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Analysis of criminal cases regarding the new IPR laws

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Abstract

IPR laws are supervised by the Ministry of Economic Affairs as part of the laws of economics. The Intellectual Property Office of the Ministry takes the responsibility to amend the laws when necessary but usually without the participation of judges. Even so the courts handle the criminal cases when people are accused of crime involving IPR infringement. Because judges lack information regarding the original intent of the legislation, judges have difficulties to find an exact application of the new laws. Furthermore, with the impact of the recent amendment of criminal procedure code judges not only have to adapt to new structures of the IPR rights but also to comply with the new procedure regulations to make sure that the bench has an exact way to question the parties, define the issues of law and facts, and choose the appropriate experts to help the court make a decision. Based on the recent amendments both of trademark law and copyright law and his trial experiences, this article written by an IPR court judge of the Taiwan High Court analyzes some issues from a practical perspective and from the legislature side and tries to give his own opinions in order to benefit the bench and lawyers when facing the problems of IPR criminal cases.

Keywords: new Trademark Law, new Copyright Law, new Criminal Procedure, practical issues, issues of law