PROGRAMME FOR INTELLECTUAL PROPERTY TEACHING OF PEKING UNIVERSITY

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PREFACE

Peking University is a university with various departments, such as natural sciences, technology, humane studies, social sciences, management and pedagogy, etc. In the past few years, we introduced intellectual property education in Peking University and an elective course of intellectual property was offered for the undergraduates of law department in 1981. Since 1986, an elective course of intellectual property has been offered for undergraduates and graduate students of Peking University. A few graduate students specialized in intellectual property were recruited in 1983. We firmly believe that it is necessary, with the execution of Patent Law of the People's Republic of China, to establish an education system of intellectual property of our own, in which colleges and universities are taken as dominant factors. For this purpose, the Centre for Teaching and Research of Intellectual Property of Peking University was established. The main objective of this Centre is to undertake the teaching and research of intellectual property at Peking University.

China is a big country; therefore, a large amount of personnel engaged in the field of intellectual property will be needed. To take the large-size state key enterprises as an example, thousands of patent attorneys will be needed if one or two of them are provided for each enterprise. This great demand for personnel could hardly be met without formal education. So the university is preparing a graduate students class majoring in intellectual property in the coming years. The purpose of this class is to train college teachers of intellectual property, patent attorneys, senior patent examiners, researchers and other personnel in this field. The graduate students of this class will be mainly those who have obtained their Bachelor or Science and Bachelor of Engineering. It takes them about two years to complete all the graduate courses, after that, they can file applications for their Master degree, and a thesis is required after one year of graduation. We hope that this sort of class can be a major channel for training high-level personnel in the field of intellectual property in China.

The combination of natural and social sciences is an inexorable trend in the development of the sciences. Nowadays, however, the division of disciplines is too elaborate and a common drawback that the students have too narrow a range of knowledge. The disjoinment of natural and social sciences will be an obstacle to the "four modernizations" drive. So, we have carried out some reform in the complement of liberal arts and natural sciences. From 1986, we have offered a selective course of "Introduction to Intellectual Property" for both the undergraduates and graduate students of science departments, which has achieved great results. The purpose of this course is not to train personnel in this field but to imbue the students who will be professionals in

the field of natural sciences and engineering with the knowledge of intellectual property, and we also hope that this course will be helpful to their future work. The scheduled school hours for this course are 40 hours, and 2 credits are offered. A selective course of "Intellectual Property Law" is continuously offered by the department of law.

With the rapid development of sciences and technology, what people have learnt in school is only a proportion of what they need to learn in their whole life. In this sense, the adults are supposed to receive re-education, to renew their knowledge in order to catch up with the development of their jobs. This is called "adult education". The patent system in China is newly established; therefore, most people who have shifted from other jobs into this field have received very little systematic training in intellectual property for the pressure of time, and the adult education of intellectual property bears very practical and important significance for them. We will offer different types of study classes based upon different needs. For instance, short-term study classes last for one month, three months or even half a year, and long-term study classes can last for one or two years, whose purpose is to offer the opportunity for systematic study. This sort of study class is mainly prepared for those who have been engaged in this field and people in other fields who want to acquaint themselves with intellectual property (for example, managerial personnel), and generally speaking, no degree will be granted. When completing the course certificates will be given when necessary, we also arrange many kinds of lectures, seminars and discussions, etc.

CURRICULUM FOR THE GRADUATE STUDENTS SPECIALIZED IN INTELLECTUAL PROPERTY
(course of politics and foreign language study offered are the same as those for the graduate students of the university)

"Fundamental Principles of Law"

Scheduled Class Hours: 60

Requirements: Required

Major contents:

Concept of law, the relationship between law and other social phenomena, the general principle of the evolution of law, the law in slave society, the law in feudalist society, the law in capitalist society and the law in socialist society.

"Constitutional law of China"

Scheduled Class Hours: 60

Requirements: Required

Major Contents:

Basic principles of institutional law and its evolution, system of people's democratic dictatorship, socialist economic system, system of people's Congress, basic rights and duties of citizens, State organization and local organizations.

"Criminal Jurisprudence"

Scheduled Class Hours: 60

Requirements: Required

Major Contents:

Brief introduction to criminal jurisprudence, general provisions of criminology (its concept, consitution of crime, object of crime, objective aspect of crime, subject of crime, dispelling dangerous acts against society, form of crime at time of calculated crime, fellowship in crime, single and several crimes), general provisions of criminal penalty (its concept and objectives, its system and variety, discretion of punishment, cumulative punishment, conditional condemnation, abatement of penalty, parole, limitation of time and amnesty) special provisions of criminal penalty (brief introduction, counter-revolutionary offence, offence against public security, offence against the socialist economic order, offence against human and democratic right of citizen, offence against property, offence acts against public order, crime of interference with marriage and family, crime of misconduct in office and offence of armyman against his duty.

"Law of Criminal Procedure"

Scheduled School Hour: 60

Requirements: Required

Major Contents:

Brief introduction to the law of criminal procedure, basic principles of the law of criminal procedure, people's courts in criminal procedure, people's procuratorates in criminal procedures, public security organs in criminal procedure, parties to the lawsuit and other parties to court proceedings, jurisdiction, avoidance, advocacy, evidence, coercive measures, incidental civil action, duration, service, putting on record, detection, presenting public prosecution, procedure of first instance, procedure of second instance, justification of death penalty procedure, procedure of adjudication supervision, execution.

"Law of Marriage"

Scheduled School Hour: 30

Requirements: Required

Major Contents:

Brief introduction to the law of marriage, basic principles of the law of marriage, brief introduction to marriage system, requirements for marriage, procedure of marriage, brief introduction to kinship, husband and wife, parents and offspring, grandparents and grandchildren, brothers and sisters, brief introduction to divorce system, procedure of divorce, principle of handling the divorce case, problems relating to the child and property of divorce.

"Science of Civil Law"

Scheduled School Hour: 80

Requirements: Required

Major Contents:

General provisions of civil law, property rights and other real rights, general provisions of contract, special provisions of contract (sales contract, contract of gift, barter trade contract, loan agreement, settlement contract, deposit contract, leasing contract, labour contract, contract of science and technology cooperation, technology transfer agreement, contract for publication, partnership agreement, joint-venture agreement, insurance contract), intellectual property, right of succession and civil liability.

"Law of Civil Procedure"

Scheduled Class Hour: 80

Requirements: Required

Major Contents:

Brief introduction to the law of civil procedure, basic principles of the law of civil procedure, people's courts, contesting parties, suit, evidence, duration, service, court costs, general procedure, simplified procedure, special provisions for the procedure concerning foreign nationals, adjudication, holding, decision, procedure of trial on appeal, procedure of adjudication supervision, special procedures, procedure of enforcement, coercive measures against obstructing process.

"Science of Economic Law"

Scheduled School Hour: 60

Requirements: Required

Major Contents:

Contract for the international sale of goods, international transportation of goods, insurance concerning international sales of goods, international payments, China's foreign trade administration, foreign trade administration of western countries treaties and agreements of international trade, General Agreement on Tariffs and Trade, control of restrictive business practice, international trade arbitration.

"Patent Law of the People's Republic China"

Scheduled School Hour: 60

Requirements: Required

Major Contents:

Evolution of the patent system, types of patent, subject of patent, object protected by the patent law, essentials of patent (novelty, inventive, practical applicability), contents of a patent, limitation of patents, Chinese patent law, writing of applications for patents, tactics of applications for patents, patent dispute and patent proceedings.

"Patent Law of Foreign Countries and International Conventions Concerned"

Scheduled School Hour: 40

Requirements: Required

Major Contents:

European patent law, U.S. patent law, patent law of Japan, patent law of Great Britain, patent law of the Federal Republic of Germany, patent law of France, patent law of U.S.S.R., Paris Convention for the Protection of Industrial Property, Patent Cooperation Treaty, WIPO.

"Trade Mark Law"

Scheduled School Hour: 40

Requirements: Required

Major Contents:

Evolution of trademark law, trademark, application for the registration of a mark, examination and grant of a mark, administration of trademark, exclusive rights in a mark and its scope, sanction against the trademark infringement, introduction to the trademark law of foreign countries, international conventions concerning trademark, trade mark matters concerning foreign nationals.

"Copyright law"

Scheduled School Hour: 40

Requirements: Required

Major Contents:

Evolution of copyright law, subject of copyright, content of copyright, object of copyright, copyright period, neigboring rights limitation to the exclusive rights in copyright (reasonable use, first publication), infringement of copyright and the sanction against the infringement of copyright, introduction to the copyright law of foreign countries, international conventions concerning copyright.

"Invention and Creation"

Scheduled School Hour: 30

Requirements: Selective

Major Contents:

Brief introduction to invention and creation, environment of invention, psychology of creation, general process of inventions, starting point of inventions, invention conception, technique of invention conception, auxiliary methods of invention conception, major principles of invention conception, tactics of invention, how to make good use of relevant information.

"Patent Practice"

Scheduled School Hour: one month (4 credits)

Requirements: Required

Major Contents:

The graduate students are required to practice in the Patent Office of the People's Republic of China, patent agencies and department of patent administration concering patent application. Patent examination, conciliation of patent disputes and patent proceedings. A report on practice is required.

"Licensing"

Scheduled School Hour: 40

Requirements: Required

Major Contents:

Brief introduction to licensing, attributes of patent and know-how and their licensing, key clause of licensing, a agreement negotiation of licensing agreement, the implemention of licensing, general system of international technology licensing, restriction of technology export of western countries.

"Documentary Search"

Scheduled School Hour: 100 (including 50 hours for practice)

Requirements: Required

Major Contents:

Brief introduction to documentary search, relationship between patent documentation and non-patent documentation, characteristics and functions of patent documentation, classification of patents, patent literature and its search, international search institutions, practice for search.

"Computer Law"

Scheduled School Hour: 40

Requirements: Selective

Major Contents:

Legal protection of intellectual property in computer (patent law, copyright law, trade secrecy, software protection act, act of semiconductor chip protection, contract law), contract of computer trade, crimes committed by computer, inspection of safety of computer and data, computer evidence, computer and privacy.

TEACHING PROGRAMME OF "INTRODUCTION TO INTELLECTUAL PROPERTY"

Scheduled School Hour: 40

Requirements: Selective (for undergraduates and graduate students all over the university)

Major Contents:

Chapter One: Introduction

1) Intellectual Fruits and Intellectual Property

a. Legal protection of intellectual fruits

b. Object of intellectual property

c. Characteristics of intellectual property

d. Types of intellectual property

2) Legal Structure of Intellectual Property

a. Sources of intellectual property law

b. Evolution of intellectual property law

c. Object of intellectual property law

Chapter Two: Patent and Patent Law

1) Patent and Patent System

a. Concept of patent

b. Types of patent

c. Evolution of patent system

d. Functions and significance of patent law

2) Substantive Contents of Patent Law

a. Definition and characteristics of patent law

b. Patent Holder

c. Rights and duties of patent holder

d. Protection of patent and dealing with infringement

3) Patent Law of the People's Republic of China

a. Subject and object of patent law of P.R.C.

b. Substantive requirements for patentability

c. Application for and approval of patent in China

4) Brief Introduction to the Patent System of Foreign Countries

a. International exchange and cooperation of patent

b. Patent system of major countries (Great Britain, U.S., France, West Germany, Japan, U.S.S.R.)

Chapter Three. Writing of Application for Patent

1) Introduction

a. Types and functions of patent file

b. Requirements for writing of patent application

c. Importance of patent file writing

2) Writing of Claims

a. Function of claims

b. Types of claims

c. Principle, guidance and process of claims writing

d. Samples

3) Writing of Description

a. Functions of description

b. Contents of description

c. Requirements for description

d. Samples

4) Abridgment and Drawings

a. Writing of abridgment

b. Requirement for drawings

c. Samples

Chapter Four

1) Basic Concepts

   a. Technology Transfer

   b. Technology Licensing

2) Know-how

   a. Definition of know-how

   b. Comparison between know-how and patented technology

   c. How to deal with the relations between know-how and application for patent

3) Types of Licensing Agreement

   a. Simple licensing

   b. Sole licensing

   c. Exclusive licensing

4) Pricing and Payment of Royalty

   a. Pricing principle

   b. Payment

5) Terms and Conditions of Contract

   a. Witnesses (whereas...)

   b. Definitions

   c. Contents and scopes

   d. Royalty and payment

   e. Liability for breaching contract

   f. Duration of contract

Chapter Five: Patent Proceedings

1) Dispute Cases Concerning Creating of Patent

   a. Focus of disputes

   b. Case study

2) Cases Concerning Patent Infringement

   a. Plaintiff

b. Defendant

c. Judicial jurisdiction

d. Administrative jurisdiction

e. Grounds of action

f. Claims

g. Burden of proof

h. Counter-argument of the defendant

3) Cases Concerning Petition for Invalidation of a Patent or Maintenance of a Patent

a. Petition for invalidation of a patent

b. Lawsuit against invalidation of a patent

4) Moot Case

Chapter Six: Trade-marks

1) Introduction

a. Concept of trademarks

b. Origin of trademarks

c. Classification of trademarks

d. Functions of trademarks

e. Essence of trademarks

f. Evolution of China's trademark law

2) Trademark Right and Its Protection

a. Aquisition of trademark right

b. Contents of trademark right

c. Characteristics of trademark right

d. Protection of trademark right

3) Registration and Administration of Trademarks

a. System of trademark registration

b. Requirements for trademark registration

c. Procedure for trademark registration

d. Administration of trademark registration

4) Registration and Administration of Foreign Trademarks

a. Regulations concerning foreign trademarks

b. Laws concerning foreign trademarks

c. Designs of foreign trademarks

Chapter Seven: Copyright

1) Introduction

a. Concept of copyright

b. Functions of copyright

c. Origin of copyright

d. Evolution of copyright

e. Theories of copyright legislation

2) Author and copyright owner

a. Author and copyright owner

b. Spiritual right of the author

c. Property right of the author

d. Other rights of the author

e. Author's rights protected by China's copyright

3) Protection of Works

a. Principles of protection of works

b. Objects protected by copyright

c. Criteria of aquisition of copyright

d. Classification of copyright protection

4) Limitation of Copyright

a. Limitation of time

b. Limitation of region

c. Limitation of "reasonable use"

d. Limitation of "compulsory licensing"

e. Other limitations

5) Administration of Copyright

a. Transfer and inheritance of copyright

b. Royalty and contract for publication

c. Procedures for copyright

d. Infringement and punishment

6) History of China's Copyright Protection

a. The first copyright law in Chinese history

b. Copyright legislation in the period of Northern Warlords (1912-1927) and Kuomintang (before 1949)

c. Copyright protection in China after 1949

Chapter Eight: WIPO and Other Relevant International Conventions

1) WIPO

a. Evolution of WIPO

b. Aims and objectives of WIPO

c. Member States of WIPO

d. Institutions of WIPO

2) Standing Bodies of WIPO

a. Structure of International Bureau

b. Responsibility of International Bureau

c. Funds and publication of International Bureau

3) Paris Convention for the Protection of Industrial Property

a. Concluding process of Paris Convention

b. Major contents of Paris Convention

4) International Treaties of Patent Protection

a. Patent Cooperation Treaty (PCT)

b. Regional Patent Treaties

5) International Treaties of Trademark Protection

   a. Madrid Agreement Concerning the International Registration of Marks

   b. Trademark Registration Treaty

6) International Convention for the Protection of Copyright

   a. Berne Convention, of September 9, 1886, for the Protection of Literary and Artistic Works

   b. Universal Copyright Convention

   c. Comparison of the two Conventions.

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