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Room 4051

Fall 2013 Syllabus
University of North Carolina School of Law
Law 418.1 (3 credit hours)
TWTh 3:10-4:05

INTERNATIONAL INTELLECTUAL PROPERTY

Description

This course provides an overview of the substantive content of, and legal authority for, international intellectual property rights, drawing on cases, treaties and materials in copyright, patent and trademark law. We will examine international and comparative law issues of major importance to modern IP practice, including obligations for IP protection arising under international public law, the emerging role of transnational private law in the acquisition and enforcement of IP rights, and the geopolitics of IP trade and harmonization.

Teaching Approach

My classroom instruction employs a combination of lecture and Socratic questioning, with the aim of providing the conceptual scaffolding necessary for you to engage the material before inviting you to inform the discussion. My aim in questioning you is to provoke critical thinking, self-directed learning, and a search for the connections between the detailed facts of a case and the deeper principles it illustrates. Eventually, such questioning should become a habit of mind, so that you will independently be able to incorporate legal materials efficiently and critically into your knowledge base and work product.

Casebook, Supplement, and Additional Materials

The casebook is DINWOODIE ET AL., INTERNATIONAL INTELLECTUAL LAW AND POLICY (2nd ed. 2008), published by Lexis-Nexis. There is also a paper Documentary Supplement (“DS”) accompanying this casebook, which will be useful for you to have. Further required and supplementary materials will be posted on the course Web site, as announced in class.

Class Participation and Grading

I expect each unit to take 0.8 to 1.2 class sessions to complete. If you are unprepared and wish to be spared being called on in class, you may email or speak to me before class and I will do my best to remember not to call on you.

Your participation grade will be A+, which will count for between 0% and 30% of your final grade, based on the overall quality of your participation, including your Special 301 Commentary (tentatively scheduled for **Oct. 1**). The Commentary will be a very brief oral (~5-10 minutes) and written (<2 pages) statement of your position with respect to an aspect of the 2013 Special 301 Report of your choice.

There will be a three-hour final examination, which will count for the remaining portion of your final grade, subject to the law school curve. The examination likely will consist of a short-response section and two or three questions of an issue-spotting variety.

Quality participation implies that you will not use your computer, smart phone, e-reader or similar device in a way likely to distract others. This includes browsing to Web sites unrelated to the course, chat rooms, e-mail, or other uses not related to note-taking for class or viewing of course materials.

Attendance

Students should arrive on time. I will take attendance at the beginning of class. If you arrive late, it is your responsibility to ensure that you are marked present by speaking to me before I leave the classroom; an email will **not** suffice, and you should not assume that I have made a note of your late arrival.

Your attendance is subject to the Law School's attendance policy requiring attendance at 80% of class sessions. The names of students who have accumulated seven or more absences during the semester will be brought to the attention of the Associate Dean for Academic Affairs. You are responsible for managing your absences and ensuring that your total number of absences does not reach this threshold. You may email me in advance regarding excusable absences, but any excused absences will still count toward the threshold and will be subject to review. Absences, excused or unexcused, below the threshold level will not affect the weighting of your participation grade in any way.

Honor Code

The Honor Code is in effect in this class and all others at the University. I am committed to treating Honor Code violations seriously and encourage all students to become familiar with its terms set out at <http://instrument.unc.edu>. If you have questions, it is your responsibility to ask me about the Code's application. All exams, written work and other projects must be submitted with a statement that you have complied with the requirements of the Honor Code in all aspects of the submitted work.

Prerequisites

Completion or concurrent enrollment in at least one of the following: Intellectual Property Law, Patent Law, Copyright Law, or Trademark Law

Office Hours

Room 5079, TTh 1:15-2:15, or by appointment. Phone is 962-4116, but email is preferred. Do not rely on voicemail for time-sensitive matters.

Secretary

Ashley Arthur, Faculty Support Center, Room 5125.

Order of Topics

- + Overview; main concepts of IP and international law
- + International treaties and institutions
- + Dispute settlement under TRIPS
- + International patent law
- + International copyright law
- + International trademark law

Detailed Outline

The principal cases are listed for your convenience; however, you are responsible for **all of the material on the pages listed**, whether or not it is covered in class. *Minor revisions to this syllabus are likely; they will be announced in class and emailed to the class.*

Unit Topics

Principal Cases

Pages

1	Overview and Introduction		1-8, DS 46 (Art. 39)
2	International IP Lawmaking and Institutions		9-24, 517-19, DS 500 (Art. 52)
3	Territoriality of IP Rights	Computer Associates	24-28
4	International Enforcement of IP Rights	London Film, Sarl Louis Feraud	Handouts
5	Sources of International IP Law		31-37
6	International IP Institutions		41-56, DS 56 (Art. 63.2)
7	Treaties Under U.S. Law	Robertson	56-60, DS 114, 125 (Arts. 4(A)(1), 10 <i>bis</i>), Handout
8	Treaties Under U.S. Law; National Treatment	GM v. Ignacio Lopez	60-65, 71-83
9	Treaties Under U.S. Law	Eldred, Murray	65-70, 88-92, DS 113 (Art. 2)
10	WTO Dispute Settlement: Videos and discussion		728-33, DS 57 (Art. 64.2), DS 63-88 (skim), Videos
11	WTO Dispute Settlement	“Macrohard”	733-54
12	WTO Dispute Settlement	India Chemical Patents	
13	WTO Dispute Settlement	“Koka Kola”	775-79
14	WTO Dispute Settlement	EU Banana Arbitration	786-93
15	The U.S. Bilateral Response; Special 301 Commentaries		794-99, 707-23, 727-28; Handout
16	Special 301 Commentaries (cont’d)		
17	Introduction to International Patent Law		418-27, 436-45 (skim), 446-52, DS 117 (Art. 5)
18	TRIPS Patent Law Provisions		DS 40-44 (Arts. 27-34)
19	WTO Dispute Settlement (2 classes)	Canada Pharmaceutical Patents	452-65
21	Extraterritoriality and Infringement, PCT Procedure	Microsoft	Handouts, 809-28
22	European Patent Convention	Lenzing AG	877-86
23	Introduction to International Copyright Law		527-30, 688, DS 641-54 (Arts. 2, 5, 6, 6 <i>bis</i> , 7(1), 8, 9, 14 <i>ter</i> , 19), 17 U.S.C.

			§§ 101 (definition of “visual art” only), 106A, 110(5), 113(d)
24	Moral Rights and U.S. Harmonization (2 classes)	Huston, Carter	Handouts
26	WTO Dispute Settlement (2 classes)	U.S. Homestyle Exception	570-601
28	European Community Copyright Law	Warner Brothers	Handout, 611-14, 636-52 (skim)
29		Collins	615-22
30	U.S. First Sale and Fair Use	Kirtsaeng, Golan	Handouts
31	Introduction to International Trademark Law	Mother’s Restaurants, Vaudable	93-96
32	Marketing and Territoriality	McDonald’s, Empresa	97-99, Handout
33	Language and Territoriality	Jian Tools for Sales, Otokoyama	99-114
34	Doctrine of Foreign Equivalents	German Cases	123-128
35	Paris Convention Implementation in National Law	Vanity Fair Mills, GM v. Ignacio Lopez	133-49, DS 113-124 (Arts. 2, 6, <i>6bis</i> , <i>6quater</i> , <i>6quinquies</i> , <i>6sexies</i> , 7, <i>7bis</i>)
36	TRIPS Substantive Minima	“Havana Club”	215-27, DS 35-37 (Arts. 15-21)
37	European Trademark Rights Under the Directive	Wagamama, GM v. Yplon (time permitting)	298-305, 307-10
38	Regional Trademark Registration Agreements	(time permitting)	895-905
39	Global Trademark Registration Agreements	(time permitting)	845-59, DS 141-74 (skim)