that of a bird, his nature is still that of a man. If a bird imitates a person, even if it does sound like a person, its nature is still that of a bird. How are those who write poems today different from this? They do not write from what they know and simply steal things people once said, saying that such and such a piece is in such and such a style. . . . They cannot avoid seeming like birds imitating the speech of men.²¹

Imitation, in both the visual arts and writing, was a tool of teaching, but even those literati who promoted the occasional “return to the ancients” (*fugu* 復古) movements were, for the most part, advocating not imitation but imaginative recreation of ancient styles.

Invention Less attention has been devoted to premodern Chinese understandings of invention. As is the case in many cultures, technologies fundamental to human life and society were believed to be the creation of mythical figures. Cang Jie 倉頡 (ca. 2650 BCE), mythical official historian to the equally mythical Yellow Emperor, was credited with inventing Chinese characters, and his contemporaries Fuxi 伏羲 and his sister (and wife) Nüwa 女媧, with introducing hunting, the domestication of animals, and cooking. Less essential but no less impressive inventions were attributed, often accurately, to real historical players, including Cai Lun 蔡倫 (48?–121), the court eunuch reputed to have invented paper; Zhang Heng 張衡 (78–139), the inventor of the seismoscope; and Su Song 蘇頌 (1020–1101), the creator of a hydromechanical astronomical clocktower. These named inventors tended to be members of the official (or, in the case of Cai Lun, court) elite; their inventions can be seen as manifestations of the kind of ownerless “knowledge of the Way” that Ivanhoe describes as serving the public good. There is no evidence that any of them took any measures to profitably “own” their creations.

Of course, a great many technologies were anonymous inventions, most likely the product of the tinkering and mundane experiments by a host of unnamed peasants, artisans, industrial workers, and entrepreneurs. The treadle pump, blast furnace, woodblock printing, ceramic kiln, repeating crossbow (to give just a few random examples) were each the product of an inventor or, more likely, a succession of inventors, who relied on these tools and technologies for their livelihoods. Their humble social status would preclude their inclusion in the written record.

On those occasions when court officials or scholars chose to write about crafts and manufactures, they were, indeed, far more attentive to processes than to individual inventors. The records of Qing imperial workshops, for example, provide often quite detailed accounts of techniques of production, as, for example, Jin Jian's 金簡 (Kim Kan;

d. 1795) *Program for Printing with Movable Types at the Imperial Printing Office* (*Wuying dian juzhenban chengshi* 武英殿聚珍版程式, 1777), which describes the creation of 253,000 movable types for the production of a collectanea of rare books commissioned by the Qianlong 乾隆 emperor (r. 1735–1796)—but little information about individual inventors and workers.²² Song Yingxing 宋應星 (1587–1666?), whose *Works of Heaven and the Inception of Things* (*Tiangong kaiwu* 天工開物, 1637) not only described but also theorized craft and industrial production, did not even credit human invention as the source of manufacturing processes. Rather, he interpreted craft technologies as manifestations of the movements of *qi* 氣, the stuff of the cosmos. As Dagmar Schäfer explains, for Song Yingxing, “Man’s creative activity, crafts, and technological efforts . . . enacted universal patterns in the same way as natural phenomena.”²³ The craftsman or the craftsman-inventor was merely an unknowing tool of these universal patterns, and craft work simply “a performance of general principles,” a display of “the works of heaven” that could be known only by the scholar.²⁴ Song Yingxing’s work, as Schäfer makes clear, was in many ways unrepresentative of literati understandings of craft processes, but he shared with his class an assumption that, however deeply peasants, artisans, and industrial workers may have been involved in material production, they were not recognized as individual creators or inventors, but as mere cogs in the wheel of the universe.

Assertions of Ownership of Intellectual Property

The ownership of knowledge in texts Chinese attitudes toward literary creation and technological invention were far too complex to support broad-brush claims of cultural orientations that inhibited the development of notions of intellectual property. Another, perhaps even more compelling reason to doubt such claims is the very considerable evidence that many Chinese *did* in fact believe that they owned the products of their intellectual labor (even if it might be considered “knowledge of the Way”), that, in short, they did cherish a notion of knowledge ownership or intellectual property—albeit one very different from that assumed in Western IP law.

The actual responses of Chinese authors and publishers to unauthorized reproduction of their work reveals a complexity that is lost in grand generalizations about attitudes toward the past and communal ownership of knowledge about the Way. To be sure, some authors appeared to accept unauthorized copying of their work with at least a good show of Confucian indifference to the loss of profit or fame that it might mean. The poet Yuan Mei 袁枚 (1716–1797), for example, seems to have been unmoved by reports that his *Poetry Talks from the Garden of Leisure* (*Suiyuan shihua* 隨園詩話), along with some of his other writings, had been pirated.²⁵ And Alford notes, citing art historian Wen Fong, “a general attitude of tolerance, or indeed receptivity, shown on the part of

the great Chinese painters towards the forging of their own works.” The Ming painter Shen Zhou 沈周 (1427–1509), on learning that his works were being forged, is said to have remarked calmly, “If my poems and paintings, which are only small efforts to me, should prove to be of some aid to the forgers, what is there for me to [begrudge]?”²⁶

Noteworthy here is that, in both these examples, the expectation was that Yuan and Shen would be angry that their work had been copied, suggesting that their indifference was quite unusual—otherwise, it would not have been worthy of comment. But more direct evidence of the existence of some notion of intellectual property can be provided in the many cases of other writers and artists who did not take unauthorized reproduction of their work quite so lightly. Unsurprisingly, although cases exist prior to the tenth century, it is in the Song (960–1279), in the midst of China’s first publishing boom, that we begin to encounter frequent complaints about what we now call the pirating of texts.

Until the late twentieth century, when the terms for “to steal printing blocks” “to steal a text edition” (*dao ban* 盜版), and “to steal printing” or “to pirate” (*daoyin* 盜印) were introduced,²⁷ the two-character phrase “fanke” (翻刻, literally “to recut [printing blocks]”) was most commonly used to refer to the unauthorized reproduction of texts.²⁸ Unauthorized recutting of texts might take several different forms. A publisher might cut and print a draft manuscript without the author’s permission; it was, in fact, this form of theft that landed the great Song poet Su Shi in so much trouble in 1079, when his poems, which had been circulating widely in unauthorized editions, were banned by the government.²⁹ A publisher might recut a work with a different title or author’s name to make it appear a new work; thus in 1042 Di Zhaoying 翟昭應, when serving as district magistrate of Renhe County, Hangzhou, had the *Commentary on Statutes Governing Punishment* (*Xingtong lüshu* 刑統律疏) recut, printed, and sold as *Correct Text of Statutes and Substatutes* (*Jinke zhengyi* 金科正義). Another way of presenting a text as a new work was to abridge, expand, or rearrange its contents (again, without authorization); this was the fate of Zhu Mu’s 祝穆 (?–1255) *Survey of Topography* (*Fangyu shenglan* 方輿勝覽, 1238), which was altered and then published under the title *Abbreviated Survey of Regions* (*Jielüe yudi jisheng* 節略輿地紀勝). Last is the simple unauthorized reprinting of an already published work, perhaps the most common form of “pirating,” practiced very often on bestselling titles.³⁰

The poet Su Shi did not share Yuan Mei’s or Shen Zhou’s casual acceptance of the unauthorized reproduction of his work. Worried about the damage that circulation of inferior editions might do to his reputation (and the threat to his life that the circulation of *any* edition posed after his work had been proscribed), he told a friend that he would happily destroy all the blocks used to print his poems if that act would prevent commercial

publishers from recutting—and in the process often altering—his writings.³¹ As Susan Cherniack has pointed out, as woodblock printing came to be accepted as a convenient means of textual reproduction in the Song, scholarly and literary reputations came to rest more and more on a writer's "performance in print." As a result, authors had a strong incentive to "control and monitor" the publication of their works.³² When Sima Guang discovered that a pirate had stolen his notes for organizing the material for the *Comprehensive Mirror*, rearranged and changed the text—in the process, introducing many errors—and then published it under the title *Ditong* 帝統 (Imperial rule), his response was to put out his own carefully edited version under the title *Linian tu* 歷年圖 (Chronological chart). It quickly outsold the unauthorized version.³³

Nor was the great Song Confucian thinker Zhu Xi 朱熹 (1130–1200) willing to shrug off the threat of unauthorized reproduction of his writings. As the leader of a controversial intellectual movement, he had a natural interest in ensuring the accurate transmission of his teachings. When he learned that an academy director in Wuzhou had published copies of his *Questions about the Four Books* (*Sishu huowen* 四書或問) without authorization, he simply bought up the whole stock of the printed texts. He explained this unusual move to a friend: he wanted to prevent the circulation of a variant text that, as it might contain serious errors, would mislead his readers and undermine his scholarly standing, but at the same time he did not wish to arouse the anger of the director by demanding that the blocks be destroyed.³⁴ In other cases he was not so considerate; in 1177, on hearing that another publisher was recutting the same work, he petitioned the local government to have the blocks seized and destroyed.

Zhu Xi, who seems to have been a favored target of pirate publishers, also had financial reasons for controlling publication of his works, as he relied in part on income from publishing to make a living. On learning that a publisher was planning to recut³⁵ his *Essential Meaning of the Analects* (*Lunyu jingyi* 論語精義) and *Essential Meaning of the Mencius* (*Mengzi jingyi* 孟子精義) without permission, he sought help from his friend (and an official) Lü Zuqian 呂祖謙 (1137–1181). In this case, Zhu Xi's primary concern was financial. "If Shen [the pirate] can be stopped before he has invested much money, neither he nor I will be hurt," he apologetically explained to Lü Zuqian. "Because I am poor and have to find means to eat, I am forced to this extreme. I hope you will excuse me."³⁶

Several centuries later, the highly successful author Li Yu 李漁 (1611–1680), who also relied on the income from his publication and sale of his own writings (in Li Yu's case these were dramas and short stories, not commentaries on the Four Books), felt the need to move his publishing operation from Hangzhou to Nanjing (both major cities in the Jiangnan region, the cultural center of China) because the market in Hangzhou was flooded with pirated editions of his work. But once he had settled in Nanjing, he

learned that in yet another major Jiangnan city, Suzhou, book merchants “with greedy hearts” were also recutting his writings. He complained to a friend, “I wipe them out in the east, then [have to] expel them in the west; I attack them in the south, then [have to] exterminate them in the north. When will I be able to stop fighting?”³⁷

When authors and author-publishers did take the step of petitioning a local magistrate to prohibit unauthorized publication, they might couch their suit in terms not unfamiliar to a modern author demanding copyright protection. Take the case of Zhu Mu, author of the aforementioned *Survey of Topography*. A decree (*bangwen* 榜文) issued by the circuit intendant of Liangzhe and printed in the first edition of this work stated that it (and one other title by Zhu) “was the product of his own compilation (*size bianji* 私自編輯) and several years of labor.” The family, the publisher of the work, had “invested heavily in cutting the blocks.” If “publishers greedy for profit” recut (*fankai* 翻開) the work, they “will severely damage both Zhu’s intellectual effort and the family’s investment.” Almost three decades later, well after Zhu Mu’s death, his son obtained another decree to protect his father’s writings, this time specifically against recutting by the notorious Masha commercial publishers of northern Fujian. Again, he claimed that these works deserved protection because they “were the result of a lifetime of hard intellectual labor.” In contrast, “commercial publishers greedy for profit,” “not capable themselves of writing works that express their own ideas and opinions, resort to recutting the work of others and, it is feared, changing the titles or abridging the text, misleading literati (*shidafu* 士大夫) readers and causing real harm.”³⁸ Here the author was very much an individual expressing his own distinctive ideas and creating intellectual value, as well as a publisher investing heavily in the production of a text and expecting to recover this investment in profits from sales.

All these cases—and many more could be produced³⁹—star prominent scholar-publishers and literary author-publishers. But commercial publishers—though very often the guilty parties in any dispute over pirating—were also sensitive to the problem of unauthorized reproduction. The phrase “recutting certain to be investigated” (*fanke bijiu* 翻刻必究) was often printed on the cover pages (*fengmian* 封面) of commercial publications in an effort to discourage pirates. Some publishers offered more forceful and colorful threats: “He who recuts these blocks will have a thief for a son and a whore for a daughter” (*fancibanzhe nan dao nü chang* 翻此板者男盜女娼).⁴⁰ Publishers and authors, then, shared notions of ownership.

The ownership of craft knowledge As indicated above, recognition of invention in craft and industrial processes was usually associated either with an official’s technological innovation for the public good (absent of any desire for individual profit) or with the unconscious expression by craft workers of the changing patterns of the cosmos.

Both views might suggest that technological invention or innovation is irrelevant to any consideration of the discourse of knowledge ownership in imperial China.

Nonetheless, there is evidence, both implicit and explicit, of claims to the ownership of craft knowledge. The *Zhuangzi* 莊子, composed in the late Warring States period (476–221 BCE), provides clear evidence that certain kinds of craft knowledge were very early on seen as commercially owned. The putative author Zhuang Zhou 莊周 (ca. 369–ca. 286) tells the story of a family whose ancestor had made a salve to prevent chapped hands; ever after, the family had made a living by bleaching silk in water, using the salve to protect their hands—and of course carefully guarding the secret of its manufacture. A traveler hears about the salve and offers to buy the secret for one hundred measures of gold. The family, dazzled by the riches the sale will bring them, agrees. Zhuangzi is making a point about skillful use (the traveler finds a better use for the salve and becomes wealthy),⁴¹ but along the way makes clear that certain unique craft or manufacturing processes were considered the property of the individual or family that had developed or inherited them.

Indeed, craft knowledge was often kept secret or transmitted within families, who might impose inheritance and marriage restrictions on their members in order to prevent rival families from learning about special techniques.⁴² In order to preserve family or master-apprentice traditions, craft techniques were very rarely recorded, much less published. To be sure, in many cases this absence of written manuals reflected the bodily nature of craft transmission. As Jacob Eyferth explains in his study of papermaking in Sichuan, since the procedures of manufacture were embodied and best learned through the repeated imitation of a master, there was no need for texts describing the processes—until the modernizing state attempted to “rationalize” the craft in the early twentieth century.⁴³

Yet, when it was useful or necessary to record manufacturing processes, as, for example, in the making of medicines, secrecy was usually the rule. Pharmaceutical manuals or *fangshu* 方書 were often handwritten and closely guarded against theft, for a physician might prosper or fail on the strength of a claim to possess knowledge of a wonderfully efficacious “secret” prescription. It is noteworthy that prefaces to published prescription guides almost always praise the compiler for his willingness to make public pharmaceutical prescriptions that most physicians would, it was assumed, want to keep secret.⁴⁴

Intellectual Property with Chinese Characteristics

It seems, then, that at least from the time in the early Song dynasty when the widespread use of printing ensured greater access to texts, many Chinese assumed that they owned the products of their intellectual labor (although, as we shall see, those products

took a distinctive form). This belief included, to varying degrees depending on the individual, an expectation of fair profit from the dissemination of their works and/or a sense of responsibility (whether to their own reputations or to the public good) to ensure their accurate reproduction.

This is not to say that premodern Chinese notions of authorship and ownership of knowledge can be seen as equivalent to modern understandings of intellectual property as embedded in IP law. They were animated by other considerations, conventions, and concerns. Major differences in the ownership of knowledge and in the understanding of state-society relations and in the definition of the form that intellectual property took complicate any effort to assert (as several Chinese scholars do) that China developed a Western-style notion of intellectual property and “copyright” (*banquan* 版權) several hundred years before the West.⁴⁵

The Imperial State, Society, and the Ownership of Knowledge

The assumptions that underlie modern IP law emerged in Western European society over the course of the seventeenth, eighteenth, and nineteenth centuries, products of a liberal ideology that celebrated a cluster of interlocking concepts: natural rights, individualism, the social contract, laissez-faire free trade, political representation, public interest, and “the marketplace of ideas.”⁴⁶ Very different notions of governance and the relationship between the state, society, and economy underpinned the Chinese political and legal system. The Confucian ideal of the sage ruler who governed by moral example and ritual practice was of course never attained in practice, but the ideal supported paternalistic governance, whereby the ruler and officials, devoted to ensuring the welfare of the people, were responsible for deciding how best to achieve this goal; the people themselves were ignorant of what was best for them. To be sure, the ruler might want to learn the sentiments of his people, to understand how his policies were working, but the people were not to be “represented” in any formal institution that would allow them to hold the ruler to anything like a social contract. As Legalist thinkers prescribed, laws were the creation of the ruler; necessary for the maintenance of order and the ruler’s authority, they were certainly not designed to protect anyone’s individual rights. Individuals, all subjects of the emperor, were powerful primarily as they belonged to larger social units—the family, but also the household, the lineage, the gentry community, the examination cohort, and so on. The notion that each individual had “natural rights” to be protected by the state did not exist.⁴⁷

Though Confucian and Legalist political theorists were at loggerheads on most points, they agreed on at least one: that the ruler had a responsibility to regulate and control what the people thought. However, each camp had a different motive for this view.

Legalists saw ideological control as essential to the maintenance of the ruler's power. Confucians understood it as one of the moral requirements of a virtuous ruler: it was his duty to ensure that his subjects thought "good" and correct thoughts. As William Alford puts it, "Central to [the ruler's fiduciary] responsibility was the need to determine which knowledge warranted dissemination and which ought to be circumscribed in the best interests of the commonwealth."⁴⁸ In a sense, then, the state claimed—*assumed* might be a better word—stewardship or control, if not ownership, of knowledge.

This very crude and necessarily incomplete characterization of Chinese political ideology as it relates to the issue of individual literary, artistic, or technological production helps to explain why, as Alford has more or less correctly pointed out, "virtually all known examples by the state to provide protection for what we now term intellectual property in China prior to the twentieth century seem to have been directed overwhelmingly toward sustaining imperial power. These official efforts were only tangentially, if at all, concerned with the creation or maintenance of property interests of persons or entities other than the state or with the promotion of authorship or inventiveness."⁴⁹ There is plenty of evidence that the imperial state was deeply interested in asserting its exclusive authority to control and thus "own" at least certain types of knowledge. One could trace this interest all the way back to Qin Shihuangdi's 秦始皇帝 (r. 221–210 BCE) destruction of works he deemed harmful to his state or, more positively, to the identification by Han Wudi 漢武帝 (r. 141–87 BCE) of five works—the *Classic of Songs*, *Book of Documents*, a trilogy of ritual texts, the *Classic of Changes*, and the *Spring and Autumn Annals*—as "Classics," works of sagely wisdom to be mastered by aspiring government officials.

But, not surprisingly, government efforts to control the publication and circulation of knowledge intensified around the same time that woodblock printing, invented no later than the early eighth century, made the reproduction and dissemination of texts easier. In 835 Emperor Tang Wenzong 文宗 (r. 827–840), alarmed at reports that privately produced calendars (*sizhi liriban* 私置曆日板) were for sale in far-flung markets in Jiannan, Liangchuan, and Huainan circuits (roughly, modern Sichuan and Jiangsu provinces), issued an edict, "probably the oldest publication ordinance in history,"⁵⁰ prohibiting the private publication of calendars.⁵¹ Producing an accurate calendar, the work that annually established the rhythms of agriculture, was one of the most important responsibilities of imperial governance and thus the prerogative solely of the emperor. The Tang state also prohibited the reproduction, in manuscript or print, of astronomical charts (required for the creation of the calendar), government statutes, the dynastic histories, and works of prognostication.⁵²

The establishment of the Song by rulers devoted to the project of centralizing state power—at the same time that woodblock printing finally emerged as a major means

of textual reproduction—marked a new stage in the government's (implicit) claim to exclusive, authoritative use or determination of specific forms of knowledge. The state expanded the scope of the textual knowledge it assumed the authority to control and stepped up efforts to prevent, or at least regulate, extra-official publication of a wider range of works. As before (and throughout the rest of imperial history), the publication of calendars and astronomical charts remained, in law if not in fact, the exclusive preserve of the state. Prohibitions against their private publication were included in the *Criminal Code of the Song, Revised in the Jianlong Era* (960–963; *Song Jianlong chongxiangding xingtong* 宋建隆重詳定刑統) in 962 and repeated in the *Administrative Laws of the Qingyuan Era* [1195–1200], *Classified* (*Qingyuan tiaofa shilei* 慶元條法事類) in 1202, while separate imperial edicts reiterated the prohibition in 1071 and 1080.

Under the Song a whole range of government documents, legal writings, and historical works were added to the category of texts under the exclusive domain of state authority. The private publication and dissemination of imperial edicts, civil and military dispatches, memorials, records of the court, and other state documents were outlawed. Certainly, one of the goals was to protect state prerogative, but the prohibition was also designed to prevent enemies of the Song from learning state secrets. Indeed, an edict of 1090 outlining the harsh punishments to be imposed on anyone caught violating the proscription seems to have been issued in response to a warning by imperial envoy Su Che 蘇轍 (1039–1112), who had been disturbed by the number of Song government works he had seen during a visit to the neighboring Liao court.⁵³

Such state prerogative or “ownership” can be reframed as an expression of the indivisibility of the state and the public good. The state recognized this indivisibility in taking on the responsibility to see to the production of “correct” and standardized editions of important works like the Classics. Just before the Song was founded, two ministers of state during the Five Dynasties period, Feng Dao 馮道 (882–954) and Li Yu 李愚 (?–935), published the first state-sponsored print edition of the “orthodox” texts of the Nine Classics (the number had grown from five to nine since the Han). And the later expansion of the civil service examination system in the Song—one of the centralizing measures taken by the early Song emperors—made it even more important for the state to establish correct editions of the Classics and other examination texts, as well as to prohibit the circulation of unauthorized and thus possibly inaccurate versions. The Directorate of Education (*Guozijian* 國子監) was responsible for producing standard editions of the Classics, which came to be known as directorate editions, or *jianben* 監本. The state also assumed the authority to compile and publish collections of examination essays by successful candidates (*chengwen* 成文) to serve as exemplars for students.

Doubtless the Song rulers, in making efforts to assert control over—and thus, implicitly, ownership of—the production of examination texts, were aiming, as Alford insists, to maintain themselves in power. But they were also attempting to fulfill a responsibility to ensure the accuracy and standardization of the texts to be tested. Some action of this sort was clearly necessary, as the widespread circulation of illegal (and cheap and error-ridden) commercial editions of the Classics had, as early as the late Northern Song, become a headache for the state. Particularly notorious were the *Mashaben* 麻沙本 (editions from Masha) published in a village of that name in northern Fujian. An oft-repeated anecdote recounts how a teacher in the Hangzhou prefectural school made a fool of himself by basing a question to his students on a Masha edition of the *Classic of Changes*. “The teacher asked, ‘[The hexagram] *qian* 乾 corresponds to “metal” [*jin* 金] and *kun* 坤 also corresponds to “metal,” how is that?’ Upon checking their Directorate of Education edition of the *Classic of Changes*, the students responded, ‘Sir, you must be using a Masha edition, because the Directorate edition says that *kun* corresponds to “receptacle” [*fu* 釜].’”⁵⁴ Officials memorialized the throne repeatedly over the course of the eleventh, twelfth, and early thirteenth centuries about the harm the proliferation of such texts did to the integrity of the examination system. A series of imperial edicts, some specifically targeting the Fujian publishers, regularly (but largely ineffectually) proscribed private publication of examination literature without authorization and threatened violators with beatings and the destruction of their woodblocks.⁵⁵

In asserting its ownership of examination literature, then, the Song government was acting in large part out of a concern for the integrity of the examination system. But the state was also interested in ensuring access to these and other important texts, for they did allow private publishers and local governments to reproduce them, as long as the reprints were of the “correct” editions authorized by the Directorate of Education.⁵⁶ The 986 edition of the Han-era dictionary *Explaining Patterns and Analyzing Characters* (*Shuowen jiezi* 說文解字), for example, includes a statement to the effect that individuals could use the government’s woodblocks to reprint the text as long as they paid for the costs of the paper and the printing. (Since cutting the woodblocks was by far the largest portion of a book’s production costs, this was not a bad deal.) The Nine Classics, in the orthodox edition compiled during the Five Dynasties period and endorsed by the Song state, could also be reprinted, as long as the directorate authorized the reprint and a fee was paid.⁵⁷

Publishers could also cut their own set of blocks to produce facsimiles of government editions of certain medical treatises (the early Song state was committed to both centralizing medical knowledge and ensuring its broad dissemination in accessible texts),

institutional compendia, Buddhist and Daoist texts, and dictionaries.⁵⁸ The government was, in effect, licensing private individuals to reproduce works in government editions from government woodblocks (or facsimiles thereof); the state could thereby both continue to control and implicitly own the knowledge being reproduced (and ensure some standardization and quality control) *and* encourage its broader dissemination.⁵⁹

The Song state also instituted a system of publication registration that channeled new, not yet officially sanctioned textual knowledge into the realm of state control. We might think of this as an ownership-sharing system, in which the state, in order to maintain control over what was published and circulated, acknowledged some private ownership of knowledge. Imperial edicts in 1009 and again in 1090 ordered all nonofficial publishers to submit the manuscripts of texts they planned to print to the Directorate of Education in the capital for prepublication approval; the latter edict also stated what kinds of works would not be approved. Again in 1159 the government prohibited the publication of any work that had not received approval from the directorate and, in addition, required that a copy of each approved work, printed on special yellow paper, be deposited at the directorate. Between 1195 and 1201 a series of edicts codified these regulations and asserted the state's authority to censor improper (that is, heterodox and "frivolous and licentious") content and even inappropriate writing styles.⁶⁰

Only a few extant Song imprints provide evidence of how this system of registration worked. Approved works apparently received warrants of publication (*gongju* 公據 or *wendie* 文牒),⁶¹ statements certifying that the publisher had submitted the work for approval and often giving quite detailed information about the production of the book, including the number of characters in the text, the number of blocks used to print the work, the cost of an impression for a single copy, and the retail price of the book. At a certain point, too, it seems that local officials could stand in for the Directorate of Education. For instance, a colophon to the *Xiaochu ji* 小畜集, the collected works of the poet and official Wang Yucheng 王禹偁 (954–1001; *js* 983), certifies that the book, containing 163,848 characters, had conformed to the requirement, stated in the *Statutes of the Shaoxing Era* [1131–1162] (*Shaoxing ling* 紹興令), that all private publications be submitted to the authorities for inspection. The issuer of the warrant, however, was the director of the postal relay service in Huangzhou (modern Huanggangshi, Hubei), not the Directorate of Education; he found the *Xiaochu ji* "advantageous to learning" and thus granted permission for publication and distribution of the text. Such warrants might be printed as a colophon in the book, as in this example, or inserted on the title page.⁶²

By the late twelfth century at the latest, the warrants might also include prohibitions against unauthorized reprinting or alteration of the works. The earliest extant example of such a warrant appears in an edition of Wang Cheng's 王程 *Record of the*

Eastern Capital (*Dongdu shilüe* 東都事略), published in Meishan 眉山 (Sichuan) between 1190 and 1194 by the author's son; a colophon on the last page of the table of contents reads, "Published by the house of Secretary Cheng of Meishan. It is already reported to the authorities. Reprinting is not permitted."⁶³ Evidence that the Directorate of Education did in fact act against pirates comes from a warrant issued by that office commanding a local official in Ganzhou (Jiangxi) to stop the unauthorized reprinting of Duan Changwu's 段昌武 (fl. thirteenth century) *Collected Glosses on the Mao Odes by the Cinnamon Grove Studio* (*Conggui Maoshi jijie* 叢桂毛詩集解, preface dated 1248) by an unscrupulous relative of the original publisher. He was profiting handsomely from sales of the pirated text in neighboring Fujian Province.⁶⁴

These strategies for managing the intellectual property of the state were devised, as Alford asserts, from a desire to "[sustain] imperial power" in a political and legal context quite alien from that which produced the early modern Western notion of IP and copyright. But it is worth noting that the phrase "sustain imperial power" does not do full justice to the varied concerns of the state in its attempt to control and, in a sense, possess knowledge. Its efforts to regulate the reproduction of texts grew out of its Confucian responsibility to ensure that people were exposed only to correct ideas, and that these ideas were determined by the paternalistic state. But, on the evidence of the licensing system developed in the Song and continued at least through the Ming, the state also wanted to promote the broad dissemination of correct ideas, even if it meant granting (in theory, tightly controlled) reproduction privileges of state editions to nonofficial players.

Print Technology, Tangible Property in Knowledge Production, and the Ownership of Knowledge

The Song state may have envisioned itself as the sole owner of important forms of knowledge; certainly, the rules and institutions that it established to assert control over text creation and reproduction suggest that this was the case. But there is little evidence that, over time, the Song state was routinely able to enforce this regime of control. As the Song empire crumbled over the course of the twelfth and thirteenth centuries, and as private and commercial publishing flourished, it became increasingly difficult for the state to effect its claims of knowledge ownership through control of print.

There is no sign that any later imperial state wavered in its assurance of its claims to authority over knowledge production, although, to be sure, actual enforcement of this authority was frequently inadequate or neglected. During the Ming (1368–1644) the government was still trying (in vain) to prevent Masha publishers from producing error-ridden editions of the Classics; publishers were allowed to publish facsimile reprints

of the government editions, but prohibited (ineffectually) from producing their own versions. Throughout the rest of imperial history there were intermittent efforts at post-publication censorship of varying intensity and success. The brutal literary inquisitions of Ming Taizu 明太祖 (r. 1368–1398) and the early emperors of the Qing (1644–1911: Kangxi 康熙, r. 1661–1722; Yongzheng 雍正, r. 1722–1735; Qianlong, r. 1735–1796) managed to obliterate thousands of works these rulers considered threats to their power. Occasionally, zealous officials would initiate campaigns to destroy texts perceived as pornographic and harmful to the public good, as in 1868, when the governor of Jiangsu Province Ding Richang 丁日昌 (1813–1882) prohibited a long list of historical romances, “scholar-beauty” love stories, and jokebooks that he deemed “licentious.”⁶⁵ But no imperial state succeeded in establishing institutions that were effective in systematically enforcing its claim to control and “own” knowledge.

In the face of state failure to institute a thorough system of control, there was, particularly from the Song on, a widespread implicit acceptance of some de facto private ownership of textual knowledge in the form of the capacity to produce texts not approved by the state. And here it is necessary to consider one other major difference between Chinese governance of knowledge production and modern IP regimes. As He Zhaohui has pointed out, because of the nature of the dominant premodern print technology, intellectual property was understood to be tangible,⁶⁶ not intangible (the conclusion reached after much legal debate in the West⁶⁷). Although the Chinese had long used a variety of methods of movable type printing—employing earthenware, wooden, or metal fonts—woodblock printing or xylography remained, from the seventh to the late nineteenth century, the major mode of text reproduction. Ownership of the woodblocks for a text, which represented by far the largest share of the capital investment in book production, defined the publisher of that text. Typically, the publisher of a woodblock text was identified on the cover page (or in a colophon elsewhere in the book or on the first page of the main text) with the phrase, such-and-such a shop/studio “holds/owns the blocks” (*cang ban* 藏版/板).⁶⁸ Tellingly, on those rare occasions when a pirate was prosecuted successfully, he was required to destroy the blocks of the work he had stolen.

The customary regulations governing relationships among publishers also indicate that intellectual property was *material* property in the premodern Chinese book trade. If a publisher simply rented blocks from another publisher, he was not to change the name of the publishing house (*tangming* 堂名) that identified the owner of the blocks on the cover page. But if he purchased cut blocks from another publisher, he became the owner of that piece of intellectual property and could erase evidence of the previous owner by having that man’s shop name scooped out of the block and replaced by a

piece of wood cut with his own.⁶⁹ And as the new owner of the work, he could also of course add new paratexts to the original text, rearrange or reformat it as he saw fit, or combine it with other texts in a collection or *congshu* 叢書.⁷⁰

That intellectual property was considered to be material property might help to explain the continuing importance, into the early twentieth century, of what is called private (*sike* 私刻), family (*jiake* 家刻), or literati publishing, in contrast to government (*guanke* 官刻) and commercial (*fangke* 坊刻) publishing, in Chinese book history. Here, an individual, often representing a family, would hire block-cutters and printers to prepare woodblocks for the printing of, for example, a text or texts in the family library; a collection of an ancestor's or family member's poetry; a rare scholarly work, history, or medical text; or a literary creation of the individual's own composition.⁷¹ As long as the individual publisher (or his family) owned the blocks, he owned the text (whether he or any other family member had written it or not), could control its content, and profited from its sale.⁷² But as soon as he sold the woodblocks, the tangible property of knowledge reproduction, he lost control of a text's contents as well as the profits from its sale.

Authors in this context would have a particular incentive to publish their own writings. Indeed, it is noteworthy that in almost all the premodern cases we have of publishers pursuing pirates, the publishers are also the authors of the works pirated, authors who were presumably keen to preserve the integrity of their writing, but also dependent on income from publishing to support themselves. In order to profit both in terms of reputation and sales, they had to own their knowledge—their intellectual property—in the material form of woodblocks.

Extra-Official Efforts to Claim Ownership of Textual Knowledge

Cutting woodblocks for the unauthorized printing of a text was thus perceived as not intellectual but rather economic theft. As the examples above demonstrate, both officials and author-publishers did understand pirating to be illegal—not, to be sure, because it was a violation of an author's or a publisher's "rights," but because it was a form of property theft.⁷³ Western observers of publishing in nineteenth-century China testified to this categorization as property theft of what in the West would be considered a violation of copyright:

Even though the Chinese criminal code contains no sections referring to publishing law, a violation of the latter is nevertheless punishable in the Middle Kingdom. Those who violate an author's right may be ultimately punished with a hundred strokes of the bamboo or a three-year exile, if they printed and sold works without authorization. However, if the offense is only such that the work was printed but had not yet been sold, then the person who has transgressed is punished with fifty lashes of the bamboo and the confiscation of

the books and the woodblocks by which such books were printed. The transgressing publisher is sentenced under the section of the criminal code that refers to serious thefts and is subject to the same penalties as if he had robbed commodities.⁷⁴

If unauthorized publication of a text was a form of property theft, then there was no need for the imperial state to develop separate laws or legal mechanisms specifically designed to facilitate routine prosecution of piracy.

In this context, how did author-publishers and commercial publishers protect their tangible intellectual property?

Customary regulations and publishing communities As already suggested, commercial publishers—at least those operating within a circumscribed publishing and bookselling network—developed some unwritten rules or conventions to establish “ownership” of a text and to restrict unauthorized reprinting. For example, the Ma and Zou lineage-based publishing industries, established in the late seventeenth century in two contiguous villages in remote and mountainous western Fujian, formulated a set of rules designed to regulate competition, while at the same time allowing for both shared benefits from the publication of tried-and-true bestsellers and the profits an individual publisher might reap from the introduction of new texts. These rules required the publishing households to post, at the end of each year, the cover pages of the texts they planned to publish in the new year (*suiyi shua xin* 歲一刷新, “each year publishing anew”), so that multiple claims to the same title could be negotiated ahead of time.⁷⁵ Once negotiations were completed, a publisher who held the blocks “owned” them (*cangban suoyou* 藏版所有) and thus the title at least for that year. Rented blocks remained the property of the renter; purchased blocks became the property of the purchaser. At the same time, enormously popular works like the literacy primer *The Three Character Classic* (*Sanzi jing* 三字經) were considered the property of any publisher who wished to cut the blocks for a new edition.⁷⁶

It is likely that the efficacy of such regulations depended heavily on the limited size and closed nature of the publishing community and the support of the most powerful local publishers. Although the Zou and Ma publishers were competitors, they were interacting (and intermarrying) within a circumscribed local community. It is not clear how effective these rules would be in a more expansive business context. They were certainly not powerful enough to regulate the publishing industry as a whole; the Zou and Ma publishers never hesitated to pirate works of “outside” houses. There is little evidence that there ever developed within the commercial book trade the sorts of guilds or associations that, as was the case in other industries and businesses, might routinely and consistently enforce the informal rules governing intellectual property.⁷⁷

In the absence of effective trade organizations or industry-wide regulations, both private and commercial publishers asserted their proprietary status by employing a variety of paratextual elements. The identification of the owner of the blocks, followed by the warning “reprinting will be investigated/prosecuted” (both discussed above), was the simplest and most common expression of ownership. Colophons (*paiji* 牌記), initially printed at the end of texts but eventually moved to the front, identified the publisher of a text and at times provided other information that supported the claim of ownership, such as the publisher’s address, the date of publication, the relationship of the edition to previous editions, and claims about the edition’s accuracy.⁷⁸ The commercial publishers of Jianyang outdid all others in “branding” their work with very distinctive colophon formats and quite elaborate colophon texts. Beginning in the late Yuan or early Ming, these publishers printed their colophons within a lotus-leaf design that functioned rather like a trademark (although a lotus design was used by other publishers as well).⁷⁹

These men also used colophons to advertise their texts, assert proprietary claims to them (in the form of editorial labor and costs), and explicitly address the problem of piracy. For example, Liu Ziming 劉子明 (*zi* Shuangsong 雙松), includes a colophon on the cover page of his popular encyclopedia, *Marvelous Complete Book of Myriad Treasures from the Forest of Literati and for the Convenient Use of All under Heaven, Newly Published and Fully Supplemented* (*Xinban quanbu tianxia bianyong wenlin miaojin wanbao quanshu* 新板全補天下便用文林妙錦萬寶全書, 1612) that both makes claims about his own involvement in the production of the text and warns the prospective reader against pirated editions:

This text was originally compiled by this house [Liu Ziming’s Anzheng tang 安正堂] and circulated widely. Now, because the second set of blocks is worn, we have taken the trouble to hire cutters and printers and asked Master Liu Shuangsong to revise the old and add the new, to extract the pure and select the outstanding, so that all knowledgeable men in the world will praise it. Recently, profit-hungry villains have, under a false registration, fraudulently sold incomplete reprints that will not only do readers no benefit, but will also cause users to make errors. Therefore, in the third authentic edition, we have cut the title “true compendium of myriad treasures” (*zhen wanbao quanshu* 真萬寶全書) and certified the text with the seal of twin pines [Liu’s courtesy name, Shuangsong, means “twin pines”]. If the buyer finds that name, then there is no error.⁸⁰

Here the publisher is calling on customers to aid in the fight against “fraudulent” reprints. He also asserts his personal engagement, both editorial and financial, in the work through his assurance that he himself has revised and corrected the work and has spared no expense to reprint an accurate edition; it is certified with his seal.⁸¹ Other publishers, too, would print their seals in a work as a display of ownership. They were

probably copying the more laborious—but perhaps more effective—practice of stamping cover pages of books with identifying seals, either pictorial or reproductions of the publisher's name in a fancy calligraphic script, in order to authenticate them.⁸²

These measures, not surprisingly, did not work particularly well in preventing piracy. Tellingly, the most effective method of prosecuting piracy was ad hoc appeals for aid from local officials. Zhu Mu's appeal to the Liangzhe circuit intendent to stop the unauthorized publication of his *Survey of Topography* under a different title bore fruit in an official command to the pirate publisher to desist printing the work and destroy the woodblocks he had had cut.⁸³ We have seen that Zhu Xi and Li Yu both appealed to friends with official status to prosecute pirates. Perhaps the cleverest appeal to official assistance was made by Yu Anqi 俞安期 (fl. 1596), the author of the *Encyclopedia of Tang Dynasty Anthologies* (*Tang leihan* 唐類函). Anticipating that his encyclopedia would be pirated, he reported that the work had been illicitly reprinted even before it appeared on the market. The magistrate duly posted notices denouncing the pirates—and no one dared to reprint the work when it did come out.⁸⁴

These examples demonstrate that officials did perceive unauthorized publication as a transgression, a form of property theft, that necessitated some action on their part. Petitioned for protection by individual author-publishers, they might issue decrees prohibiting the recutting of specific titles; appealed to for help by literati friends, they might personally intervene and order the destruction of the offending blocks. But these ad hoc actions were not effective in routinely preventing the pirating of texts. The sustained success of the Masha publishers, the most notorious pirates of the later imperial period, suggests that, despite some individual triumphs, authors and publishers without privileged access to powerful officials had little recourse when faced with pirating of their works.

For, as Ye Dehui has noted in his survey of this strategy,⁸⁵ such measures were not available to all; one had to have high status and excellent connections to be able to call on the assistance of local officials. And those who did not have connections or ranked rather low on the hierarchy of knowledge producers were reduced to printing ineffectual threats, like Cao Shiheng's 曹士珩 warning at the opening of his *qigong* manual *Dao yuan yiqi* 道元一氣 (late Ming)—not the sort of text likely to secure the respect of officials unless the author was *very* well connected: "If there are ignoramuses who furtively copy my book for profit, I will surely report them to the government."⁸⁶ Equally excluded from official favor, commercial publishers of popular fiction in the Qing occasionally attempted to identify their works as publications of the local government office by placing the phrase *benya cang ban* 本衙藏版, "the local yamen owns the blocks" on the cover pages, hoping that pirates, fearful of government investigation, would not dare to reprint them.⁸⁷

And of course, even if appeals to local officials were effective, in the end the geographical and administrative scope of their efficacy was limited to the locality.⁸⁸ The case of Li Yu illustrates this point nicely: he was able to rely on his friend, the local official Sun Picheng 孫丕承, to protect his *cang ban*, ownership of blocks, in Suzhou; but for the same problem in Hangzhou, he had to call on his son-in-law to approach local officials there for assistance. Pirates were clearly aware of the local limits of official action, as the case of the unauthorized reprinting of Duan Changwu's *Collected Glosses on the Mao Odes by the Cinnamon Grove Studio*, mentioned above, indicates; here the pirate cleverly saw to it that his unauthorized reprints were sold outside the site of production, in a neighboring province. Successful efforts to protect either private or commercial "ownership of knowledge" / "ownership of woodblocks" depended on ad hoc and geographically limited efforts by local officials in response to appeals from literati members of their own status group and network of connections.

THE PEOPLE'S REPUBLIC OF CHINA, 1949–1976: THE CHALLENGE TO INTELLECTUAL PROPERTY

From the late nineteenth century on, Western nations eager to expand their business in China began pressuring the Qing government to legislate IP law in accordance with multiple Western models (and Japanese variants). The array of bilateral and multilateral copyright treaties signed in this era indicate that the exhausted Qing state, outnumbered and overpowered, had little choice but to comply (Alford titles his chapter on this stage in China's intellectual property history "Learning the Law at Gunpoint"). In 1910, the government issued a provisional copyright act that gave "certain very limited exclusive rights to Chinese authors";⁸⁹ this law aligned with the Western understanding of IP in that it acknowledged "authors' rights" (*zhuzuoquan* 著作權)—that is, an author's right to their intangible intellectual property—rather than protecting the exclusive access to publication by the owners of tangible woodblock property.

However, as Fei-hsien Wang argues, the most vigorous and effective practical efforts to regulate "copyright" (*banquan* 版權) came from Shanghai publishers who still understood it not as a right to intangible property, but as a right held by those who possessed the material means of production—even though lithography and letterpress printing had by this time replaced xylography as the major technologies of text reproduction.⁹⁰ That they should think of copyright in this way is hardly surprising when we look closely at the compound adopted to translate "copyright." *Banquan* 版權, introduced from Japan in the late nineteenth century, means literally "the block (*ban*) right, authority, or power (*quan*)," or "the right to the blocks." Thus, incommensurable

understandings of the relationship between intangible intellectual labor and tangible means of text production were made equivalent in translation, creating a source of much later confusion.

The unstable translation of foreign IP law and its implementation in legal reforms of the early twentieth century were interrupted, and ultimately radically rejected, in the early decades of the People's Republic of China. In line with the ideology of the new state, there was a move away from a liberal, capitalist endorsement of individual property rights toward an approach that first attempted to privilege the rapid and widespread dissemination of knowledge over individual ownership rights, and then embraced a full-bodied Marxist repudiation of the whole notion of individual ownership of intellectual property. In this second stage, inventions, scientific discoveries, and literary and scholarly writings were interpreted as the products not of an individual mind and effort, but of social forces (to which the individual inventor, scientist, or author may have had privileged access). As society (or "the public") was therefore the only legitimate beneficiary of intellectual labor, no one person had the right to own the products of his or her individual intellectual labor.

Unfortunately, little has been written about the actual implementation of the rules developed during these two stages—the first of adaptation, the second of repudiation. This discussion will thus necessarily be brief.

After the PRC was founded in 1949, the government repealed all the laws of the previous, republican, government, including regulations around copyright and publishing. Not surprisingly, given the overwhelming emphasis on the need for scientific and technological development and modernization of the economy, early efforts to develop new regulations of intellectual property focused on inventions and patent law. Initially, in 1950, a patent system remained in place, although inventors were encouraged to accept, in place of a patent (*zhuanli* 專利),⁹¹ a certificate of authorship and a monetary award or bonus. In 1954 patents were abolished, but certificates of authorship were still issued and material incentives provided for invention. In 1963, however, the Regulations on Awards for Inventions ("Faming jiangli tiaoli" 发明奖励条例) declared that all inventions were the property of the state. Inventors were to be rewarded with honorary certificates and a one-off payment matching the value of their invention. In addition, inventors might receive other noncash "rewards" such as privileged medical treatment or travel subsidies.⁹²

The regulations did, then, continue to acknowledge the usefulness of material rewards as incentives for invention, while imposing greater state control over invention.⁹³ Under both ideological pressure to embrace the socialist understanding of invention as a social product that naturally "belonged" to society and economic pressure

to encourage technological development, it seems that the state was attempting to develop regulations that would ensure (through the organs of the state) immediate and widespread dissemination of useful inventions and, at the same time, offer the material incentives that in theory drove invention and innovation. But in the 1963 regulations, there is clearly an interest in reducing material incentives and retreating from any notion of intellectual property “rights” held by inventors.

Regulations on publishing and copyright followed a roughly similar path. The 1950 Resolution on the Improvement and Development of Publishing Work (“Guanyu gaijin he fazhan chuban gongzuo de jueyi” 关于改进和发展出版工作的决议) called on publishers to respect copyrights and prohibited the unlawful reproduction and alteration of texts.⁹⁴ Royalties were to be determined by the publisher in consultation with authors, and “based on the principle of giving consideration to the three interests of authors, readers, and publishers”; and were to be calculated on the basis of the nature and quality of the work, the number of characters, and the number of copies printed.⁹⁵ Subsequently, in 1952, the General Publishing Office (GPO) urged publishers and authors to sign contracts clearly stating royalty payments and copyright regulations.⁹⁶

Through the 1950s to 1958, these arrangements, although doing little to stop copyright violations, “resulted in relatively large payments to authors,” because they allowed continuing royalties to be paid to authors on a per-copy basis. Even an effort by the GPO to establish a uniform remuneration standard for royalty calculations did little to reduce “sizable payments to authors.” In 1958, however, in the wake of the Anti-Rightist movement, both the per-character and per-copy royalties were cut by half. Three years later, per-copy royalties were eliminated altogether, as were royalties for reprints. Instead, it was decreed that authors would be given one-off “basic payments” (*gaofei* 稿费) for their work; these payments were to be calculated on the basis of the nature of the work (with scientific writings more highly valued than others) and the quality and quantity of the writing (the latter measured by the number of characters). Publishers were to respect “the rights both of authors and of [other] publishers,” and thus unauthorized reproduction or emendation of texts and plagiarism was prohibited.⁹⁷

But the state provided no legal mechanism for the prosecution of copyright violation. This decision of the state not to provide legal protection for authors and publishers has been seen as an indication of the government’s “distaste for legislating extensive rights for an elite group” (in particular, its determination to prevent the development of a literary or cultural elite such as that which dominated late imperial Chinese society) and its related goal of minimizing “the differences between income groups.”⁹⁸

The Cultural Revolution of course overturned the balance between providing incentives for invention and ensuring public access to new knowledge that the regulations

governing invention and publication issued between 1950 and 1963 had, to varying degrees, tried to strike. Material incentives were abandoned, and the Marxist conviction that all technological advances and artistic and literary creations were the products of society, not an individual, was ardently pressed. As the New China News Agency (Xinhua tongxun she 新华社) announced in October 1966, the year the Cultural Revolution began, “In China’s major inventions, it is impossible in many cases to establish who are the inventors, because the combined effort of so many people and so many units are involved, and no one claims credit.”⁹⁹ One effect of this view was the proliferation in the late 1960s and 1970s of works authored by committees whose individual members were not identified.

The government thus repudiated the notion that an individual might lay claim to any intellectual property “right.” Dietrich Loeber explains the impact this move had on authorship and copyright:

An author generally receives no compensation for works which he has produced. If his writing activities are part of his employment responsibilities, he receives only his salary. If an author engages in literary or artistic activity outside of his profession, then this is regarded as honorary service to the people. Consequently, there is no room for the commercial transfer of rights to exploit in an author’s work. As a general rule, an author transfers the right to use his work to state enterprises (e.g., publishers, film studios, theater troupes) without receiving any compensation for doing so. Thus, the use of copyright works is a state monopoly.¹⁰⁰

Yet, as Loeber notes, the transfer from author to state is not a *legal* requirement, but a political one: “In China, an author’s right to use his works without payment is not alienated against his will by compulsory legal means. Rather, the author is persuaded by political means to transfer the right of use voluntarily to state organizations.”¹⁰¹

During the Cultural Revolution, then, the Chinese state reclaimed—but with much fuller force than had been possible in the Song—its “ownership” of knowledge and knowledge production by assuming the authority to decide which inventions and creations were for the public good and to oversee their immediate dissemination. As Alford notes, the state “freely reproduced or tolerated the reproduction of [works deemed worthy of publication] without obtaining the permission of the author or original publisher, providing any remuneration, or, in some instances, even acknowledging authorship.”¹⁰²

The insistence on both the communal sources of invention/creation and the moral imperative that invention/creation (as defined by the state) should immediately serve society has, I imagine, never received more vigorous promotion than it did during the Cultural Revolution. Here, the repudiation of liberal Western notions of intellectual property as a possession of the individual and the “rationality of the market” was complete.

Inventors and creators were social creatures, not individual geniuses standing above society. They therefore had no “rights” in (and thus no claim to profit privately from) their inventions or creations, which, as products of society, had to be disseminated throughout society, at no cost, for the common good. The state, not the market, determined the suitability of inventions and creations and managed their dissemination.

CONCLUSION

At certain periods in both premodern and modern China, there were moments when knowledge, as evaluated and channeled through the state, was seen as “ownable” not by any one individual but by the public at large, the people, as represented by state. In the 1960s, this point was made explicit in part as a reaction against the Western notion of IP; in the Song, we have to extrapolate it from what little we know of the institutions and regulations the imperial state established to ensure that the Classics and other important texts—in state-approved editions—were disseminated to the literate population. We might argue that the noticeable absence of interest by later imperial states in developing and routinely enforcing laws for the prosecution of piracy offers a kind of tacit acceptance of that stance.

But these cases also suggest that the only way in which knowledge legitimately becomes the “possession” of the public is through the vigorous intervention of the state. When the Song state allowed private individuals and publishers to license Directorate of Education blocks to print the Classics and orthodox medical texts, it was hoping to ensure the widespread dissemination of knowledge for the public good. And in granting warrants to publish preapproved texts by members of the educated elite—and, in the process, offering protection against unauthorized recutting—it was attempting to regulate the flow of new knowledge to the reading public.

When the modern Chinese state legislated the immediate entry of inventions (and by extension, writing, computer software, works of art, and other creative works) into the public domain, it set up an award system that provided authors and inventors with proofs of authorship or invention and one-off monetary awards of standardized, predetermined amounts, while obviating the need to protect the private profit of publishers by making all publishing operations public. The contributions of authors and inventors were acknowledged (and they were encouraged to continue creating and inventing), and their works were open to all on publication and circulation.

But in both cases, the government was also empowered not only to decide what was published and disseminated, but also to favor certain forms of new knowledge

over others—that is, to decide what knowledge is. Insofar as control makes a claim of ownership, then the Song state and the PRC state during the Cultural Revolution were equally claiming ownership of knowledge. It might be noted that both made this claim on the basis of an assumption that the state was indivisible from the public good. In the case of the Song and later dynasties, the claim was one of screening knowledge, blocking the production of “heterodox” and “licentious” works that would be harmful to public morals, while promoting the publication and dissemination of “orthodox” works, primarily for the consumption of the educated elite. In the case of the PRC, the state was claiming to represent the revolutionary masses in determining what useful knowledge was and in ensuring its immediate and widespread dissemination.

ACKNOWLEDGMENTS

I thank Bryna Goodman, the participants in the two MPIWG conferences on the ownership of knowledge, and the two reviewers for their very helpful corrections and comments on this chapter.

Notes

1. Peter Drahos, “Intellectual Property Law and Basic Science: Extinguishing Prometheus?,” *Law in Context* 10 (1992): 56–79. See also Michael A. Heller and Rebecca S. Eisenberg, “Can Patents Deter Innovation? The Anticommons in Biomedical Research,” *Science* 280, no. 5364 (1998): 698–701.
2. Peter Baldwin provides a far more nuanced account of the early modern and modern Western debates over the relative importance of an author’s individual rights and service for the public good, which ended in the early twentieth century with the enshrinement of authors’ rights in modern IP law. Peter Baldwin, *The Copyright Wars: Three Centuries of Trans-Atlantic Battle* (Princeton, NJ: Princeton University Press, 2014), 16.
3. Tao-tai Hsia and Kathryn A. Haun, “Laws of the People’s Republic of China on Industrial and Intellectual Property,” *Law and Contemporary Problems* 5, no. 3 (1973): 275–277.
4. Peter Drahos, *Intellectual Property, Indigenous People and Their Knowledge* (Cambridge: Cambridge University Press, 2014).
5. The phrase is from William P. Alford, *To Steal a Book Is an Elegant Offense: Intellectual Property Law in Chinese Civilization* (Stanford, CA: Stanford University Press, 1995), 56.
6. Very generally speaking, IP rests on several developments distinctive to European history: a liberal idea that society advances through the pursuit of individual interests, a related romantic notion of the author/inventor as an individual who has transcended the prior knowledge of society, and the emergence of the “modern political subject” and the idea of inventors’ “rights.” These assumptions (along with, not surprisingly, a stronger notion of plagiarism) developed at a

particular moment in Western society and have earned the force they have today only because of the geopolitical balance of power.

7. Alford, *Elegant Offense*, 25. The “persons acting in a fiducial capacity” would of course be members of the highly educated elite, ideally scholar-officials who had achieved their official status in part through mastery of the writings of the sages.

8. Wen Fong, “The Problem of Forgeries in Chinese Painting,” *Artibus Asiae* 25, no. 2–3 (1962): 100, quoted in Alford, *Elegant Offense*, 28.

9. Philip J. Ivanhoe, “Intellectual Property and Traditional Chinese Culture,” in *Law and Social Justice*, ed. Joseph Keim Campbell, Michael O’Rourke, and David Shier (Cambridge, MA: MIT Press, 2005), 134–135. Ivanhoe also argues that, since “the vast majority of intellectuals were in one way or another working for the state,” their writings would be defined as “works for hire” and not regarded as their personal property, even in the West today.

10. For a fuller critique of Alford’s argument than can be offered here, see Jonathan Ocko’s excellent review of *To Steal a Book Is an Elegant Offense: “Copying, Culture, and Control: Chinese Intellectual Property Law in Historical Context,”* *Yale Journal of Law & the Humanities* 8, no. 2, (1996): 559–578.

11. See Michael Puett, “The Temptations of Sagehood, or: The Rise and Decline of Sagely Writing in Early China,” in *Books in Numbers: Seventy-Fifth Anniversary of the Harvard-Yenching Library*, ed. Wilt L. Idema (Cambridge, MA: Harvard-Yenching Library, Harvard University, 2007), 23–48, for a more detailed discussion of the relationships between these different concepts of authorship and the ways in which authors manipulated these concepts to claim sagely authorship for themselves. Confucius of course famously identified himself as a transmitter, explicitly rejecting the notion that he created anything. Puett argues, first, that by the Han (206 BCE–220 CE) he had come to be identified as a creator; and second, that his disclaimer came to be employed by authors who were asserting themselves as creators, but recognized that they could not do so explicitly.

12. Stephen Owen, *Readings in Chinese Literary Thought* (Cambridge, MA: Council on East Asian Studies, 1992), 77, quoted in Puett, “Temptations of Sagehood,” 42.

13. Charles R. Stone, “What Plagiarism Was Not: Some Preliminary Observations on Classical Chinese Attitudes toward What the West Calls Intellectual Property,” *Marquette Law Review* 92, no. 1 (2008): 208. Sima Guang and his assistants cited 322 different sources; and in this very long work—a recent edition is ten thousand pages—there are only a little over one hundred instances in which Sima Guang uses his own words to write *lun* or commentaries/discussions. Robert André LaFleur, “Literary Borrowing and Historical Compilation in Medieval China,” in *Perspectives on Plagiarism and Intellectual Property in a Postmodern World*, ed. Lise Buranen and Alice M. Roy (Albany: State University of New York Press, 1999), 141.

14. Stone, “What Plagiarism Was Not,” 208.

15. LaFleur, “Literary Borrowing,” 149; see also Stone, “What Plagiarism Was Not,” 209.

16. Shang Wei, “The Making of the Everyday World: *Jin Ping Mei cihua* and Encyclopedias for Daily Use,” in *Dynastic Crisis and Cultural Innovation: From the Late Ming to the Late Qing and Beyond*, ed. David Der-wei Wang and Shang Wei (Cambridge, MA: Harvard University Asia Center, 2005), 67.

17. See the translation by Cyril Birch: Tang Xianzu, *The Peony Pavilion*, 2nd ed. (Bloomington: Indiana University Press, 2002).
18. L. M. Dryden, "A Distant Mirror or Through the Looking Glass? Plagiarism and Intellectual Property in Japanese Education," in Buranen and Roy, *Perspectives on Plagiarism*, 80.
19. John Livingston Nevius, *China and the Chinese* (New York: Harper & Brothers, 1869), 65.
20. Gu Yanwu 顧炎武, "Zhu shu zhi nan" 著書之難, in *Rizhilu jishi* 日知錄集釋, ed. Huang Rucheng 黃汝成 (Shanghai: Shanghai Guji Chubanshe, 2006), quoted in Ke Shao, "The Justice of Balance: Understanding Intellectual Property from Chinese Historical and Philosophical Perspectives" (PhD diss., University of London, 2007), 50.
21. Xu Wei, "Ye Zisu shixu" 葉子肅詩序, in *Xu Wei Ji* 徐渭集 (Beijing: Zhonghua Shuju, 1983), 2:519; translation from Sophie Volpp, *Worldly Stage: Theatricality in Seventeenth-Century China* (Cambridge, MA: Harvard University Asia Center, 2011), 123. Writers of the late Ming seem to have been particularly contemptuous of literary imitation. Jiao Hong 焦竑 (1541–1620) delivered this pungent attack on contemporary authors: "Since they want to write great works but have no ideas of their own, what recourse do they have but to borrow phrases from Zuo Qiuming and Sima Qian [famous historians and literary stylists of ancient China]—like begging and stealing piss and shit? If one were to rub out all the archaisms and clichéd expressions in their writings, one would end up with nothing more than a blank sheet of paper." Jiao Hong, "Yu youren lun shu" 與友人論書, in *Danyuan ji* 澹園集 (Beijing: Zhonghua Shuju, 1999), 1.93; reference and translation from Rivi Handler-Spitz, *Symptoms of an Unruly Age: Li Zhi and the Culture of Early Modernity* (Seattle: University of Washington Press, 2017), 22–23. See this work for similar complaints from late Ming authors like Wang Shizhen 王世貞 (1526–1590) and Jiang Yingke 江盈科 (1553–1605), 23–24; and Shao, "Justice of Balance," 50.
22. See Christine Moll-Murata, *State and Crafts in the Qing Dynasty (1644–1911)* (Amsterdam: Amsterdam University Press, 2018), 223.
23. Dagmar Schäfer, *The Crafting of the 10,000 Things: Knowledge and Technology in Seventeenth-Century China* (Chicago: University of Chicago Press, 2011), 88.
24. Schäfer, 235.
25. He Zhaohui 何朝暉, "Individual Protection, Local Coordination, and Material Attachment: The Copyright of Woodblock Imprints in Imperial China" (paper presented at the "Authorship, Copyright, and Editions: The Circulation of Works in Late Imperial China" workshop, Harvard University, May 5, 2007), 10.
26. Fong, "Problem of Forgeries," 100, quoted in Alford, *Elegant Offense*, 30.
27. These terms first appeared in the 1980 *Hui'an shuhua* 晦庵書話 of Tang Tao 唐弢 (1913–1992).
28. This term reflects the nature of the dominant publishing technology in the later imperial period: woodblock publishing or xylography. To reproduce a text without authorization, it was usually necessary to cut a new set of blocks, either using a print copy to create a facsimile or simply cutting what would be considered a new edition of the work.

29. Li Mingshan 李明山, *Zhongguo gudai banquan shi* 中国古代版权史 (Beijing: Shehui Kexue Wenxian Chubanshe, 2012), 130.
30. Li, 130. Li also provides the case of Liao Xingzhi 廖行之 (1137–1189), who published a collection of his own writings, *Xingzhai ji* 省齋集, under the name of the more famous Zhou Bida 周必大 (1126–1204), presumably in the hope that it would sell better, as an example of copyright violation. This strategy might better be seen, however, as a form of trademark violation rather than unauthorized reproduction.
31. Ronald Egan, “To Count Grains of Sand on the Ocean Floor: Changing Perceptions of Books and Learning in the Song Dynasty,” in *Knowledge and Print Production in an Age of Print: China, 900–1400*, ed. Lucille Chia and Hilde De Weerd (Leiden: Brill, 2011), 55; and Shao, “Justice of Balance,” 77.
32. Susan Cherniack, “Book Culture and Textual Transmission in Sung China,” *Harvard Journal of Asiatic Studies* 54, no. 1 (1994): 65.
33. Sima Guang 司馬光, *Sima wenzheng gong chuanjia ji* 司馬文正公傳家集 (Taipei: Taiwan Shangwu Yinshuguan, 1965), 71.19ab, quoted in Li Mingshan, *Zhongguo gudai banquan shi*, 143–144.
34. Zhu Xi 朱熹, “Yu Yang jiaoshou shu” 與楊教授書, in *Hui’an xiansheng Zhu wengong wenji* 晦庵先生朱文公文集 (Shanghai: Shangwu Yinshuguan, 1919), *juan* 26.5b–7a.
35. Zhu uses the term *fankai* 番 (for 翻) 開, which I take to mean “redo” or “recut.”
36. Zhu Xi 朱熹, “Da Lü Bogong” 答呂伯恭, *Hui’an xiansheng Zhu wengong wenji*, *juan* 33. Translation, slightly modified, from Wing-tsit Chan in *Chu Hsi: New Studies* (Honolulu: University of Hawai’i Press, 1989), 78.
37. Li Yu 李漁, “Yu Zhao Shengbo wenxue” 與趙聲伯文學, in *Li Yu suibi quanji* 李漁隨筆全集 (Chengdu: Bashu Shushe, 2003), 444, quoted in He Zhaohui 何朝暉, “Shilun Zhongguo gudai diaoban yinshua banquan xingtai de jiben tezheng” 试论中国古代雕版印刷版权形态的基本特征, *Tushu yu qingbao*, no. 3 (2008): 114.
38. Zhou Lin 周林 and Li Mingshan 李明山, eds., *Zhongguo banquan shi yanjiu wenxian* 中国版权史研究文献 (Beijing: Zhongguo Fangzheng Chubanshe, 1999), 3; see also p. 4 for another example.
39. For multiple other examples, see Ye Dehui 叶德辉, *Shulin qinghua* 书林清话 (1921; repr., Shenyang: Liaoning Jiaoyu Chubanshe, 1998), 30–34; and Shao, “Justice of Balance,” 80–87.
40. This curse appeared in *Court Cases of [Magistrate] Peng* (*Peng gong’an* 彭公案), published by the Benli tang 本立堂 in Beijing in 1892. I am grateful to Sören Edgren for this information, presented in the course of the “Authorship, Copyright, and Editions: The Circulation of Works in Late Imperial China” workshop, Harvard University, May 5, 2007.
41. Zhuangzi, *Basic Writings*, trans. Burton Watson (New York: Columbia University Press, 2003), 29.
42. Shao (“Balance of Justice,” 89) provides the example of a lineage in Yongqing County, Hebei, whose family instructions dictated that their method of making special measuring instruments—from which they profited handsomely—never be passed down to the women in the family for fear that they might, on marriage, transmit the method to village rivals.

43. Jacob Eyferth, "Artisans into Peasants," in *Eating Rice from Bamboo Shoots: The Social History of a Community of Handicraft Papermakers in Rural Sichuan, 1920–2000* (Cambridge, MA: Harvard University Asia Center, 2009), 92–115.
44. See Cynthia Brokaw, *Commerce in Culture: The Sibao Book Trade in the Qing and Republican Periods* (Cambridge, MA: Harvard University Asia Center, 2007), 443.
45. Li, *Zhongguo gudai banquan shi*, 132. See also Zou Shencheng 邹身城, "Baohu banquan shiyu heshi heguo?" 保护版权始于何时何国?, *Faxue yanjiu* 法学研究 63, no. 2 (1984): 63; and Chengsi Zheng and Michael D. Pendleton, *Copyright Law in China* (North Ryde, Australia: CCH International, 1991), 11.
46. See Baldwin, *Copyright Wars*, for a detailed history of the debates over the meaning of copyright and authors' rights in Europe and the United States.
47. For this reason, *copyright* is not a useful designation for the Chinese notion of intellectual property before the twentieth century.
48. Alford, *Elegant Offense*, 23.
49. Alford, 16.
50. Hok-lam Chan, *Control of Publishing in China, Past and Present* (Canberra: Australian National University, 1983), 2.
51. Liu Xu 劉昉, "Wenzong ji" 文宗記, in *Jiu Tangshu* 舊唐書 (Beijing: Zhonghua Shuju, 1975), quoted in Li Mingshan, *Zhongguo gudai banquan shi*, 112.
52. Chan, *Control of Publishing*, 2. Throughout imperial history, the state prohibited the private publication of calendars and almanacs. The 1579 *Calendar of the Seventh Year of the Wanli Reign of the Great Ming Dynasty* (*Da Ming Wanli qinian sui yimao datong li* 大明萬曆七年歲己卯大統曆), for example, offers a reward of 50 ounces of silver to anyone who reported such private publication. See Cao Zhi 曹之, *Zhongguo guji banbenxue* 中国古籍版本学 (Wuhan: Wuhan Daxue Chubanshe, 1992), 449.
53. Hilde De Weerd, "What Did Su Che See in the North? Publishing Laws, State Security, and Political Culture in Song China," *T'oung Pao: International Journal of Chinese Studies* 92, no. 4–5 (2006): 466–494.
54. Translation, slightly modified, from Lucille Chia, *Printing for Profit: The Commercial Publishers of Jianyang, Fujian (11th–17th Centuries)* (Cambridge, MA: Harvard University Asia Center, 2002), 116.
55. Chia, 121–123.
56. Denis Twitchett, *Printing and Publishing in Medieval China* (New York: Frederic C. Beil, 1983), 61.
57. Li, *Zhongguo gudai banquan shi*, 132, 141.
58. Chan, *Control of Publishing*, 19. The Ming state employed a similar policy; it permitted the reprinting of standardized texts of the Classics, but prohibited publishers from producing their own editions. See Ye, *Shulin qinghua*, 148–149, for a directive addressed specifically to the commercial publishers of Jianyang, who were accused of producing error-ridden editions of the Classics.

59. Twitchett, *Printing and Publishing*, 61.
60. Twitchett, 61.
61. Li, *Zhongguo gudai banquan shi*, 139.
62. Twitchett, *Printing and Publishing*, 65.
63. Zhou and Li, *Zhongguo banquan shi yanjiu wenxian*, 2–3. Translation from Twitchett, *Printing and Publishing*, 63.
64. Zhou and Li, *Zhongguo banquan shi yanjiu wenxian*, 4.
65. Brokaw, *Commerce in Culture*, 497.
66. He, “Shilun Zhongguo gudai diaoban yinshua,” 116–117. He uses the Chinese term *tizhai yilai* 體載依賴 (depending on the material substance) to designate “material ownership” of blocks. I am indebted to Mario Biagioli for emphasizing this point during the initial workshop, “Ownership of Knowledge,” at the Max Planck Institute for the History of Science, Berlin, November 2016.
67. Brad Sherman and Lionel Bently, *The Making of Modern Intellectual Property Law: The British Experience, 1760–1911* (Cambridge: Cambridge University Press, 1999), 9–59.
68. *Cang* literally means to “store up,” “hold,” “keep,” or “hide away.” But here it designates ownership. A person might commission a printshop to print a work on demand from blocks he provided; in this case, the printshop would physically hold the blocks in its shop, but the person who had paid for the blocks to be cut and provided them to the printshop was the publisher, the owner of the blocks, the one who *cang ban*. Variants on *cang ban* existed. *Zi* 梓, “catalpa,” sometimes replaces *cang ban*, but as catalpa is one of the woods most commonly used to make woodblocks, this is just another way of identifying ownership through the possession of cut blocks.
69. These rules about block purchase, although never to my knowledge codified or given legal status before the twentieth century, seem to have been widely acknowledged. See Chia, *Printing for Profit*, 165, 168, 170, and He, “Shilun Zhongguo gudai diaoban yinshua,” 116, both describe a lively market in woodblocks in late Ming Jiangnan and Jianyang (northern Fujian).
70. As one might imagine, there are many variants of this process, and the practice has caused much confusion for bibliophiles. Some publishers were very thorough, replacing *all* references to an earlier publisher, making it very difficult to know who had published the original edition; they might even add other “evidence” to suggest that they were the original publishers of a work. Thus, after Shen Shangjie 沈尚傑 purchased the blocks of Qian Zeng’s 錢曾 *Reading Select Works* (*Dushu minqiu ji* 讀書敏求記), first published in 1726 by Zhao Mengsheng 趙孟升, he removed all traces of Zhao’s publishing house, Songxue Zhai 松雪齋, and, for good measure, added a preface claiming that he was publishing the first edition of the work, in 1745. But others, either through laziness or limited funds, replaced the publishing house’s name only on the cover page, leaving the original house name on the first leaf of the main text or in the lower margins at the folds of all the folio pages. See He, “Shilun Zhongguo gudai diaoban yinshua,” 117. One nineteenth-century edition of the collected medical works of the popularizing physician and official Chen Nianzu 陳念祖 (1753–1823), *Sixteen Medical Works Composed at Leisure* (*Gongyu shiliuzhong yixue*

quanshu 公餘十六種醫學全書) (n.p.: Shancheng Tang, n.d.), for example, is identified as a reprint by the Shancheng Tang on its cover page. But at least two other houses are listed as publishers in the works that make up the collection. For other examples and the range of complications that could arise from these practices, see He, “Shilun Zhongguo gudai diaoban yinshua banquan xingtai de jiben tezheng,” 116–117.

71. The cost of block-cutting required by far the largest outlay of a publisher’s capital, as paper and printing and binding costs were relatively low; this is perhaps one of the reasons why ownership of the blocks determined who owned the intellectual property. An individual or family who wished to publish a work might commission a “character-cutting shop” (*kezidian* 刻字店) to cut the woodblocks; the person or entity that paid for the cutting labor was considered the owner of the blocks and, thus, the publisher.

72. For example, the Zhu lineage of Jianyang, Fujian, which claimed descent from Zhu Xi, owned a set of blocks for their famous member’s literary collection, the *Collected Writings of Master Zhu* (*Zhuzi wenji* 朱子文集). Anyone who wished to print and sell copies of this work was required to pay for the privilege by giving one out of every ten copies printed to the corporate lineage. The lineage’s ownership of the blocks, not their relationship to Zhu Xi, enabled them to control publication so effectively that no other editions of the work survive from Jianyang, one of the most prolific commercial publishing sites of the Song, Yuan, and Ming. Xie Shuishun 谢水顺 and Li Ting 李珽, *Fujian gudai keshu* 福建古代刻书 (Fuzhou: Fujian Renmin Chubanshe, 1997), 103.

73. Chengsi Zheng and Michael D. Pendleton, *Chinese Intellectual Property and Technology Transfer Law* (London: Sweet & Maxwell, 1987), 87.

74. “Verlagsrecht in China,” *Der Ostasiatische Lloyd*, September 21, 1889. I am very grateful to Rudolf Wagner for informing me of this source, and to James Wang for the translation from German into English.

75. Yang Lan 楊瀾, *Linting huikao* 臨汀彙考 (preface dated 1878), 4, no. 8a.

76. Brokaw, *Commerce in Culture*, 177–185.

77. It should be noted, however, that there is some evidence that publishers might have formed associations of some sort, possibly even as early as the Song. Ye (*Shulin qinghua*, 30–34) uncovered references to a “book society” (*shuhui* 書會) in the Southern Song and to a “book guild” (*tushu hang* 圖書行) in late-Ming Beijing, but unfortunately no information about their precise nature or operation survives. In the very early Qing, the owners of the important publishing house Saoye Shanfang 掃葉山房 established the Chongde gongsuo 崇德公所 (Chongde Guild) in the major book center of Suzhou as a mutual aid society for publishers. In 1670, six years after its founding, the guild established the Chongde Academy (Chongde shuyuan 崇德書院) so that publishers would have a place to edit texts and discuss methods of collation. But the activities of both the guild and the academy are rather hazy. By the 1830s at the latest, the guild was functioning as an inspection station for prohibited books, apparently in cooperation with the local government. Booksellers from outside Suzhou had to have their products checked, and any prohibited titles were destroyed. See Joseph P. McDermott, “Rare Book Collections in Qing Dynasty

Suzhou: Owners, Dealers, and Uses,” in *Jinshi Zhongguo de ruxue yu shuji: jiating, zongzu, wuzhi de wangluo* 近世中國的儒學與書籍：家庭，宗族，物質的網絡, ed. Lü Miaw-fen (Taipei: Institute of Modern History, Academia Sinica, 2013), 242–246. It is possible that the guild also checked for pirated texts; unfortunately, the scanty sources on this operation do not allow for anything more than speculation. Early twentieth-century guilds founded to regulate the book business do not seem to have concerned themselves with piracy disputes. It was not until the establishment of “book-trade commercial associations” (*shuye shanghui* 書業商會) in 1905 that organizations of publishers began cooperating to control piracy and protect the foreign, imported “copyright.” For these and later organizations, see Fei-Hsien Wang, *Pirates and Publishers: A Social History of Copyright in Modern China* (Princeton, NJ: Princeton University Press, 2019), 118–157, 158–210, 211–252. Interestingly, Japanese publishers of the early modern period, through guild organizations and collaboration with the state, were able to regulate the reproduction of texts much more successfully than their Chinese counterparts. See Peter Kornicki, *The Book in Japan: A Cultural History from the Beginnings to the Nineteenth Century* (Leiden: Brill, 1998), 181–182, 245.

78. For a very early example of this sort of colophon, see Sören Edgren, “Southern Song Printing at Hangzhou,” *Museum of the Far Eastern Antiquities*, Bulletin 61 (1989): 32–33.

79. Chia, *Printing for Profit*, 217.

80. “Xinban quan[zeng]bu Tianxia bianyong wenlin miaojin wanbao quanshu 新板全[增]補天下便用文林妙錦萬寶全書,” in *Mingdai tongsu riyong leishu jikan* 明代通俗日用類書集刊, vol. 10, ed. Zhongguo shehui kexue yuan Lishi yanjiusuo Wenhua shi 中國社會科學院歷史研究所文化室 (Chongqing: Xinan Shifan Daxue Chubanshe, 2011), 243. This strategy was practiced by literati-publishers as well. For example, when Gu Jian 顧樾 learned that his (legitimate) reprint of Lu Guimeng’s 陸龜蒙 (?–881) *Collectanea from Lize* (*Lize congshu* 笠澤叢書) had been pirated, he inserted this announcement in a later edition: “I published this book with great care, but the number of copies was limited, and it was not distributed widely. Recently a merchant in Weiyang 維揚 copied the book without my permission, for the sake of profit. The characters are badly cut and the work lacks the [elegant] look of my book. I fear that knowledgeable gentlemen might mistake the reprint as the original from the Biyun caotang 碧筠草堂 and so make this announcement here.” He, “Shilun Zhongguo gudai diaoban yinshua,” 115.

81. Yu Xiangdou 余象斗, another late-Ming Jianyang publisher, established an even more deeply personal proprietary claim by having his portrait reproduced in several of his publications. See Chia, *Printing for Profit*, 217–220.

82. See Wang, *Pirates and Publishers*, 57–58, for information on the continuation of this practice in the late nineteenth and early twentieth centuries.

83. Zhou and Li, *Zhongguo banquan shi yanjiu wenxian*, 3.

84. He, “Individual Protection,” 4.

85. Ye, *Shulin qinghua*, 30–34.

86. He, “Shilun Zhongguo gudai diaoban yinshua,” 114.

87. In the course of discussion at the workshop on Chinese descriptive bibliography (Harvard-Yenching Library, May 16–19, 2017), Sören Edgren has pointed out that it is equally, if not more, likely that these publishers were trying to present an appearance of official approval in the hopes that censors might not discover that these works were “licentious.”

88. He, “Shilun Zhongguo gudai diaoban yinshua,” 115–116.

89. Norwood Allman, *Handbook on the Protection of Trademarks, Patents, Copyrights and Trade-names in China* (Shanghai: Kelly & Walsh, 1924), 178–179, quoted in Alford, *Elegant Offense*, 42.

90. See Wang, *Pirates and Publishers*, 40–55, for an account of the translation of “copyright” into the Japanese *hanken* (*banquan* in Chinese pronunciation) in the 1870s and its introduction to China later in the century. Wang equates ownership of the blocks with ownership of the means of production. She also provides finely researched accounts of the efforts of publishers, who had little support from the government, to protect their material intellectual property rights against piracy in Shanghai and Beijing in the early twentieth century.

91. *Zhuanli*, the Chinese compound used to translate “patent,” first appears in the *Discourses of the States* (*Guoyu* 國語) with the meaning “exclusive [control of] profit” or “monopoly”—a translation that suggests nothing of the sense of “made public,” “made open,” that is included in the English word *patent* and that, not surprisingly, made the concept difficult for a socialist state to accept. Cheng and Pendleton, *Chinese Intellectual Property*, 51.

92. Barden N. Gale, “The Concept of Intellectual Property in the People’s Republic of China: Inventors and Inventions,” *China Quarterly* 74 (1978): 347–350.

93. Gale, 348–349.

94. Zhou and Li, *Zhongguo banquan shi yanjiu wenxian*, 267; see also Cheng and Pendleton, *Chinese Intellectual Property*, 88–90. Although the 1950 “Resolution” was granted the force of law with its promulgation that same year by the General Publishing Office of the Central People’s Government, it did not dictate any procedures for enforcement of copyright protections. When, again that same year, the Dalian Bookstore reproduced five thousand copies of *The International Situation after the Korean War* without permission from the original publisher, the World Knowledge Press in Beijing, the General Publishing Office could only issue a report scolding the Dalian Bookstore for its “extremely improper” act and demand self-criticism and compensation. The purely administrative remedies available to victims of pirating were largely ineffectual. See Mark Sidel, “The Legal Protection of Copyright and the Rights of Authors in the People’s Republic of China, 1949–1984: Prelude to the Chinese Copyright Law,” *Columbia Journal of Art and the Law* 9 (1984): 482.

95. It is noteworthy that this document perpetuates the terminological confusion mentioned above by using two different words to express “copyright”: *zhuzuoquan*, “author’s rights,” and *chubanshiquan* 版權, “publishing rights.” See Sidel, “Legal Protection of Copyright,” 480. For another example of a similarly ineffectual effort to restrict piracy in the early PRC, see Fei-Hsien Wang’s description of the conflict between the Shanghai Booksellers’ Guild and Chunming Bookstore in “A Crime of Being Self-Interested: Literary Piracy in Early Communist China,” *Twentieth-Century China* 43, no. 4 (2018): 275–294.

96. For sample contracts, see Zhou and Li, *Zhongguo banquan shi yanjiu wenxian*, 267–286.
97. Alford, *Elegant Offense*, 59–60. See also Hsia and Haun, “Industrial and Intellectual Property,” 288–290.
98. Hsia and Haun, “Industrial and Intellectual Property,” 290; and Dietrich Loeber, “Copyright Law and Publishing in the People’s Republic of China,” *UCLA Law Review* 24 (1977): 907.
99. “China’s Unique Road for Developing Science and Technology,” *New China News Agency*, October 17, 1966, in *Survey of China Mainland Press* 3805 (1966): 24, quoted in Gale, “Concept of Intellectual Property,” 351.
100. Loeber, “Copyright Law and Publishing,” 910.
101. Loeber, 911.
102. Alford, *Elegant Offense*, 64–65.

Bibliography

- Alford, William P. *To Steal a Book Is an Elegant Offense: Intellectual Property Law in Chinese Civilization*. Stanford, CA: Stanford University Press, 1995.
- Allman, Norwood. *Handbook on the Protection of Trademarks, Patents, Copyrights and Trade-Names in China*. Shanghai: Kelly & Walsh, 1924.
- Baldwin, Peter. *The Copyright Wars: Three Centuries of Trans-Atlantic Battle*. Princeton, NJ: Princeton University Press, 2014.
- Brokaw, Cynthia. *Commerce in Culture: The Sibao Book Trade in the Qing and Republican Periods*. Cambridge, MA: Harvard University Asia Center, 2007.
- Buranen, Lise, and Alice M. Roy, eds. *Perspectives on Plagiarism and Intellectual Property in a Post-modern World*. Albany: State University of New York Press, 1999.
- Cao Zhi 曹之. *Zhongguo guji banbenxue* 中国古籍版本学. Wuhan: Wuhan Daxue Chubanshe, 1992.
- Chan, Hok-lam. *Control of Publishing in China, Past and Present*. Canberra: Australian National University, 1983.
- Chan, Wing-tsit. *Chu Hsi: New Studies*. Honolulu: University of Hawai’i Press, 1989.
- Chen Nianzu 陳念祖. *Gongyu shiliuzhong yixue quanshu* 公餘十六種醫學全書 [Sixteen medical titles composed at leisure]. N.p.: Shancheng Tang, n.d. Held in the Jinan Municipal Library (Shandong).
- Cherniack, Susan. “Book Culture and Textual Transmission in Sung China.” *Harvard Journal of Asiatic Studies* 54, no. 1 (1994): 5–125.
- Chia, Lucille. *Printing for Profit: The Commercial Publishers of Jianyang, Fujian (11th–17th Centuries)*. Cambridge, MA: Harvard University Asia Center, 2002.

“China’s Unique Road for Developing Science and Technology,” *New China News Agency*, October 17, 1966. In *Survey of China Mainland Press* 3805 (1966): 24.

De Weerd, Hilde. “What Did Su Che See in the North? Publishing Laws, State Security, and Political Culture in Song China.” *T’oung Pao: International Journal of Chinese Studies* 92, no. 4–5 (2006): 466–494.

Drahos, Peter. *Intellectual Property, Indigenous People and Their Knowledge*. Cambridge: Cambridge University Press, 2014.

Drahos, Peter. “Intellectual Property Law and Basic Science: Extinguishing Prometheus?” *Law in Context* 10, no. 2 (1992): 56–79.

Dryden, L. M. “A Distant Mirror or Through the Looking Glass? Plagiarism and Intellectual Property in Japanese Education.” In Buranen and Roy, *Perspectives on Plagiarism*, 75–85.

Edgren, Sören. “Southern Song Printing at Hangzhou.” *Museum of the Far Eastern Antiquities, Bulletin* 61 (1989): 1–212.

Egan, Ronald. “To Count Grains of Sand on the Ocean Floor: Changing Perceptions of Books and Learning in the Song Dynasty.” In *Knowledge and Print Production in an Age of Print: China, 900–1400*, edited by Lucille Chia and Hilde De Weerd, 33–62. Leiden: Brill, 2011.

Eyferth, Jacob. *Eating Rice from Bamboo Shoots: The Social History of a Community of Handicraft Papermakers in Rural Sichuan, 1920–2000*. Cambridge, MA: Harvard University Asia Center, 2009.

Fong, Wen. “The Problem of Forgeries in Chinese Painting.” *Artibus Asiae* 25, no. 2–3 (1962): 95–140.

Gale, Barden N. “The Concept of Intellectual Property in the People’s Republic of China: Inventors and Inventions.” *China Quarterly* 74 (1978): 347–350.

Gu Yanwu 顧炎武. “Zhu shu zhi nan” 著書之難. In *Rizhiliu jishi* 日知錄集釋, edited by Huang Rucheng 黃汝成, 1083–1084. Shanghai: Shanghai Guji Chubanshe, 2006.

Handler-Spitz, Rivi. *Symptoms of an Unruly Age: Li Zhi and the Culture of Early Modernity*. Seattle: University of Washington Press, 2017.

Heller, Michael A. and Rebecca S. Eisenberg. “Can Patents Deter Innovation? The Anticommons in Biomedical Research.” *Science* 280, no. 5364 (1998): 698–701.

He Zhaohui 何朝暉. “Individual Protection, Local Coordination, and Material Attachment: The Copyright of Woodblock Imprints in Imperial China.” Paper presented at the “Authorship, Copyright, and Editions: The Circulation of Works in Late Imperial China” workshop, Harvard University, May 5, 2007.

He Zhaohui 何朝暉. “Shilun Zhongguo gudai diaoban yinshua banquan xingtai de jiben tezheng” 试论中国古代雕版印刷版权形态的基本特征. *Tushu yu qingbao* 图书与情报, no. 3 (2008): 113–118, 125.

Hsia, Tao-tai, and Kathryn A. Haun. “Laws of the People’s Republic of China on Industrial and Intellectual Property.” *Law and Contemporary Problems* 5, no. 3 (1973): 274–291.

Ivanhoe, Philip J. "Intellectual Property and Traditional Chinese Culture." In *Law and Social Justice*, edited by Joseph Keim Campbell, Michael O'Rourke, and David Shier, 125–142. Cambridge, MA: MIT Press, 2005.

Jiao Hong 焦竑. *Danyuan ji 澹園集*. Beijing: Zhonghua Shuju, 1999.

Kornicki, Peter. *The Book in Japan: A Cultural History from the Beginnings to the Nineteenth Century*. Leiden: Brill, 1998.

LaFleur, Robert André. "Literary Borrowing and Historical Compilation in Medieval China." In Buranen and Roy, *Perspectives on Plagiarism*, 141–150.

Li Mingshan 李明山. *Zhongguo gudai banquan shi 中国古代版权史*. Beijing: Shehui Kexue Wenxian Chubanshe, 2012.

Liu Xu 劉煦. "Wenzong ji" 文宗記. In *Jiu Tangshu 舊唐書*. Beijing: Zhonghua Shuju, 1975.

Li Yu 李漁. "Yu Zhao Shengbo wenxue" 與趙聲伯文學. In *Li Yu suibi quanji 李漁隨筆全集*. Chengdu: Bashu Shushe, 2003.

Loeber, Dietrich. "Copyright Law and Publishing in the People's Republic of China." *UCLA Law Review* 24 (1977): 907–913.

McDermott, Joseph P. "Rare Book Collections in Qing Dynasty Suzhou: Owners, Dealers, and Uses." In *Jinshi Zhongguo de ruxue yu shuji: Jiating, zongzu, wuzhi de wangluo 近世中國的儒學與書籍: 家庭, 宗族, 物質的網絡*, edited by Lü Miaw-fen 呂妙芬, 199–249. Taipei: Institute of Modern History, Academia Sinica, 2013.

Moll-Murata, Christine. *State and Crafts in the Qing Dynasty (1644–1911)*. Amsterdam: Amsterdam University Press, 2018.

Nevius, John Livingston. *China and the Chinese*. New York: Harper & Brothers, 1869.

Ocko, Jonathan. "Copying, Culture, and Control: Chinese Intellectual Property Law in Historical Context." *Yale Journal of Law & the Humanities* 8, no. 2 (1996): 559–578.

Owen, Stephen. *Readings in Chinese Literary Thought*. Cambridge, MA: Council on East Asian Studies, 1992.

Puett, Michael. "The Temptations of Sagehood, or: The Rise and Decline of Sagely Writing in Early China." In *Books in Numbers: Seventy-Fifth Anniversary of the Harvard-Yenching Library*, edited by Wilt L. Idema, 23–48. Cambridge, MA: Harvard-Yenching Library, Harvard University, 2007.

Schäfer, Dagmar. *The Crafting of the 10,000 Things: Knowledge and Technology in Seventeenth-Century China*. Chicago: University of Chicago Press, 2011.

Shang, Wei. "The Making of the Everyday World: *Jin Ping Mei cihua* and Encyclopedias for Daily Use." In *Dynastic Crisis and Cultural Innovation: From the Late Ming to the Late Qing and Beyond*, edited by David Der-wei Wang and Shang Wei, 63–92. Cambridge, MA: Harvard University Asia Center, 2005.

Shao, Ke. "The Justice of Balance: Understanding Intellectual Property from Chinese Historical and Philosophical Perspectives." PhD diss., University of London, 2007.

Sherman, Brad, and Lionel Bently. *The Making of Modern Intellectual Property Law: The British Experience, 1760–1911*. Cambridge: Cambridge University Press, 1999.

Sidel, Mark. "The Legal Protection of Copyright and the Rights of Authors in the People's Republic of China, 1949–1984: Prelude to the Chinese Copyright Law." *Columbia Journal of Art and the Law* 9 (1984): 477–508.

Sima Guang 司馬光. *Sima wenzheng gong chuanjia ji* 司馬文正公傳家集. Taipei: Taiwan Shangwu Yinsihuguan, 1965.

Stone, Charles R. "What Plagiarism Was Not: Some Preliminary Observations on Classical Chinese Attitudes toward What the West Calls Intellectual Property." *Marquette Law Review* 92, no. 1 (2008): 198–227.

Tang, Xianzu. *The Peony Pavilion*. Translated by Cyril Birch. 2nd ed. Bloomington: Indiana University Press, 2002.

Twitchett, Denis. *Printing and Publishing in Medieval China*. New York: Frederic C. Beil, 1983.

Volpp, Sophie. *Worldly Stage: Theatricality in Seventeenth-Century China*. Cambridge, MA: Harvard University Asia Center, 2011.

Wang, Fei-Hsien. "A Crime of Being Self-Interested: Literary Piracy in Early Communist China." *Twentieth-Century China* 43, no. 4 (2018): 271–294.

Wang, Fei-Hsien. *Pirates and Publishers: A Social History of Copyright in Modern China*. Princeton, NJ: Princeton University Press, 2019.

Xie Shuishun 谢水顺 and Li Ting 李珽. *Fujian gudai keshu* 福建古代刻书. Fuzhou: Fujian Renmin Chubanshe, 1997.

Xinban quan[zeng]bu Tianxia bianyong wenlin miaojin wanbao quanshu 新板全[增]補天下便用文林妙錦萬寶全書. In *Mingdai tongsu riyong leishu jikan* 明代通俗日用類書集刊, edited by Zhongguo shehui kexue yuan Lishi yanjiusuo Wenhua shi 中國社會科學院歷史研究所文化室, vol. 10, 243–606. Chongqing: Xinan Shifan Daxue Chubanshe, 2011.

Xu Wei 徐渭. "Ye Zisu shixu" 葉子肅詩序. In *Xu Wei ji* 徐渭集. Vol. 2. Beijing: Zhonghua Shuju, 1983.

Yang Lan 楊瀾. *Linting huikao* 臨汀彙考. Preface dated 1878.

Ye Dehui 叶德辉. *Shulin qinghua* 书林清话. Shenyang: Liaoning Jiaoyu Chubanshe, 1998. First published 1921.

Zheng, Chengsi, and Michael D. Pendleton. *Chinese Intellectual Property and Technology Transfer Law*. London: Sweet & Maxwell, 1987.

Zheng, Chengsi, and Michael D. Pendleton. *Copyright Law in China*. North Ryde, Australia: CCH International, 1991.

Zhou Lin 周林 and Li Mingshan 李明山, eds. *Zhongguo banquan shi yanjiu wenxian* 中国版权史研究文献. Beijing: Zhongguo Fangzheng Chubanshe, 1999.

Zhuangzi. *Basic Writings*. Translated by Burton Watson. New York: Columbia University Press, 2003.

Zhu Xi 朱熹. "Hui'an xiansheng Zhu wengong wenji" 晦庵先生朱文公文集. In *Sibu congkan chupian* 四部丛刊初篇. Shanghai: Shangwu Yinshuguan, 1919.

Zou Shencheng 邹身城. "Baohu banquan shiyu heshi heguo?" 保护版权始于何时何国? *Faxue yanjiu* 法学研究 63, no. 2 (1984): 63.

© 2023 Massachusetts Institute of Technology

This work is subject to a Creative Commons CC-BY-ND-NC license.

Subject to such license, all rights are reserved.



Subject to such license, all rights are reserved.

Co-funded by the ERC project “Before Copyright: Printing privileges and the politics of knowledge in early modern Europe,” funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Research Council. Neither the European Union nor the granting authority can be held responsible for them.



This book was set in Stone Serif and Futura by Westchester Publishing Services.

Library of Congress Cataloging-in-Publication Data

Names: Schäfer, Dagmar, editor. | Mamidipudi, Annapurna, editor. | Buning, Marius, 1979– editor.

Title: Ownership of knowledge : beyond intellectual property / edited by Dagmar Schäfer, Annapurna Mamidipudi, and Marius Buning.

Description: Cambridge, Massachusetts : The MIT Press, [2023] |

Series: Inside technology | Includes bibliographical references and index.

Identifiers: LCCN 2022038290 (print) | LCCN 2022038291 (ebook) |

ISBN 9780262545594 (paperback) | ISBN 9780262374637 (epub) |

ISBN 9780262374644 (pdf)

Subjects: LCSH: Knowledge management. | Intellectual property.

Classification: LCC HD30.2 .O926 2023 (print) | LCC HD30.2 (ebook) |

DDC 658.4/038—dc23/20220811

LC record available at <https://lcn.loc.gov/2022038290>

LC ebook record available at <https://lcn.loc.gov/2022038291>