

Intellectual Property Spring 2005

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Class Description

This course will survey the basic doctrines of intellectual property (“IP”) law, including patent, trademark, and copyright law. We will also briefly cover some related *sui generis* rights, including trade secrets, the right of publicity, and misappropriation. The course is intended both for those who intend to practice in an IP field and for those with a more general interest in the topic. Given the interrelations and analogies among IP rights, any specialized IP practitioner should have a working knowledge of IP areas outside his or her area of expertise. Since most lawyers’ business models depend on the commodification of information, any practitioner should benefit from an understanding of this field.

Readings and Classes

The primary text for the class is K WALL AND DREYFUSS, *INTELLECTUAL PROPERTY: CASES AND MATERIALS ON TRADEMARK, COPYRIGHT, AND PATENT LAW* (2nd Ed., West 2004) [hereinafter KD]. You will also need MERGES, MENELL, AND LEMLEY, *INTELLECTUAL PROPERTY IN THE TECHNOLOGICAL AGE: 2004 CASE AND STATUTORY SUPPLEMENT* (Aspen 2004). Reading from the statutory supplement is assigned within KD. Updates to the statutory supplement are available at <http://www.law.berkeley.edu/institutes/bclt/pubs/ipnta/index.html>

I expect that most classes will begin with an overview of the materials assigned and a dialogue about them. Since this is a problem-based book, we will spend some time reviewing the lead problem for almost every assignment. Although everyone is “on-call” for both the readings and the problems, a “panel” of one to four students will take special responsibility for each problem. If you have a particular interest in one subject area, please email me and I will try to put you in a panel on that topic. Panels will begin in Class 4. In general, when the assignment chapter is split between two or more days, the problem is to be addressed on the last day.

Office Hours

I encourage all of you to visit me during office hours. If you are not available during my office hours, please contact me via email (pasquafa@shu.edu) or phone (642-8485) to make an appointment.

Course Requirements and Grading

The final exam will count for 85% of the grade, and class participation 15%. Your panel

participation will count for at least half of your class participation grade. The final exam will be “open book,” and will most likely consist of multiple choice questions, an issue spotter, and a policy question. I will hand out potential policy questions in April, unless there is a reasonable objection.

TWEN Page

I will be posting slides for each class on the TWEN page, along with some materials on current controversies related to the class.

Required Readings

These appear in the chart below; they are subject to modification. I will announce modifications at least two weeks before the assignment comes up, and will post them on the TWEN page. *Please note that the assignments from the statutory supplement are in Part 2(A) of each assignment from KD.*

<i>Required Readings</i>	
Copyright	
<i>Class Number, Topic</i>	<i>Reading Assignment</i>
2. Originality and Authorship	KD 223-235, 248-261
3. Subject Matter	KD 262-287
4. Ownership and Works Made for Hire 1/24	KD 292-316; 350-352
5. Scope of Rights/Infringement	KD 359-364, skim <i>Computer Associates v. Altai</i> , focusing on 374-378; 382-396; 402-410
6. Derivative Works	<i>Lee v. ART; Ty Inc. v. PIL</i> (excerpts)
7. Public Access Considerations and Fair Use	KD 411-429; <i>Grokster</i> (excerpts)
8. Fair Use (cont'd)	KD 439-43, 468-72; <i>Kelly v. Arriba Soft</i> (excerpts)
9. Compensation and Remedies	Compulsory Licensing excerpts; 492-506; 516-519
Trademark	
10. Introduction/Requirements	KD 25-44
11. Requirements, cont'd	KD 44-55; 59-72; n.14a. (74); n. 15 (75-6)
12. Scope of Rights/Infringement	KD 82-107
13. Infringement cont'd	KD 107-134 (through n. 10)

14. Public Access Considerations	KD 139-159
15. Public Access Cont'd and Beginning of Remedies	KD 159-185
16. Remedies	KD 192-211
Sui Generis/State Causes of Action	
17. Right of Publicity/Misappropriation	KD 523-537; 549-563
18. Trade Secrets	KD 882-915
Patent	
19. Introduction	KD 564-589
20. Subject Matter	KD 589-613
21. Utility	KD 614-634
22. Novelty	KD 635-660
23. Nonobviousness/Originality	KD 666-679; 693-709
24. Timing; Beginning of Infringement	KD 714; 738-742; 757-760; 765-771; 774-783
25. Infringement, cont'd	KD 783-796; 799-811
26. Public Access Considerations	KD 812-841
27. Remedies	KD 842; 844-853; 862-871; 874-881
28. Review Class	