

Introduction to Intellectual Property
Fall 2010
Version 0.97

Paul Ohm

Syllabus

Course Description

This course provides an overview of the United States' system of intellectual property protection. This is a survey course, which will cover the three main branches of federal intellectual property law—Patent, Trademark, and Copyright—as well as some state laws that regulate intellectual property—trade secret, the right of publicity, and trespass to chattels. This course thus serves as an introduction to this area of the law and as a complement to the other intellectual property courses offered at CU, not as a substitute for them. For students seeking merely a broad exposure to intellectual property issues, this class will provide a solid overview of the topic, but the aim of the class is to encourage students to pursue additional offerings in the field.

Although many of the cases in this class involve technology, with a particular emphasis on biotechnology and computer and Internet technology, no prior technical background or knowledge is required. Any technology that needs to be understood will be explained in class, and students should not hesitate to ask for other technical explanations.

Class Times and Office Hours

The class will meet every Monday and Wednesday from 9:30 am – 10:50 am in Room 204. I will generally be available for office hours on Monday and Wednesday mornings from 11:00 am – Noon in Room 433 or at any other time by appointment. I can also be reached via e-mail at paul.ohm@colorado.edu.

Course Expectations

Grades for the course will be based on a three-hour final exam and class participation. I value class participation very much, and I may increase or decrease your grade up to three points to reflect your participation.

I expect you to be prepared to talk every class and will call on you without prior notice. If, however, you are unable to prepare for class on a

particular day for whatever reason, please attend anyway. Send me an e-mail at least one hour before we begin, or leave me a note on the podium at the front of the room before class starts and I will not call on you during that day. You may not use this “pass” more than three times during the semester unless you talk to me about your situation. If you do not leave me a note but are completely unprepared when I call on you, your grade will be negatively affected.

If you find yourself especially prepared for class after finishing the reading, you can put yourself on call by using a “catch.” Like with a pass, send me an e-mail at least one hour before we begin, or leave me a note on the podium at the front of the room before class starts, and I will do my best to call on you at some point during the class.

In addition to the call system, voluntary participation is encouraged. Your grade will be positively affected by consistent, insightful contributions.

I do not use the chalkboard in my class. Instead, I project a computer’s display onto the screen and use a technology known as mind mapping software. In particular, I use a product called MindManager made by a company called MindJet. For each class, I will start with a skeleton mindmap which I will fill in during the class with student contributions. Thanks to a deal the law school has struck with MindJet, you can install this software onto your computer free of charge. At the end of each class (usually on the same day), I will upload the day’s mindmap to the course website in both PDF and MindManager file formats.

I will pass around a seating chart on Wednesday, August 25th. Please be sure you can see the text on the mind maps from your chosen seat.

Course Materials

Our primary source will be a casebook: Merges, Menell, and Lemley's Intellectual Property in the New Technological Age (5th ed. 2010). Please be sure you are using the correct edition. In addition, a number of supplemental materials will be available at the course website at paulohm.com. Some of these supplemental materials are noted in the syllabus, below; others will be added to assignments during the semester, in which case they will be made available and announced at least two classes prior.

A note on casebook notes and problems: Assume that all “Comments and Questions” that fall within the assigned pages listed below **are to be read and considered**, unless the assignment specifically instructs skipping

the Notes. Any “Problems” can be skipped unless they are specifically assigned. Some unassigned problems will nevertheless be discussed in class.

Our course website is at paulohm.com/classes/ip10. Here, you will find class mind maps, important announcements, supplemental readings (most of which are mentioned in the day-by-day syllabus, below), changes to the reading, and links to other resources. Supplemental readings will be made available at least two classes prior to the assigned date. The top part of the website will list “Latest Changes to the Site” which can be scanned to see what is important and new. Students must consult the website before every class, particularly when a class is missed. I do not use TWEN.

Intro IP: Fall 2010
Assigned Topics and Reading

Class Number/Date	Topic	Assignment
1: Mon, Aug. 23	Overview of Intellectual Property and the Right of Publicity	24-31; 1020-1034 (Stop reading after Note 2) [23]
2: Wed, Aug. 25	Philosophical Perspectives; <u>Trade Secrets</u> Introduction to Trade Secrets	1-24; 33-39 [31]
3: Mon, Aug. 30	Defining Trade Secrets; Reasonable Efforts to Maintain Secrecy	39-57 [19]
4: Wed, Sept. 1	Misappropriation: Improper Means; Confidential Relationship; Reverse Engineering	66-83 [18]
Mon, Sept. 6	No Class: Labor Day	
5: Wed, Sept. 8	Trade Secrets and Employees	85-105 [21]
6: Mon, Sept. 13	<u>Patents</u> Introduction; Subject Matter	Skim 125-30; Read 130-146; Excerpt from <i>Bilski v. Kappos</i> (available on website) [skim 6; read 17+] Visit patentlysilly.com or google.com/patents and read through at least two patents, front to back, including the claims.
7: Wed, Sept. 15	Novelty and Statutory Bars (Guest Lecturer: Prof. Harry Surden)	209-224 [16]
8: Mon, Sept. 20	Utility; Obtaining a Patent	166-185 [20]
9: Wed, Sept. 22	Non-Obviousness	235-56; Problems 3-10 and 3-11, pages 262-264; 264-67 [28]
10: Mon, Sept. 27	Claim Construction; Literal Infringement; the Doctrine of Equivalents	267-85; 294-305 [31]
11: Wed, Sept. 29	<u>Copyright</u> Introduction; Originality	411-30 [20]

Class Number/Date	Topic	Assignment
12: Mon, Oct. 4	Fixation; Idea/Expression; Subject Matter	431-35; 441-463; Problem 4-5, page 463; Skim 478-87 [read 28; skim 10]
13: Wed, Oct. 6	Ownership: Works for Hire; Joint Works	487-504 [18]
14: Mon, Oct. 11	Copyrights: Right to Make Copies; Distribution; Public Performance and Display; Moral Rights	518-538 (including Problems 4-25 to 4-28); 567-74; 577-81 [33]
15: Wed., Oct. 13	Indirect Liability	581-92; 683-699 [29]
16: Mon, Oct. 18	Fair Use I	592-610 [19]
17: Wed, Oct. 20	Fair Use II	611-622; 635-51 [29]
Mon, Oct. 25	No Class	
18: Wed, Oct. 27	<u>Trademark Law</u> Introduction; What Can be Protected as a Trademark; Distinctiveness (Guest Lecturer: Prof. Andrew Hartman)	733-44; 751-64 [26]
19: Mon, Nov. 1	Trade Dress; Genericness/Genericide	764-76; 890-900 [26]
20: Wed, Nov. 3	Priority; Infringement	777-88; 816-32 [29]
21: Mon, Nov. 8	Other Types of Confusion; Dilution	832-52 [21]
22: Wed, Nov. 10	<u>Cross-IP Themes</u> Functional and Useful Objects: Design Patents; Copyright's Useful Articles Rule; Functional Trademarks	399-405; 463-73 (including Problems 4-6 to 4-9); 900-10 [29]
23: Mon, Nov. 15	Parody: Copyright versus Trademark	622-33; 929-40 [24]
24: Wed, Nov. 17	IP and the Internet: Search Engine Fair Use; Trespass to Chattels	702-13; 1051-64 [26]
Nov. 22 and 24	No Class: Fall Break	
25: Mon, Nov. 29	Remedies: Patent versus Copyright, Injunctions and Damages	377-99; 722-32 [34]
26: Wed, Dec. 1	Review Session #1	No Reading
27: To Be Scheduled	Review Session #2	No Reading