INTELLECTUAL PROPERTY (367-001)
GMU SCHOOL OF LAW
COURSE SYLLABUS
Professor: STEPHEN G. KUNIN
(Philippe Signore will serve as substitute professor)
SPRING 2016

ADMINISTRATIVE

Classes will be held on Tuesdays and Thursdays from 6:15 pm to 7:30 pm. The 3-hour final exam will be held on Saturday, April 30 at 12:00 noon.

The Exam

There will be a single examination in this course. The final examination will cover the reading materials and the class discussions. I will expect you to demonstrate knowledge of the statutes and common law applicable to Patents, Trademarks, Copyrights and Trade Secrets as well as the policies behind them. 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. The open-book, open-notes exam will include multiple choice and true/false questions. Laptop computers will NOT be permitted when taking the final exam. Students will be required to bring #2 pencils to the final examination. The Scantron cards will be used to record your answers. Answers written on the final examination will not be considered. Students are expected to read assigned materials prior to class. Cases will be assigned to students in teams of three on a spreadsheet distributed to the students at the beginning of the semester.


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 assign cases to students to ensure equal participation. You are expected to have done the reading and prepare any assigned cases for each class.
Reading Assignments

January 7 (Class #1)
topics: Trademark protection: introduction; Federal trademark protection; the application process and the international stage.

January 12 (Class #2)
topics: Requirements for trademark protection; physical use, cognitive use (distinctiveness) and requirements for Federal registration.
Assigned cases:
Microstrategery v. Motorola page 27
G. Heileman v. Anheuser-Busch page 32
Two Pesos v. Taco Cabana page 40
Qualitex v. Jacobson page 44

January 14 (Class #3)
topics: Continuation of class #2 topics.
Assigned cases:
TrafFix v. Marketing Displays page 52
In re Dial-A-Mattress page 55

January 19 (Class #4)
topics: The scope of the Trademark holder's rights: infringement and contributory infringement.
Assigned cases:
Lois Sportswear v. Levi Strauss page 86
McDonald's v. Druck and Gerner page 92
Two Pesos v. Taco Cabana page 97
Mosley v. V. Secret page 101
Wal-Mart v. Wallmartcanadasucks page 108

January 21 (Class #5)
topics: Continuation of class #4 topics.
Assigned cases:
Playboy v. Welles page 114
KP Permanent v. Lasting Impress sup page 1
Tiffany v. eBay sup page 6
Rescuecom v. Google sup page 19

January 26 (Class #6)
topics: The interest in public access.
Assigned cases:
Dawn Donut v. Hart’s Food page 141
L.L. Bean v. Drake page 149
Quality Inns v. McDonald’s page 153
Davidoff v. PLD page 159

January 28 (Class #7)
topics: Remedies.
Assigned cases:
George Basch v. Blue Coral page 181
Sands v. Quaker Oats page 192
Lever Bros. v. U.S. page 196

February 2 (Class #8)
topics: Copyright protection: introduction.

February 4 (Class #9)
topics: The requirements of originality and authorship.
Assigned cases:
Feist v. Rural Telephone page 225
Kregos v. AP page 236
Schrock v. Learning Curve sup page 34

February 9 (Class #10)
topics: Useful articles and protection for characters.
statute: 17 U.S.C. §§ 102-105, 113(a)-(c) and 120.
Assigned cases:
Mazer v. Stein 347 US201 (1954)
Baker v. Selden page 264
Brandir v. Cascade page 268
Anderson v. Stallone page 278

February 11 (Class #11)
topics: Ownership, work for hire doctrine, renewal and termination rights and moral rights.
Assigned cases:
Eldred v. Ashcroft page 297
CCNV v. Reid page 304
Childress v. Taylor page 316
Stewart v. Abend page 325

February 16 (Class #12)
topics: Continuation of class #11.
Assigned cases:
NY Times v. Tasini page 333
Reed v. Muchnick 559 US ____ (2010)
Dastar v. Twentieth Century Fox page 341

February 18 (Class #13)
topics: Infringement.
statute: 17 U.S.C. § 501(a) and (b).
Assigned cases:
Nichols v. Universal Pictures page 360
Computer Associates v. Altai page 364
Apple v. Microsoft page 382

February 23 (Class #14)
topics: Continuation of class #13.
statute: 17 U.S.C. §§ 501(a) and (b).
Assigned cases:
Michael Stillman v. Leo Burnett page 389
Kohus v. Mariol page 396

February 25 (Class #15)
topics: Public access considerations and fair use doctrine.
statute: 17 U.S.C. §§ 107-119, 512(a), 602(a), and 1201-1202.
Assigned cases:
Sony v. Universal City Studios page 415
Cartoon Network v. CSC Holdings 536 Fed 3rd 121 (2nd Cir 2008)
MGM Studios Inc. v. Grokster sup page 49
Harper & Row v. Nation page 430
Campbell v. Acuff-Rose page 439

March 1 (class #16)
topics: Continuation of class #15
statute: 17 U.S.C. §§ 107-119, 512(a), 602(a), and 1201-1202.
Assigned cases:
A & M v. Napster page 444
Suntrust Bank v. Houghton page 456
U.S. v. Elcom page 462
Perfect 10 v. Amazon sup page 67

March 3 (class #17)
topics: Remedies.
Assigned cases:
Universal v. Ahmed page 494
On Davis v. The Gap page 497
Abend v. MCA page 506
A & M v. Napster page 509
Fogerty v. Fantasy page 510
MARCH 7 – MARCH 13 -- Spring Recess

March 15 (class #18)
topics: The right of publicity and misappropriation.
Assigned cases:
NBA v. Motorola page 527
Comedy III v. Saderup page 538
Dustin Hoffman v. Capital Cities page 549

March 17 (class #19)
America Invents Act https://www.govtrack.us/congress/bills/112/hr1249/text

March 22 (class #20)
topics: Subject matter.
Assigned cases:
Diamond v. Chakrabarty page 593
Bilski v. Kappos sup page 121
In re Nuijten 500 Fed 3rd 1346 (Fed Cir 2007)
AMP v. USPTO http://www.supremecourt.gov/opinions/12pdf/12-398_1b7d.pdf

March 24 (class #21)
topics: Utility
Assigned cases:
Brenner v. Manson page 621
In re Fisher 421 Fed 3rd 1365 (Fed Cir 2005)

March 29 (class #22)
topics: Novelty
statute: 35 U.S.C. §§ 102(a), (e), (g) and 104.
Assigned cases:
Gayler v. Wilder page 640
Coffin v. Ogden page 643
Scripps Clinic v. Genentech page 645
In re Cruciferous Sprouts page 649

March 31 (class #23)
topics: Non-obviousness and originality.
Assigned cases:
Graham v. John Deere page 669
Sakraida v. Ag Pro page 677
KSR v. Teleflex sup page 184
In re Kubin sup page 198

April 5 (class #24)
topics: Continuation of class #22.
statute: 35 U.S.C. §§ 103 and 102(f)
Assigned cases:
Stratoflex v. Aeroquip page 679
In re Dillon page 686
In re Bell page 693
Oddzon Products v. Just Toys page 696

April 7 (class #25)
topics: Statutory bars.
statute: 35 U.S.C. §§ 102(b), (c) and (d).
Assigned cases:
Egbert v. Lippmann page 715
Metallizing Engineering v. Kenyon page 717
Pfaff v. Wells page 720
Baxter International v. Cobe page 725

April 12 (class #26)
topics: Trade secrets, Covenants Not to Compete, and Economic Espionage.
statute: Uniform Trade Secrets Act, Restatement of Unfair Competition § 38-45; § 301 of the
Assigned cases:
Dionne v. Southeast Foam page 886
PepsiCo. V. Redmond page 890
Gillette v. Williams page 898

April 14 (class #27)
topics: Continuation of class #25.
statute: Uniform Trade Secrets Act, Restatement of Unfair Competition § 38-45; § 301 of the
Assigned cases:
U.S. v. Lange page 900
Kewanee v. Bicron page 906
Bonito Boats v. Thunder Craft page 914

April 19 – NO CLASS -- UNLESS NEEDED FOR MAKE-UP CAUSED BY CLASS
CANCELETION DUE TO WEATHER RELATED SCHOOL CLOSING

April 30 – Saturday – FINAL EXAM – 12:00 PM