

INTERNATIONAL INTELLECTUAL PROPERTY SEMINAR
LAW 418-001
Spring 2009

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Description

This seminar examines the major treaties and other international agreements providing protection for patents, trademarks, and copyrights and other forms of intellectual property, including the World Trade Organization TRIPS Agreements, the US free trade agreements and the World Intellectual Property Organization treaties. Particular attention will be given to the roles of the WTO and the WIPO. The course also examines some of the recent issues that have attracted controversy in the international arena as well as relevant recent developments in foreign countries, including the European Union member states and China.

Schedule and Assignments

The class meets on Thursday, from 8 p.m. to 9:50 p.m. in room 329.

Expert guest lecturers may join us for certain classes.

The readings below may be supplemented by the professor throughout the semester.

Assessment

Class grade will be based on class participation, a research paper of at least 30 pages double-spaced and an in-class presentation on the paper topic. This class will include mock international negotiation. Format, structure and topics for the negotiation will be based on intellectual property negotiations at the World Trade Organization.

In addition, as part of class participation, students may be asked to present or debate on relevant topics for class.

Class participation, including participation in the mock negotiation, will be worth 10 per cent of the class grade. The research paper will be worth 80 per cent of the class grade and the in-class presentation will be worth 10 per cent of the class grade.

Deadlines for research paper:

Topic Approved: January 29

Outline and bibliography: February 19

Draft Paper: April 2

Final Paper: April 30

Casebooks and Websites:

Required:

WIPO Intellectual Property Handbook: Policy, Law and Use, (“WIPO”) WIPO Publication No. 498, 2d Edition (2004). Available online at <http://www.wipo.int/about-ip/en/iprm/>. Hard copies can be purchased from WIPO directly.

International Legal Materials on Intellectual Property, Paul Goldstein, 2006.

Useful websites:

WTO: www.wto.org/english/docs_e/legal_e/legal_e.htm

USTR: www.ustr.gov

WIPO: www.wipo.org

Tentative Class Schedule, Topics, and Reading:

Overview

Week 1: Overview and introduction to international intellectual property; multinational framework and fundamental concepts; introduction to TRIPS.

Readings:

- WIPO: Chapter 1: pages 1-4; Chapter 2: pages 17-34, 40-55, 67-79, 130-136; Chapter 5: 345-349 (TRIPS).

The fundamentals

Week 2 and 3: International Trademark and Geographical Indications

Readings:

- WIPO: 79-89 (Registration); 120-130 (GIs); 249-257 (Trademarks/Paris); 258-259 (Appellations of Origin/Paris); 287-292 (Madrid); 297 (TLT); 305-308 (Nice and Vienna); 350-352 (GIs/TRIPS)
- Trademark and GI provisions of TRIPS (Articles 15-24)
- WTO Case: US-EC Geographical Indications handout

Week 4: International Copyright, including the WIPO “Internet” Treaties

Readings:

- WIPO: 262-269 (Berne); 40-56 (Overview); 349-350 (TRIPS); 269-276 (WCT); 325-331 (WPPT)
- Copyright provisions of TRIPS (Articles 9-13)
- WTO Case: US- Section 110 (5) handout

Week 5: International Patent and Protection of Undisclosed Information (Pharmaceutical “Data Protection”)

Readings:

- WIPO 17-40 (Overview); 241-249 (Paris); 276-285 (PCT); 301-305 (PLT); 352-355 (TRIPS)
- Patent and Protection of Undisclosed Information provisions of TRIPS (Articles 27-39)
- Assignment: Review Thailand trade secrets law, India Data Protection government report; NAFTA Art 1711 (or other FTA) and write brief (1 page) analysis of whether it complies with Article 39.3 of TRIPS

Week 6: International Enforcement: TRIPS and Special 301

Readings:

- WIPO: 207-211 (overview and counterfeiting), 215-219 (piracy) 355-356 (TRIPS)
- 2008 Special 301 Report; Executive Summary and relevant country sections – available at www.ustr.gov
- Enforcement provisions of TRIPS (Articles 41, 42, 50, 51, 61)
- WTO Dispute Settlement; Description of WTO dispute settlement process- available at http://www.wto.org/english/thewto_e/whatis_e/tif_e/displ_e.htm
- Assignment: Response to Special 301 Report - be prepared to discuss response to USTR and/or to your Minister of Trade on how to respond to report

Current and controversial issues

Week 7: Free Trade Agreements and Intellectual Property

Readings:

- US-Australia Free Trade Agreement (IP Chapter); available at www.ustr.gov

Week 8: Current IP issues at the WTO: Geographical indications; Convention on Biodiversity and patents; Enforcement

Readings: TBD

Week 9: Mock WTO negotiation

- Assignment: Opening statements and preparation for DD negotiation

Week 10: Mock WTO negotiation

- Assignment: Continuation and (hopefully) resolution of negotiations

Week 11/March 18: Patents; pharmaceuticals and access to medicines; the WTO Doha Declaration

Readings:

- The Doha Declaration on Public Health; Goldstein
- Oxfam/MSF press releases on Doha Declaration

Week 12: China

Readings:

- China sections of USTR 2007 Special 301 Report (including special review of provincial enforcement), available at www.ustr.gov
- April 9, 2007 USTR press release announcing WTO litigation against China on IP issues – available at www.ustr.gov

Possible Guest lecturer

Week 13:

- Student presentations

Week 14:

- Student presentations

April 30 - PAPERS DUE