Law 264 (Spring 2020)
The Legal and Economic Theory of Intellectual Property
Mondays 6:05 – 8:05 pm
Professor Kobayashi
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Required Books:

GRADING
The basis for the semester grade is as follows:
- Term Paper (50%)
- 3 Writing Assignments (50%).

COURSE REQUIREMENTS:
Class Participation:
Class Participation is required.

Class Attendance:
Students must sign the attendance sheet and attend the entire class. Anyone missing three or more classes will not receive academic credit. Those missing more than two classes will not receive academic credit without supplement work that substitutes for the classes missed.

Reading Assignments:
Up to date reading assignments can be found by clicking on the Reading Assignments link on the course TWEN page. A preliminary reading list for the entire semester has been attached below. However, this preliminary list is subject to change, and students are responsible to check each week for any updates.

Writing Assignments:
Writing assignments will be posted one week before the due date, and can be found by clicking on the Writing Assignments link on the course TWEN page.
There will be 3 assignments, each worth 1/6 of the final grade. The assignment due dates and times are listed on the syllabus and posted on the Writing Assignments link.

Length guideline for writing assignments (1000 - 1500 words).

**Term paper**

* Term Paper must use economic analysis to analyze an intellectual property legal decision or set of decisions, statute/treaty, or legal rule/statute.

* Paper should be 25-30 pages in length

* Preliminary topics due date is listed on the syllabus and the TWEN site.

* Final Papers due date is listed on the TWEN site.

All assignments will be posted on TWEN. All assignments (including the Term Paper) must be submitted in PDF format via the TWEN Assignment and Quiz Drop Box. **E-mail submissions and submissions in other formats will not be accepted.**

All requirements are subject to change.
READING ASSIGNMENTS:

I. Economics of Information (January 27, 2020)

Required:


Optional:


II. The Economic Theory of Property and Intellectual Property (February 3, 2020)

Required

- Landes and Posner, Chapter 1.

Optional:


III. Misappropriation and the Origin of Property Rights (February 10, 2020) (Assignment 1 Due)
IV. The Private Production of Public Goods (February 17, 2020)

Required:

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

Optional:

V. Price Discrimination (February 24, 2020)

Required:

• Mericoid Corp. v. Mid-Continent Investment Co., 320 U.S. 661 (1944).
• C.R. Bard, Inc. v. Advanced Cardiovascular Systems, Inc., 911 F.2d 670 (Fed Cir. 1990).

Optional:


VI. Economics of Copyright: (March 2, 2020)

• Basic Copyright Doctrines
  o Landes and Posner, Chapter 2 - 6. (required)
  o Morrissey v. Proctor & Gamble, 379 F.2d 675 (1st Cir. 1967) (optional)
• Fair Use and Parody
• Photocopying and Indirect Appropriability:
  o American Geophysical Union v. Texaco, 60 F.3d 913 (2d Cir. 1994) (required).
  o Liebowitz, Copying and Indirect Appropriability: Photocopying of Journals, 93 JPE 945 (1985), available online at www.jstor.org.
• Unpublished Works
• Performance Rights (optional):
  o Twentieth Century Music Corp v. Aiken, 422 U.S. 151 (1975).
Spring Break (March 9, 2016)

VII. The Economics of Trademark Law (March 16, 2020) (Paper Topics Due)

- Trademark
  - Landes and Posner, Chapter 7
  - The Murphy Door Bed Co v. Interior Sleep Systems, Inc., 874 F.2d 95 (2d Cir. 1989).
- Right of Publicity
  - Midler v. Ford Motor Co., 849 F.2d 460 (9th Cir. 1988).
  - White v. Samsung Electronics America, Inc., 989 F.2d 1512 (9th Cir. 1993).

VIII. Term (March 23, 2020) (Assignment 2 Due)

- Landes and Posner, Chapter 8.

IX. The Economics of Trade Secret Law (March 30, 2020)

- DuPont v. Christopher, 431 F.2d 1012 (5th Cir. 1970).
• Landes and Posner, Chapter 13.

X. The Economics of Patent Law (April 6, 2020)

• Landes and Posner, Chapter 11


• Grain Processing Corp. v. American Maize-Products Co., 185 F.3d. 1341 (Fed Cir. 1990).
• Rite Hite v. Kelley Co., 56 F.3d 1538 (Fed Cir 1995).
• State Industries v. Mor-Flo, Inc., 883 F. 2d. 1573 (Fed. Cir. 1988).
• Uniloc USA, Inc. v. Microsoft Corp., 632 F. 3d 1292 (Fed. Cir. 2011)
• ResQNet.com Inc. v. Lansa, Inc., 594 F.3d 860 (Fed. Cir. 2010)

XII. IP, Misuse, Inequitable Conduct, and Antitrust (April 20, 2020)

• Landes and Posner, Chapter 14
• Scheiber v. Dolby Labs, 293 F.3d 1014 (7th Cir. 2002).
• Kobayashi, et. al., Actavis and Multiple ANDA Entrants: Beyond the Temporary Duopoly, 29 Antitrust 89 (2015).

XIII. Preemption of State Law, Conflict of Federal Laws (Thursday, April 23, 2020)

• Dastar v. 20th Century Fox, 539 U.S. 23 (2003)
• ProCD v. Zeidenberg, 86 F.3d 1447 (7th Cir 1996).