

<<知识产权法专论>>

图书基本信息

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### 前言

这是为研究生专门编写的一套教学用书。

研究生是否需要编写教学用书？

研究生教学活动中采取教学用书的作法是否会束缚研究生的思维？

是否会影响教师开展更加具有创造性的研究生教学与培养活动？

研究生教学用书能够在多大程度上面对并且促进研究生培养质量的提高与研究生教育事业的发展？

尽管这些问题尚有争议，但我们仍然选择了启动研究生培养改革项目。

我们相信，随着研究生人数的扩张、专业学位的发展、研究生培养单位的增加，随着知识的膨胀与研究成果的不断更新以及因此导致的社会对于人才的需求标准的变化，越来越需要有一种能帮助教师与研究生及时对话、沟通信息渠道，同时为研究生展开思考与深入研究提供必要的指引的工具。

在编写过程中，我们形成了几点想法，希望与同行共享： 一、研究生教学用书依然具有教学用书的特点。

研究生教学用书应当是个什么样子呢？

这可能是一个仁者见仁、智者见智的问题。

有的学者理解，编写教科书，是一门学科里的学问臻于成熟、教学自成体系的显著标志，在某些时候，也是创建、恢复或移植学科体系的便捷方式。

本科教材就给很多人这样的预期：教材是通说或定论的载体，是理论大厦的地基，是知识宝库的钥匙。

我们认为，尽管研究生教育的知识深度有所不同，研究生培养仍需承载类似的任务，研究生教学用书仍应具有这种功能。

有鉴于此，系列用书将充分正面肯定各个专业领域已有的研究成果，适当阐述该学科的基础理论知识体系。

读者通过研读这些著作，有望对相关学科领域的研究成果特别是研究现状形成一个较为便捷、全面、系统、权威的把握。

二、研究生教学用书要充分体现研究生培养的特殊性，凸现研究生教育的特点与规律。

研究生培养不同于本科生，研究生教学用书也不同于本科生教材。

通常的教材编写惯例与研究生的培养目标不甚兼容。

有的院校坚持“百花齐放”，不统一使用研究生教材，有的慎重出版了具有特色的研究生教材。

这些做法都值得我们借鉴。

研究生教育素有专题、互动、讨论、指导与学生自主学习相结合等的经验，以更加个性化的方式与创新思想、创新知识、创新技能培养目标等为核心介绍相关问题的研究方法和理论成果，强调教学内容的创新价值和启发意义。

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### 内容概要

本书共分九个单元，基本覆盖了知识产权法的主要内容。

本书的主要特点在于，直接用英文介绍知识产权法相关概念及规则，并对相关问题进行阐述；每单元后都附有几个案例，用于教学及延伸阅读，有利于学生运用所学知识实际分析问题和锻炼书面英语能力。

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## 章节摘录

Preliminary Observations 10. By its questions, the national court seeks to obtain clarification on a number of aspects of the Court's case-law relating to the repackaging of trade-marked pharmaceutical products by parallel importers without authorisation from the trade mark proprietor. 11. Accordingly, the essential elements of that case-law must be recalled. 12. First of all, it is clear from the Court's case-law, in particular from Case 102 / 77 Hoffmann-La Roche [1978] ECR I 139, paragraphs 6 and 7, that: - Article 30 EC allows derogations from the fundamental principle of the free movement of goods between Member States only to the extent to which such derogations are justified in order to safeguard the rights which constitute the specific subject-matter of the industrial property concerned; - in that context, account must be taken of the essential function of the trade mark, which is to guarantee to the consumer or end user the identity of the trade-marked product's origin by enabling him to distinguish it without any risk of confusion from products of different origin; - that guarantee of origin means that the consumer or end user can be certain that a trade-marked product offered to him has not been subject at a previous stage of marketing to interference by a third party, without the authorisation of the trade mark proprietor, in such a way as to affect the original condition of the product. 13. The right attributed to a trade mark proprietor of preventing any use of the trade mark which is likely to impair the guarantee of origin so understood is therefore part of the specific subject-matter of the trade mark rights. It is therefore justifiable under the first sentence of Article 30 EC to recognise that the proprietor of a trade mark is entitled to prevent an importer of a trade-marked product, following repackaging of that product, from affixing the trade mark to the new packaging without the authorisation of the proprietor ( Hoffmann-La Roche, paragraphs 7 and 8 ). .....

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