

# WORKSHOP ON SINO-U.S. INTELLECTUAL PROPERTY PROTECTION

September 18, 1998  
Chongqing, China

## — Agenda —

- 08:30 AM ~ 09:00 AM     *Introduction*  
Professors Paul C. B. Liu and Andy Y. Sun, Asia Pacific Legal Institute
- 09:00 AM ~ 12:00 PM     *Video: The Mock Trial of A Patent Infringement Case (Barbara Chen v. Nike Athletic Shoes Co., Inc.)*  
Co-produced: Chinese Southwest University of Political Science and Law and the Asia Pacific Legal Institute — based upon *Wolverine World Wide, Inc. v. Nike, Inc.*, 38 F.3d 1192 (Fed. Cir. 1994).
- 12:10 PM ~ 01:30 PM     *Lunch*
- 01:30 PM ~ 02:30 PM     *Topic I: The Litigation Procedure — Finding Common Ground and Differences between the Anglo-American and Chinese Trial Advocacy*  
Professor Pittman B. Potter, Director, Chinese Legal Studies, University of British Columbia; NBR Program Co-Director; and Professor Donald Clarke, University of Washington School of Law
- 02:30 PM ~ 02:45 PM     *Break*
- 02:45 PM ~ 03:45 PM     *Topic II: The Substantive Enforcement — The Rule of Law on Infringement and Remedies*  
Professor Paul C. B. Liu, Asia Pacific Legal Institute
- 03:45 PM ~ 04:30 PM     *Topic III: TRIPS Agreement Compliance and the Future of International Intellectual Property Protection*  
Inductor: Professor Andy Y. Sun, Asia Pacific Legal Institute
- 04:30 PM ~ 04:45 PM     *Conclusion*  
Professor Paul C. B. Liu, Asia Pacific Legal Institute  
Dr. Richard J. Ellings, Executive Director, The National Bureau of Asian Studies



**BACKGROUND OF THE MOCK TRIAL AT THE  
CHINESE SOUTHWEST UNIVERSITY OF POLITICAL SCIENCE AND LAW**  
(MAY 22, 1996, CHONGQING, CHINA)

*Organized by the ASIA PACIFIC LEGAL INSTITUTE  
Presented by the Visiting Scholars from Canada and the United States*

IN THE FIRST DISTRICT COURT OF CHONGQING,  
THE PEOPLE'S REPUBLIC OF CHINA  
*Docket No. 96-0522SWU01*

BARBARA W. CHEN	)
Plaintiff	)
	)
v.	)
	)
NIKE ATHLETIC SHOES CO., INC.	)
Defendant	)

FACT

In 1985, Ms. Barbara Chen invented an improvement for an athletic shoe. This invention was an elastic slipper sock which tightly held the shoe in contact with the foot. The slipper sock inside the shoe cavity held the shoe in close contact with the foot, thus the design allowed synchronized movement between the shoe and the foot and reduced friction. During challenging sports, like tennis or basketball, this tight-fitting shoe prevents injury.

In 1986, Ms. Chen filed for a patent on her invention. In 1988, Ms. Chen received patent No. 5,037,242 for this invention. Claim One of this patent states:

An athletic shoe comprising a sole, an upper portion forming a cavity to receive a foot, an internal elastic slipper sock attached to the sole which envelops the forefoot.

She then founded a small company and began to produce athletic shoes with her invention. The business has grown steadily. In 1990, Ms. Chen discovered a new *Nike*<sup>®</sup> brand shoe at an athletic trade show. This *Nike* also has a slipper sock attached to the shoe. *Nike's* slipper sock, however, did not fill the entire foot cavity of the shoe, leaving toes outside the sock. When Ms. Chen inquired about this *Nike* shoe, she learned that *Nike* has begun the development of this type of shoe in 1987.

After an exchange of letters with Nike Athletic Shoe Company, Inc., the manufacturer of *Nike* brand shoe, Ms. Chen decided to sue *Nike* for infringement of patent No. 5,037,242. In 1992, she filed a complaint before the First District Court of Chongqing.

*Nike* Denies infringement because, it argues, its slipper sock does not envelop the forefoot. The parties agree that the patent is valid. The sole issue for trial is infringement. ❁