

简明法律英语教程：口语与实践

A Concise English Course for Law:

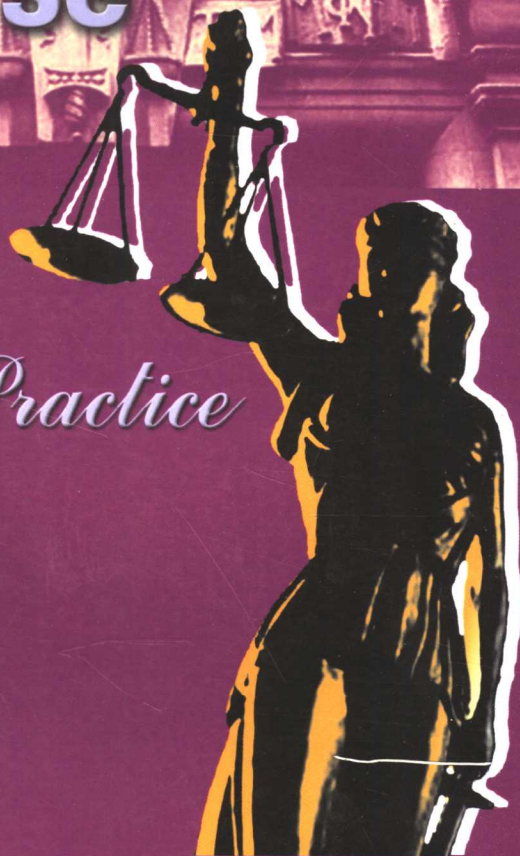
Legal Practice

熊云英 编著
石江水



ZHEJIANG UNIVERSITY PRESS

浙江大学出版社



简明法律英语教程:

口语与实践

A Concise English Course for Law:

Legal Practice

熊云英 石江水 编著

浙江大學出版社

图书在版编目(CIP)数据

简明法律英语教程:口语与实践 / 熊云英编著. —杭州:
浙江大学出版社, 2006. 8
ISBN 7-308-04871-3

I. 简... II. 熊... III. 法律—英语—口语—教材
IV. H319. 9

中国版本图书馆 CIP 数据核字(2006)第 095316 号

出版发行 浙江大学出版社
(杭州天目山路 148 号 邮政编码 310028)
(E-mail: zupress@mail. hz. zj. cn)
(网址: <http://www.zjupress.com>)

责任编辑 张 琛

封面设计 宋纪浔

排 版 浙江大学出版社电脑排版中心

印 刷 浙江大学印刷厂

开 本 850mm×1168mm 1/32

印 张 6.25

字 数 162 千字

版 印 次 2006 年 8 月第 1 版 2006 年 8 月第 1 次印刷

书 号 ISBN 7-308-04871-3/H·394

定 价 15.00 元

序 言

本书的编著者熊云英、石江水均为西南科技大学法学院教师,有着较扎实的英语基本功。熊云英老师本科阶段主修英语,并以优异的成绩通过了国家英语专业八级考试,二位教师在研究生学习期间分别主修国际经济法和民商法学,毕业后长期从事教学工作并兼职从事律师实务工作,这些都为作者写好这本实用性较强的法律英语读本积累了理论与实践经验。

作者花费相当时间和精力,收集了大量国内外资料完成的这本《简明法律英语教程:口语与实践》在很多方面有着自己的创新和突破,我认为它是涉及英语法律实务的极具参考价值的一本大学教学用书和法律实务工具书。该书具有以下几个鲜明特征:第一,信息量大,内容丰富。全书涉及法律实务中的各种情景对话和情景演练,二十余种常用的法律文书(包括多种常用合同、法律意见书、律师函、授权委托书、公司章程等)的阅读与写作,以及内容丰富的法律英语翻译练习。第二,内容趣味性强,寓学于乐。书的每一课都包含有趣的故事(如书中的全部情景对话以美国人 Mary 和中国人

Young 在律师事务所的实习展开,每课中的情景演练也都由前来寻求法律帮助的人“口述”发生在其身上的故事),令读者在学习专业知识的同时或增长见识或开怀一笑。例如,4月1日这天律师事务所负责人 Jeff 为难 Mary 和 Young,让她们在不参考任何资料的情况下草拟一份专有技术许可合同,待两人辛勤努力即将完工时却被告知这只是个愚人节玩笑!记住这个有趣的故事,相信读者也就不容易忘记在该段对话中学到的关于专有技术许可合同的基本条款和事项了。第三,实用性强,针对性强,内容贴近我国涉外法律实务。我想这点也得益于作者在涉外律师事务所的工作经历。书中主要涉及合同法、公司企业法、投资法和国际贸易法(包括反倾销等)的内容,而这些都是我国法律实务界涉外法律服务的主要部分。

在法律英语研究方面,这是作者继《简明法律英语教程》之后取得的又一教学研究成果。我期待二位作者在做学问的道路上永无止境,今后继续为读者奉献出更多更好的作品,故乐为之序。

廖 斌

西南科技大学法学院院长、教授、博士

2006年6月

前 言

当今世界经济的开放程度愈趋深化,中国也正以更开放的姿态融入世界。但遗憾的是,中国的法律服务业由于严重缺乏通晓英语的法律人才而无法涉足高端的跨国法律服务市场,无法为国内“走出去”参与国际竞争的企业、产品和服务提供优质的法律服务,维护其利益,也无法为“请进来”的国外企业和个人提供良好的法律服务。2005 年有资料显示,我国十几万人的律师队伍中,能办涉外业务的律师不过 2000 余人;能够熟练运用外语谈判,签订合同的律师也仅 2000 多人。这种状况阻碍着我国法律服务业的发展,以及从业人员参与国际竞争,与国际法律服务业接轨的进程。

有鉴于此,本书的编写目的就在于通过各种模拟的法律实务口语情景演练和各种法律文书的阅读和写作练习,提高读者实际运用法律英语处理法律事务的能力。本书以课为单位安排内容,生动活泼,信息量大。每课均包含情景演练和案例讨论等口语练习(每课的情景演练具有连贯性和故事性,但每课演练的具体内容和重点均不同),大量的法律文书(如合同、公司章程、法律

意见书和律师函等)的阅读和写作练习以及一定量的翻译练习。此外,由于法律英语语汇中外来语较多较复杂,为便于读者学习和掌握常用的外来语语汇,本书在附录中编入了法律英语常用外来语语汇及其英文翻译。

本书是《简明法律英语教程》(浙江大学出版社2004年版)的高级篇和实践篇,阅读和使用本书的读者需要有一定的法律及法律英语方面的基础知识。本书除特别适用于法学本科阶段的双语教学和法学研究生阶段的专业英语教学之外,还可作为法律服务业从业人员自学和提高法律英语运用能力的参考书及法律实务界人士的工具书,并可供其他有志于熟练掌握法律英语的人士自学之用。

本书也是西南科技大学法学品牌专业建设项目的一部分成果。全书由熊云英整体构思设计,并与西南科大法学院石江水老师共同写作初稿,最后由熊云英统一修改定稿。本书在出版过程中承蒙浙江大学出版社及责任编辑诸葛勤老师的大力支持,也得到了西南科技大学法学院的鼎力扶持,特此深表谢意。由于编著者水平有限,错误及偏颇之处在所难免,恳请读者指正。

熊云英

2006年5月

目 录

Lesson One

Section One Oral Practices (1)

Section Two Functional Practices in Legal Vocabulary,
Legal Reading, Writing, Drafting and Translation
..... (8)

Keys to Section Two (15)

Lesson Two

Section One Oral Practices (18)

Section Two Functional Practices in Legal Vocabulary,
Legal Reading, Writing, Drafting and Translation
..... (25)

Keys to Section Two (32)

Lesson Three

Section One Oral Practices (34)

Section Two Functional Practices in Legal Vocabulary,
Legal Reading, Writing, Drafting and Translation
..... (43)

Keys to Section Two (54)

Lesson Four

Section One Oral Practices (57)

Section Two Functional Practices in Legal Vocabulary, Legal Reading, Writing, Drafting and Translation	(63)
--	--------

Keys to Section Two	(72)
---------------------------	--------

Lesson Five

Section One Oral Practices	(75)
----------------------------------	--------

Section Two Functional Practices in Legal Vocabulary, Legal Reading, Writing, Drafting and Translation	(81)
--	--------

Keys to Section Two	(89)
---------------------------	--------

Lesson Six

Section One Oral Practices	(91)
----------------------------------	--------

Section Two Functional Practices in Legal Vocabulary, Legal Reading, Writing, Drafting and Translation	(97)
--	--------

Keys to Section Two	(104)
---------------------------	---------

Lesson Seven

Section One Oral Practices	(106)
----------------------------------	---------

Section Two Functional Practices in Legal Vocabulary, Legal Reading, Writing, Drafting and Translation	(112)
--	---------

Keys to Section Two	(119)
---------------------------	---------

Lesson Eight

Section One Oral Practices	(122)
----------------------------------	---------

Section Two Functional Practices in Legal Vocabulary,	
---	--

Legal Reading, Writing, Drafting and Translation	(131)
Keys to Section Two	(138)
Lesson Nine	
Section One Oral Practices	(141)
Section Two Functional Practices in Legal Vocabulary, Legal Reading, Writing, Drafting and Translation	(146)
Keys to Section Two	(157)
Lesson Ten	
Section One Oral Practices	(159)
Section Two Functional Practices in Legal Vocabulary, Legal Reading, Writing, Drafting and Translation	(166)
Keys to Section Two	(178)
Appendix	
Frequently Used Foreign Words and Expressions in Legal English	(182)



Lesson One

Section One Oral Practices

Part I Field Practice: Go through the Dialogue below and Practise in Pairs.

(Young and Mary are trainees at ABC Law Firm. Mary is from the U. S. A. and Young is Chinese. The big boss of the law firm is Mr. Jeff Honest.)

Jeff (*hereafter referred to as J*): Young, I have three visitors this morning. I need your help. Can you talk to the one waiting in the meeting room?

Young (*hereafter referred to as Y*): All right. Where's the file?

J: He's not documented yet. He's here for the first time.

Y: OK. I'll make a file, then.

(in the meeting room)

Y: Good morning. My name is Jennifer Young.

Robert: Good morning, Ms. Young. I'm Robert Shakes.

Y: Hello, Mr. Shakes. Take a seat, please. Let's go straight to the business. How do you spell "Shakes"?

R: S-H-A-K-E-S.

Y: Can I have your address and phone number?

R: Yes, of course. 16 Winter Street. That's where my company is located. The telephone number is 8233—6867.

Y: 16 Winter Street. 8233—6867. OK, Mr. Shakes, what seems to be the problem?

R: I own a company in the suburb of Suzhou. We're primarily engaged in manufacturing and selling cookies and fruit pies. Every thing went well until suddenly I was told by the local AIC officials to terminate the business.

Y: When was that?

R: Three days ago, on May 5th.

Y: Did they say why you had to close the business?

R: Yes. They said that the cookies contain unhealthful additives and preservatives. But that is not true. It must be a mistake.

Y: Did they present any evidence to you?

R: Just some samples of the cookies, nothing else.

Y: Did they tell you that you have the right to request a hearing?

R: No. Do I have the right of requesting a hearing?

Y: Yes. What have you done about the AIC's decision so far?

R: Nothing material. I've been busy seeking help since May 5th.

Y: Mr. Shakes, I'd like to, first of all, make you well informed about the situation. The administrative act made



by the administrative authority, that's the AIC in this case, is defective because it was issued without observing prescribed procedures.

R: What can I do?

Y: Since the administrative act is void, you may ignore it.

R: What if they came to enforce the act and to force me to end the business?

Y: You have two options. You may complain to the supervening authority, the municipal AIC or the local government. The alternative is to file a suit against the administrative authority.

R: When can I do that?

Y: You may file for administrative review within 60 days after the administrative act is made known to you.

R: What about judicial review?

Y: You can file for judicial review within three months of your knowledge of the administrative act.

R: That's good. Thank you so much.

Y: You're welcome.

Words and Expressions

additive

添加剂

preservative

防腐剂

hearing

听证会

AIC(Administration of Industry and Commerce)

工商行政管理机关

administrative act/ administrative authority

行政行为/行政机关

supervening authority 上级主管机关

Part II Role-play

Company A is located in Texas, U. S. A. , while Company B is a Chinese legal entity. A is eager to clear out a set of used machines purchased eight years ago and it so happens that B is seeking for such machines. The two parties then sit at the negotiation table.

Instructions: *Students get into groups of four , with two acting as the representatives of Company A , and the other two as the representatives from Company B.*

Facts for representatives of Company A:

- (1) The same machines but new are available at the market now at \$ 116,500.
- (2) Every part of the equipment is in good condition.
- (3) The company had an offer from a professional distributor to buy the machines for \$ 86, 500. You will accept that offer unless better deal immediately materializes.
- (4) Extensive advertising has been putting on, which is expected to attract the attention of most prospective buyers.

Lesson One



- (5) You are the company's full-authority negotiator (and you may produce the Power of Attorney) and you're empowered to complete the deal at any price above \$86,500.
- (6) The machines have to be removed from the storage in ten days because the warehouse is to be occupied by new ones.
- (7) It would cost \$6,500 to have the machines delivered to where B is located and you won't bear the cost of delivery. Thus, you are only willing to accept such trade terms as FOB or FCA.
- (8) You insist that you retain the title of the machines until full payment is made to you.
- (9) As to payment, you prefer payment made through an irrevocable letter of credit payable at sight.

Facts for the representatives of Company B:

- (1) You expect to pay \$75,600 for the machines and that amount of money is on hand. You are willing to pay 30% of the contracted price in advance and to pay the balance after the machines are installed at your place.
- (2) You only need 80% of the equipment and the other 20% is a waste of money.
- (3) You estimate that new machines of the same kind would cost \$115,300 to \$116,000 today.
- (4) No other same used machines are available anywhere.

- (5) You're willing to pay \$87,000 if the machines are really in great condition. And the price you offer includes the cost of delivery.
- (6) You can't take delivery in ten days. You need enough time to book the ship and clear the customs. Besides, you have to make good preparations for taking the delivery.
- (7) Explicitly state that the machines should be installed at a subsidiary in Turkey and ask the seller to make sure that the machines won't infringe any existing intellectual property right.
- (8) Where differences and disputes arise, you want to resort to arbitration for their settlement.

You may expand the conversation anyway you wish and make it as interesting and instructive as possible.

Part III Case Discussion

Problem 1 A owns a house in the outskirts of a city. B is his stepbrother. By contribution of money and labor, B helped repair and improve the house, and then A and B agreed that B became the owner of one-third interest of the house. They had the house insured in the name of both. Some time later B ended up with nothing thanks to continuous gambling and couldn't make two ends meet. B turned to A for help but A turned him down. Out of hatred to A,



B willfully burned the house to the ground.

Questions: Can A enforce the insurance policy and recover damages from the insurer? Why or why not?

Problem 2 A agreed to sell 1,000 air conditioners to B, DES (B's port). The air conditioners were transported by ship to the designated port where they were unloaded to the customs shed for inspection. Before B could arrive to pay the customs duties and take delivery of the air conditioners, the customs shed caught fire and were burned down, resulting in the destruction of the air conditioners.

Questions: Who's responsible for the loss? Is A liable to B for the loss?