

Intellectual Property

Spring 2019

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Class Summary

Class 1, January 7, 2018

A. Class Coverage

1. Class Organization, Procedure, Evaluation

- a. Backgrounds
- b. Goals: Understanding the general landscape of US. IP law; Some deeper dive on specific questions; Some exposure to international IP; See Syllabus
- c. Meeting times, make-ups, online class
- d. Readings, materials, and class coverage – double class challenge
 - Using Nutshell as text; supplementing some cases, practice materials; getting statutes online
 - Saves money, meets 2 credit scope
- e. Exam and grading
- f. Questions

2. Justifications for Intellectual Property

- a. Excludability/non-rivalrous questions
- b. Natural Rights – Locke & Sweat of the Brow
“Proviso”
- c. Personhood –Doit d’auteur and beyond
Consumer identity: Fan fiction?
- d. Utilitarian :
 - US Constitution Article I Section 8. Clause 8 [The Congress shall have power] “To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.”
 - What property does +
 - Innovation and creativity (?) Uncle John
 - Investment, conservation, trade, etc. Invention vs. exploitation
 - Disclosure – first mover problem, contracting problems, societal disclosure, public goods
 - Sourcing – Reliability, status: integrity of the marketplace
 - What property does –
 - Allows exploitation
 - Inhibits further developments – open source alternative
 - Wealth distribution effects

- e. Challenges to intellectual property
 - Commons and open source approaches: Law
 - Motivational complexity for innovation
 - Cognitive limits – Goodenough
 - Technological ease/enforceability problem
- f. Questions

3. Summary of IP: DON'T CONFUSE THE CATEGORIES! See summary handout

- a. Trade Secret
- b. Patent (Utility and Design)
- c. Copyright
- d. Trademark
- e. Related Rights
 - Personal rights; Geographical origin
- f. Categories and Questions
 - Government Involvement
 - What is protected? Who benefits?
- g. Open Source
 - Approach
 - Economics and licensing

4. Trade Secret Generally:

- a. Origins and rationales
 - Link to disgruntled employee context
 - That and “spying” the big two on contexts; where does the duty come from?
 - State law important
- b. Statute and key elements
 - Secret with value; Reasonable Precautions; Acquired Wrongfully
- c. NIST Review Part 1 – Deeper dive next time

B. Assignment

1. Subjects: Trade Secrets Completed; Introduction to Patent

2. Readings:

Nutshell Chapters 1, 2 & 3

Reading at: https://en.wikipedia.org/wiki/Venetian_Patent_Statute

Case Materials at:

<https://openjurist.org/790/f2d/1195/metallurgical-industries-inc-v-fourtek-inc;>

<https://openjurist.org/925/f2d/174/rockwell-graphic-systems-incorporated-v-dev-industries-incorporated;>

<http://www2.newpaltz.edu/~zuckerpr/cases/dupont.htm>

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