THE TEACHING AND RESEARCH OF INTELLECTUAL PROPERTY LAW IN THE PEOPLE'S PEPUBLIC OF CHINA

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After the founding of the People's Republic of China, our law department, the first new department of legal education, was established in the People's University of China, which is a comprehensive university with emphasis on the social sciences, a system of legal education with its own characteristics has taken shape. For historical reasons, however, only since the end of the 1970's and the early 1980's, have the first steps been taken to teach and study intellectual property law, and to make it an independent subject.

Prior to the late 1970's, to most people in China, intellectual property was still an unfamiliar field. Since the Third Plenary Session of the Party's Eleventh Central Committee in December 1978, China has carried out a policy of invigorating the domestic economy and opening to the outside world, and developing a planned commodity economy. The mechanism of the commodity economy objective required that intellectual creative action and its results should be regulated with the law, and the intellectuals' personal and economic interests be protected. Thus, our intellectual property law system came into being. In the Law on Chinese-Foreign Joint Ventures of the People's Republic of China (1979), the issue of protecting industrial property was formally raised for the first time in China; in the Implementing Regulation of the Income Tax Law of the People's Republic of China Concerning Chinese-Foreign Joint Ventures (1980), there are articles concerning patent, know-how, trademark and copyright. Ever since then, legislation for intellectual property in China has been developing. The Trademark Law was promulgated in 1982 and the Patent Law in 1984. At present a Copyright Law is also being drafted.

The above-mentioned are reflected in the teaching of intellectual property. We have been teaching intellectual property law as an independent part in the civil law, so scant attention has been paid to this subject. However, in recent years, with the rapid development of scientific and cultural base, and increased exchange with the outside world in the areas of science, technology and culture, people have been looking at intellectual property with new eyes. It is time therefore, to take intellectual property law as an independent, unified and special field in the legal educational system. Accordingly, since 1979, we have drafted the Chinese Patent Law and we are now drafting a Chinese Copyright Law. In the meantime, we have established contact with foreign experts and some international organizations. All this has created fairly favorable conditions for the teaching and research of intellectual property law, and we have made rapid development in this field.

In 1985, we enrolled the first two postgraduates of intellectual property law in this country, and in 1987, another three.

Since 1986, intellectual property has also been brought into the undergraduate curriculum as an independent subject.

In 1987, intellectual property law became a required course for the Master degree for students of Civil Law.

In order to cultivate more young experts of intellectual property law, the State Educational Commission decided in 1987 to establish intellectual property law as a special field in university. The Centre for Teaching and Research of Intellectual Property was thus established in February, 1987 in the People's University. A teaching and research section was subsequently set up in the law departments. We have enrolled the first group of students to study for the second degree (two years of study for a Bachelor of Law degree). These 47 students are chosen from 500 examinees in over 100 universities and other units. They all have received prior Bachelor of Science and Engineering degrees.

The content of the courses of intellectual property is basically decided in light of the General Rules of Civil Law (1986). It consists of copyright law, industrial property law, right of invention, right of discovery, etc. Of course, copyright law and industrial property law are the most important subjects. Besides, we have also introduced trade name, service marks, unfair competition law and so on. Also, we have touched upon important international conventions, such as the Paris Convention, the Berne Convention, the Universal Copyright Convention, etc. Yet what we teach to the students is still very concise, because there are only 36 hours of class time given for these subjects.

As for teaching methodology, we pay much attention to integrating theory with practice. On the one hand, we give our students a solid theoretical foundation for their work in the future. On the other hand, we introduce to students the problems of legislation and typical cases in judicial practice, in order to sharpen their ability to analyze problems as well as to stimulate their interest. Our department has its own law firm, the Tenth Law Firm of Beijing. The law teachers of our department are part-time lawyers in the law firm. They take part in the practice with immense zeal. They test theories from practice. For example, some of them were the agents for the "Jinlin's Night" case (the first infringement case concerning a director's copyright) and the case concerning the heritage of Luxun's copyright. These two cases have received favourable response from home and abroad.

Through the teaching practice in recent years, we have had a relatively stable system for our intellectual property law. At present, we are writing a textbook, which might be published in the coming year.

Finally, I would like to mention the Centre for Teaching and Research of Intellectual Property. We have been entrusted by the State Educational Commission (SEC) and have enrolled the first group of students for the Centre. Dr. A. Bogsch and his colleagues at WIPO have strongly supported the teaching and research of intellectual property in China. It is necessary for us to strengthen international cooperation and to study the experiences of other countries in order to establish step by step a scientific teaching system for intellectual property with Chinese characteristics. We hope that we will have further connection and cooperation between the centre and distinguished experts from other countries.

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