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Foreword

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## FOREWORD

The UCLA Pacific Basin Law Journal is pleased to present our Fall 1996 issue which offers an interesting and diverse collection of articles discussing intellectual property rights in the PRC, restraints on freedom of expression in the Japanese press, Chinese real estate and leasing law, dispute resolution mechanisms in the PRC, and the transfer of Hong Kong from British to Chinese control.

In the lead article, Jeffrey W. Berkman examines the impediments to the protection of intellectual property rights in the People's Republic of China and argues that the key to eliminating the rampant piracy is adherence to the rule of law principles. The analysis begins with an examination of the historic 1995 Memorandum of Understanding (MOU) between the United States and the PRC. While providing an in depth discussion of the administrative and judicial enforcement institutions created by the Agreement, the author observes that the MOU was adopted to address the obstacles to protection of intellectual property rights: local protectionism, weak judicial and administrative enforcement institutions, the competency of enforcement personnel and lawyers, and the lack of legal knowledge among the Chinese masses. After discussing these impediments to the protection of intellectual property rights, the article demonstrates that, in fact, the struggle for the rule of law is the most significant problem plaguing China's enforcement institutions. Adherence to the rule of law offers the uniform application of legal principles and limitations on the exercise of arbitrary power that China's legal system has historically ignored. The article notes that improving the status of intellectual property in China requires more than bilateral agreements, new laws, and an exercise of Beijing's political muscle. Securing the protection of intellectual property rights require uniform enforcement according to the spirit of the relevant laws rather than uncertain reliance on the will of the enforcer. The discussion of China's troubled intellectual property system ultimately provides the basis for the article's broader conclusion that adherence to the rule of law principles is the key protection of all legal rights in China.

In the following article, James J. Nelson examines the increasing role of civil defamation and privacy rights litiga-

tion in curbing perceived abuses by the Japanese press. In addition, the article looks at the role of protest actions by aggrieved groups in shaping editorial coverage of important social questions. Also included in the article is an extensive discussion of Japanese professional commentary.

Next, Professor Randolph and Professor Lou trace the development of Chinese real estate law in general and commercial leasing law in particular. They first discuss how the Chinese civil law and other basic Chinese statutes affect real estate leasing. The authors then discuss the requirements of and the rights flowing from the real estate lease in China. Finally, Professors Randolph and Lou analyze the economic impact of the Chinese commercial lease and offer some changes that would facilitate the market for commercial leases in China.

In the next article, Jun Ge, a US and PRC qualified attorney who is serving Intel Corporation as its Asia-Pacific operation in-house counsel, briefly examines the dispute resolution mechanism in the People's Republic of China. By focusing on the most recent development in the area of mediation, arbitration, and litigation in this fast growing country, the comment offers insights to those international business people who are interested in entering into this potentially greatest market in the world.

Finally, Steven L. Chan discusses the uncertainties surrounding the impending transfer of Hong Kong from British to Chinese control. Mr. Chan examines the fundamental differences between Chinese and British views of law and civil rights, and he applies these differences to the current agreements governing the June 30, 1997 transfer of Hong Kong. Mr. Chan is concerned over the ambiguities in the transfer agreements and the lack of substantive and enforceable guarantees of civil rights for Hong Kong citizens. However, he remains guardedly optimistic that the economic benefits that Hong Kong brings to China will mitigate against any drastic social changes in Hong Kong.

We are confident that you will find this issue to be both engaging and informative.

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