TEACHING OF INDUSTRIAL PROPERTY IN COLOMBIA

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NATURE OF THE CURRICULUM, TYPES OF COURSE, DURATION, COMPULSORY OR OPTIONAL NATURE, ACADEMIC LEVEL OF STUDENTS

Little importance has ever been attached to industrial property in the study of law. The following survey of the present situation is intended to give a better idea of the state of affairs in Colombia.

Commerical law is a compulsory subject at all the law faculties of our country; it is divided into three years and attended in the third, fourth and fifth years of law studies which have an overall duration of five years. The first of the three years generally includes the study of commerical enterprises and business. From there, given the vast extent of the subject matter, the student has to cover the following in that year: the trader, the obligations of traders, trade auxiliaries, business enterprises and trading obligations; except in special cases the time devoted to actual industrial property is minimal.

Likewise, in the second year of civil law, certain elements of industrial property are covered, but still in a very superficial way. This course is also compulsory.

In an attempt to remedy this deficiency the official program has established, as an area of specialization for those who have selected private law, a course on special forms of property in which, in theory, the systems of literary and artistic property, industrial property and condominium ownership are dealt with together. This course is given in the fourth year for two hours a week during the thirty-two weeks that constitute the academic year.

As will be readily understood, the diversity of the subjects covered in this optional course has resulted in the course being divided, in the majority of faculties, between two or three professors, and in industrial property being therefore left with just 32 hours of teaching time.

These courses, namely the commerical law course and the optional courses, presuppose that the student has attended the civil law courses, in which he will have received instruction in property, and the constitutional, administrative, procedural and criminal law courses. However, despite the importance of the special structure of industrial property in our country, he is completely ignorant of the concepts of the law of integration, which are generally taught in the fifth year. This is a serious shortcoming, as at present, in order to understand the legislative aspects of industrial property, one has to understand the phenomenon of the law of integration and the supranationality of certain bodies set up by economic integration agreements. Once the five years of law for the grant of the law degree have been completed, a number of requirements have to be complied with, including the writing of a thesis and the taking of the "preparatory examinations" in the main subjects attended during the course.

There is a number of ways of meeting the basic requirements mentioned above, one of them being to take a specialization course at the law faculty, for three hours a day for a year. Many specialization courses are now given at the various law faculties operating in our country, and one of them is the commercial law course. The Javeriana, Rosario and Gran Colombia Universities have incorporated industrial property as a compulsory subject in their commerical law courses.

Thus the student may, in order to bypass the preparatory examinations--or merely if he is interested in a specific area of law--take the specialization course, choosing from the assortment offered by the law faculties. Once he has made his choice, however, he is obliged to take all the subjects specified by the faculty for the course concerned. This means that those who choose commercial law as their speciality are committed to taking industrial property at the faculties mentioned.

CONTENT AND PREPARATION OF SPECIFIC COURSES AND MATERIAL RELATED TO SUCH COURSES, INCLUDING A GENERAL BIBLIOGRAPHY

The industrial property courses given in Colombia include an introductory part on the law of integration, leading to the study of norms established under the influence of supranational bodies. Decisions 24 and 85 of the Cartagena Agreement and the study of those parts of the Commercial Code that are still applicable, particularly with regard to trade names, which are not regulated in the Decisions of the Cartagena Agreement.

The courses are on the subjects constituting industrial property in general and on the provisions on patents, industrial designs, trademarks or service marks, trade names and signs. None of the courses currently available in Colombia includes the study of unfair competition, which is ommited owing to the lack of sufficient time to cover all subjects, even though in theory it could be considered part of industrial property.

The preparation of the course varies according to the lecturer giving it. At present, my personal experience (the undersigned lectures in industrial property as an optional subject at El Rosario University and as a specialization course at the Javeriana and El Rosario Universities, and has been chief lecturer at the Externado de Colombia at optional level and at Gran Colombia at specialization level), which is borne out by information I have obtained from other colleagues who lecture at El Rosario, the Externado and Gran Colombia, is that the student is basically given material consisting in decisions handed down by the courts in industrial property matters, extracts from the commentaries on the Model Laws for Developing Countries devised by WIPO/BIRPI, which were used for the drafting of the Colombian Law, while the latter in turn provided subject matter that was used in the drafting of Decision 85 by the Commission of the Cartagena Agreement; certain texts are also recommended to him, notably that entitled "Industrial Property within the Cartagena Agreement," by Manual Pachón, which is the only commentary there is in Colombia on the present industrial property set-up. As far as we know, no material has been prepared on the lines of that prepared by Professor Baldo Kresalja and used at Lima University.

A sample program is attached which shows the subject matter of the course, including the bibliography used. It corresponds to the programs adopted for the courses at El Rosario and the Javeriana, and also explains the methodology and the subjects covered and gives the bibliographic references.

DURATION OF COURSE: 32 HOURS OF LECTURES

Reasons for the Course. The law of our country, with its freedom of enterprise, freedom of contractual negotiation and mass production, has now recognized a new series of property concepts, which for our purposes are covered by Andean law (Decisions 24 and 85 of the Cartagena Agreement) and the Code of Commerce, and which are collectively entitled INDUSTRIAL PROPERTY. This is a new branch which has been studied little at law faculties, but which is highly useful in modern life, and therefore at least an outline of it should be included in the new curriculum.

Methodology. The program is a detailed guide, working class by class through the subject matter to be covered. It is accompanied by a bibliography of selected works on industrial property, including its economic aspects and the basic elements of Andean integration law. In exceptional cases where the general works do not deal with a point, articles are mentioned.

The main court decisions, or the parts of them that the students should know, are also mentioned.

Participation in a specialization course presupposes that the students have wide-ranging knowledge covering constitutional law, administrative law, property and procedural law, and that they have studied the basis elements of industrial property in their commercial law courses. If students have not studied industrial property fully or have doubts on the subjects that are going to be dealt with, or who simply wish to refresh their memories on certain points, the professor insists on their reading the material indicated on a separate sheet.

The course requires discussion of the subjects and active participation on the part of the students; it will by no means have the character of an ex cathedra course where the lecturer confines himself to expounding the subject matter.

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