

'China's IP Abuse Rule: Another approach to protecting the public domain'

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This paper will focus on the recent development of the Chinese IP abuse legislation and its potential impact on IP protection and technology transfer in China. Firstly, a brief overview of the TRIPS requirement concerning IPR abuse and technology transfer, and the recent development of IP abuse laws at domestic levels, particularly in the US and the EC, will be given. The paper will then examine the recent development of the Chinese laws regarding technology transfer and IP abuse prevention, including both the recently enacted *Anti-Monopoly Law 2008* (AML) and other regulations. Specifically, the ways in which IP-related provisions in the *Chinese Anti-monopoly law 2008* balance the interests of different stakeholders, and facilitate technology transfer from developed nations to developing nations, will be discussed. Recent antitrust lawsuits, including the antimonopoly investigation against Microsoft in China, will also be examined. Finally, this paper will argue that rules preventing IP abuse and antitrust laws may serve as a *supplement* to current public rights measures (such as fair use and fair dealing doctrine and the open source movement), to enhance the public domain, consumer interests and fair competition.