

IPR Class in the Court

AmCham IPR Committee Meeting on A Mock Civil IP Trial

The American Chamber of Commerce in South China (AmCham South China) invited its members to China Hotel on November 17, 2008 to have a closer look at the IPR issue through a mock civil IP trial based on a real case. Nearly 70 members came and “watch” this mock civil intellectual property protection trial case.

Sitting in the position of the Judge, Mr. Buxbaum, Attorney of Anderson & Anderson LLP, smiled without sparing. As the prosecutor made her statement of the case and presented the evidences, Mr. Buxbaum caught and sealed every leak of her presentation.

It was quite interesting to see the defendant, who was supposed to be guilty for confusing the consumers with products packed in a similar way of the prosecutor’s, to make use of the other party’s lack of evidence to prove consumers’ confusion about the similarity of the product packages, and take the upper hand.

“Survey evidence is very important in supporting your case in foreign countries though it’s not very important in China.” said Mr. Buxbaum. By referring to Anti-Unfair Competition Law of PRC, the

official acknowledgement from Bureau of Commerce and Industry, priority protection for famous brand in China from China Trademark Bureau and showing pictures of involved products, the prosecutor tried her best to assert her claim, which was inspiring enough for people to discover more to protect their IPR. On the other hand, the defendant insisted that there’s no proof of the prominence of the prosecutor’s products; and that there’s no proof that consumers get confused by the alleged similarity of the packages; and that they get negative growth in their product sales and benefit nothing from the so-called similar and confusing package. In such a battle without guns or swords, legal weapons sounded, and only evidences would keep fighters grounded. Different ideas sparked when tacks were used and discussed. Mr. Buxbaum’s wise words often bring laughter in the room and people enjoy learning more in this way.

Special thanks to Anderson & Anderson LLP staff who starred in the mock trial! They are Attorney David C. Buxbaum, Vice Manager Cheng Qian, Lawyer Jie Zhang, Assistant Shuyu Li, Lawyer Yan Wang and Intern Zhihao Liu.



Mr. David Buxbaum