

PATENT LAW 1(284-002)
GMU SCHOOL OF LAW
COURSE SYLLABUS
INSTRUCTOR: STEPHEN G. KUNIN
(LANCE LEONARD BARRY MAY SUBSTITUTE)
FALL 2005

ADMINISTRATIVE

Classes will be held on Tuesdays from 8:00 pm to 9:50 pm in room 412, with a short break around 9:00 pm. The final exam will be held Saturday, December 17 at 12 pm.

The Exam

There will be an examination in this course. The exam will cover the reading materials and the class discussions. I will expect you to demonstrate knowledge of the statutes and common law as well as the policies behind them. The open-book exam will include multiple-choice and possibly short-answer questions (2-3 sentences each), and possibly one or two essay-type longer questions. The exam will include material covered in class that is not included in the textbook, so attendance at class is essential to perform adequately on the final exam. Attendance will be taken at each class. Students are expected to read assigned materials prior to class.

Textbooks: Patent Law: Cases and Materials, 2d ed. (Martin J. Adelman, et al.), Thomson/West (2003). Unfair Competition, Trademark, Copyright and Patent, Selected. Statutes and International Agreements 2004 ed. By: Foundation Press. ISBN: 1-58778-682-6 . You can reach instructor Stephen Kunin at SKunin@Oblon.com or 703-412-6011 and instructor Lance Barry at Lance.Barry@uspto.gov. The detailed syllabus is set forth below, subject to revision and additional materials to be handed out in class.

EXPECTATIONS

Your grade may be adjusted upward or downward based on class participation. Unexcused repeated absences will lead to a downward adjustment. It is not just the quantity of participation but the professor's assessment of the quality of the student's contribution to the class. Therefore, a student who speaks every class, but does not say anything particularly thoughtful may not get any added points for participation.

Being able to concisely articulate a position is essential to good lawyering; accordingly, I will call on students randomly to ensure equal participation. You are expected to have done the reading and prepare any assigned problems for each class.

Secondary Materials

Although I do not believe that resort to secondary materials is necessary to master the material in this class, there are a number of excellent sources that could be of assistance to you during practice. I recommend:

1. Chisum, D., Patents (Matthew Bender). This treatise is the leading reference source.
2. Landis, J., The Mechanics of Claim Drafting (Practicing Law Institute). This is the leading reference for claim drafting.
3. Manual of Patent Examining Procedure.
The PTO's official manual of procedure for patent examination.
4. Moore, Michel & Lupo, Patent Litigation and Strategy Second Edition
This is a casebook/treatise on patent litigation.

THERE IS NO CLASS OCTOBER 11; THE SCHOOL OBSERVES MONDAY CLASSES ON TUESDAY, OCTOBER 11.

Reading Assignments

August 23 (Class #1)

topics: Introduction (including intellectual property protection generally); structure and term of a patent; legal process of obtaining a patent; different types of patents (utility; design; plant).

text: 1-56

statute: 35 U.S.C. §§ 111, 122, 154.

August 30 (Class #2)

topics: Patentable subject matter; natural substances and living things; plant patents.

text: 100-119

statute: 35 U.S.C. § 101.

September 6 (Class #3)

topics: Patentable subject matter (continued); software inventions; business methods; medical procedures; sports methods.

text: 57-100; 119-132

statute: 35 U.S.C. § 287(c).

Also read: "Business Method Patents: Are There Any Limits?" 2 J. Marshall Rev. Intell. Prop. Law 30 (2002), available at <http://www.jmls.edu/ripl/vol2/issuel/wright.pdf>

September 13 (Class #4)

topics: Utility; disclosure; enablement.

text: 133-158; 438-469.

statute: 35 U.S.C. § 112.

September 20 (Class #5)

topics: Enablement (continued); written description; definiteness; best mode.

text: 470-524

statute: 35 U.S.C. §§ 112, 120, 132.

September 27 (Class #6)

topics: Best mode (continued); novelty.

text: 159-178

statute: 35 U.S.C. § 102.

October 4 (Class #7)

topics: Novelty (continued); section 102(a); section 102(e).

text: 248-254; 295-299

Also read: Scherin Co. v. Geneva Pharm, 339 F.3d 1373 (Fed. Cir. 2003).

Also read: Cooper Cameron Corp. v. Kvaerner Oilfield Prods., 291 F.3d 1317 (Fed. Cir. 2002).

October 11 – No Class

October 18 (Class #8)

topics: Section 102(f); section 102(g).

text: 255-294; 300-307

October 25 (Class #9)

topics: Section 102(g) (continued); diligence; reduction to practice; foreign priority; Hilmer doctrine; Patent Cooperation Treaty (PCT).

text: 255-294; 300-307

statute: 35 U.S.C. §§ 104; 119.

November 1 (Class #10)

topics: Statutory bars; section 102(b); public use; on-sale bar; experimental use doctrine.

text: 179-247.

November 8 (Class #11)

topics: Absolute novelty in foreign countries; section 102(c); section 102(d); nonobviousness.

text: 243-247; 308-410

statute: 35 U.S.C. § 103.

November 15 (Class #12)

topics: Nonobviousness (continued).

text: 411-437

November 22 (Class #13)

topics: Nonobviousness (continued); secondary factors of nonobviousness.

text: 411-437

Also read: In re Lee, 277 F.3d 1338 (Fed. Cir. 2002).

November 29 (Class #14)

topics: Claims.

text: 525-593

Final course review & wrap-up.

December 17 - Saturday

Final exam: Saturday, December 17th 12 noon to 2:00 pm

