

Law 275.3

Introduction to Intellectual Property

Fall 2011

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This course is intended for students who are interested in a general overview of intellectual property. It also serves as a gateway to Berkeley's Law and Technology curriculum. The course covers the basics of patent, copyright, trademark, and trade secrets (and other state IP-related areas of) law, together with current controversies including patent protection for software and business methods, challenges to enforcing copyright and trademark on the Internet,

Office Hours: I am available after class most days. Just catch me after class. I am also available by appointment (email me to set a time).

Required Reading:

- Merges, Menell & Lemley, *Intellectual Property in the New Technological Age* (5th rev. edition, Aspen 2010) (IPNTA).
- Merges, Menell & Lemley, *Intellectual Property in the New Technological Age: 2010 Case and Statutory Supplement* (Aspen 2010) (Supp).
- Supplemental Material and Powerpoint Slides – to be provided electronically via bSpace).

Grading: Grading is based primarily on an in-class closed book final examination. The exam will be divided into three sections: Part I will comprise a series of short answer questions; Part II will present a conventional fact pattern and questions for which you will be required to prepare a concise analysis memo; Part III will be a policy-oriented question. The questions will be similar to problems contained throughout the casebook.

Class participation will be used as a factor in determining grades for students who are near the P/H and H/HH borderlines.

SYLLABUS

Date	Topic	Assignment
Wednesday Aug. 24	Course Overview The IP Idea	Casebook 1-31 Problem 1-1
Patents		
Monday Aug. 29	Patent Law Overview; Terminology and Procedures	Casebook 125-34
Tuesday Aug. 30	Subject Matter and Utility What Should be Patentable?	Casebook 134-46, Supp. 3-27 §§ 101, 273
Wednesday Aug. 31	Novelty	Casebook 166-80, 209-14 § 102(a)
Monday Sept. 5	LABOR DAY HOLIDAY	
Tuesday Sept. 6	Statutory Bar and Inventorship	Casebook 214-35 § 102(a) – (g) Problem 3-8
Wednesday Sept. 7	Non-Obviousness	Casebook: 235-67 § 103 Problem 3-10
Monday Sept. 12	Enablement and Written Description Post-Issue Procedures; Term Extension and Restoration.	Casebook: 180-209, Supp. 28-48. §§ 112, 154
Tuesday Sept. 13	Claim Construction	Casebook: 267-94. Briefs from <i>Amazon v. BN.com</i> (available on b-Space).
Wednesday Sept. 14	Infringement Analysis: Literal Infringement, Doctrine of Equivalents, Prosecution History	Casebook: 294-317 § 271 Problem 3-12

	Estoppel	
Monday Sept. 19	Infringement Analysis: Failure to Claim and Dedication to Public; Reverse Doctrine of Equivalents; Means + Function Claims Equivalents; Contributory Infringement; Infringement Involving Foreign Activity.	Casebook: 318-43 Problem 3-13
Tuesday Sept. 20	Defenses	Casebook 343-67 Problem 3-14
Wednesday Sept. 21	Remedies – Injunctions and Damages	Casebook: 377-85 § 283 - 85
Monday Sept. 26	Antitrust Issues: Patent Pools, Cross Licenses, Tying, and Grantback Agreements	Casebook: 367-71
Tuesday Sept. 27	International Patents and Patent Enforcement Design and Plant Patents	Casebook: 371-77, 399- 409.
Copyright		
Wednesday Sept. 28	Copyright Law Overview Comparison with Patents Requirements: Originality	Casebook: 411-31 § 102(a) Problems 4-1, 4-2
Monday Oct. 3	Requirements: Fixation, Formalities; Limiting doctrines: idea/expression.	Casebook: 431-63 §101 Problems 4-4, 4-5

Tuesday Oct. 4	Limiting doctrines: Useful articles. Government works Subject matter	Casebook: 463-87 §§ 102(b), 120 Problems 4-6, 4-10, 4-14.
Wednesday Oct. 5	Ownership. Initial Ownership: Work for Hire, Joint Works, Collective Works.	Casebook: 488-508 §201(c) Problems: 4-17, 4-18, 4- 20
Monday Oct. 10	Ownership. Duration and Renewal. Division, Transfer, and Termination of Transfers	Casebook: 508-18 §§ 302-05, 201(d), 203- 05, 304(c) Problems 4-22, 4-23.
Tuesday Oct. 11	Infringement: Right to Copy	Casebook: 539-67 § 106(1), Problems 4-25, 4-27, 4-28.
Wednesday Oct. 12	Infringement: Right to Copy, Derivative Work Right	Casebook: 539-67 § 106(2) Problem 4-33
Monday Oct. 17	Infringement: Distribution Right; Other Exclusive Rights	Casebook: 567-81 §§ 106(3) –(5), 106A, 110-11, 114-16, 119, 1101
Tuesday Oct. 18	Indirect Infringement, Defenses	Casebook: 581-611 Problems 4-39, 4-41, 4-42
Wednesday Oct. 19	Defenses	Casebook: 611-52 Problems 4-45, 4-46, 4-47
Monday Oct. 24	Defenses	Casebook: 652-66
Tuesday Oct. 25	Software and Digital Copyright	666-713 Problems 4-49, 4-50
Wednesday Oct. 26	Remedies	Casebook: 722-32 Problems 4-51, 4-52, 4-53, 4-55

Monday Oct. 31	International Copyright Law	Casebook: 713-22
Trademark		
Tuesday Nov. 1	Trademark Law Overview; PTO Procedures	Casebook: 733-51
Wednesday Nov. 2	Establishing Trademark Protection Priority	Casebook: 751-96 Problems 5-2, 5-5
Monday Nov. 7	Incontestability Infringement	Casebook: 810-38 Problem 5-7
Tuesday Nov. 8	Dilution Extension by Contract	Casebook: 838-59
Wednesday Nov. 9	Domain Names and Cybersquatting	Casebook: 859-78
Monday Nov. 14	Indirect Infringement; False Advertising Defenses	Casebook: 878-900. Supp. 49-62.
Tuesday Nov. 15	Defenses	Casebook: 900-42, Problems 5-11, 5-12
Wednesday Nov. 16	Remedies	Casebook: 947-61
State IP Law		
Monday Nov. 21	Trade Secret Overview Elements and Preemption	Casebook: 33-49.
Tuesday Nov. 22	Trade Secrets: Employee and NonDisclosure Agreements; Misappropriation; Reverse Engineering; Preemption	Casebook: 49-85
Wednesday Nov. 23	Trade Secrets: Defenses and Relief.	Casebook: 85-110, 1064- 69
Monday Nov. 28	Database Policy and <i>Sui Generis</i> Rights	TBD

Tuesday Nov. 29	Shrinkwrap Licenses; Hot News	Casebook: 977-1001 <i>Barclays Capital, Inc. v. Flyonthewall.com.</i> (on bSpace)
Wednesday Nov. 30	Review Session	--
	Exam	