

Identifying Information

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Paper Information

Title:	Improvising Intellectual Property in Sài Gòn
Abstract:	<p>Drew Carey used to introduce the show "Whose Line Is It Anyway?" by calling it "the show where everything's made up, and the points don't matter." Doing business in Việt Nam can be thought of in the same terms, where U.S. officials point to state "capacity constraints" that mean enforcement of intellectual property (IP) "continues to be a challenge" (USTR 2018 Special 301 Report, 66). Though all the right IP laws have been passed, minimal enforcement suggests that 'points' for creativity and innovation are useless among market participants there. But this paper argues that enforcement is not the only way that IP is made. Part of what is 'made up' in Việt Nam is a concept of IP among Vietnamese engineers and their foreign employers, who negotiate a social construction of objects of exchange including trade secrets, patents, copyrights, and trademarks. IP is reproduced in this field not as legal requirement but as social practice in the workplace, where participants characterize differences in its treatment as cultural. Though participants may be ambivalent about law, this cultural frame gives IP objects — and the legality that protects and defines them — a structure as products of global distinction that represent a future aspired to by many. The points matter to the players invested in the game. This paper is drawn from a doctoral thesis based on more than a year of field research in Hồ Chí Minh City from 2012 to 2014. Methods included ethnographic observation at multiple sites, semi-structured interviews with 36 Vietnamese engineers, and numerous further interviews with expatriate managers, business owners, investors and lawyers. The study finds, first, that the construction of legality for intellectual property in this field is mediated by distinctions in practice between foreigners and local Vietnamese, framed as cultural particularly by those Vietnamese who have lived abroad. Second, it finds that IP categories and terms are generally understood among engineers working for or seeking to work for multinationals. Third, it finds that these engineers talk about IP in various terms both of triviality and of fairness, and about law in ways similarly various including both mobilization and avoidance. These findings suggest new ways to conceptualize individuals' participation in the construction of legality, or legal consciousness, and new ways to conceptualize what legality means for intangible property like IP.</p>