

ABSTRACT

Set against the backdrop of the current knowledge-based economy, the collateralization of intellectual property (IP), i.e. the use of IP as collateral to secure debts or obligations, is a timely topic. By viewing IP as a kind of financial asset, IP collateralization may not only offer effective solutions to hard fund-raising problems of IP intensive enterprises, but also indicate more efficient ways for financial investors to diversify their investment portfolios so as to lower and spread the related risks. However, the characteristics inherent in the nature of IP and the cross-cutting nature of IP collateralization cause certain discrepancies and uncertainties in the laws governing IP collateralization, which contribute to the high risks and costs associated with IP collateralization and also to the under-expected performance of IP collateralization in practice. With the growing significance of IP in international trade and the global financial market, numerous efforts have been made at both the international and the national level for resolving the legal challenges brought about by the collateralization of IP. Through exploring and evaluating the international efforts, especially those led by the United Nations Commission on International Trade Law (UNCITRAL), this thesis explores the difficulties and the underlying principles of building an efficient unitary legal regime for IP collateralization. Furthermore, it is based on a comparative study between the efforts of UNCITRAL and those of the Chinese regulators/legislator that this thesis points out the fragmentation and other problems in current Chinese laws regarding IP collateralization. The analysis equally reveals various key points that are necessary for the transformation of modern secured transactions laws and IP laws into a unitary legal regime in China. These key points constitute the basis for the subsequent formulation of recommendations for the modernization of Chinese laws regarding IP collateralization.

Keywords: IP collateralization, security interests in IP, UNCITRAL, China