

Research on Legal Protection of Trademark Rights in the Network Environment

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Abstract: The popularization and development of the Internet have brought changes to people's lives and economy. The trademark rights in the online environment have not only expanded their popularity due to the promotion of products and services through the internet, but also generated unique forms of trademark infringement, leading to many new types of trademark infringement issues. This has to some extent caused conflicts between trademark owners and users, leading to a series of new trademark disputes. Based on this, this article conducts research on the legal protection of trademark rights in the online environment, in order to effectively protect the legitimate rights and interests of trademark owners.

Keywords: Trademark Rights, Network Environment, Legal Protection

In recent years, with the rapid development of information technology and the gradual popularization of online transactions, trademark infringement has also occurred continuously. Although in recent years, the country has successively issued some laws and regulations on how to rectify trademark infringement in the online environment, it is still unable to achieve the protection of the legitimate rights and interests of trademark owners. Based on this, relevant legislative staff should take effective measures to address existing trademark infringement in the online environment, which is of great significance for China to more effectively protect the legitimate interests of trademark owners in the future.

1 The Problems Faced by Legal Protection of Trademark Rights in the Network Environment

Firstly, our country has not formed a complete legal system in regulating domain names and combating malicious trademark registration at present. This further leads to a lack of clarity in the court's determination and judgment of malicious trademark in case of a trademark dispute over a domain name. In addition, when our country solves the problem of trademark infringement in the search engine, it only solves it according to the relevant provisions of The Anti-unfair Competition Law and The Trademark Law, and does not have a set of special laws and regulations to regulate it, this will be more detrimental to the protection of trademark owners.

Secondly, there are no relevant laws and regulations in China that stipulate the rights and obligations that network service providers should bear. This will provide network service providers with reasons to avoid liability, that is, when trademark infringement is discovered in the network environment in the future, network service providers will use various ways to evade liability. This is also not conducive to the healthy development of trademark law in the online environment.

2 Countermeasures for Legal Protection of Trademark Rights in the Network Environment

2.1 Improving Relevant Laws

Firstly, the regulation of online trademark infringement should be a top priority in improving China's laws and regulations. In laws

and regulations, it is not only necessary to focus on cracking down on trademark infringement through the use of the internet, but also to strengthen the protection of domain names. In addition, the emerging infringement of online trademarks should also be included in the regulatory system of trademark laws and regulations.

Secondly, it is necessary to refine relevant laws and regulations such as trademark approximation recognition and malicious infringement. For example, before identifying trademark infringement behavior, a campaign on trademark confusion can be conducted with consumers to conduct research. If there is infringement of online trademarks, different review standards should be established for service providers and related parties providing trademarks, so that the legal responsibilities borne by both parties should also be significantly different.

Finally, it is necessary to coordinate the logical relationships of legal norms at various stages and levels, and strive to ensure that there are no conflicts between the levels. Criminal law plays a significant role in protecting citizens' personal rights and property rights, and it can also be said to be the last line of defense for protecting citizens' rights. Therefore, relevant legislators should establish relevant criminal laws based on the existing laws in China to regulate the infringement of online trademarks.

2.2 Improving the Responsibility System of Network Service Providers

In the online environment, relevant management workers can use website interception to protect trademark rights. Firstly, it is necessary to establish and improve the system of indirect infringement liability that service providers in the network should bear, and full consideration must be given before formulating the system. On the one hand, the established system should be able to protect the legitimate interests of network users, as network users play an important role in the Internet. Effective measures should be taken to maintain network users in order to enable the healthy development of the Internet. On the other hand, it is necessary to standardize the development of network service providers. The law

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通俗易懂、内容严谨作为主要的选择依据,向学生推荐有关工程施工技术发展进程、施工技术的基础原理等方面的读物,帮助学生完成课程知识的初始建构。而随着课程教学进度的不断推进,学生工程施工知识基础不断增强,这时教师在课外读物推荐上就可以适当提升难度,与课程教学同步推进。与此同时,课程教学中还可以通过线上线下同步教学的方式,将工程建设行业发展中出现的最新施工技术与施工方法作为课堂资源在教学中使用,从而让学生在课程学习中真正充分的了解工程建设行业最新的发展形势,为学生学习提供有效的引导^[5]。

2.2 缺少实际工程施工经验

在土木工程施工技术、工艺、材料、信息化管理快速发展的今天,对授课教师“授人以渔”的能力提出了挑战。而大部分高职院校的施工课教师都是学院派出身,没有工程实践经验。在缺少实际工程施工经验的情况下,教师很难在课程教学中向学生正确讲解各种施工技术的实际应用条件,对学生课程学习产生不利影响^[6]。

针对这一问题,高职院校可以从引导学生开展自主学习的角度着手,在课程教学中让学生自行了解工程施工中的实践经验,最大限度上降低教师工程实践经验不足对课程教学的影响。教师在课堂教学中,要积极引入典型的工程施工实例,组织学生以小组为单位,对该工程建设中施工技术应用与施工方案设计提出意见。而后教师在课堂上要组织学生对各小组提出的施工方案进行可行性的论证。在这一过程中,教师要减少对学生方案讨论活动的干预,以便学生们能够在活动中更充分的交换意见,实现工程施工经验的初始建构。在此基础上,高职院校在课程教学中,还可以通过校企合作,让社会上工程建筑企业中的优秀技术人员补充到教师队伍中,让这些优秀的技术人员为学生传授更多的实际施工经验,以此进一步加强学生工程

施工经验的建构^[7]。

结束语:通过以上对当前高职院校土木工程施工课程教学实际的反思,能够发现:目前该课程教学工作取得了一定的发展成果,教师们逐渐认识到各种新型教学方法的价值意义,开始丰富教学方法的使用,为教学质量提升提供了有力的支持。然而,目前高职院校土木工程施工课程教学的发展中,教师过度依赖教材的问题十分明显,导致课程教学与行业发展相互脱节,学生课程知识积累与工程建设行业发展未能形成紧密关联。对此在课程教学中,教师需要通过各种方式,从课外领域获取更多的贴合当今工程建设行业发展的教学资源,让学生的知识积累真正与工程建设行业的发展充分适应,从而推动课程教学质量的进一步提升。

参考文献:

- [1]姜磊,景嘉骅,张庆伟.新工科背景下土木工程施工课程教学改革与实践[J].福建建材,2023,(05):108-111.
- [2]徐海云.新工科背景下中职土木工程施工课程教学初探[J].知识文库,2023,(06):123-125.
- [3]石晓娟,柳明慧.“双一流”建设背景下土木工程施工课程数字化教学建设思考[J].创新创业理论与实践,2023,6(02):32-34.
- [4]张丽,张微,高蕉.土木工程施工课程教学改革的有效性研究[J].四川建材,2022,48(12):234-235+243.
- [5]付丽,马丽珠,刘钰.新工科背景下土木工程施工课程教学改革探索[J].产业与科技论坛,2022,21(23):214-216.
- [6]王初秋,崔森,于森.基于工作过程系统化的土木工程施工课程改革探索[J].中国设备工程,2022,(18):251-253.
- [7]申琪玉,李杰杰.土木工程施工课程线上平台教学实践[J].高等建筑教育,2022,31(02):174-180.

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can establish a “circumvention system” for network service providers. Although there is no obligation for network service providers to conduct prior review in the law, there is also a corresponding duty of care for trademark infringement. When supervising and inspecting network service providers, they can be mainly divided into two aspects. The first is that the network service provider first reviews the legality of information on the network platform. This mainly includes formal examination of the authenticity of the user’s identity. In addition, it is also necessary to supervise the legality of the products sold by network users, and to backup and retain the receipts and related information of the products sold on the network to ensure easy viewing and supervision in the future. The second is that when the trademark owner has discovered that they have been infringed, the network service provider should take timely and effective measures to solve the problem, including searching the infringing content across the entire network and comparing it one by one, then deleting the infringing content, and in severe cases, cancelling their infringing account.

In summary, with the rapid development prospects of information technology, the law is the last line of defense that can protect trademark rights holders from infringement. Therefore, relevant legislators should improve the trademark laws and regulations in the online environment to ensure the legitimate rights of trademark owners. In addition, it is necessary to improve the responsibility system of network service providers and encourage them to strengthen their supervision efforts to ensure the healthy development of the internet industry.

References:

- [1]Nie Yaya. Research on Liability for Trademark Infringement in Online Transactions [J]. Legal and Social Science, 2019 (4): 86-87.
 - [2]Yang Huijun. Exploring the Legal Protection of Trademark Rights in the Network Environment [J]. Regional Governance, 2020 (40): 108.
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