Course Objectives: This course surveys the main areas of intellectual property law—trade secrets, patents, copyrights, and trademarks. The primary goal of this course is to introduce the main topics of these different systems of intellectual property protection and to explore the commonalities and differences across those systems. Because this is a survey course, it covers a lot of ground at a quick pace. If, after completing this course, you find one or more of these topics particularly compelling, I encourage you to continue your studies of intellectual property law by enrolling in one of the more specialized courses here at the law school.

Course Materials: The required text is Lydia Pallas Loren & Joseph Scott Miller, Intellectual Property Law: Cases & Materials 3.1 (Semaphore Press) and the supplements to each chapter of the casebook. This book is available for download at www.semaphorepress.com, and the supplement to each chapter can be accessed via a hyperlink at the beginning of the respective chapter. Semaphore Press uses a publishing model different from the traditional law school casebook publishers. I encourage you to read about Semaphore Press’s publishing approach on its website. This book has a suggested price of $30, which is significantly below the cost of most law school textbooks. Although you may pay an amount less than $30, I urge you to pay the suggested retail price in order to keep such high-quality legal educational materials available at reasonable prices.

The Assignments from the casebook are indicated in this syllabus with the denotation “CB.” Some assignments also include materials not contained in your casebook. These supplementary materials can be found on this course’s TWEN page or by following the hyperlink in this syllabus. These materials are referenced in the syllabus with the denotation “(Supp.).”

Professor Rebecca Tushnet, at Georgetown University Law Center, maintains the Intellectual Property Teaching Resources (IPTR) database, consisting of audio, video, image, and text files that are relevant to many of the cases you will read. In many instances, the relevant file contains an image or an excerpt of the underlying work at issue in the case. Assignments for which there are complementary file(s) in the IPTR database are indicated in this syllabus with the denotation “IPTR.” For these assignments, you should visit the database and examine the relevant file(s). A list of the case(s) from the reading assignments that have complementary file(s) in the IPTR database is contained in the Appendix to this syllabus.
The IPTR database is password protected. A student username and password will be provided to you via this course’s TWEN page (also password protected). **You may not share, distribute, or make publicly available the database’s username or password.** Because this information is available through this course’s TWEN page, you additionally may not share, distribute, or make publicly available the password to this course’s TWEN page.

I have placed one copy of Stephen M. McJohn, *Intellectual Property: Examples & Explanations*, on reserve at the library. I have placed this commercial study aid on reserve because some of you may find it helpful when used as a supplement to the required readings; however, this commercial study aid is not intended as a substitute for the required readings. This text is **not** required.

**Final Exam, Grading, and Course Requirements:** The final exam is scheduled for **12:00 noon, December 2, 2013**. The final exam will be a three-hour exam, consisting of some combination of questions requiring either a short answer or a longer essay. You will be permitted to use your casebook, supplemental course materials (i.e., material posted to this course’s TWEN page or hyperlinked on this syllabus), a dictionary, your class notes, handouts distributed during student in-class presentations, and any outline that you prepared or played a substantial part in preparing. **This is an exhaustive list.** You will not be permitted to access the internet during the final exam. Therefore, course materials that reside on a website, including this course’s TWEN page, should either be downloaded to the laptop you plan to use for the final exam or printed for your use in hard copy. Your final grade in this course will be determined primarily from your grade on the final exam, which will account for 80% of your final grade.

In addition, you are required to give one 35 to 45 minute in-class presentation, which will account for 20% of your final grade. One or more students will give presentations upon our completion of each of the Patent, Copyright, and Trademark units of the course. The main objective of your presentation should be to “teach” the class a facet of Patent, Copyright, or Trademark law reasonably related to the course materials. You may satisfy this objective in a number of ways, including, but not limited to, examining a topic covered by the course materials more deeply; introducing a new topic reasonably related to the course materials but given, at best, only a cursory treatment in the textbook or during class discussion; or comprehensively summarizing the relevant doctrine in a new, unique, and effective way. In researching and preparing your presentation, you may rely on traditional sources, including, but not limited to, statutes, cases, scholarly books and articles, and news reports from reputable media outlets; you may also rely on less traditional sources, including, but not limited to, blogs (whether scholarly or popular), music, literature, film, fan fiction, fanzines, and sites publishing the works of artists. In giving your presentation, you may use, incorporate, or rely on any audio or visual media that the classroom reasonably can accommodate. By 5:00 p.m. the day before you are scheduled to present, you should turn into me a bibliography of sources, as well as a copy of any notes (including “lecture” notes), slides, files, handouts, or other documents that you will use or on which you will rely in giving your presentation. Presentations will be evaluated for their overall effectiveness in teaching the chosen subject matter, with special attention given to the depth, breadth, and quality of your legal analysis.

Finally, consistent with **Academic Regulations 4-1 and 4-3.2**, you are expected to attend, be prepared for, and participate in discussions during class. I also expect you to act professionally during class. This includes, **but is not limited to**, treating your classmates, guest lecturers, and all other visitors with respect.
and limiting the use of computers and other electronic devices (e.g., cellphones, tablets) to taking notes or engaging in other class-appropriate activities at my request (e.g., researching questions that arise during class). Therefore, at my discretion, your final grade may be adjusted by 1/3rd of a grade, in either direction, depending on your class attendance and the level, quality, and nature of your participation.

The format of this course will primarily be a combination of Socratic-style questioning, lecture, and discussion. Prior to class, you should read and view the assigned material, read any statutes referenced in the text, attempt to synthesize the various legal concepts and doctrines introduced, identify difficult legal or policy issues presented by the material, and work through any questions or problems presented in the text such that, should you be called on, you will be comfortable discussing the material.

You should register for this course’s TWEN page. The password will be given out during the first class.

Syllabus: Following is the tentative syllabus. We may deviate from the tentative syllabus to take account of current events, new cases, or other appropriate circumstances.
Assignments

I. Introduction

Aug. 15 Introduction
Read this syllabus in its entirety
Academic Regulations 4-1 and 4-3.2
CB 1-26
IPTR, view after receive password first class

II. Trade Secrets

Aug. 20 Defining a Trade Secret
CB 27-50

Aug. 22 Misappropriation & Remedies
CB 50-73

Aug. 27 Alternatives & Compliments
CB 96-116

III. Patents

Aug. 29 The Patent System
CB 117-29
When Patents Attack! (Supp.)
U.S. Const. Art. I, § 8 cl. 8

Sept. 3 Claim Construction and Definiteness
CB 129-49
Gary Rivlin, Magical or Overrated? A Food Additive in a Swirl, N.Y. TIMES, Jan. 14, 2007, at Business (Supp.)
<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Pages/Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sept. 5</td>
<td>Adequate Written Disclosure</td>
<td>CB 149-57</td>
</tr>
<tr>
<td></td>
<td>Patentable Subject Matter and Utility</td>
<td></td>
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<tr>
<td></td>
<td>CB 157-70</td>
<td>IPTR</td>
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<tr>
<td>Sept. 10</td>
<td>Patentable Subject Matter and Utility, <em>Cont’d</em></td>
<td>CB 170-96</td>
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<td>Sept. 12</td>
<td>Novelty and Statutory Bars</td>
<td>CB 196-231</td>
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<td></td>
<td>Note on § 102 (Supp.)</td>
<td>IPTR</td>
</tr>
<tr>
<td>Sept. 17</td>
<td>The Nonobviousness Requirement</td>
<td>CB 231-54</td>
</tr>
<tr>
<td></td>
<td></td>
<td>IPTR</td>
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<tr>
<td>Sept. 19</td>
<td>Infringement</td>
<td>CB 254-77</td>
</tr>
<tr>
<td></td>
<td></td>
<td>IPTR</td>
</tr>
<tr>
<td>Sept. 24</td>
<td>Design Patents</td>
<td>CB 302-42</td>
</tr>
<tr>
<td>Sept. 26</td>
<td>Patents and Design Patents, <em>cont’d</em></td>
<td></td>
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<tr>
<td></td>
<td><em>No reading assignment; bring questions</em></td>
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<tr>
<td></td>
<td><strong>Student in-class presentation (Patent)</strong></td>
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<tr>
<td></td>
<td>Guest Lecturer, Arlir Amado, Director, Kramer &amp; Amado P.C., <em>please read Mr. Amado’s bio</em></td>
<td></td>
</tr>
</tbody>
</table>
IV. Copyright

Oct. 1  Theory and Copyrightable Subject Matter
       CB 343-60
       IPTR
       Meredith Hoffman, Off the Mat, Into Court: Lawsuit Pits Bikram and Yoga to the People, N.Y. Times, City Room Blog, Dec. 1, 2011 (Supp.)
       Registration of Claims to Copyright, 77 Fed. Reg. 37,605 to 37,608 (June 22, 2012) (to be codified at 37 C.F.R. pt. 201) (Supp.)

       Make-up class, immediately following normally scheduled class

Oct. 3  Boundaries of Copyrightable Subject Matter
       CB 360-82
       IPTR
       Ruth La Ferla, Faster Fashion, Cheaper Chic, N.Y. Times, May 10, 2007 (Supp.)
       Fashion Copyrights Cut Creativity, L.A. Times, Aug. 15, 2007 (Editorial) (Supp.)
       Innovative Design Protection Act Reintroduced, Council of Fashion Designers of Am. (Sept. 12, 2012) (Supp.)

Oct. 8  Obtaining, Owning & Maintaining a Copyright
       CB 382-408
       IPTR

Oct. 10 The Rights of a Copyright Owner
       CB 409-37
       IPTR
       Night Ripper, Girl Talk, Liner Note Credits (Supp.)
       Rob Walker, Mash-Up Model—Girl Talk, N.Y. Times, July 20, 2008 (Supp.)
       Robert Levine, Steal This Hook? D.J. Skirts Copyright Law, N.Y. Times, August 6, 2008 (Supp.)

Oct. 15 No Class; Observe Monday Schedule
Oct. 17  
*Class Canceled; we will reschedule*

Oct. 22  
Fair Use—The “Breathing Space Within the Confines of Copyright”  
CB 437-57  
IPTR  
*The Black Eyed Peas, My Humps* (Supp.)  
*Alanis Morissette, My Humps* (Supp.)  
*Jessica Herndon, Fergie Sends Alanis ‘Derriere’ Cake for ‘Humps’ Video, People Magazine, April 11, 2007* (Supp.)

Oct. 24  
Fair Use—The Challenges of Accommodating New Technology  
CB 457-86  
IPTR

Oct. 29  
Secondary Liability and Para-Copyright  
CB 487-516  
IPTR

Oct. 31  
Copyright, *cont’d*  
*No reading assignment; bring questions*

**Student in-class presentation (Copyright)**

V. **Trademark**

Nov. 5  
Trademark Protection  
CB 545-66  
IPTR

Nov. 7  
“Device” Marks and Trade Dress Protection  
CB 566-91  
IPTR

Nov. 12  
The Rights of a Trademark Owner—Infringement & Counterfeiting  
CB 591-620  
IPTR
Nov. 14  Trademark Dilution
CB 620-46
IPTR

Nov. 19  Comparative Advertising, Fair Use and Other Defenses
CB 646-77
IPTR

Nov. 22  *Observe a Tuesday Schedule*
2012 Exam
*Work through the questions and bring any questions*

*Student in-class presentation (Trademark)*
## Appendix, IPTR Database Reference Chart

<table>
<thead>
<tr>
<th>Relevant Reading Assignment</th>
<th>Case Names</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction, pp. 1-26</td>
<td>National Basketball Ass’n</td>
</tr>
<tr>
<td>Patentable Subject Matter and Utility, pp. 157-96</td>
<td>Diamond v. Dieher; Brenner v. Mason; Juicy Whip</td>
</tr>
<tr>
<td>Novelty and Statutory Bars, pp. 196-231</td>
<td>Pfaff</td>
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<td>The Nonobviousness Requirement, pp. 231-54</td>
<td>KSR</td>
</tr>
<tr>
<td>Infringement, pp. 254-77</td>
<td>Festo</td>
</tr>
<tr>
<td>Theory and Copyrightable Subject Matter, pp. 343-60</td>
<td>Bleistein; Feist</td>
</tr>
<tr>
<td>Boundaries of Copyrightable Subject Matter, pp. 360-82</td>
<td>Baker v. Selden; Brandir; Franklin Computer</td>
</tr>
<tr>
<td>Obtaining, Owning &amp; Maintaining a Copyright, pp. 382-408</td>
<td>CCNV; Eldred</td>
</tr>
<tr>
<td>The Rights of a Copyright Owner, pp. 409-37</td>
<td>Three Boys Music Corp.; Export Ventures (Case referenced on database is Nicholls v. Tufenkian Import/Export Ventures, 367 F. Supp. 2d 514 (S.D.N.Y. 2005).)</td>
</tr>
<tr>
<td>Fair Use—The “Breathing Space Within the Confines of Copyright,” pp. 437-57</td>
<td>Campbell; Harper &amp; Row</td>
</tr>
<tr>
<td><strong>Law School Classes Canceled</strong></td>
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<td>Fair Use—The Challenges of Accommodating New Technology, pp. 457-86</td>
<td>Sony; Perfect 10</td>
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<tr>
<td>Secondary Liability and Para-Copyright, pp. 487-516</td>
<td>Sony; MGM</td>
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<td>Zatarains; Top Tobacco</td>
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<tr>
<td>“Device” Marks and Trade Dress Protection, pp. 566-91</td>
<td>Qualitex; Two Pesos; Samara Brothers; Traffix Devices</td>
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<tr>
<td>The Rights of a Trademark Owner—Infringement &amp; Counterfeiting, pp. 591-620</td>
<td>Toucan Golf; Experience Hendrix; Dastar</td>
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<td>Wolfe’s Borough Coffee</td>
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<td>Smith v. Chanel; KP Permanent Make-Up; Haute Diggity Dog</td>
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</tbody>
</table>

*August 21, 2013*