

FEDERAL CIRCUIT PRACTICE SEMINAR (LAW 437) FALL 2024

Nathan Kelley
nkelly@perkinscoie.com

Jaynie Lilley
jaynie.lilley@gmail.com

Naveen Modi
naveenmodi@paulhastings.com

Andrew Trask
atrask@wc.com

Introduction:

The course will focus on the practical aspects of appearing before the Federal Circuit. It will discuss the history of the Federal Circuit, the purpose of its creation, its jurisdiction, and rules of practice. It will include brief writing and oral argument. In addition, the course will discuss the practical inner-workings of the Federal Circuit.

Course Materials:

We will not use a casebook for this course. We will use materials collected by us on the various topics that we will cover as well as the current version of the Federal Circuit's Rules of Practice, available at the court's website, www.cafc.uscourts.gov. We will provide a pdf of the materials to each student during the first class.

Class Schedule:

All classes (except for one) will meet at the Law School from 4:00 to 6:00 PM on Wednesdays. One class will be held at the Federal Circuit (as noted below). **Please note that there will be no class on September 4 or October 16.** In addition, we may have conflicts that may require us to cancel a class. We will always warn in advance and will get a substitute, if possible. Office hours will be by appointment.

Learning Outcomes:

By the end of the course, students should be able to demonstrate an understanding of:

- the Federal Circuit rules;
- how to select issues and brief an appeal before the Federal Circuit; and
- how to argue an appeal before the Federal Circuit.

Class Attendance:

The Law School's regulations require regular and punctual attendance. As such, we will take attendance every class and will expect regular attendance. Obviously, there may be instances when you will have to miss class. We ask that you inform one of us in advance that you will be missing a class (to the extent you know).

Grade:

There will be no exam in this course. Rather, your grade will be based on your writing ability and oral advocacy skills, as those are the two things that make one a good advocate before the Court. Your writing ability will be judged by the briefs you submit (we will discuss this more during class); your oral skills will be judged through the oral argument, as well as class participation. Specifically, the grade will be broken down as follows:

Briefs: 70%; Oral Argument: 20%; Class Participation: 10%

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Topic	Date	Assignment
I. Introduction/Background <ul style="list-style-type: none"> A. About the Court B. History/Purpose/Creation of the Federal Circuit C. Types of cases heard by the Federal Circuit D. State of the Court 	August 21	Read R1-18 Skim R19-47
II. Practical Aspects of Appearing Before the Federal Circuit <ul style="list-style-type: none"> A. Overview of an appeal (from filing to decision) <ul style="list-style-type: none"> o How are cases decided? B. Binding precedent on the Federal Circuit <ul style="list-style-type: none"> o Precedential v. Non-Precedential Opinions o Regional v. Federal Circuit Law C. Overview of Rules 1-20 	August 28	Read R48-78 Review Rules 1-20 & 32.1 (pp. 1-56 & 147-51)
No class this week (Monday schedule observed on 9/4)	September 4	
III. Pre-Appeal Procedures <ul style="list-style-type: none"> A. Preserving Issues for Appeal B. What Issues to Appeal <ul style="list-style-type: none"> o Law v. fact o Standard of review C. Overview of Rules 21-26 	September 11	Read R79-130 Review Rules 21-27 (pp. 57-103)
IV. Motions Practice <ul style="list-style-type: none"> o Rule 27 – Motions and Responses 		
V. Briefing a Case Before the Federal Circuit <ul style="list-style-type: none"> A. Review Problem for Moot Appeal <ul style="list-style-type: none"> o Review facts/issues o Assignments - Appellants/Appellees 	September 18	Review problem, conduct research, and be prepared to discuss issues

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Topic	Date	Assignment
B. Techniques for Drafting Opening Briefs C. Review Sample Briefs D. Federal Circuit Rules <ul style="list-style-type: none"> ○ Rule 28 – Briefs ○ Rule 30 – Appendices ○ Rule 31 – Filing and service of briefs ○ Rule 32 – Form of briefs, appendices, & other papers 	September 25	Read R251-300 Review Rules 28-32 (pp. 103-148) Skim Sample Briefs Outline due on Sep. 27th at 6 pm
E. Conferences to discuss outlines for briefs	October 2	Come prepared to ask any questions about briefing
VI. Oral Argument Before the Federal Circuit		
A. Questions/Strategy for Briefs	October 9	Work on briefs
No class this week	October 16	Work on briefs
B. Basics of Oral Argument before the Federal Circuit <ul style="list-style-type: none"> ○ Rule 34 – Oral Argument ○ Overview of Rules 33 & 35-47 	October 23	Read R-301-335 Review Rules 33-47 (pp. 152-207)
C. Review and Discuss Briefs/Issues of a Case to be Heard in November	October 30	Read briefs and be ready to discuss issues raised
D. Observe Oral Argument at the Federal Circuit (specific date/time TBD based on calendared arguments)	Week of November 4	Work on briefs
VII. Oral Arguments		
Oral argument preparation and discussions about briefing	November 13	Briefs due by November 15th
Final oral arguments	November 20	