Welcome. The course offers a survey of the legal and economic theory of intellectual property and how they have shaped both the statutory and common law. We will first develop the underlying legal and economic rationales for protecting intellectual property. Afterward, we will cover specific categories within IP, i.e., copyrights, patents, trademarks, and trade secrets. Students are expected to come to class prepared and ready to discuss the assigned readings.

Office Hours. Thursdays 2-4 PM & by appointment.


Course Requirements and Grading.

Written Assignments. There will be two written assignments. Each assignment is worth 15 percent of your overall grade—for a total of 30 percent. All assignments must be submitted in PDF via TWEN before midnight on the due date. Late submissions will receive zero credit.

Term Paper. The term paper must use economic analysis to analyze an intellectual property legal decision or set of decisions, statute/treaty, or legal rule/statute. It is worth 70 percent of your overall grade. The paper should be 20-30 pages in length. Preliminary topics due date is Friday, March 8, 2019. The final paper due date is Tuesday, May 7, 2019. All assignments must be submitted in PDF via TWEN before midnight on the due date. Late submissions will receive zero credit.

Class Participation. Your grade is subject to a discretionary class participation adjustment of 1/3rd of a grade in either direction.

Tentative Syllabus. We may deviate from the tentative syllabus for reasons including current events, new cases, scheduling, et cetera.

Intellectual Property: I own all course content that is created (e.g., slides), regardless of format (electronic, print, audio, video). You are forbidden to use
them with, or distribute them to, anyone other than your classmates in this course.

Class Schedule

1  Economics of Information (January 16)

Required:

Optional:

2  Economic Theory of Property and Intellectual Property (January 23)

Required:
- Landes and Posner, Ch. 1, *The Economic Theory of Property*

Optional:

3  Misappropriation & the Origin of Property Rights [No Class on Jan. 30]

Required:
• NBA v. Motorola, 105 F.3d 841 (2nd Cir. 1997)

Optional:

4 Private Production of Public Goods (February 6)

Required:
• ProCD v. Zeidenberg, 86 F.3d 1447 (7th Cir 1996)

5 Price Discrimination (February 13)

Required:
• Dawson Chemical Co. v. Rohm & Haas Co., 448 U.S. 176 (1980).

Optional:

6 Copyright I (February 20)

Required:
• Landes and Posner, Ch. 2, How to Think about Copyright
• Landes and Posner, Ch. 4, Basic Copyright Doctrines
• Baker v. Selden, 101 U.S. 99 (1879)
Optional:

7 Copyright II (February 27)

Required:
• Landes and Posner, Ch. 5, Copyright in Unpublished Works
• Landes and Posner, Ch. 6, Fair Use, Parody, and Burlesque

8 Economics of Trademark Law (March 6)

Required:
• Landes and Posner, Ch. 7, The Economics of Trademark Law
• Two Pesos v. Taco Cabana, 505 U.S. 763 (1992)
• White v. Samsung Electronics, 971 F.2d 1395 (9th Cir. 1992), 989 F.2d 1512 (9th Cir. 1993)
• Midler v. Ford Motor Co., 849 F.2d 460 (9th Cir. 1993)

9 Optimal Duration of Copyrights and Trademarks (March 20)

Required:
• Landes and Posner, Ch. 8, The Optimal Duration of Copyrights and Trademarks

Optional:
10 The Economics of Trade Secret Law (March 27)

Required:
• Landes and Posner, Ch. 13, The Economics of Trade Secrecy Law
• E.I. duPont deNemours v. Christopher, 431 F.2d 1012 (5th Cir. 1970)

11 Economics of Patent Law (April 3)

Required:
• Landes and Posner, Ch. 11, The Economics of Patent Law

12 Measuring Patent Damages (April 10)

Required:
• Grain Processing v. American Maize-Products, 185 F.3d 1341 (1999)
• Rite Hite v. Kelley, 56 F.3d 1538 (Fed. Cir. 1995).
• State Industries v. Mor-Flo, 883 F.2d 1573 (Fed. Circ. 1989)

13 IP and Antitrust (April 17)

Required:
• Landes and Posner, Ch. 14, Antitrust and Intellectual Property
• 2017 DOJ/FTC Antitrust Guidelines for the Licensing of Intellectual Property.
• Brulotte v. Thys, 379 U.S. 29 (1964)
• Scheiber v. Dolby Labs, 293 F.3d 1014 (7th Cir. 2002)

Optional:
• FTC v. Qualcomm: (i) FTC complaint and (ii) Qualcomm’s motion to dismiss.

14 Misuse, Inequitable Conduct, and Piracy (April 24)

Required:
• Lexmark v. Static Control Components, 572 U.S. 118 (2014)