

FEDERAL CIRCUIT PRACTICE SEMINAR (LAW 437) SPRING 2009

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Introduction:

The course will focus on the practical aspects of appearing before the Federal Circuit. It will discuss the history of the Federal Circuit, the purpose of its creation, its jurisdiction, and rules of practice. It will include brief writing and oral argument. In addition, the course will discuss the practical inner-workings of the Federal Circuit.

Course Materials:

We will not be using a casebook for this course. Rather, we will use materials collected by us on the various topics that we will cover. We will provide a copy of the materials to each student during the first class.

Class Schedule:

All classes (except for one) will meet in the Truland Building (Room TBA) from 6:00 to 7:50 PM on Tuesdays. One class will be held at the Federal Circuit (as noted below). **Please note that there will be no class on March 10, 2008.** In addition, we may have conflicts with out-of-town travel. We will always warn in advance and will get a substitute, if possible.

Class Attendance:

The Law School's regulations require regular and punctual attendance. As such, we will take attendance every class and will expect regular attendance. Obviously, there may be instances when you will have to miss class. We ask that you inform one of us in advance that you will be missing a class (to the extent you know).

Grade:

There will be no exam in this course. Rather, your grade will be based on your writing ability and oral advocacy skills, as those are the two things that make one a good advocate before the Court. Your writing ability will be judged by the briefs you submit (we will discuss this more during class); your oral skills will be judged through the oral argument, as well as class participation. Specifically, the grade will be broken down as follows:

Briefs: 70%
Oral Argument: 20%
Class Participation: 10%

Syllabus:

Please see attached.

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Topic	Date	Assignment
<p>I. Introduction/Background</p> <ul style="list-style-type: none"> A. About the Court B. History/Purpose/Creation of the Federal Circuit C. Types of cases heard by the Federal Circuit D. State of the Court 	January 13	<p>Read R24-R57 & R76-R85</p> <p>Skim R1-R23 & R58-R75</p>
<p>II. Practical Aspects of Appearing Before the Federal Circuit</p> <ul style="list-style-type: none"> A. Overview of an appeal (from filing to decision) <ul style="list-style-type: none"> o How are cases decided? B. Binding precedent on the Federal Circuit <ul style="list-style-type: none"> o Precedential v. Non-Precedential Opinions o Regional v. Federal Circuit Law 	January 20	<p>Read R103-R162</p> <p>Read Rule 32.1 (on page R363)</p>
<p>III. Pre-Appeal Procedures</p> <ul style="list-style-type: none"> A. Preserving Issues for Appeal <ul style="list-style-type: none"> o Rule 3 – Notice of Appeal B. What Issues to Appeal <ul style="list-style-type: none"> o Law v. fact o Standard of review 	January 27	<p>Read Rules 3, 38 & R163-R207</p> <p>Skim R208-R313</p>
<p>IV. Motions Practice & Federal Circuit’s Mediation Program</p> <ul style="list-style-type: none"> o Rule 27 – Motions and Responses 		<p>Read Rule 27 & R314-R335, R88</p>
<p>V. Briefing a Case Before the Federal Circuit</p> <ul style="list-style-type: none"> A. Techniques for Drafting Opening Briefs B. Review Sample Briefs C. Federal Circuit Rules <ul style="list-style-type: none"> o Rule 28 – Briefs o Rule 30 – Appendixes o Rule 31 – Filing and service of briefs o Rule 32 – Form of briefs, appendixes, & other papers 	February 3	<p>Read R336-R353 & the Rules mentioned under the Topics Tab</p> <p>Skim Sample Briefs</p>

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Topic	Date	Assignment
D. Review Problem/Schedule for Moot Appeal <ul style="list-style-type: none"> o Review facts/issues o Assignments - Appellants/Appellees 	February 10	Review problem, conduct research, and be prepared to discuss issues
E. Guest Lecture on Writing Briefs	February 17	None
F. Guest Lecture by a Federal Circuit Judge	February 24	Detailed Outlines for Briefs
G. Conferences to discuss outlines for briefs	March 3	Come prepared to ask any questions about briefing
VI. Oral Argument Before the Federal Circuit		
A. Basics of Oral Argument before the Federal Circuit	March 17	Read Rule 34 & R354-R358
B. Guest Lecture on Oral Arguments	March 24	None
C. Review and Discuss Briefs/Issues of a Case to be Heard During The April Term	March 31	Read briefs and be ready to discuss issues raised
D. Observe Oral Argument at the Federal Circuit (Note - This class will be held at the Federal Circuit)	Week of April 6	Briefs Due
VII. Oral Arguments		
<ul style="list-style-type: none"> • Oral arguments will be judged by attorneys who practice before the Federal Circuit, former law clerks, and/or judges 	April 14 April 21	Prepare for oral argument
VIII. Miscellaneous Topics		
A. Emergency appeals & petitions for extraordinary writs	If we have time	
B. Petitions for rehearing		