

Law 275.3

INTRODUCTION TO INTELLECTUAL PROPERTY I & II

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Course Website: http://www.law.berkeley.edu/institutes/bclt/students/2008_spring_intro_ip.htm

This course is intended both for students who are interested in a general overview of intellectual property and as a gateway to Boalt's Law and Technology program. The course begins with an analysis of the competing policies underlying the intellectual property laws. It covers the basics of patent, copyright, trademark, and trade secrets (and other state IP-related areas of) law, as well as some of the salient controversies in intellectual property law, including patent protection for software and business methods, the challenges to copyright law posed by filesharing technology, the role and difficulties of protecting trademarks on the Internet, and the application of common law doctrines to the Internet.

Class Meeting Times: The class will meet on Mondays, Tuesdays, and Wednesdays from 8:25 am - 9:50 am and some Thursdays from 8:30 am - 9:30 am in Room 100.

ASP Sessions: Mostly on Thursdays from 8:30 am - 9:30 am; and some regular class sessions; all in Room 100.

Free Lunches: Leading practitioners discuss cutting edge issues and what it is like to work in technology and IP-oriented law practices.

Office Hours: Sign-up sheet outside 686; or by appointment

Required Reading:

- Merges, Menell & Lemley, Intellectual Property in the New Technological Age (4th rev. edition, Aspen 2007) (IPNTA).
- Merges, Menell & Lemley, Intellectual Property in the New Technological Age: 2007 Case and Statutory Supplement (Aspen 2007) (Supp).
- Syllabus and Course Reader (CR) (available on course website)
- Powerpoint Slide Handouts – will be distributed in two booklets (Patent and Copyright; Trademark, Trade Secret and Other State IP Law Protections) – available from Central Copy
- ASP Problems – available from Central Copy

Course Web-Site: http://www.law.berkeley.edu/institutes/bclt/students/2008_spring_intro_ip.htm

- Updated Syllabus
- Course Reader
- link to Casebook website, which contains summaries of recent developments in intellectual property law:
<http://www.law.berkeley.edu/institutes/bclt/pubs/ipnta/index.html>

Grading: Grading is based primarily on an in-class open book examination. The exam will be divided into three sections: Part I will comprise a series of multiple choice and/or short answer questions where you will be asked to fill in your answer on the examination form; Part II will present a conventional fact pattern and questions for which you will be required to prepare a concise memo explaining your analysis; Part III will be a policy-oriented question. Examples of the types of questions for which you will be responsible are contained throughout the casebook in the form of problems and in the ASP materials. Class participation will be used as a factor in determining grades for students who are near the P/H and H/HH borderlines. In addition to the casebook, supplement (Supp.), and course reader (CR) assignments, students should be sure to review the relevant statute sections and carefully work through the problems listed for each class session.

SYLLABUS		
date	Topic	Materials; Statute; Problems
M 1/14	Course Introduction Overview	Casebook pages 1-31
PATENT LAW		
T 1/14	Patent Overview Subject Matter	117-28 §101, 128-39
W 1/15	Subject Matter	§101, Problem 3-1 139-42, 1061-74, In re Nuijten (CR); In re Comiskey (CR)
R 1/16	ASP - Introduction; Patent: Subject Matter Problems	
M 1/21	Martin Luther King Jr. Holiday	

date	Topic	Materials; Statute; Problems
T 1/22	Utility Novelty	144-58 185-207, §102(a)-(b), problem 3-7
W 1/23	Novelty	§102(c)-(g), 207-12
R 1/24	ASP - Patent: Section 102 Problems	
M 1/28	Non-Obviousness	§103, 212-50, Leapfrog (CR), Problem 3-9
T 1/29	ASP - Patent: Section 102 and 103 Problems	
W 1/30	Disclosure Infringement Analysis • Claim Construction	§112, 158-85 §271 250-68
R 1/31	Infringement Analysis • Literal Infringement • Doctrine of Equivalents • Prosecution History Estoppel	268-74 274-79 279-91 (problem 3-10, p. 303)
M 2/4	Infringement Analysis • Failure to Claim and Dedication to the Public • Reverse Doctrine of Equivalents • Means+Function Claims Equivalents • Contributory Infringement • Infringement Involving Foreign Activity	291-303 304-07 307-11 311-16, Problem 3-11 316-21
T 2/5	Defenses Remedies	321-42, §§273, 282, Problem 3-12 348-70, §§283-87, <i>In re Seagate</i> (CR)
W 2/6	Design and Plant Patents Patent Policy and Patent Reform	371-81 National Academy of Sciences, A Patent System for the 21st Century (2004) (CR)

date	Topic	Materials; Statute; Problems
COPYRIGHT LAW		
R 2/7	Overview Requirements - originality	383-92 392-402, 442-46, §§101 (definition of “created”) §102(a) Problems 4-1, 4-12
M 2/11	ASP – Patent Infringement Problems	
T 2/12	Requirements continued - fixation, formalities Limiting Doctrines (idea-expression)	402-11, §101 (definitions of “created,” “fixed,” “compilation,” “copies,” “phonorecords,” “literary works,” “motion pictures,” “audiovisual work,” “sound recording,” “pictorial, graphic, and sculptural works”); §§401 - 12 (skim) 411-21, Problems 4-4, 4-5

date	Topic	Materials; Statute; Problems
W 2/13	Limiting Doctrines continued (useful article) Government Works Ownership <ul style="list-style-type: none"> • Initial Ownership <ul style="list-style-type: none"> • Work Made for Hire • Joint Works • Collective Works 	421-31, §§101 (“useful article,” “pictorial, graphic, and sculptural works,”), 102(b), 120, Problems 4-6, 4-7, 4-8 431-35, §105, Problem 4-9 446-54 §§ 101 (“work made for hire”), 201, 202 455-61, §101 (“joint work”), Problem 4-14 461-62 , §§101 (“collective work”), 201(c)
R 2/14	ASP - Copyright: Subject Matter	
M 2/18	President’s Day	
T 2/19	Ownership <ul style="list-style-type: none"> • Duration and Renewal • Division, Transfer, and Termination of Transfers Infringement <ul style="list-style-type: none"> • Right to Copy 	465-69, §§302-05 Problems 4-18, 4-19 469-74, §§201(d), 203, 204, 205 474-82
W 2/20	Infringement <ul style="list-style-type: none"> • Right to Copy • Derivative Work Right 	482-500, Problem 4-21, 4-22, 4-23 500-10 §§101 (“derivative work”), 103, 106
R 2/21	ASP – Copyright: Ownership and Duration	

date	Topic	Materials; Statute; Problems
M 2/25	Infringement continued • Other Exclusive Rights Defenses	510-22, Problem 4-26, §§106,106A, 501, 109, 110, 111, 114, 115, 116, 119, 1101 522-69, Problems 4-29, 4- 31, Bill Graham Archives v. Dorling Kindersley (CR)
T 2/26	Indirect Infringement Remedies	569-80, Problem 4-32 625-32
W 2/27	Computer Software	986-1034, Copyright Act §101 (“computer program”)
R 3/28	ASP – Copyright: Rights and Infringement	
M 3/3	Computer Software continued Open Source Licensing	1039-54 1054-61
T 3/4	Digital Copyright	580-615, §§512, 1001-10, 1201-03, Perfect 10 v. Amazon, Problem 4-37, Problem 4-38
W 3/5	TBA	
R 3/6	ASP Problem – Copyright: Software and Digital	