

# Intellectual Property Law

Vermont Law School

Fall Term, 2022

Mondays 3:35 – 5:10

Prof. Oliver R. Goodenough

Syllabus

## Course Objectives and Learning Outcome:

The objectives for the learning outcomes in this course include:

- An understanding of the core principles of the major branches of intellectual property law: Trade Secret, Patent, Trademark and Copyright, their similarities and differences
- A deeper understanding of selected doctrinal issues within intellectual property law
- An understanding of the basic economic and social rationales for and against intellectual property law and its context in society, including its interaction with diversity issues
- An introduction to the business and legal concerns of clients with intellectual property matters, including creation, protection, licensing and enforcement
- An introduction to the ethical and moral responsibilities of intellectual property lawyers
- An introduction to practice elements such as filings, searches, and client counseling
- An introduction to drafting intellectual property related agreements

## Texts:

The textbooks for IP generally are written with a 4-credit course in mind. They also emphasize case law in a context where the statutory structure is at least as important. Therefore, we will use the IP Nutshell as the core text to ensure coverage, with reference to online versions of the statutes and supplemented by a moderate number of key cases to be assigned via the Internet on an ongoing basis. This syllabus sets out the chapters in the Nutshell for each class; the statutory, case, and supplemental material will be set out each week in advance in the class handout. There may be some adjustments to reflect pacing and contemporary events.

*Miller and Davis' Intellectual Property, Patents, Trademarks, and Copyright in a Nutshell, 6<sup>th</sup> ed.* Available at the book store and online via Amazon Kindle and other platforms. Electronically available cases and handouts assigned on a class-by-class basis.

## Scheduling and Approach:

This class meets once a week for a two-class block. As a survey course dealing with several different legal regimes, there is a lot to cover. Because of time constraints and because the

material is deeply based on the applicable statutes, we will use the Nutshell as the anchor for our coverage, supplemented by the statutes and a selection of cases to be read online. Individual assignments will be made through the “day sheet” which will be distributed via email, Canvas, and TEAMS in advance of each class. These will include the supplemental readings and videos.

The normal course times are Monday afternoons, 3:35 pm - 5:10 pm. Unless the pandemic intervenes, most classes will be in person, in the classic law-school format. Because of possible professional travel for conference presentations or similar commitments, for one or two classes instruction may be through the TEAMS platform, synchronously taught, in a mixed lecture and Socratic format. In such a case, I ask students, as a general matter, to turn on their cameras as they attend class. This encourages us all to a higher level of engagement. There are, of course, reasons to go to the plain screen, but please do have your camera on as the default mode. Those who wish to keep a neutral background may of course use that TEAMS function. Any TEAMS class will be recorded.

There will be a short break near the middle of each class. Office Hours will initially be scheduled for Wednesday afternoons at 5:00 – 6:00 and will be held online via TEAMS or, with an appointment, in person at Waterman 307; that time may change in light of other schedules.

#### Evaluation and Grading:

There will be three principal sources of evaluation for this class. First, there will be a drafting exercise involving a collaboration agreement and a license agreement. It will be worth 25% of the grade. The second will be three quizzes, spread over the term, and delivered on a timed basis, probably through remote administration. These will each be worth 5% of the grade. The final examination will be a take home, essay exam, available on the first day of the examination period and due by 5 pm on the final day. It will be worth the balance, or 60% of the grade. Classroom participation is encouraged and expected; it may also be taken into account in grading, particularly when the examination, quiz and drafting results are near a point of differentiation.

#### Class Schedule and Assignments:

Class #1 – August 29.

A. Subjects: Introduction to Intellectual Property, its Rationales, and Context; Introducing Trade Secrets

B. Readings:

<https://fairuse.stanford.edu/law/us-constitution/>

<https://www.forbes.com/sites/dougschoen/2013/09/24/intellectual-property-rights/#4b615a071a5d>

[https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_1056.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1056.pdf) particularly pages 13-23; skim the rest

[https://en.wikipedia.org/wiki/Open-source\\_model](https://en.wikipedia.org/wiki/Open-source_model)

<https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=4b9aadcf-cafb-811e-906a-bae706680d2a&forceDialog=0>

<https://legislature.vermont.gov/statutes/fullchapter/09/143>

C. Video

<https://www.vtsbdc.org/intellectual-property-opportunities-barriers-and-challenges/>

Class #2 – September 12

- A. Subjects: Trade Secrets Completed; Introduction to Patent
- B. Readings: Nutshell Chapters 1, 2 & 3; Contract Handout, Case Handouts

Class #3 – September 21

- A. Subjects: Patent Cont. Requirements and the Application
- B. Readings: Nutshell Chapters 4, 5, 6, & 7; Case Handouts

Class #4 – September 26

- A. Subjects: Patents – Infringement, Remedies, International & Wrap up
- B. Readings: Chapters 8, 9, 10 & 28.5, Handouts

Class #5 – October 3

- A. Subjects: Introduction to Copyright
- B. Readings: Chapter 19
- C. Quiz #1: IP theory, Trade Secret, Patent

Class #6 – October 17

- A. Subjects: Copyright Basics
- B. Readings: Chapters 20 & 21, Handouts

Class #7 – October 24

- A. Subjects: Copyright Ownership, Duration & Rights
- B. Readings: Chapters 24 & 25, Handouts

Class #8 – October 31

- A. Subjects: Copyright Digital Issues, Rights and Defenses
- B. Readings: Chapters 22, 23 & 26, Handouts

Class #9 – November 2

- A. Subjects: International, Enforcement and Copyright Wrap Up; Licensing Agreements Introduced
- B. Readings: Chapters 27 & 28.4, Handouts
- C. Drafting Exercise Handed Out

Class #10 – November 7

- A. Subjects: Passing Off and Trademark
- B. Readings: Chapters 11 & 12, Handouts
- C. Quiz # 2

Class #11 – November 14

- A. Subject: Trademark
- B. Readings: Chapters 13, 14 & 15, Handouts

C. Drafting Exercise Due

Class #12 – November 21

- A. Subject: Trademark Defenses, International and Trademark Wrap-Up
- B. Readings: Chapters 16, 17, 18 & 28.6, Handouts

Class #13 – November 28

- A. Subjects: Personal Rights: Privacy, Publicity & Defamation
- B. Readings: Chapter 28, Handouts

Class #14 – December 5

- A. Subjects: Catch up, Course Review
- B. Quiz #3