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## COPYRIGHT LAW IN THE PEOPLE'S REPUBLIC OF CHINA

by

Roy J. Girasa\*

### Introduction

The People's Republic of China (P.R.C.) with its 1.2 billion population and its gradual assimilation of a market economy may surpass Japan in the near future in import and export trade. Trade between the United States and China annually exceeds \$30 billion (\$23 billion surplus in favor of China)<sup>1</sup> and it is anticipated that trade will dramatically escalate in future years. A major issue which has caused some friction between the two states is the protection of intellectual property rights in the P.R.C. After a review of the historical antecedents to its current legal progression, this paper will detail the laws and regulations protecting foreign and domestic copyrights afforded by the P.R.C.

China has had a long tradition of autocratic rule, marked with centuries of the rise and fall of great dynasties from about 2200 B.C. to 1911 A.D., led by emperors who possessed near absolute power. Except for a brief interlude of a republican government under Sun Yat-sen, China's history after the fall of dynastic rule was one of warlords and finally communist rule under Mao-Tse-Tung. The relationship of western powers to China is marked by a century of attempts to open and dominate China's market. There were sporadic aggressions including the Opium War with the British and the Boxer Rebellion of 1900. The ultimate victory of Mao Tse-Tung and his imposition of communist rule in 1949 closed China's door to global trade until 1972 when President Nixon made his historic trip to China.<sup>2</sup> The establishment of diplomatic and trade relations gave impetus to the gradual evolution of China's

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economy from a governmentally planned to a market economy, particularly after the death of Mao in 1976.<sup>3</sup>

In late 1972, China reactivated the Technical Export-Imports Corporation which was followed by turnkey countertrade contracts and a new open door policy for foreign enterprises. The encouragement of trade with the outside world, of necessity, led to the enactment of laws affording protection for foreigners. The first major enactment was the "Law of the People's Republic of China on Chinese-Foreign-Equity Joint Ventures."<sup>4</sup> Diverse tax and other economic incentives were offered to foreign investors in an effort to spur economic growth along the paths taken by Japan, Korea and other states in Southeast Asia.

Laws protecting intellectual property were enacted from 1982 and continuing to the present. The first of the laws was the 1982 "Trademark Law of the People's Republic of China."<sup>5</sup> It was followed in 1984 with passage of the "Patent Law of the People's Republic of China,"<sup>6</sup> the 1990 "Copyright Law of the People's Republic of China"<sup>7</sup> (the statute under discussion herein) and part of the "General Principles of the Civil Law of the People's Republic of China" (1990).<sup>8</sup>

In addition to the above statutory investments, China joined the Berne Convention for the Protection of Literary and Artistic Works (October 15, 1991) and entered into the Universal Copyright Convention (October 30, 1991). In 1992, the China Council passed the International Copyright Treaties Implementing Rules and in 1993 joined the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms.

Thus, legislatively, China has fully entered the global marketplace in its adherence to intellectual property protection. The difficulty to date, as discussed below, is the enforcement of its decrees and regulations.

### Copyright

The P.R.C. enacted the last of the major three intellectual property rights statutes in 1990, namely, the "Copyright Law of the People's Republic of China," which became effective on June 1, 1991. It was supplemented by the "Implementing Regulations of the Copyright Law" as well as by "Regulations for the Protection of Computer Software." It has constitutional protection. Article 47 of the Constitution of the People's Republic of China<sup>9</sup> provides:

"Citizens of the People's Republic of China have the freedom to engage in scientific research, literary and artistic creation and other cultural pursuits. The state encourages and assists creative endeavors conducive to the interests of the people that are made by citizens engaged in education, science, technology, literature, art and other cultural works."

The purpose of the law is to protect authors in their literary, artistic and scientific works as well as to encourage the creation and distribution of works in order to assist in the development of the state.<sup>10</sup> It coincides with Articles 19-24 of the Constitution which mandates the state's encouragement of such enterprises.<sup>11</sup> Obviously, there is a clear undercurrent operating herein. Inasmuch as private ownership of property in a communist state was de minimus, nevertheless, China enacted all of the intellectual property legislation to encourage investment and become the recipient of advanced technology. Not only are the works of Chinese citizens protected, but the law extends to foreigners initially publishing their works within China.<sup>12</sup> Also protected are foreigners publishing their works outside of China whose home states have a bilateral treaty protecting these works or are otherwise protected by international convention.<sup>13</sup>

Works include those of literature, art, natural and social sciences, engineering, technology and other works taking any of numerous specified forms, such as (a) written works; (b) oral works; (c) musical, dramatic, choreographic, storytelling works; (d) fine art and photographic work; (e) cinematographic, television and video work; (f) drawings of engineering and product designs; (g) maps, sketches and other graphic arts; (h) computer software; and (i) other works specified by law.<sup>14</sup> The implementing regulation expands on each category. For example, protection extends to "cross talk", "local art forms" and "facial movement."<sup>15</sup>

Excluded from protection are prohibited works (presumably pornography) and works which "prejudice the public interest."<sup>16</sup> Governmental laws, regulations and other output are not subject to copyright as well as news concerning current events, calendars, numerical tables, formulas and forms of general use.<sup>17</sup> Apparently, although laws and regulations escape copyright protection, nevertheless, collections of laws and/or rules may be protected by virtue of other provisions of law.<sup>18</sup>

As in the U.S., the emphasis of the subject matter of copyright is originality. The statute uses the word "created."<sup>19</sup> The word "created" is clarified in the Implementing Regulations (Article 3) wherein it is defined as referring "to intellectual activities from which literary, artistic and scientific works are directly resulted." Mere arrangement, consultation and support services for others engaged in the creative

process are not sufficient to warrant protection. Like U.S. law, originality is not necessarily novelty. An author may have derived all of his/her ideas from other authors. The unique mode of expression will suffice to receive protection.<sup>20</sup> Governmental administration of copyrights is not exclusive to the national authority (as in the U.S.) but also extends to local regions and municipalities.<sup>21</sup>

### Exclusivity

A copyright gives the owner thereof five basic rights with respect to subject matter. They are:

- (1) Right of divulgateion (publication), i.e., the right to decide whether or not to make public the protected work;
- (2) The right of authority (authorship), i.e., the right to claim one is the owner and to have his/her name stated on the work;
- (3) The right of alteration, i.e., the right to modify and authorize other to alter to change the work;
- (4) The right of integrity, i.e., the right to prevent others from distorting and mutilating the work; and
- (5) The right of exploitation and remuneration, i.e., the right to reproduce the work in any manner; to perform the work publicly in any manner; to broadcast; exhibit publicly; distribute copies such as by sale or rental; publish the work; make cinematographic, televised or video works; adaptation, translation, annotation, compilation and sorting-out (rearrangement) or the works.<sup>22</sup>

### Ownership

Ordinarily, the copyright of a work belongs to the person who created it (the author). If the work was derived under the sponsorship by an entity (e.g. joint venture or corporation) then the entity shall be the author. If an entity or other name appears on the work without the individual's name, then it is deemed to be the author in the absence of proof to the contrary (e.g. publisher's name only appears).<sup>23</sup>

Article 16 of the Statute differentiates two types of works: (1) works created by an employee under "ordinary" conditions wherein the employee is entitled to the copyright but the employer has the right to exploit the copyright for a two year period in its business; and (2) more specialized works such as engineering designs, drawings, maps, computer software and the like which were created while working for the employer and utilizing the employer's materials and technical facilities. In the latter situation, the employee has the right to be known as the author but the employer is entitled to the copyright and all benefits accruing therein.

If a work is a translation, adaptation, annotation or arrangement of a pre-existing work, and provided it does not conflict with the copyright of the underlying work, then the protection shall go to the person accomplishing the activity.<sup>24</sup> Unlike U.S. law, the Regulations seem to permit the grant of a copyright to such persons even if the authors having the pre-existing copyright of the original work object.<sup>25</sup> It is possible, however, that damages may be awarded against the compiler, translator, etc., however, for unauthorized use of such materials.

When there are two or more authors of a work, then the copyright extends to both of them. Each such person may have a separate copyright for those portions of a work which are divisible as independent units provided no prejudice occurs to the other author(s).<sup>26</sup> If the joint authors disagree on the exercise of the copyright (e.g. selection of a publisher, licensee, etc.), the Regulations state simply: "any party may not unreasonably prohibit the exercise by others of the said copyright."<sup>27</sup>

If a work is a compilation (encyclopedia, dictionaries and the like), the copyright shall go to the entity expending the resources for the compilation.<sup>28</sup> Copyright holders of the underlying works maintain their rights irrespective of the compilation. With respect to cinematographic, television or video work, authorship may be claimed by the director, lyricist, screenwriter, composer, a cameraman and other authors. The producer may also enjoy a copyright with respect to the work.<sup>29</sup> If permission is given by any such person to make a movie, television show or video work of such person's work, then the right to alter it is implied provided it is not a distortion or mutilation.<sup>30</sup>

### Duration

China grants authors unlimited time with respect to the right of authorship, alteration and integrity of the work;<sup>31</sup> however, the right to exploit the work, as well as remuneration, is limited to the life of the author plus fifty years. Where there are multiple authors, the fifty year period accrues from date of death of the last surviving

author. If the owner is a foreign entity or anonymous domestic concern, or where the copyright is for a cinematographic, television, videographic or photographic work, the term is limited to 50 years from first publication.<sup>32</sup> The property right accruing to copyrighted works descends to the author's heirs or devisees or to the state in their absence.

The limitation on rights of an author or owner of a copyright is fairly extensive. A work may be used without permission in ten circumstances, provided the identity of the author and title of the work is made known. They include: (1) use of work for individual study, research or entertainment; (2) use of an "appropriate quotation" (insubstantial); (3) media use for purposes of reporting current events, speeches and reprints; (4) translation of a small number of copies for use by teachers or scientific researchers solely for classroom use or scientific research; (5) use of the work by a state organization for performance of official duties; (6) reproduction of the work by a library, museum, art gallery and the like for exhibition purposes or to preserve a copy of the work; (7) performance of a published work provided the admission is free and no monies are paid to the performers; (8) copying, photographic, drawing a video taping of an artistic work displayed publicly; (9) translation of a published work by a Han nationality into minority nationality languages for local distribution of works originally created in Chinese; and (10) transliteration of a published work into Braille.<sup>33</sup>

#### Requirements For Use By Others

A person seeking to exploit a "copyrighted work" must receive permission in a written contract with the copyright owner, which shall specify the manner of use; its exclusivity; the scope and term of the license; the amount and method of remuneration; liability for breach and any other pertinent data.<sup>34</sup> The term of the licensing agreement is limited to ten years but the contract is renewable. The rate of remuneration is determined by the National Copyright Administration. Remuneration may also be stipulated by the parties to the licensing agreement. The statute makes clear that without explicit consent, no right may be inferred vis-a-vis against the copyright owner.

The Copyright Law specifies various requirements for book publishers, performances, sound and video recording and broadcasting. In summary, a book publisher must have concluded a written contract and pay remuneration to the copyright owner. The publisher has the exclusive right to publish the work for a renewable period of ten years. Each party is responsible for the performance specified by contract. If the publisher refuses to print additional copies or publish a new edition

of the book when all copies have been exhausted, the copyright owner has the right to terminate the contract. If a work is submitted to a newspaper or periodical for publication, and has not received notification to publish within 15 days from a newspaper publisher or 30 days from the periodical publisher from date of transmission to it, then the copyright owner may submit it to other publishers. A book publisher cannot modify the contents of the work without owner consent.<sup>35</sup>

A performer who exploits an unpublished copyright work must obtain permission from and pay remuneration to the owner. With respect to published works, a performer does not need to secure permission from the copyright owner but must pay remuneration to the said owner. A performer with respect to the performance is entitled to its exclusive benefits including the right to make live broadcasts, and authorize for money the recording of the performance for commercial purposes.<sup>36</sup> Similar rules apply to sound and video recordings as well as broadcasting by radio and television stations.<sup>37</sup> In essence, producers of the recordings and broadcasts are entitled to use the published works or performances of others by the payment of remuneration to the copyright owner. Note, however, that a radio or television station broadcasting a sound recording for non-commercial purposes is exempt for obtaining permission from or pay remuneration to the copyright owner, performer or producer of the recording.<sup>38</sup>

#### Liability

Civil liability does accrue for infringement but includes "making a public apology" as one of the remedies. It also provides for the payment of damages for infringement by a person(s) making public the work of the copyright owner without consent; distorting or mutilating a work of other, claiming wrongfully one is the creator of a work; exploiting the work of others through performance, exhibition, adaptation, broadcasting, translation, television or other means, without consent; and also by the publication of a work by a joint-owner of the copyright without the other's consent.<sup>39</sup>

Governmental authorities may also assess administrative penalties such as confiscation of unlawful income and imposing fines for serious violations of the copyright. Such acts include: plagiarizing a work of another; commercial reproduction of a work without consent; publication of a work licensed by another publisher; and reproducing a sound or video recording or a radio or television program of a performance, without consent. Mediation appears to be emphasized initially, thereby showing a penchant of Asian states for non-judicial remedies. Arbitration is permitted

by contract or consent of the parties. The People's Court is the ultimate arena for dispute resolution.<sup>40</sup>

### Judicial Remedies

The General Principles of the Civil Law confer jurisdiction upon the People's Court for matters litigated by the parties. In addition to the remedies specified in the intellectual property statutes, Article 118 expressly gives an injured party the right to demand "that the infringement be stopped, its ill effects be eliminated and the damages by compensated for." The Court, pursuant to Article 1343, may grant one or more of the following remedies:

- "(1) cessation of infringements;
- (2) removal of obstacles;
- (3) elimination of changes;
- (4) return of property;
- (5) restoration of original condition;
- (6) repair, reworking or replacement;
- (7) compensation for losses;
- (8) payment for breach of contract damages;
- (9) elimination of ill effects and rehabilitation of reputation; and
- (10) extension of apology."

The Court may also serve admonitions, order the offender to sign a pledge of repentance, confiscate property and/or income arising from the illegality, and/or impose fines or imprisonment as specified by law.

Intellectual property cases are heard by specialized people's courts. For instance, review decisions by the Patent Office of the Patent Re-examination Board are heard in the Beijing intermediate court, seated in Beijing. Judges who sit are selected according to their background in technology and foreign languages. The court may require a posting of security, attach or freeze assets as injunction.<sup>41</sup>

### Administration

The administration of the copyright laws and regulations are conducted by the National Copyright Administration (NACA) which is the copyright administration

department under the State Council. There are also local administrative authorities for copyright affairs in the regional and municipal levels. NACA is responsible for the enforcement of copyright law and regulations; investigating infringement cases; approval of collective administrative societies and supervising local copyright authorities.

Local authorities perform somewhat comparable duties within their domain including the administration of copyrights, investigation and prosecution of infringements, arbitrating copyright disputes, monitoring copyright transactions and supervising local administrative societies.

### International Copyright Treaties

The accession of China to international copyright treaties (Berne and Universal Copyright Conventions) caused the State Council to issue the "Implementing Regulations of the People's Republic of China and the Regulations on Computer Software Protection in 1992. Article 2 of the Implementing Regulations makes China's copyright laws and regulations applicable to the protection of foreign works. "Foreign works" are those works of authors whose countries are members of the said international conventions or who are not citizens of member-states but have had their works first published or simultaneously published in member-states or are created by consignees and owners of copyrights of Chinese-foreign joint ventures.<sup>42</sup>

Unpublished foreign works are also protected by the Copyright Law.<sup>43</sup> Foreign artistic works (except when applied in industrial goods) are given a 25 year protection from date of their completion. Foreign computer programs are protected on literary works and are given a 50 year protection.<sup>44</sup>

Foreign works compiled from unprotected materials but possess originality in the selection and arrangement of materials are granted protection as is a foreign video which constitutes a film product.<sup>45</sup>

Under the regulations, a copyright owner is given the discretion whether or not to license the performance or dissemination of performance of his (her) works including foreign films, television and videotapes. Except for articles concerning political, economic and social affairs, newspapers and journals require permission before reprinting foreign works. Copyright owners of foreign works may authorize or forbid reproduction of their works or the imposition of pirated reproduction or



unprotected reproductions. The Berne Convention is made applicable to the showing, recording or broadcasting of foreign works.<sup>46</sup>

#### Present Status

The U.S. has expressed much concern over China's alleged lack of enforcement of its intellectual property laws. Unauthorized software copying by China allegedly causes U.S. companies up to \$400 million annually in lost sales.<sup>47</sup> Pressure was placed on the U.S. by the International Intellectual Property Alliance and others to place China under the Special 301 watch list for the purpose of subjecting it to trade sanctions in accordance with the 1988 U.S. Omnibus Trade and Competitiveness Act.<sup>48</sup> As a result, China has been on the list on an annual basis.

China, although denying that large scale pirating does take place and further alleging that attempts to assert pressure will be to no avail, nevertheless, has substantially acceded to U.S. demands. As stated previously, it has joined the major global intellectual property conventions in response to U.S. threats to impose 100 percent tariffs on Chinese imports.<sup>49</sup> Although copyright protection is now the law in China, nevertheless, pirating still continues. The President of the Shenzhen Software Industry Association acknowledged that piracy exists but said that new pressures were being taken to lessen or eliminate the illegal practices.<sup>50</sup>

China's efforts appear to have convinced reluctant U.S. companies to license their products therein. Microsoft licensed MS-DOS in 1992 to a Chinese consortium after initially refusing to enter the market.<sup>51</sup> Chinese companies, which earlier would not consider suing for copyright violations, have now begun to assert their rights.<sup>52</sup> China has recently been praised by the Director-General of the World Intellectual Property Organization for its highly advanced legislation.<sup>53</sup> China has set up its first copyright school at the Beijing University Intellectual Property Rights School in order to educate students with respect to the requirements and enforcement of its intellectual property laws.<sup>54</sup> Chinese authorities resolved 2500 actions involving intellectual property rights in 1993.<sup>55</sup>

Although it appears that China is making some efforts to protect U.S. and other licensors, nevertheless piracy is still rampant. China has, in fact, moved from the Watch List of the U.S. Trade Representative to the Priority Watch List on November 30, 1993.<sup>56</sup> China's response is that it has established a modern copyright system in a third world state with little copyright awareness in a period of only 13 years. It is cooperating with world organizations and copyright-related organizations such as the U.S. Copyright Office in an endeavor to achieve its reforms. The General Secretary of

the Central Committee of the Communist Party, Jiang Zemin, stressed the importance of protecting intellectual property rights before the 14th National Congress of the Party in 1992. The general public is being educated to respect such rights. The central and local copyright administration authorities are disseminating and teaching copyright rules and resolving disputes.<sup>57</sup>

In conclusion, there is no doubt that China's statutory and regulatory enactments full comply with global protection schemes. Nevertheless, with constant outside pressure, China will gradually adhere to western standards for the protections desired.

#### ENDNOTES

<sup>1</sup> The Reuter European Business Report, Dec. 13, 1993.

<sup>2</sup> For a comprehensive fifteen volume history of China, see Roderick MacFarquhar and John K. Fairbank, ed., The Cambridge History of China (Cambridge: Cambridge University Press, 1987). A shorter, albeit extensive, history may be found in John King Fairbank, China: A New History (Cambridge, Mass.: Harvard University Press, 1992). A readable history of Pacific Rim countries is Frank Gibney, The Pacific Century: America and Asia in a Changing World (New York, Charles Scribner's Sons, 1992). The developments within China leading to the globalization of its economy may be found in Alexander Eckstein, China's Economic Revolution (Cambridge: Cambridge University Press, 1977). The Chinese perspective may be seen in Ma Hong, ed., Modern China's Economy and Management (Beijing: Foreign Languages Press, 1990).

<sup>3</sup> A fascinating account of President Nixon's establishment of relations with China is discussed in Henry Kissinger in White House Years (Boston: Little Brown and Company, 1979), esp. ch. XXIV.

<sup>4</sup> Adopted at the Second Session of the Fifth National People's Congress on July 1, 1979, promulgated by Order No. 7 of the Chairman of the Standing Committee of the National People's Congress effective July 8, 1979. The text and translation thereof was taken from The Law of The People's Republic of China, 1979-1982, (Beijing: Foreign Languages Press, 1987), pp. 150-153. The regulations may be found in "Regulations for the Implementation of the Law of The People's Republic of China on Chinese-Foreign Joint Ventures," issued by the State Council on September 20, 1983, China's Foreign Economic Legislation, Vol III (Beijing: Foreign Languages Press, 1987).

<sup>5</sup> Adopted at the 24th Meeting of the Standing Committee of the Fifth National People's Congress and promulgated by Order No. 10 of the Standing Committee of the National People's Congress on August 23, 1982 and effective as of March 3, 1983, hereinafter referred to as "Trademark Law."

<sup>6</sup> pted at the Fourth Meeting of the Standing Committee of the Sixth National People's Congress, promulgated by Order No. 11 of the President of the People's Republic of China on March 12, 1984, and effective as of April 1, 1985, hereinafter referred to as "Patent Law."

<sup>7</sup> Copyright Law of the People's Republic of China adopted at the 15th Meeting of the Standing Committee of the Seventh National People's Congress on September 7, 1990, promulgated by Order No. 31 of the President of the People's Republic of China on September 7, 1990 and made effective as of June 1, 1991.

<sup>8</sup> The General Principles of the Civil Law of the People's Republic of China adopted at the Fourth Session of the Sixth National People's Congress, promulgated by Order No. 37 of the President of the People's Republic of China on April 12, 1986, and effective as of January 1, 1987.

<sup>9</sup> Adopted at the Fifth Session of the Fifth National People's Congress and promulgated for implementation by the Proclamation of the National People's Congress on December 4, 1982 as amended at the Seventh National People's Congress at its First Session on April 12, 1988. The English text is published by the Foreign Languages Press, Beijing, 1990.

<sup>10</sup> Copyright Law, Article 1.

<sup>11</sup> The Constitution provides that the state is to undertake the raising of "the scientific and cultural level of the country by establishing universal education" (Article 19), promoting the development and dissemination of science and technology (Article 20), developing medical and health services (Article 21), encourage the growth of art and literature (Article 22) and the expansion of intellectual facilities and faculty (Articles 23 and 24).

<sup>12</sup> Chinese citizens include those persons residing in Taiwan, Hong Kong, Macau and other citizens living beyond China's borders. Foreigners initially publishing their works within China refer to unpublished works published for the first time within China, whether in original, translated or adapted form. It also includes works initially published outside of China but republished in China within 30 days thereof. Shen Rengan, Copyright Law and Copyright Protection in China, unpublished paper delivered at Fordham University School of Law, Second Annual Conference on Intellectual Property Law and Policy, April 7, 1994.

<sup>13</sup> Ibid., Article 2. The Provision for the Implementation of International Copyright Treaties, promulgated in Beijing in September 25, 1992, protects "foreign works" which are defined (Article 4):

1. Works whose authors or one of their authors, other copyright owners or one of their copyright owners are citizens of member-states of international copyright treaties, or are residents owning regular residences in member-states of the treaties;
2. Works whose authors are not citizens of member-states of member-states of international copyright treaties nor residents owning regular residences in member-states of the treaties, and who have had their works first published or simultaneously published in member-states of their treaties;
3. Works created by consignees at the behest of sino-foreign joint ventures, or sino-foreign joint ventures and foreign-invested enterprises, who are copyright owners or one of the copyright owners as specified in relevant contracts".

<sup>14</sup> Ibid., Article 3. Compare U.S. Copyright Law, 17 U.S.C.A. Sec. 102(a) wherein protection is given to expressions "in original works of authorship fixed in a tangible medium or expression, now known or later developed." The Implementing Regulations to the China Copyright Law, Article 2, appears to follow the U.S. It states the works referred as an "original intellectual creations in the literary, artistic and scientific domain, in so far as they are capable of being reproduced in a certain tangible form" (emphasis added).

<sup>15</sup> Chinese law appears to be broader in this respect. Copyright protection was denied to an actor who created a distinct dress and appearance for a cowboy in a television series. Columbia Broadcasting System v. DeCosta, 377 F.2d 315 (1st Cir., 1967).

<sup>16</sup> Copyright Law, Article 4.

<sup>17</sup> Ibid., Article 5.

<sup>18</sup> The State Council of China on July 29, 1990, published "Rules on the Publication of Collections of Law and Rules" which forbid their unofficial publication to ensure correctness and quality of the translation. See Zheng Chengsi and Michael Pendleton, Copyright Law in China (North Ryde, Australia: CCH International), 1991, p. 82. The text of the Copyright Law is taken from this publication.

<sup>19</sup> Copyright Law, Article 3 states: "For the purposes of this law, the term "works" include works of literature...and others which are created..." (emphasis added).

<sup>20</sup> Compare similar comments by Chengsi and Pendleton, op. cit., pp. 107-109 with Arthur R. Miller and Michael H. Davis, Intellectual Property: Patents, Trademarks, and Copyrights (St. Paul, Minn.: West Publishing Co., 1983) pp. 289-290.



<sup>21</sup> Copyright Law, Article 8 and Copyright Regulations, Articles 7 and 8. The National Copyright Administration does supervise local administration, particularly in providing guidance to it.

<sup>22</sup> Copyright Law, Article 10 and Copyright Regulations, Article 5. Compare the five exclusive rights in U.S. law under 17 U.S.C.A. Sec. 101. The right of authority, alteration and integrity are personality rights whereas the right of exploitation and remuneration are property rights. Personality rights are given greater protection than property rights. Shen Rengan, *op. cit.*

<sup>23</sup> Copyright Law, Article 11.

<sup>24</sup> Ibid., Article 12. Compare Section 17 U.S.C.A. 201.

<sup>25</sup> Copyright Regulations, Article 10.

<sup>26</sup> Copyright Laws, Article 13.

<sup>27</sup> Copyright Regulations, Article 11.

<sup>28</sup> Copyright Law, Article 14 and Copyright Regulations, Articles 12 and 14. Compare 17 U.S.C.A. Sec. 201.

<sup>29</sup> Copyright Law, Article 15.

<sup>30</sup> Copyright Regulations, Article 13.

<sup>31</sup> Copyright Law, Article 20.

<sup>32</sup> Copyright Law, Article 21 and Copyright Regulations, Articles 23-25. Compare 17 U.S.C.A. Sec. 302 which has a similar life plus 50 years after publication.

<sup>33</sup> Copyright Law, Article 22 and Copyright Regulations, Articles 26-31. Compare the fair use doctrine enunciated in 17 U.S.C.A. Sec. 117.

<sup>34</sup> Copyright Law, Articles 23-24. Exception is made for newspapers and periodicals (Copyright Regulations, Article 32), wherein an oral license may be permitted.

<sup>35</sup> Copyright Law, Articles 29-34.

<sup>36</sup> Ibid., Articles 31-36.

<sup>37</sup> Ibid., Articles 37-44.

<sup>38</sup> Ibid., Article 43.

<sup>39</sup> Ibid., Article 45.

<sup>40</sup> Ibid., Articles 45-50. Compare 17 U.S.C.A. Sec. 502a) which provides for reasonable injunctive relief as well as damages, loss of profits and statutory damages. Criminal penalties as well as attorneys fees and costs may also arise. 17 U.S.C.A. Sec. 505 and 506(a).

<sup>41</sup> Ibid., pp. 8-9.

<sup>42</sup> Implementation Regulations, Article 4.

<sup>43</sup> id., Article 5.

<sup>44</sup> Ibid., Articles 6-7.

<sup>45</sup> Ibid., Articles 8-9.

<sup>46</sup> Ibid., Articles 10-16.

<sup>47</sup> Comments by Assistant U.S. Trade Representative, Joseph Massey, Los Angeles Times, March 4, 1991.

<sup>48</sup> East Asian Executive Report, March 15, 1991.

<sup>49</sup> The Washington Times, January 18, 1992.

<sup>50</sup> Deng Aiguo, South China Morning Post, November 4, 1992.

<sup>51</sup> South China Morning Post, November 13, 1992.

<sup>52</sup> United Press International, November 23, 1992.

<sup>53</sup> Xinhua General overseas News Service, September 13, 1993.

<sup>54</sup> Agence France Presse, December 16, 1993.

<sup>55</sup> Agence France Press, December 22, 1993.

<sup>56</sup> Ethan Horwitz, Key Trademark Issues in Asia, unpublished paper delivered at the Fordham University School of Law, Second Annual Conference on International Intellectual Property Law and Policy, April 7, 1994.

<sup>57</sup> Shen Rengan, op. cit.

**AN INTERDISCIPLINARY MODEL FOR TEACHING  
AN UNDERGRADUATE COURSE ON LAW AND ECONOMICS**

by

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During the Spring semester of 1993, the business college at New Mexico State University (NMSU) offered a class entitled "Law and Economics". This course was created in response to the perceived need to accommodate the interests of undergraduate business students who were seeking a law-related business elective in their program of studies. The course was taught in team fashion by an economist and the senior business law faculty member at NMSU.

The course proposed to provide undergraduate business students with an appreciation of the coextensive nature of economics and the American legal system.<sup>1</sup> The business college was interested in offering interdisciplinary electives that promoted critical thinking while developing the student's understanding of the interrelationships between various business disciplines. At the same time, the college had faculty within the economics department and legal studies field who were both interested in exploring the expanding role of economic analysis in legal reasoning including applications outside the typical market issues<sup>2</sup>, as well as practical applications of economic analysis in the courtroom.<sup>3</sup> With these factors in mind, a course on law and economics provided a perfect fit.

This article describes the framework for a course that is not widely offered in business colleges, but warrants consideration by programs at other business

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