



US wins copyright case

MICROSOFT, Autodesk and WordPerfect of the US have recently won a copyright infringement case in China against Beijing Juren Computer Company. The Intellectual Property Chamber of the No. 1 Intermediate Court found Juren guilty of infringing software products of its US counterparts and ordered it to end all illegal activities.

The pirated software included MS-DOS 5.0, 6.0 and 6.2 versions, Windows 3.1 English version, Windows 3.1 Chinese Beta version, MS-DOS 6.2 Chinese Beta version, Microsoft Foxpro for Windows version 2.5, Autocad version 12.0, 3D Studio R2 and WordPerfect version 5.2 for Windows.

At the petition of the complainants, the intellectual property tribunal for the first time raided the defendant's factories and seized its software, hardware and financial records, used as evidence for the violations of intellectual properties.

The court ordered Juren to make a public apology to the US companies in the *China Legal Daily* and *China Computer News*, as well as to com-

pensate for their losses.

Commenting on the incident, David Buxbaum, Attorney at the Law Offices of Arnberger, Kim, Buxbaum & Choy, said: "These cases are evidence of the commitment of legal authorities as well as the Chinese government as a whole to protect and uphold intellectual property...of course, much remains to be done, as discussion between Wu Yi of MOFTEC and Charlene Barshefsky of the USTR make evident."



Buxbaum... "evidence of the commitment"

Bay Networks links Fudan

BAY NETWORKS INC. an international vendor of network management products, was chosen by Fudan University in Shanghai as the supplier of advanced inter-networking systems within the campus. The company will provide Fudan with 155 Mbps ATM campus networks, making Fudan the first tertiary institution in China to have such ATM switching technology.

The Fudan ATM project is a joint effort to enhance China's educational networks, as well as to boost its research and development levels. It will connect the new and existing campus networks into a single system, which includes a host of information servers and application servers, an ATM

switch and related inter-networking facilities. In addition, the network will include X.25 connections, microwave links, leased DDN lines and LAN protocols to allow for such high-bandwidth applications as video-conferencing and multimedia.

According to Yang Fujia, Principal of Fudan University, the selection process for the service provider was extensive. "The proposal was submitted by the Shanghai Chengjiang Group, and it includes ATM products from Bay Networks as well as some equipment from Sun Microsystems." He said the group will act as a system integrator in charge of the network building project.

AlliedSignal launches two ventures

ALLIEDSIGNAL INC. a high-tech manufacturing company, and chemical fibre firm Kaiping Polyester Group Ltd have recently formed two joint ventures in Kaiping of Guangdong province. AlliedSignal, which owns 70% of the existing production facilities in Guangdong, will undertake operational control of both joint ventures.

The AlliedSignal (Kaiping) Industrial Fibres Co Ltd will produce industrial polyester fibre, while AlliedSignal (Kaiping) Industrial Fabrics Co Ltd will manufacture industrial polyester fabric. The fibre and fabric are used to make automotive tires, tents and tarps, as well as conveyor belts and V-belts. Both ventures, which became operational on July 1, are anticipated to generate US\$30 million of sales in 1997.

The companies believe that the demand for industrial polyester in Asia will double the industrial average in the next five years. They plan to expand the facilities as the productions go along. "Our plan is to invest approximately US\$20 million over the next two to three years to make our advanced DSP polyester fibre and double the existing capacity of both operations," said David Pendlebury, Vice President and General Manager of AlliedSignal's Industrial Fibres business. "The Kaiping joint venture provides a solid base on which to expand and build sales in the region," he added.

Liang Shuxiang, General Manager of Kaiping Polyester Enterprise, said the partnerships have strengthened his company's competitive advantage. "We're gaining a strong global partner with a commitment to invest in our people's skills. Our business arrangement offers both companies significant opportunity for success," he said.

CHINA

✓ 'Corrupt tribunal must go'

KYODO

The mainland has been urged to eliminate a "substantial centre of corruption" – the Enforcement Tribunal – to strengthen its judiciary, an international forum promoting the rule of law in China said yesterday.

The Rule of Law Forum, an informal organisation initiated by the foreign business community that currently has more than 200 supporters from Hong Kong, the United States, Japan, Europe and elsewhere, proposed that bailiffs and court police be trained and instructed to enforce judgments.

Forum chairman David Buxbaum said the problems with China's Enforcement

Tribunal were that it knew nothing about what a court case involved and might delay carrying out a ruling while the losing party tried to re-litigate or even block enforcement.

"The Enforcement Tribunal is also over-burdened and a substantial centre of corruption, both financial and political," he said.

Mr Buxbaum, a Hong Kong-based American lawyer, said a basic weakness in China's legal development lay in the judiciary, which should be improved to ensure the rule of law.

After nearly two years of informal discussions with business people, professionals and government officials both overseas and in China, the Rule of Law Forum sub-

mitted its first recommendations on reform of the judiciary to Beijing last month.

Mr Buxbaum said the forum had proposed China end demands on judicial personnel and corruption by amending the law to prohibit meetings, after cases have started, between judges and parties to litigation or their representatives outside the presence of other parties.

The present practice that allowed people not involved in the litigation to visit judges responsible for the case and to interfere with the case should be stopped, he said.

Other suggestions include requiring all new judges to take the national Bar examination or an equivalent exam to ensure professionalism.

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Mainland judiciary worries

By Don Gasper

THE head of an informal group of businessmen and lawyers interested in the reform of the judiciary on the mainland yesterday said foreign firms had recently succeeded in using Chinese courts to protect their rights. However, businessmen feel that there are still many respects in which the rule of law on the mainland needed to be improved.

Speaking on a panel organised by the American Chamber of Commerce, David Buxbaum, an attorney at Brand Farrar Buxbaum, said much progress had been made by the mainland regarding the rule of law in recent years. Mr Buxbaum is the president of the Rule of Law Forum, an informal grouping of businessmen, lawyers and others interested in legal issues on the mainland, set up in 1997.

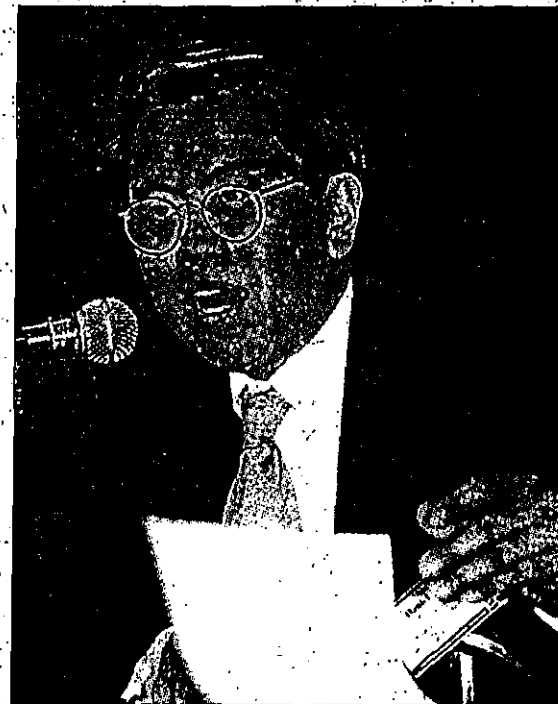
He cited a case that occurred in Foshan two or three years ago. A Japanese company had supplied goods to a mainland firm but before they were paid for, the local administration of industry and commerce (AIC) confiscated them, claiming the importer was using a bogus joint venture as a means to avoid paying customs duty. In court the Japanese company argued that according to the terms of the original contract if the importer failed to pay for the goods they were still the

property of the exporter. The court accepted this and ordered the AIC to return the confiscated goods.

In a similar case in Shanghai more recently, the exporter also won the case.

But Mr Buxbaum also cited areas where foreign investors remained dissatisfied. He mentioned as examples the central government's recent ruling that certain kinds of foreign investment in the telecommunication sector were improper, and its crackdown on direct selling in 1998.

The Rule of Law Forum will soon be presenting an action plan to mainland authorities. Among other things, the plan calls for restricted access to judges and judges' access to others during a case; for all new judges to be required to take the bar examination; for judges' remuneration to be partly based on incentives to encourage them to continue their legal education; for the elimination of the enforcement division of Chinese court and strengthening of the authority of court bailiffs. But former Solicitor General Daniel Fung, also on the panel, said there should be separate exams for judges and warned that the proposal that they sit the bar examination might seem bizarre to the Chinese authorities since the judges were not going to be lawyers. He warned such a proposal might lead to the entire initiative being discredited.



Daniel Fung: Warns judges should not be asked to take bar exams, otherwise the entire effort might be discredited.

CHINA: Piracy of Products Surges Despite Agreement

Continued from A1

that the Clinton Administration "will take very strong action" if China is not adhering to the pact by the end of the year.

The assessment of China's track record since the agreement narrowly averted a U.S.-China trade war in March was made here by Assistant U.S. Trade Representative Lee Sands, who was en route to Beijing for further talks on intellectual property rights and other market-opening measures agreed to in earlier negotiations.

Sands, who led the U.S. negotiating team that forged the trade agreement, said production of both music and software compact discs has doubled over the past six months and could double again in a year.

The increase comes despite a "special enforcement period" in China punctuated by dramatic raids on rogue retailers, a landmark court judgment against a counterfeiter and the creation of strike forces in 18 cities.

Despite the apparent flouting of the agreement, Kantor defended the pact and said in an interview in Washington that the United States will tolerate noncompliance for only so long before pressuring China to enforce the accord.

"The agreement is a very tough, detailed, comprehensive agreement," Kantor said. He said there had been "inconsistencies" in its enforcement, with some jurisdictions ignoring it—allowing piracy to increase—and other areas cracking down on the illegal trade.

"Much depends on the provincial politicians and whether they're holding to Beijing's dictates," Kantor said.

With Sands on his second trip to China since the agreement was completed, Kantor said, "We are making it clear to China that enforcement of the agreement is critical.

"We are not going to stand by and not take action and not enforce our trade laws if they don't adhere" to the terms of the pact, he said, using the sort of barely veiled threats that suggest a willingness to eventually impose trade sanctions.

Sands was careful to give credit to Beijing, which a year ago would scarcely acknowledge that piracy was a problem, for beefing up

anti-infringement legislation and cracking down on vendors. Authorities have announced 3,117 actions against peddlers and distributors since the accord. But he said China is failing to attack the heart of the system: well-connected manufacturers.

"I have no doubt that the biggest problem is the *guanxi* [political relationships] of the owners of factories," Sands said. "These factories obviously are solidly entrenched and have powerful supporters. . . . The question is whether the Chinese have the political will to shut them down."

David Buxbaum, an attorney who helps U.S. manufacturers protect their copyrights in China, praised Beijing's "action plan" but said that China doesn't have the organization or trained specialists to live up to it.

"It could be an excellent device for [enforcement], but it doesn't work," he said. The legal system lacks trained judges and prosecu-

'China is replacing Japan as America's trade nightmare.'

DAVID LAMPTON, *president*
National Committee on U.S.-China
Relations

tors, the fines for offenders are "unmeaningful," and enforcement agents are often loath to crack down in their own territories, he said.

Intellectual property rights are key to U.S. trade relations with China, where counterfeiters are known to copy everything from Kellogg's Corn Flakes to compact discs. U.S. companies such as Procter & Gamble face as much competition from ersatz versions of their own products as they do from other companies' legitimate brands. Bootleg videos of "Waterworld" and "Apollo 13" made the films big hits in Hong Kong before they ever hit the theaters.

"There are entire villages in China devoted to making bootleg products," Buxbaum said. "How can the policemen who live in the village close down the industry that the whole place depends on for its livelihood? They're very protective of local interests."

It's the lucrative business of

bootleg software, however, that boasts protection from the highest levels and causes the U.S. government the greatest concern. Nearly 95% of computer software used in China—including by government offices—is illegally copied, leading to roughly \$351 million in lost software sales last year, say U.S. industry representatives in the Business Software Alliance. And Chinese fakes are being exported across Europe and Southeast Asia.

But even in Hong Kong, where there is much more political will to eradicate the underground industry, enforcement is difficult. On Wednesday, Hong Kong customs officials raided the notorious Golden Arcade, a subterranean labyrinth of pirated software and computers. Two hours after authorities left, vendors had churned out new stacks of copied discs, and business continued as usual.

If ordinary criminal crackdowns alone won't work, U.S. software makers hope that civil charges will be another way to bring bootleggers to court. The Business Software Alliance served 22 illegal software manufacturers with injunctions last week, and their Golden Arcade stalls have stayed closed. So far.

"We're not the police," said BSA Vice President Stephanie Mitchell. "We shouldn't be the ones responsible for upholding the law. It cost [\$128,000] just to serve those notices. But it costs us half a million a month in lost sales if we do nothing."

The battle to halt piracy is bound to intensify as the U.S. trade deficit with China grows. The trade gap is likely to be nearly \$40 billion by year's end and could reach \$50 billion in 1996, overtaking Japan's within a few years if current trends continue, Sands said.

"China is replacing Japan as America's trade nightmare," said David Lampton, the president of the National Committee on U.S.-China Relations.

Kantor noted that China sends 40% of its exports to the United States, adding: "We have ways we can exact a measure—ways we can respond." He stopped short of threatening the use of sanctions, which often take the form of elevated tariffs on imported goods to price them out of the U.S. market.

Kantor said he is likely to address the problem when he meets with China's foreign trade minister, Wu Yi, in Osaka, Japan, next month at the meeting of the Asia Pacific Economic Cooperation forum.

Farley reported from Hong Kong and Gerstenzang from Washington.

China Piracy of U.S. Products Surges Despite Accord

By MAGGIE FARLEY
and JAMES GERSTENZANG
TIMES STAFF WRITERS

HONG KONG—Six months after Beijing agreed to U.S. demands that it clamp down on pirated trademarks, copyrights and patents, China's production of illegal compact discs has actually doubled and six of the seven major counterfeit CD factories shut down at the time by authorities have reopened, top U.S. officials say.

China's early failure to abide by the agreement is yet another threat to the troubled U.S.-China trade relationship, and prompted a warning Monday from U.S. Trade Representative Mickey Kantor

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COURTS

Whirlpool winner of repayment ruling

PEGGY SITO

Whirlpool SMC Microwave Products has won a HK\$24.4 million court judgment in Guangdong's Zhong Shan city over the payment of goods sold to a mainland company.

Whirlpool said it had delivered products to Jia Xin Electricity Appliance over a substantial period of time, but many of the contracted payments had not been made.

The court called upon an accounting firm for expert advice.

Meanwhile, Whirlpool's legal counsel had arranged at

the start of litigation to have the defendant's assets frozen, to ensure payment of the debt upon judgment.

Whirlpool said its counsel, Brand Farrar Buxbaum, submitted a successful application for penalty payments, thus restricting further delays by the defendant in paying the money it owes.

The judgment held that Jia Xin should pay Whirlpool 26.1 million yuan (about HK\$24.4 million) for the goods.

The penalty for late settlement is 0.04 per cent of the payment per day from February 23, 1998.

Call to strengthen arbitration

By Lu Hongyong

HONG KONG — Business litigation in China is better settled through law courts rather than through arbitration. However, arbitration boards are badly needed but they need to substantially polish their image, said attorney David Buxbaum from Brand Farrar Buxbaum LLP.

One of the most vocal critics of arbitration services in China, which was preferred to court ruling five years ago, Buxbaum said the mounting work load and too many inexperienced arbitrators are to blame.

There is an urgent need for China to recruit more arbitration board members and grant management power to the capable people, he said.

A widening disparity in pay compared with lawyers also affects the morale and work ethic of arbitrators, Buxbaum said.

And as China charges rather high fees for arbitration services, it is only reasonable to bring the pay scale of arbitrators in line with the fees charged, he said.

Arbitration board management has also to improve to make sure no court staff or lawyers sit on the boards, Buxbaum said.

He said 10 to 15 years ago, disputing business partners chose to seek settlement through arbitration for fear a court



David Buxbaum

ruling will cut off their business ties.

"The distinction is largely gone now, with many Chinese thinking it natural to sue to settle a problem, if friendship cannot help," he said.

"Of most business disputes in China, it is Chinese against Chinese," he said, adding that 90 per cent of disputes on intellectual property rights involve only Chinese.

Buxbaum said different legal systems will not jeopardize relations between Hong Kong and the mainland.

Citing the examples of US State of Louisiana and Canada's French State of Quebec, he said different legal systems can be applied successfully within one sovereign state.

China has been incredibly quick in the past decade building up its legal system, with 70 per cent of laws being drafted by learning from foreign expertise, he said. Law firms have flourished as a result.

The biggest problem with China's legal system is its judges, who are underpaid, unable to keep pace with the progress in the country's legal system, and dependent on local governments, he said.

Earlier this month, provincial and metropolitan governments in Guangdong Province took steps to halt corruption, which seems to pervade the city courts in Shenzhen and Zhuhai and the high court in Guangdong.

Two judges in Shenzhen have been detained including Zhao Yongku, the head of the important economic tribunal of the Shenzhen Court where virtually all business related litigations are heard.

Two other judges from the same tribunal were under investigation.

"This is excellent news. The Chinese

Government's willingness to attack official corruption is vital to strengthen the judiciary in China," Buxbaum said.

It also has been reported that more than 20 law firms in Shenzhen are under investigation in a major bribery scandal.

This apparently followed the arrests of judges in the Zhuhai Economic Tribunal in November, along with a prominent judge in Guangdong's high court.

"Nothing could be more important to foreign investors and Chinese citizens than to know that courts in China are being administrated in a fair and honest way," Buxbaum said.

"Otherwise it might adversely affect public behaviour and its view of society," he said.

It will be hard to solve the problem, he said, citing that the motion to legalize higher pay for judges was aborted when the laws relating to judges in China were drafted.

Mismanaged financial systems and corrupt courts are mainly to blame for the economic crisis in East Asia, making it a must for China to improve the quality of its judges, Buxbaum said.

"The flaws are hardly discernible during time of growth, but by letting them stay, things will go from bad to worse in hard times," he warned.

Legislation standardization aims to improve quality of law

Local interests can hamper the rule of law

China has made much progress in the last few decades on lawmaking-related legislation. But problems exist: some laws and regulations have gone beyond the limits of their authority; some regulations contravene laws and other regulations; and some regulations have been formulated out of departmental and local interests.

The Legislation Law being planned will improve the qual-

ity of legislation and help in ensuring that the nation is governed by law, said Chen Tiedi, chairman of the Standing Committee of the Shanghai Municipal People's Congress.

He was among various NPC deputies to the 9th National People's Congress that discussed the issue yesterday.

It is crucial to enact a law on law-making," said Shan Rongfan, vice-chairman of the Standing Committee of Heilongjiang Provincial People's Congress.

"It is very important to maintain the unity of China's legal

system and to overcome and prevent the tendency of stressing local and departmental interests to the neglect of the overall interests of the State in legislative work," he said.

The Legislation Law sums up the experience of China's legislative work in the past 20 years of reform and standardizes the country's legislative system, said Guan jue Cailang, a deputy from Qinghai Province.

He said that the draft for the law provides detailed stipulations on the power and procedures of legislation, the validity grades of laws and supervision

over legislation.

The draft for the law is now ready to be put into effect after the NPC Standing Committee twice examined and revised it, Guan jue added.

It is the only draft for a law to be examined and adopted by the NPC at its current session. The Legislation Law contains stipulations on the limits of legislative power of the NPC and its standing committee, the State Council, people's congresses at the provincial level and their standing committees, and ethnic minority autonomous regions and localities.

The draft specially defines 10 areas where the NPC and its Standing Committee have exclusive legislative power. These areas concern China's basic political and economic systems, and civil and criminal laws, including stipulations on the deprivation of citizens' political rights, restrictions on their personal freedom, and systems of litigation and arbitration.

The guidelines and objectives of the draft are clear and its structure and terms can be put pragmatically into effect, said Li Zemin, chairman of Zhejiang Provincial People's Congress

Standing Committee.

He expressed agreement to a term of the draft, the result of a recent revision: when departmental regulations and local regulations on one and the same issue are contradictory, local regulations should apply; in case the State Council deems otherwise, a decision should be made by the NPC Standing Committee.

The last 21 years have seen the enactment of 370 state-level laws and many local laws and regulations.

Corruption in judiciary 'jeopardises rule of law'

Chow Chung-yan

NPC delegates have lashed out at widespread corruption in judiciary departments and called for rule by law and justice.

The legislators said corrupt law enforcers had caused public resentment, which undermined the Government's authority and the Communist Party's image.

Bribery along with chaotic and unlawful interference in legal proceedings were common problems, they said.

The Supreme People's Court disciplined 2,500 judges and court staff last year, while the People's Procuratorates investigated 1,500 officers, with more than 1,000 being punished.

Many judges openly asked

plaintiffs and defendants for bribes or used their power to intervene in economic activity.

Delegates said corruption in the judiciary was the root of other corruption and could lead to serious social unrest.

China needed to set up a sophisticated and strong system of checks and balances. Unchecked power would lead to corruption and damage the impartiality of the law.

"We need to improve the quality of the judiciary officers. This is the ultimate solution," Jianxi representative Lu Xiuzhen said.

In response to the criticism, the Supreme People's Court and the Supreme People's Procuratorate said they had invited NPC representatives to monitor court proceedings and reports would

be submitted to them regularly.

They said all trials in Beijing had been open to the public and journalists since last year.

NPC law committee vice-chairman Qiao Xiaoyang said it had defined the power and procedures of the NPC and all other law-making bodies to legislate, to improve the consistency of the legal system.

Meanwhile, delegates from Xinjiang region, neighbouring several countries, urged the introduction of a border control law to monitor the increasingly complicated border trade.

Border trade in Xinjiang reached about HK\$10 billion last year, nearly 60 per cent of the province's total foreign trade.

Arbitration not the answer, says expert

By Lu Hongyong

HONG KONG — A multinational law firm suggests that in China, it is better to take business disputes before a court of law rather than seek arbitration.

Too many cases inundated most Chinese arbitration tribunals, making it impossible for them to function as they should, observed David Buxbaum, a senior partner of Brand Farrar Buxbaum.

Disputing business partners prefer arbitration to court ruling to preserve their business ties, and it was the best way out for business litigation in the past, but not any longer, he said.

The growing capital inflow to China is creating mounting needs for foreign-related business arbitration and revenue thus generated has become a major source of income for the China Council for the Promotion of International Trade, which is a dominant player in business arbitration.

Its regional arbitration outlets mushroomed in provinces, with the Hong Kong International Arbitration Centre being its most prominent branch.

Flooded by the growing number of cases in the past years, most Chinese arbitration tribunals have had to recruit new hands who had to start work without thorough training, he said.

And the tribunals barely have

time to implement their decision, he said.

Also, disputing parties forfeit the right to appeal to a court of law if they do not agree with the arbitration tribunal's decision, he said.

Buxbaum also blamed the overload on the Chinese arbitration sector on a lack of uniform decision-making procedure. Also, tribunals often appear at a loss dealing with types of problems that have come up only recently, he added.

Legislation and law enforcement in China have improved tremendously over the past two decades, while exposure to foreign legal systems has greatly enhanced the expertise of Chinese lawyers, he said. However, Buxbaum remained sceptical about the performance of some Chinese judges.

The fundamental problem lies in the fact that hundreds of thousands of local courts rely on local governments for salary and housing for their staff, he explained, and local courts are under great pressure not to tarnish the credibility and economic position of firms attached to local governments, he said.

Buxbaum said it will be extremely hard for China to finalize the building of market-based financial system and legislation within this century, adding that achieving this target will be "the greatest feat of the century."

Landmark judgment gives hope to foreign banks on mainland

By Don Gasper

IN a judgment hailed by a lawyer as a victory not only for the plaintiff but also for the rule of law, a mainland court has ruled in favour of a foreign bank involved in a dispute with a Chinese company.

The Dalian Intermediate People's Court in the Northeast province of Liaoning last month accepted the argument of Citibank Shanghai that it was owed outstanding compensation for services provided to the Wanfangdian Ballbearing (Group) Co and ordered the defendant to pay the bank US\$506,540.45 (about HK\$3,935,820) plus 109,387 yuan (HK\$102,495).

"This judgment represents a significant victory for the rule of law and is also a positive sign that foreign cases can be dealt with fairly in the Chinese courts," said David Buxbaum, Senior Partner/Asia of US law firm Brand Farrar Buxbaum, who appeared in court on behalf of Citibank. The law firm has had a presence on the mainland for 27 years.

Speaking by telephone from Shanghai, Mr Buxbaum said that the case had involved a sophisticated investment

banking contract not familiar to the court. Nevertheless, the court had made an "honest, fair and sophisticated judgment".

Mr Buxbaum said he was a strong proponent of the rule of law and was the main co-ordinator of the informal "Rule of Law Forum" which discusses ways of strengthening the Chinese judiciary.

In 1996 Citibank's Shanghai branch entered into an agreement with Wazhou Co to act as its financial counsel. It later successfully completed its part of the bargain by finding a strategic partner for the company, the SKF (Group) Co. SKF assisted the company to successfully issue B shares and underwrote part of the shares at a premium over the market price, investing a significant amount of foreign capital.

However, after Wazhou Co merged with the Wanfangdian Ballbearing (Group) Co to become its subsidiary it failed to honour the agreement made before the merger.

The defendant argued that the agreement had been a non-binding letter of intent rather than a proper contract. While admitting that Citibank had provided certain services, it asserted that

these were not the kind of work stipulated in the agreement and agreed only to reimburse certain expenses such as those for scheduling meetings and travel costs.

The case was special in that while the first attempt in October 1996, between SKF, Wazhou Co and Citibank to reach an agreement fell through, SKF and Wazhou Co (which became the Wangfangdian Ballbearing Joint Stock Co) did enter into an agreement in January 1997. The closure of the deal was achieved with the assistance of a Hong Kong brokerage house, Westminster Securities Co.

The court ruled that this did not negate the substantial preliminary work done by Citibank. It therefore decided that the defendant was liable to pay Citibank 50 per cent of the achievement fee, equivalent to US\$375,000, as well as lawyers' fees and travel and board costs.

However, it rejected Citibank's request for an annual service fee of US\$20,000, on the grounds that the parties never agreed upon an extension of their agreement after 1997 and the fee was only due in such a case. The court also rejected the bank's request for the interest on the unpaid annual fee.

Chinese Firms Agree To Pay U.S. Publishers For Pirating Material

BELJING (AP) — A Chinese publishing company and four bookstores agreed to compensate two U.S. publishers for illegally copying and selling books and materials, a lawyer for the U.S. companies said Friday.

Under the settlement, the Anhui Science & Technology Press and the bookstores, all in Beijing, will pay an undisclosed sum to Prentice Hall and Harcourt Brace, David Buxbaum said.

The compensation covers losses, including royalties, that the publishers incurred, plus investigative and court costs and a portion of the legal fees, Mr. Buxbaum said. Anhui also agreed to destroy all remaining copies of the books and English-language testing materials.

Anhui said it had written to Harcourt Brace and Prentice Hall asking for permission to publish the material, but never received a reply, Mr. Buxbaum said.

The settlement may be a further sign that Chinese officials and enterprises are heeding China's agreement this year to strengthen protection of U.S. copyrights, patents and trademarks. Earlier this month, a court ordered the Beijing Publishing House to compensate Walt Disney Co. for publishing a series of children's books with characters similar to Mickey Mouse, Snow White and Cinderella. In another case, a state administrative agency fined Chinese companies for pirating and selling copies of U.S. films.

CHINA

Copyright win for US publishers

TWO United States book publishers have won a landmark settlement in a copyright infringement case against seven Chinese companies, says a publishing association.

Under the terms of the out-of-court settlement, Prentice Hall and Harcourt Brace will receive full monetary compensation, including court costs and legal fees, from the Anhui Science and Technology Press and six Beijing bookstores for the copyright violations, the Association of American Publishers said yesterday.

The two US firms launched the lawsuit against the Chinese publisher last year for the unauthorised duplication and sale of English-language teaching books.

The settlement stipulated that the Anhui publisher destroy all unsold copies of the books.

Association president Nicholas Veliotes called the settlement a landmark victory in the struggle to promote respect for US copyrights in China.

Stores that made up the Chinese publisher's distribution chain included the Beijing Foreign Reference Bookstore, the Beijing Xidan Foreign Language Bookstore, the Beijing Foreign Language Bookstore, Beijing Xinhua Bookstore and Wangfujing Bookstore.

The agreement on intellectual property rights signed by China and the US on March 11 had provided a

framework for US companies to more aggressively pursue infringement complaints in Chinese courts, Mr Veliotes said.

Beijing Municipal Copyright Bureau director He Zhuoxin said the city would continue its crackdown on copyright violators and would soon introduce a copyright registration system with the Beijing Justice Bureau, Xinhua (the New China News Agency) reported.

China's State Copyright Administration has fined two Chinese companies for pirating the US movie hit *The Fugitive*.

The China Film Import and Export Corp and Warner Brothers Pictures, which produced the blockbuster, intended to take the case to court, a China Film official said.

The copyright violators included the Nanjing Audio and Video Publishing Co and the Guangdong Audio and Video Publishing Co.

The Nanjing company was found guilty of reproducing the US films, *In the Line of Fire*, *Striking Distance* and *Hard Target*.

A third violator, the Liaoning Radio and TV Publishing Co, was fined for pirating the US movie *Home Alone*.

The companies were reported to have obtained bogus copyright authorisation certificates from "certain Hong Kong companies", a copyright administration official said.

United Press International

U.S. Firms Reach China-Piracy Settlement

BEIJING — A Chinese publishing company and four book stores have agreed to compensate two U.S. publishers for illegally copying and selling books and materials, a lawyer for the U.S. firms said Friday.

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The compensation covers losses, including royalties, the publishers incurred, plus investigative and court costs and a portion of the legal fees; attorney David Buxbaum

said. Anhui also guarantees it will destroy all remaining copies of the two books and various English-language-testing materials.

Anhui said it had written to Harcourt Brace and Prentice Hall asking for permission to publish the materials, but never received a reply, Mr. Buxbaum said.

The U.S. publishers filed suit in Beijing Intermediate People's Court last fall to make sure all pirated copies were taken off the shelves and to deter others, Buxbaum said. *(AP-Dow Jones)*

South China Morning Post

Business Post

HONG KONG, THURSDAY, JUNE 22, 1995

People's Court enforces IPR

Software pirate makes
US\$78,276 settlement

By DUSTY CLAYTON
and Reuter

A BEIJING computer company has paid the Business Software Alliance (BSA) US\$78,276 in damages and court costs for illegally reproducing and selling copyrighted software products.

In what is believed to be the mainland's largest copyright settlement, Beijing Gaoli Computer Co agreed to apologise publicly to Microsoft Corp, Autodesk Inc, Lotus Development Co, Novell and the Word Perfect Application Group.

In return, the plaintiffs, all foreign, will withdraw their lawsuits from the intellectual-property chamber of Beijing's Intermediate People's Court.

BSA vice-president Stephanie Mitchell said: "This is a concrete sign that the Chinese are serious about enforcing the protection of intellectual property as they agreed to with the signing of the Sino-US agreement on IPR [intellectual property rights] protection earlier this year."