BEIJING Among Chinese Supreme Court justices, Jiang Zhipei stands out as an extrovert.

Unlike his more secretive colleagues, he takes guests on tours of the heavily guarded Supreme Court building, talks in eager stretches that are light on political slogans, lectures frequently and runs a Web site devoted to his avowed mission: promoting patent, copyright and trademark rights in a country seemingly awash in counterfeits.

Jiang, the chief justice of the Property Rights Tribunal of the Chinese Supreme People’s Court, acknowledges that serving as China’s top arbiter of intellectual property rights, or IPR, is often thankless.

Foreign companies complain that Chinese patent and copyright laws are ineffective, and Washington’s warnings against Chinese piracy of films, music, software, medicine and machines have become a diplomatic mantra.

But China is making more progress in fighting commercial piracy than critics acknowledge, Jiang said in a recent interview.

“The U.S. says China doesn’t have intellectual property rights, but just look at how far we’ve come from the Cultural Revolution to now, with a complete system of laws,” he said.

“We hope companies will take their complaints to court and not just to the press.”

But Jiang also said China’s intellectual property laws were a work in progress, and his many public activities have the air of a campaign to assure plaintiffs and critics that the country is serious about the issue.

“China is moving slowly forward, but no problem can be solved in an instant,” he said.

And in this country, even the Supreme Court’s authority can dwindle at the grass roots. Local judges often owe their first loyalty to the party bosses who employ them, and they are reluctant to close scofflaw factories that provide jobs and revenue, according to experts.

Ultimately, Jiang’s unusual publicity campaign to promote intellectual property law may progress no faster or more surely than the Chinese legal system as a whole.

Yet even as China talks about bulking up its law enforcement, some note a kind of tacit acceptance of a degree of counterfeiting and piracy that is among the most rampant in the world.

China did not have a court system to speak of for the first 30 years of Jiang’s life, and his ascent to the highest court parallels the country’s path from Maoist revolution to, at least officially, the rule of law.

Jiang, who is 56 and a native of Beijing, traces his interest in inventions to the Cultural Revolution, which lasted from 1966 to 1976, when hundreds of thousands of urban youths like him were “sent down” to toil as peasants in the far northeast of China. In 11 years on a state farm, he rose to become an agricultural technician, advising farmers on how to sow crops, fix tractors and mix fertilizer.

“That experience sowed my love for solving these kinds of technical legal problems,” he said. “Now this work is my life.”

When Jiang joined the tide of exiled youths returning to Beijing in the late 1970s, Deng Xiaoping’s reformers were trying to restore China’s shattered courts. With only a junior high school diploma, Jiang passed an entrance exam to become a clerk, and then a junior judge, in a Beijing district court.

“In those days,” he said, “nobody had much property, so most of the civil cases we handled were divorce cases.”

But in the 1990s, as international investment gathered pace and foreign companies began pressing for stronger protection of the technology and patents they were bringing into China, Jiang found a new calling in what was then the exotic backwater of intellectual property.

China introduced patent, copyright and trademark laws, and signed treaties to respect copyright, in the early 1980s, and by the 1990s the Chinese government faced growing pressure to enforce those laws. Jiang, with graduate law degrees, leaped from district court to China’s highest court, hearing civil disputes involving foreign parties.

He joined the Supreme Court’s intellectual property division when it was formed in 1996 and became the division’s chief justice in 2000.

Now, Jiang usually arrives at the court about 6:30 in the morning and spends his days hearing appeals, monitoring
decisions by lower courts, training judges and drafting the “judicial interpretations” that make binding law for lower courts in China, as well as updating his Web site.

Each task seems to involve a delicate balancing act between legal principles and the messy flux of China’s breakneck development.

Most recently, Jiang has been writing judicial guidelines about whether royalties should be collected from karaoke song machines. He has decided that they should but that the royalties should not be as large as in developed countries.

“To expect China to reach the same level of intellectual property rights as developed countries in one leap is just unrealistic,” Jiang said, “and to ask the same of the public is also unrealistic.”

Last year, Chinese courts dealt with 12,205 civil intellectual property cases, an increase of 32 percent from 2003 and a few dozen two decades ago.

In the first quarter of this year, the number of cases grew by 39 percent from a year earlier. All but 4 percent of those cases were between local litigants, not multinational corporations, Jiang said.

“Domestic companies are the real impetus for improving IPR,” he said.

On Sept. 19, Shanghai Busheng Music Culture Media, a joint venture of EMI Group and a local company, successfully sued Baidu.com, one of the most popular Chinese search engines, for allowing Internet users to locate pirated music Web sites.

A court in Beijing ordered Baidu to stop the service, which is widespread among nearly all of China’s major search sites, and fined it the equivalent of $8,400.

Even some of its critics say the central government and higher courts are edging toward stronger protection of intellectual property rights.

A recent survey by the American Chamber of Commerce in China found that the proportion of U.S. executives in China who said its protection of such rights was “effective” rose to 20 percent this year from 9 percent in 2004.

“Now we’re at the point where there are genuine and significant improvements in the legal framework,” Peter Wang, a lawyer with Jones Day in Shanghai, said of Chinese intellectual property laws. “But our clients are also coming to have higher expectations of us and the courts.”

But even as Chinese courts are becoming more assertive, the rapid growth of the economy and the ease and sophistication of copying technology are enabling piracy to outpace the courts, many say - not unlike in the West.

“China’s inadequate IPR enforcement is resulting in infringement levels at 90 percent or above for virtually every form of intellectual property,” the Office of the U.S. Trade Representative concluded this year in a report on the issue, citing submissions from U.S. business groups.

Two-thirds of counterfeit goods seized at U.S. ports in 2004 came from China, it said.

Jiang said foreign companies often complained to newspapers and their own politicians without taking their complaints to Chinese courts.

“They should complain less and act more,” he said.

But he also said China’s battle against commercial piracy was hampered by inadequate resources, even in his own court, which has just one administrator to serve the eight justices hearing intellectual property cases.

Beyond Beijing and other big cities, China’s antipiracy resources are even more stretched, observers have said.

China’s 3,000 country courts and 404 intermediate courts have little incentive to spend money and time on intellectual property cases, said Andrew Mertha, assistant professor of political science at Washington University in St. Louis, Missouri, and author of “The Politics of Piracy: Intellectual Property in Contemporary China.”

The disputes often involve complex claims, and courts have difficulty collecting the evidence, he added.

Anticounterfeiting efforts also often face stiff resistance from local officials, who may be more concerned about jobs and taxes, and illicit payoffs, than about companies’ complaints.

Judges increasingly tend to find in favor of plaintiffs who can show clear infringement, but obtaining effective enforcement is another matter.

“The fact that you get a judgment in Beijing doesn’t mean you get enforcement elsewhere,” said Peter Yu, a specialist on Chinese intellectual property law at the Michigan State University College of Law. “If you close down a factory, you’re converting a foreign problem into a local problem.”

Mertha, the professor at Washington University, said, “Lower courts are still very much under the control of local governments and just don’t see IPR theft as an especially egregious offense, so that’s where the real fight is. At the local level, things are moving ahead at a snail’s pace, but at the central level and the Supreme Court things are moving faster.”

One of Jiang’s solutions to these obstacles was to start a Web site in 1999 to promote intellectual property laws. The site, China IPR Judicial Protection (www.chinaiprlaw.cn), has drawn 810,000 visits since then.

Jiang offers an e-mail service for users to lodge complaints, and every day 10 or more people write to him with questions and complaints about lower courts’ rulings.

“It’s a very specialist site, and there aren’t any good-looking pictures or ads on it, so that’s pretty good,” he said.
Not even Jiang expects piracy in China to disappear soon. And like the rest of the Chinese legal system, its intellectual property laws have young, shallow roots.

Jiang said pressure from the outside, even from Washington, could not work any faster than the pace at which the Chinese legal system matured.

On Aug. 3, for example, hundreds of protesters surrounded the local court in the northern city of Yulin, where they beat up more than a dozen judges and held the chief judge hostage for several hours. The protesters were employees of a clothing company, Yanglaoda, who objected to a ruling on its disputed trademark, The China Economic Times reported.

"In foreign countries like America and Germany, the authority of the judiciary is stronger," Jiang said.

"But China faces even more problems in building a legal system. There are many challenges and crises facing us, and the intellectual property crisis isn't the most serious."