SURVEY ON THE SITUATION OF TEACHING AND RESEARCH IN INTELLECTUAL PROPERTY LAW IN HUNGARY

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Hungary is a country relatively poor in raw materials and as a consequence partly thereof and partly of her order of magnitude, she is very much foreign-trade oriented. Our economic reform has therefore energetically emphasized the importance of developing a product structure by means of which we could advantageously participate in the international competition. Due to the technical-scientific capacity and to the traditions, Hungary is in principle interested in the intensification of the direct or indirect turnover of intellectual products. What are the essential preconditions thereof?

First of all, highly qualified creative people, artists and scientists, inventive technical specialists, technovators and inventors. As evidenced by the history of art and science, we are not at all in a bad position in this respect.

In Hungary, such a technical-scientific policy, strategical conception, economic control system are needed which stimulate the dynamical aspect of economic development, namely the technical development, in broader sense the putting into prominence of the up-to-date innovation process. The establishment of these conceptions occurred on government level and even if not at the required pace, but the consequences thereof are more and more perceptible also in the activity of enterprises.

In the organization of innovation process, the institutional and statutory system of industrial property protection has a not undervaluable part. Between 1969 and 1978 it has come to the up-to-date re-codification of the fundamental fields of industrial property protection/inventions, technovations, trademarks, industrial designs. In the course thereof considerable attention was paid to the latest international tendencies, since Hungary has an active share in the Paris Convention and its important supplementary agreements.

The high-level technical creations, the favourable economic environment, the up-to-date condification are necessary but not enough. To the promotion of their efficacy, specialists well-informed in this complex field are required. This may be ensured by the teaching in intellectual property law, and by the research establishing the theoretical foundation of teaching and codification. The Hungarian situation in this field cannot be held satisfying. A brief survey of the situation of teaching and research in industrial property law, as well as of the efforts made for the sake of their development will be now given below. The other large legal field of intellectual creations, the copyright will be mentioned only contingently.

According to the common statement of professional circles, the teaching in industrial property law is considerably fallen behind the possible and necessary level. This statement was more and more energetically emphasised in the first part of the seventies. On the initiative of the National Office of Inventions and the Hungarian Association for the Protecton of Industrial

Property, and analytical study revealed the state of our teaching in industrial property law - based on studies of facts and on wide-ranging comparison - and formulated the most urgent tasks. On the intiative of the institute for Legal and Administrative Science of the Hungarian Academy of Sciences, in 1975 a similar investigation was made on the position of teaching and research in industrial property law, with the active co-operation of the interested state and social organs. The statements and conclusions of the investigation were discussed in 1978 by the Presidium of the Hungarian Academy of Sciences and resolutions were adopted concerning the necessary steps. Relying also upon the materials of scientific and professional preparations, the National Office of Inventions submitted in 1978 to the Government the proposals on "the state, economic position, international relations as well as trends of further developemnt of the protection of industrial property". An integral part of the proposal was formed by the motions on the teaching and research in industrial property law.

On the strength of the above proposals the Science Political Committee of the Government issued its directives on the teaching in industrial property law, indicating the essential tasks and methods both for the fields of the primary and the post-gradual teaching. By reason of these directives the Minister of Education made appropriate recommendations to the universities and colleges under his supervision for providing minimum knowledge of industrial property law in the course of the basic instruction, on the one hand, and the Government Order No. 28/1980 introduced the special postgradual teaching in industrial property law, on the other hand, the detailed conditions of which were elaborated by the National Office of Inventions.

The importance of teaching in industrial property law has been thus recognized and acknowledged by the Government. The practical performance of the tasks can be carried out only successively - and not without any difficulty. The actual situation will be now outlined as follows.

In the basic teaching at the universities, the situation is relatively the most favourable in the instruction of jurists. In the third year the students attend lectures in about 20 hours in the framework of the obligatory civil-law study on the law of intellectual creations/copyright and protection of industrial property, and they treat this study in the attached seminary exercises. This period of lessons is sufficient for introducing the basic legal institutions and legal rules. In addition, at the Law Faculty in Budapest, the students attend in two semesters a so-called special course of lectures of about 40-50 hours on the international and comparative industrial property law/similar special course of lectures on copyright is also organized. In this special course of lectures about 40 - 50 students participate and yearly 10 - 12 diploma works/theses choose some questions on intellectual creations as subject matter. On the other three law faculties - Pécs, Szeged, Miskoic - the introduction of such special course of lectures is only planned.

At the University of Economics, at the Foreign-Trade College and at the Agricultural University, the introduction and teaching of the most important knowledges on industrial property law is ensured in a rather short period as compared to the instruction of jurists and generally in the framework of legal knowledges.

The teaching in industrial property law can be considered the neuralgic point of the teaching at the technical universities and colleges. While in the teaching of jurists and economists the specialists to-be may acquire the necessary information on the fundamental questions, in the technical basic instruction the teaching of knowledges in industrial property law is not at all settled. The above-mentioned investigations pointed out emphatically the detrimental consequences of this situation. In one or another faculty though knowledges on industrial property law are teached occasionally, this is, however, not typical and only sporadic. Following the above mentioned recommendations of the Minister of Education some efforts were already made in order to introduce some studies providing for certain minimum information/ maybe in the framework of any other subject/, the role of the knowledges on industrial property law payed in the technical basic instruction cannot be, however, regarded as reassuringly solved even today.

Better results can be related in respect of postgradual teaching. The organizational frameworks of continuative education of engineers, economists and jurists, the retraining institutes attached to the universities organize regularly courses where the subject matters of industrial property law may be met more frequently. Account may be rendered of initial results in the endeavours made in the framework of organized manager's teaching.

An outstanding form of the postgradual instruction in industrial property law is the system of courses organized by the National Office of Inventions. In the organization of these courses the National Office of Inventions relies considerably upon the retraining institutes, as well as upon the Hungarian Association for the Protection of Industrial Property. There are three degrees of courses: the basic course/ on technovations/ 60 hours/, the secondary course/ 120 hours/ and the high course/ 400 hours/ on industrial property law. These courses are bound to examination, and in the high course on industrial property law - in addition to the examination - a thesis must be elaborated and defended, respectively. In the teaching and examination, in addition to the experts of the National Office of Inventions other acknowledged specialists active in teaching and in the practice are also participating.

When compiling the themes of teaching, the starting point was the broader concept going beyond the traditional law-centric teaching of industrial property law, including several subject matters on economics and information, too. For illustration the subject matters of the high course/ consisting of four semesters, of 400 hours/ will be now introduced:

(1) Concept and significance of industrial property protection

(2) Knowledges on science policy

(3) Knowledges on economic policy

(4) Basic knowledges on law

(5) Technovation law

(6) Patent law

(7) Rules of patent procedure before National Office of Inventions, methodology of application and examination

(8) Trademark law and design law

(9) Rules of trademark and design procedures before the National Office of Inventions, methodology of application and examination

(10) Competition law

(11) Court proceedings and practice in patent and technovation cases

(12) Court proceedings and practice in trademark and design cases

(13) Documentation and information of industrial property protection

(14) International agreements on protection of industrial property

(15) Patent laws of foreign countries

(16) Trademark and design laws of foreign countries

(17) Activity of the intellectual property organization of enterprises

(18) Economy of inventions, technovations, designs

(19) Knowledges on licence and know-how trade

(20) Rules of representation in industrial property cases.

To the high course only persons possessing a diploma of a university or college may be admitted, however, not only a technical diploma is accepted, thus the present high course comprehends a wider range than the previous courses instruction patent attorneys which are succeded by these new high courses. A diploma of a university or college of technology or of natural science is, however, required further on for the application of being registered as patent attorney after having successfully passed the examinations of the high course. On successful completion of any of the courses the participants are entitled to take a responsible position, depending on the degree of the course, in the industrial property organizations of enterprises.

The above mentioned courses are highly popular, in the recent years several basic and secondary courses were organized. As for the high course, at present six such courses are going on/ with 25 - 30 participants each/ and two of them will be finished at the end of this year.

At the universities where the teaching in industrial property knowledges is an organic part of the basic information, the suitable manual is also available. Thus, on the law faculties: M. Világhy's Intellectual Property Law and at the University of Economics: Gy. Csanádi's Civil Law.

In the postgradual teaching, on the industrial property courses the Manual of Industrial Property Law/ edited by E. Tasnádi/, as well as the Foreign Patent and Trademark Law/ Retraining Institute of the Budapest University of Technology, editor S. Vida/ constitute well-utilizable hand-books.

The complete subject matter of the above introduced high course on industrial property law is currently under press. In the co-operation of the National Office of Inventions and the Hungarian Association for the Protection of Industrial Property, a series of manuals/ about 14 volumes, more than 2000 pages/ will be published which comprises all subject matters of the course, moreover, the necessary formulae used in industrial property work are also rendered available. Up to now 8 volumes of the series of manuals have been already issued and the complete series will be published by the end of this year. It should be noted, however, that this series of manuals is used at the basic and secondary courses, too, with the necessary selection, of course.

Some words on research in industrial property law

In the field of the jurisprudence, the Institute for Legal and Administrative Sciences of the Hungarian Academy of Sciences, on the one hand, and the teachers of law faculties, on the other, have to be taken into account as bases. The teachers and researchers dealing with the civil law concern themselves generally to an adequate extent with the legal field of intellectual creations, too, researchers, and teachers, respectively, specialized primarily or exclusively in the domain of intellectual property are, however, not more than 4 or 5 to be found. From among the teachers and researchers of economics only 3 or 4 are dealing with the economic questions of industrial property protection - in broader sense: innovation - and occasionally also some of the scientists of sociology touch upon the subjects relating to innovation and creativity.

In addition to the professional researchers, there are several practical specialists of high reputation who display a literary activity concerning the theoretical and practical questions of the protection of industrial property. The authors of the high-level articles and papers are partly the specialists of the National Office of Inventions and partly experienced patent attorneys, jurists active at the enterprises or patent bureaus.

The above cited directives of the Science Political Committee consider necessary the intensification of the research bases of industrial property protection. Correspondingly, a research team of a low number/ 3 or 4 persons/ having a complex character/ jurists, engineers, economists/ has been provisionally called into being in the National Office of Inventions.

In the field of the protection of industrial property, only a few scientific publications of monography character were issued, rather manuals and comentaries of practical purpose have been published. In the recent years about 5 - 6 scientific dissertations were presented in order to obtain an academic degree which have chosen as subject matter the protection of industrial property.

The publication in periodicals is more abundant. Szabadalmi Közlöny és Védjegyértesito/official gazette of National Office of Inventions/ as well as the Journal of Technovators publishes often short articles. From among the juristic periodicals, Magyar Jog/ Hungian Law/, Jogtudományi Közlöny/ Journal of Jurisprudence/, occasionally Allam- és Jogtudomány/ Science of State and Law/ publish comprehensive papers. It should be noted that Jogtudomány Közlöny will devote a separate number in the fouth quarter of this year to the legal problems of intellectual property. The foreign-language periodical of the Academy, Acta Juridica, published in the recent years papers on the

problems of software, on the revision of Paris Convention, on the competition law, on the questions of protection of technical creations, on the research contracts and license agreements.

Finally, the Publications of the Hungarian Association for the Protection of Industrial Property/MIE Közlemények/ two numbers per year/ and the Proceedings of the Hungarian Group of AIPPI should be mentioned both of which are publishing high-level articles and papers.

In the foregoings, I tried to give a brief survey of the teaching and research in the industrial property law in Hungary. The picture is far from being bright, our results are moderate. For the moment, we can render account rather of appropriate endeavours, suitable conceptions, initial steps, than of reassuring situation. We are aware of the fact, on the one hand, that still a long-lasting and stubborn research and teaching work is necessary in order to approach the level of countries having a better developed industrial property culture and more favourable traditions, but of the other fact, too that without a high culture of industrial property protection whatever up-to-date legal regulation and favourable economic technical makings can come into full display with sufficient efficacy. Just therefore, we consider highly important the present initiative of WIPO. I am convinced that also on the whole but especially on such a pointedly international field as the protection of industrial property, even the internal development can be devoid of the up-to-date comparative methods, of the exchange of experience and of the personal contacts, still less can be the teaching and scientific researching activity never respecting the frontiers.

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