

GEORGE MASON UNIVERSITY SCHOOL OF LAW

Multinational Intellectual Property Protection - LAW 418-001

Professors: James Housel
Jeffrey Siew

Required Text: WIPO Intellectual Property Handbook: Policy, Law and Use, WIPO Publication No. 489, 2d Edition (2004). Available for download on-line at <http://www.wipo.int/about-ip/en/iprm/index.html>

Recommended Web Sites:

World Intellectual Property Organization (WIPO): <http://www.wipo.org>

World Trade Organization (WTO): <http://www.wto.org>

U.S. Patent and Trademark Office (USPTO): www.uspto.gov

European Patent Office: <http://www.epo.co.at/epo>

U.S. Copyright Office: <http://lcweb.loc.gov>

Course Requirement: 30 page paper, double-spaced, on topic to be chosen by student

Class Schedule: January 7, 2009 – May 13, 2009
Thursdays, 8:00 - 9:50 p.m.

Assignments:

Reading assignments are set forth below for each of the classes. The latter portion of the seminar will consist of presentations of the students reporting on their work in progress on their respective research papers. Specific assignments for those classes will be made later in the semester.

Class Preparation and Participation:

Class will start and end promptly at the scheduled times. Each student is expected to have read and thought about the assignment for each class and be prepared to participate actively in the classroom discussion. Class attendance, preparation and participation are important to the successful completion of the course.

Research Paper:

A list of suggested research topics that students may wish to select as their topics for their research papers will be distributed at the first class. A student may instead choose his/her own topic subject to the approval of Professors Housel or Siew. The length of the paper should be at least 30 pages double spaced.

The several steps in completing a research paper must be accomplished by the dates indicated:

Topic approved -	January 21
Outline & Bibliography -	February 11
Draft Paper -	April 1

Final Paper Submitted for Grade – April 30

Class Assignments:

Class 1 (January 7) – Housel & Siew

Introduction to Class; Introduction to General Concepts of Patents, Trademark, Copyright
Intro to International Aspects of Intellectual Property Rights

Reading: WIPO Pub. 489 - Chapter 2, Pages 17-34, Patents, Pages 40-55, Copyright and
Related Rights, Pages 67-79, Trademarks, Pages 130-136 Unfair Competition.

Suggested Reading: WIPO on Patents, <http://www.wipo.int/about-ip/en/patents.html>, WIPO
on Trademarks, <http://www.wipo.int/about-ip/en/trademarks.html>, and WIPO on Copyright
and Related Rights, <http://www.wipo.int/about-ip/en/copyright.html>.

Class 2 (January 14) - Housel & Siew

International Patent Fundamentals

Review of the Paris Convention, introduction to Right of Priority and National Treatment;
Introduction to the World Intellectual Property Organization (WIPO); Review of the Patent
Law Treaty of 2000; Procuring Multinational Patent Protection: Patent Cooperation Treaty
(PCT), Regional Patent Offices

Readings: Chapter 1, Pages 1-12, Concept of Intellectual Property and Introduction to WIPO;
Chapter 5, Pages 241-249, Paris Convention as related to Patents; Chapter 5, 276-284, Patent
Cooperation Treaty; Chapter 5, 301-305, Patent Law Treaty of 2000.

Suggested Reading: Paris Convention Articles 1-5, Patent Law Treaty and PCT available at
<http://www.wipo.int/treaties/en/>

Class 3 (January 21) – TBD

International Copyright Fundamentals

Copyright and *droit d'auteur* traditions; instrumental and natural rights rationales; common
law versus civil law traditions; copyright and neighboring rights distinction; national basis of
copyright protection; growing role of international treaties and institutions; overview of
copyright and neighboring rights treaties and trade agreements; principles of territoriality;
national treatment; and choice of law

Readings: WIPO Pub 489 – Introduction; copyright protection; subject matter of copyright
protection; rights comprised in copyright; neighboring rights; Berne Convention for the
Protection of Literary and Artistic Works

Suggested Readings: *Itar-Tass Russian News Agency v. Russian Kurier, Inc.*, 153 F.3d 82 (2d
Cir. 1998) and *Subafilms, Ltd v. MGM-Pathe Communications Co.*, 24 F.3d 1088 (9th Cir.
1994).

Class 4 (January 28) - TBD

Digital Copyright Issues

Introduction to World Intellectual Property Organization (WIPO) “Internet Treaties;” U.S.
experience under the Digital Millennium Copyright Act (DMCA); distinction between access
and copy controls; rights management information; direct and secondary liability for
copyright infringement; potential Internet Service Provider (ISP) liability under contributory
infringement, vicarious liability, and active inducement theories; U.S. case law (Napster,
Aimster, and Grokster) compared to Australian case law (KaZaa)

Readings: WIPO Pub 489 – Piracy and infringement; remedies; WIPO Copyright Treaty;
WIPO Performances and Phonograms Treaty

Suggested Readings: 17 U.S.C. Sections 512, 1201-05 and *Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd*, 125 S.Ct 2764 (2005)

Class 5 (February 4) - Housel & Siew

Patents in the World Trade System

Introduction to the TRIPS Agreement and the World Trade Organization (WTO); Articles 27-39 of the TRIPS Agreement; Introduction to patents in bilateral Free Trade Agreements; Example - case of pharmaceuticals, TRIPS and Health Debate; Introduction to TRIPS and CBD

Readings: WIPO Pub 489, Chapter 5, pages 345-349, 352-354, 357, intro to general TRIPS provisions, patent provisions and dispute settlement. TRIPS Agreement Articles 27-34, available at http://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm.

Class 6 - (February 11) – TBD

Trademark Registration System and the Impact of the Madrid System for the International Registration of Marks/ Trademark Law Treaty of 1994/Nice Classification Agreement: simplifying the international trademark system or complicating it?

Readings: WIPO Publication 489, pages 79- 89 (TM Registration); pages 287-292 (Madrid System); page 297 (TLT); pages 305-308 (Nice and Vienna);

Suggested reading:

Madrid System

http://www.wipo.int/treaties/en/registration/madrid_protocol/summary_madrid.html

Trademark Law Treaty

http://www.wipo.int/treaties/en/ip/tlt/summary_tlt.html

Singapore Treaty on the Law of Trademarks

http://www.wipo.int/treaties/en/ip/singapore/summary_singapore.html

Nice Classification

http://www.wipo.int/treaties/en/classification/nice/summary_nice.html

Class 7 (February 18) – TBD

Geographical Indications in bilateral and multilateral agreements: intellectual property or trade interest?

Readings: WIPO Pub. 489 pages 120-130 (geographical indications); page 351-352 (GIs in TRIPS); page 357 (TRIPS DSB);

Suggested reading:

http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Australia_FTA/Final_Text/asset_upload_file469_5141.pdf pages 17-1 to 17-6

http://www.ustr.gov/assets/Trade_Agreements/Bilateral/Australia_FTA/Final_Text/asset_upload_file778_3889.pdf Distinctive Products

WIPO GI Information http://www.wipo.int/about-ip/en/geographical_ind.html

USPTO GI information

<http://www.uspto.gov/web/offices/dcom/olia/globalip/geographicalindication.htm>

Europe's Wine Bilaterals including GIs

http://ec.europa.eu/agriculture/markets/wine/third/index_en.htm

WTO DSB

http://www.wto.org/english/thewto_e/whatis_e/tif_e/displ_e.htm

Class 8 (February 25) – TBD

Role of the Department of State's Office of Intellectual Property Enforcement in the development and implementation of international intellectual property policy.

Readings: WIPO Pub 489 – ?

Class 9 (March 4) – TBD

Role of the U.S. Trade Representative's Office of Innovation and Intellectual Property and in the development and implementation of international IP policy.

Readings: WIPO Rub 489 - ?

Suggested Readings:

Class 10 (April 1) – Housel & Siew

Current Issues in International Intellectual Property

Patent Law Harmonization

Background on talks from 1983 to the present and the failed 1991 Diplomatic Conference; Substantive law talks begin again after PLT 2000 until present day work on a "reduced package." Recap of major issues: first-to-invent v. first-to-file; grace period; secret prior art. WIPO v. "B+." Brief comparative overview of other issues: patentable subject matter, disclosure requirements, claiming requirements.

Climate Change

Background on negotiations leading up to and beyond the 15th session of the Conference of the Parties under the UN Framework Convention on Climate Change in Copenhagen.

Public Health

Discussion of the WHO's Global Strategy on Public Health, Innovation and Intellectual Property, and the WHO's ongoing intergovernmental meetings on Avian Influenza and Pandemic Preparedness.

Traditional Knowledge, Genetic Resources

Discussion of the ongoing work of the Convention on Biological Diversity and WIPO's InterGovernmental Committee.

Readings: WIPO Review of Substantive Patent Law Harmonization,

<http://www.wipo.int/patent/law/en/harmonization.htm>

Suggested Readings: 2004 draft treaty documents SCP/10/4 and SCP/10/5, also available by way of WIPO Harmonization web page.

Suggested Readings: TRIPS and Public Health,

http://www.wto.org/english/tratop_e/trips_e/pharmpatent_e.htm

Article 27(3)(b) and the Relationship of TRIPS and Convention on Biological Diversity, available at http://www.wto.org/english/tratop_e/trips_e/art27_3b_e.htm. See, in particular IP/C/W/368 Rev.1.

Class 11 (March 18)/**Class 12** (March 25)

Student Presentations "Work-in-Progress"

Class 13 (April 8)/**Class 14** (April 15)

Student Presentations "Work-in-Progress"