SYLLABUS
LAW P501: INTELLECTUAL PROPERTY CORE
Fall Quarter 2008

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Registration & Related Information

Class Times:
M T W TH 10:30 – 12:20; Room 207, William H. Gates Hall

Office Hours:
Laster: by Appointment
Takenaka: Mon & Wed: 8:30-10:20 or by Appointment
O’Connor: Tue & Wed: 13:00-14:00 or by Appointment

Texts:
3. Occasional class hand outs [hereinafter, “Handout”]

Grading:
There are three components to grading. Class participation counts for 10%; three combined homework and in-class exercises count for another 30% (10% each); and a final examination will constitute the remaining 60%.

Course Description:
This intellectual property (“IP”) course is intended for IP Law & Policy LLM students concentrating in IP. While technically a “survey” course, it will cover the broad range of IP topics at an advanced level and rapid pace. At the same time, it will focus on the interconnections of the IP subfields and the principles that underlie all IP systems. The course also introduces students to the practice of IP law, especially how an IP attorney would interact with clients in specific industries such as information technology or biotechnology, where emerging technologies don’t always clearly line up with the standard IP categories and protections.

Introduction

9/22 Course Overview DL TT SO
Readings: Text, pp. 1-26; Handout, Albert v. Strange (available on course webpage)

I. Copyright

9/23 History and Overview of Copyright DL
Readings: Text, pp. 383-92

9/24 Requirements: Original Work; Fixation; Formalities; Subject Matter: Idea-Expression Dichotomy DL
Readings: Text, pp. 392-418; Supp., Copyright Act §§ 102, 401-412

9/25 Useful Articles; Statutory Categories DL
Readings: Text, pp. 418-446; Supp., Copyright Act § 113
Ownership & Duration DL
Readings: Text, pp. 446-74; Supp., Copyright Act §§ 201-305

Rights of Copyright Owners: Copies DL
Readings: Text, pp. 474-500; Supp., Copyright Act §§ 106, 501

Rights of Copyright Owners: Derivative Works; Distribution; Performance & Display; Moral Rights; Indirect Infringement DL

Defenses: Fair Use DL

Fair Use cont’d; Statutory Limitations, and Other Defenses DL
Readings: Text, pp. 555-569, 609-615; Supp., Copyright Act §§ 110-120

Rights of Copyright Owners: Digital Protections DL
Readings: Text, pp. 580-609; Supp., Copyright Act §§ 1001-120

Remedies; Copyright Summary and Exercise DL
Readings: Text, pp. 625-32; Supp., Copyright Act §§ 502-512

II. Patents

Overview of Patent System (patent prosecution) TT
Handouts

Patent Eligible Subject Matter & Utility SO
Casebook :pp. 128-135; Supplement: 35 USC Sec. 101
In re Comiskey, 499 F.3d 1365 (Fed. Cir. 2007)

First-To-File Priority TT
Casebook: pp. 185-206
Adelman etc., Patent Law, pp. 179-183; Text 185-206; 35 USC 102
Metallizing Eng. V. Kenyon, 153 F.2d 516 (2nd Cir., 1946)

Patent Claim Drafting and Anticipation TT
Casebook: pp. 206-212
Christie v. Seybold, 55 F.69 (6th Cir., 1893)
In Class Exercise

Nonobviousness TT
Casebook: pp. 212-237; Supplement: 35 USC Sec. 103
In re Translogic Technology, Inc. 504 F.3d 1249 (Fed. Cir. 2007)

Disclosure Requirements and Duty of Candor TT
Casebook: pp. 163-170; 182-183; 320-331; Supplement: 35 USC Sec. 112
Bayer AG. v. Shein Pharm., F.3d 1306 (Fed. Cir. 2002)

10/21 Claim Interpretation; Literal Infringement TT
Casebook: pp. 250-274

10/22 Infringement Under the Doctrine of Equivalents; Prosecution History Estoppel TT
Casebook: pp. 274-291

10/23 Dedication to the Public TT
Casebook: pp. 292-304
In Class Exercise

10/27 Indirect Infringement; Territoriality; Defenses to Patent Infringement TT
Casebook: pp. 311-321; Supplement: 35 USC Sec. 271)

10/28 Limitations on Infringement (Experimental Use; Exhaustion) SO
Casebook: pp. 321-325; 35 USC Sec. 271

10/29 Remedies for Patent Infringement TT
Casebook: pp. 348-364
Excerpt from Rite-Hite v. Kelly, 56 F.3d 1538 (Fed. Cir. 1995)

10/30 Remedies for Patent Infringement TT
In re Seagate Technology, 497 F.3d 1360

11/03 Biotech Patents (Guest Lecture, Gary Myles) TT
Casebook: pp. 144-151; 169-173; 179-182)

11/04 Patents Summary and Exercise TT
Readings: none

III. Trade Secrets

11/05 Background and Overview of Trade Secrets SO

11/06 Establishing Trade Secrets SO
Readings: Text, pp., 33-51

11/10 Misappropriation: Improper Means SO
Readings: Text, pp. 54-72, 740-52

11/11 No class (Veterans Day)

11/12 “Know-How”; Confidentiality Agreements SO
11/13  Misappropriation: Inevitable Disclosure SO
   Readings: Text, pp. 72-85, 89-91; Supp., Economic Espionage Act

11/17  Remedies: Trade Secrets Summary and Exercise SO
   Readings: Text, pp. 96-104

IV.  Trademarks

11/18  History and Overview of Trademarks; Subject Matter DL
   Readings: Text, pp. 633-650; Supp., Lanham Act §§ 43 (a), 45 (definitions), 3, 4

11/19  Establishment of Trademark Rights: Distinctiveness DL
   Readings: Text pp. 650-676; Supp., Lanham Act §§ 1, 2, 33 (b)(4), 45 (definitions)

11/20  Establishment of Trademark Rights: Priority; USPTO Procedures; Incontestability DL
   Readings: Text, pp. 676-715; Supp., Lanham Act §§ 1, 2, 7, 8, 9, 12, 13, 14, 15, 20, 21, 22

11/24  Infringement: Trademark Use; Consumer Confusion; Dilution DL
   Readings: Text, pp. 715-754; Supp., Lanham Act §§ 29-32, 43 (c)

11/25  Licensing: Domain Names; Contributory Infringement; & False Advertising DL
   Readings: Text, pp. 755-787; Supp., Lanham Act §§ 43 (a), 43 (d), 1129 (Cyberpiracy Protection for Individuals)

11/26  To be announced

11/27  No class (Thanksgiving Day)

12/1  Trademark Type Rights: Right of Publicity & Geographical Indicators

12/2  Defenses: “Genericide”; Functionality; & Abandonment DL
   Readings: Text, pp. 787-821; Supp., Lanham Act §§ 33-43

12/2  Nominative Use; Parody; Remedies: Injunctions; Damages; Corrective Advertising DL
   Readings: Text, pp. 821-833, 838-851

12/3  Counseling; Trademarks Summary and Exercise DL
   Readings: none

Total Hours:

DL: 38
TT: 26
SO: 16