

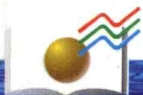
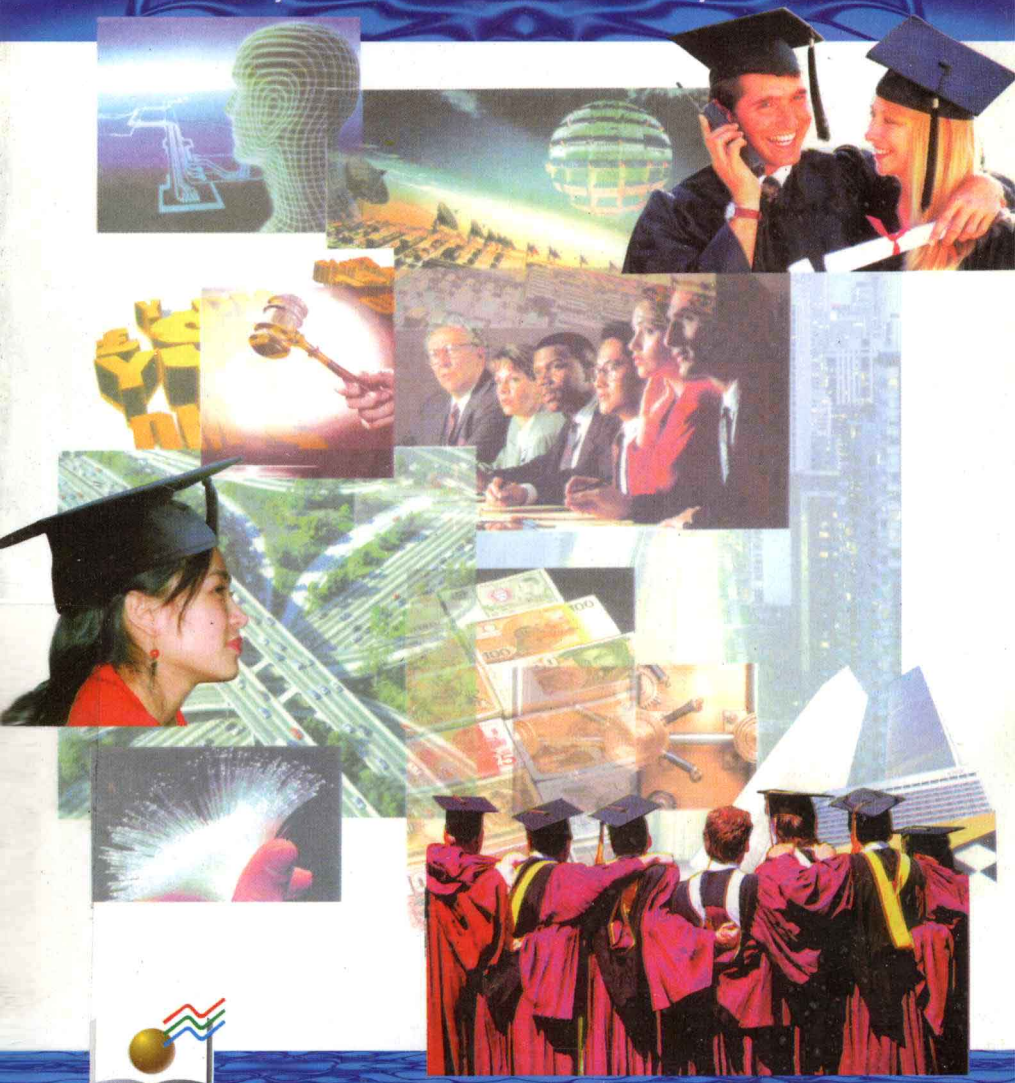
Toward the Next Century
Face to the World
跨越世纪 面向世界

500

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International Business and Civil Law

University of California Stanford University Law School



China Central Radio and TV University Press

International Business and Civil Law (1)

University of California
Stanford University Law School

China Central Radio and TV University Press

(京)新登字 163 号

像字:01-1996-014 号

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国家教委电化教育音像出版社授予中央广播电视大学出版社在中国以图书形式出版本系列作品的专有使用权

图书在版编目(CIP)数据

国际商务民事法规通则(1):英文/美国加州大学,美国斯坦福大学法学院著-北京:中央广播电视大学出版社,1997.2

(跨越世纪、面向世界 500 讲)

电视教育系列课程

ISBN 7-304-01387-7

I. 国… II. ①美… ②美… III. 国际商法:民法-法规-概论-英文 IV. D997.1

中国版本图书馆 CIP 数据核字(97)第 02313 号

International Business and Civil Law

(1)

中央广播电视大学出版社出版发行

社址:北京市复兴门内大街 160 号 邮编:100031

北京印刷二厂印刷

开本 850×1168 1/32 印张 11.375 千字 364

1997 年 2 月第 1 版 1997 年 2 月第 1 次印刷

印数 1—3000

定价 15.00 元

ISBN 7-304-01387-7/G·261

出版说明

距世纪之交,仅仅剩下四年了。下一个世纪,究竟是谁人的世纪?

中国,犹如一头醒狮,带着 5000 年的文明,闪耀着新时期的灿烂,准备再造辉煌。

人们在寻找着跳板,一块能跨越世纪之壑,腾飞强国之林的跳板。人才,人才,还是人才。只有加速培养千千万万个跨世纪的、与国际接轨的、具有全球意识的复合型人才,我们的国家才能兴旺,我们的民族才能再现辉煌。

人们在寻找着窗口,一扇能折射当代科技文明结晶,预示未来世纪变幻的窗口。

大型电视教育系列课程《跨越世纪、面向世界 500 讲》正是这样的窗口,一扇不出国门,就能领略当今世界经济、科学发展趋势,共享国际一流教育资源的窗口。

由美中远程教育合作发展基金会、中国科学技术发展基金会、上海法学教育发展基金共同资助策划,上海市教育发展基金会参与发起,国家教委电化教育音像出版社、中央广播电视大学出版社出版发行的大型电视教育系列课程《跨越世纪、面向世界 500 讲》,共分五大序列:《二十一世纪的信息革命》、《现代化城市管理》、《现代企业与商业的经营管理》、《金融财税业的现代化管理》、《国际商务民事法规通则》。每一序列电视课程分别为 80~100 讲,每一讲约为 50 分钟,每序列文字教材共分三册,近一百万字。分中文版与英文版共计三十册。

担任授课的学校为世界一流的美国加州大学柏克利分校和美国斯坦福大学法学院以及在美国商学院中名列前茅的加州旧金山州立大学商学院。主讲教授均为本学科领域内公认的权威人士,他们不仅有着资深的教学经验,同时还具备丰富的实践经验。

大型电视教育系列课程《跨越世纪、面向世界 500 讲》全部在美国实景拍摄。本次教学活动采用了最先进的多媒体手段，在讲课过程中既有课堂教学，又有情景示范；既有实例演示，又有问题研究；既有历史演变过程，又有最新发展成果；既有理论深度，又有实践指导意义。本课程教学大纲，曾征询了北京大学、清华大学、中国人民大学、上海大学等全国四十多所大学以及中国继续教育联合学院等三十余个成人教育机构从事实践工作的专家、学者、领导们的意见，并进行了补充与调整，使之更符合中国的实际需求。为了进一步把好视听教材与文字教材的质量关，我们除了聘请一批具有教授、副教授、译审、副译审职称的相关专业的专家学者进行编译、审校之外，国家教委电化教育音像出版社和中央广播电视大学出版社还成立了出版工作委员会，具体指导、督促视听及文字教材的出版发行工作。

大型电视教育系列课程《跨越世纪、面向世界 500 讲》一推出，就受到了社会各界的广泛欢迎。北京大学、清华大学、中国人民大学、复旦大学、中山大学、南开大学、吉林大学、西安交通大学、上海大学等一百余所大学及成人教育机构，纷纷签约购买了本课程的教学使用权。国家人事部、国防科工委、中国科协向全国各省市、部委发文，把此系列课程作为全国专业干部继续教育的一项重要内容。司法部、上海市等一些部委和地区的主要领导，不仅全力支持，而且还要求有关领导干部带头学习，掌握更多的现代化科技管理和法律知识，更好地实施科教兴国战略。

本系列课程中文教材，是在保持原作者讲课内容的基础上，根据英文原稿编译而成的。由于时间仓促，难免有不当之处，敬请指正。教材中的内容均为作者自身的观点，并不代表编译出版者的立场，因此仅供参考。

编者

一九九六年十月二十五日

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Intellectual Property Law

This section is an overview of intellectual property law and some of the specifics regarding sources of intellectual property law and how policy surrounding how intellectual property law is used and governed.

1.1 Scope of the Term “Intellectual Property”

(Jeffrey Cannon)

Intellectual property is an outgrowth of law formerly known as industrial property and includes the protection of concepts, inventions, ideas and other patentable and otherwise protectable information and products. As time has gone on, primarily funded and fueled by the revolutions of the biotechnology and computer industry, intellectual property has grown into a body of law all its own. It has been subdivided into various aspects of industrial property law. It is really its own body of law and has its own set of rules and policies.

1.1.1 Definition of Intellectual Property

Intellectual property has been described as protectable and tangible products of the mind, apart from their physical embodiment which are the result of human thought, creativity or invention. All

intellectual property is the result of human thought or creativity. In order to qualify as intellectual property and protectable products or information of intellectual property certain criteria must be met.

1.1.2 Types of Intellectual Property

A. Patents

Patents form one of the largest areas of intellectual property. Under American law, patents are protected under a specific body of statutory and case law. There are several different types of patents and there are a number of criteria that must be complied with in order to attain patent protection. Among the various types of patents there are design patents, utility patents which cover useful items of utilitarian nature, and plant patents which govern botanical and other types of plant forms that are subject to patent protection.

B. Trademarks

The area of trademarks is another form of intellectual property. Trademarks are also governed by American Federal Law. While they are often considered a consumer type of protection scheme in that they are designed to prevent likelihood in the mind of the consumer as to origin of goods, they are really designed also for business protection. They also identify the source of goods and services and allow companies who invest heavily in their goodwill to protect that goodwill by trademarking their goods and services for reference by the public.

C. Copyrights

Copyrights are another form of intellectual property. They are governed by American Federal Law and pertain primarily to works of a textual nature, performing arts, sound recordings, and that type of thing that are fixed in a tangible medium of expression.

D. Trade secrets

Trade secrets are unique in intellectual property in that they are about the only form of intellectual property that is not governed by Federal Law. Rather they are governed by the individual laws of the states. Trade secrets pertain to proprietary business information and relate to the unauthorized user disclosure of secret business

information either arising through a confidential relationship or through contractual arrangement.

E. Semiconductor mass works

Semiconductor mass works involve the use of manufacturing techniques in the semiconductor industry. That is they are a specific statutorily protected form of intellectual property.

F. Publicity rights

Publicity rights also are protected as intellectual property under certain circumstances.

The first four of these areas, patents, trademarks, copyrights and trade secrets, really combine the primary body of law and intellectual property schemes in protecting the types of intellectual property that are seen most commonly in commerce, arts and literature. Intellectual property has a couple of competing tensions at work. It is not a straightforward application of either policy or statute in how you handle intellectual property, both from the aspect of identifying and categorizing intellectual property but how intellectual property is protected and used.