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Fall 2011 Syllabus
University of North Carolina School of Law
Law 286.1

PATENT LAW

Description

This course provides an introduction to essentially all aspects of patent law and practice, including the legal doctrines, public policies, and intellectual theories that inform the practices of patent prosecution, counseling, and litigation. You will initially develop an understanding of the form and substance of the patent instrument, with particular attention to the claims that define the substantive scope of the patent grant. You will then study the statutory requirements for obtaining a patent grant, including utility, novelty, nonobviousness, and adequacy of disclosure. You will also learn the procedures, both before and after the patent grant, that are relevant to the acquisition and maintenance of patent rights. Finally, you will examine the law governing patent infringement, including literal infringement and infringement under the doctrine of equivalents, as well as the applicable defenses and remedies.

Casebook, Supplement, and Additional Materials

The casebook is MARTIN J. ADELMAN ET AL., *CASES AND MATERIALS ON PATENT LAW* (3rd ed. 2009), published by West Group, supplemented by other handouts. We will also be studying some subset of the Patent Act, 35 U.S.C. §§ 1-376, as well as revisions thereto upon passage of the America Invents Act, H.R. 1249, 112th Cong., 1st Sess. (2011).

Course Format; Reading

Lectures and discussion will consume the bulk of our class time. Assigned readings for this class may total as much as 50 pages per week. Plan accordingly and read ahead whenever possible, especially before the Wednesday classes. It is far easier to tackle 50 pages over seven days than over a 48-hour period.

Class Participation and Grading

The class will be divided into three rotating “on-call” groups. “On-call” assignments are specified by reading units (see below), not class days. You may volunteer during any class session, and are strongly encouraged to do so. If you are on call but 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.

There will be a three-hour final examination, which will be graded in accordance with the law school curve. Your participation grade will be A+, which will count for between 0% and 20% of your final grade, based on the overall quality of your assigned and unassigned participation.

Office Hours

Room 5079, 962-4116. Wednesdays and Thursdays, 1:15-2:45; other times if my door is open; and by appointment. At other times, email is preferred. Do not rely on voicemail for time-sensitive matters.

Order of Topics

The principal cases are listed for your convenience; however, you are also responsible for all 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 posted on the class Web site.**

Show and Tell Assignment (Week 1)

Find a household object, preferably one that you can bring to class, that is marked with a U.S. Patent number. (*Optional:* For more on the significance of marking, read pages 896-904 of your casebook.) Then visit the U.S. Patent Office Web site (www.uspto.gov) and print out the full text of the patent document. (You can also use google.com/patents, but do familiarize yourself with the USPTO site.) Be prepared to discuss the object and the document with your practice group.

<i>Unit</i>	<i>Group</i>	<i>Topics</i>	<i>Principal Cases</i>	<i>Pages</i>
1		Overview of the Patent Act; The Patent System as a Policy Instrument	Bonito Boats	3-8, 13-40
2		Show and Tell Exercise		
3	1	Patent Claims	Fressola, Catalina	459-78
4	2	Enablement	Gould v. Hellwarth, Atlas Powder,	386-402
5	3	Enablement	Wright, Pharmaceutical Resources	402-15
6		Claim Drafting Exercise		
7	1	Written Description	Vas-Cath, Gentry Gallery, Eli Lilly	416-37
8	2	Written Description, Best Mode	Enzo, Ariad, Chemcast, Exercise	437-58, Handout
9	3	Anticipation	Titanium Metals, Schering, Exercises	155-79
10	1	Public Use	Egbert, Metallizing, City of Elizabeth	180-200

11	2	On Sale, Third Party Activities	Pfaff, ESB, Abbott, Gore, Exercises	200-20, 223-24
12	3	Prior Invention	Woodcock, Gillman, Oka	225-41
13	1	Prior Invention	Scott, Gould v. Schawlow, Woodland Trust	241-64
14	2	Prior Invention	Apotex, Milburn, Agawam, Exercises	264-85
15		Patent Reform	America Invents Act	Handout
16	3	Nonobviousness	Graham, KSR, Translogic	298-334
17	1	Nonobviousness	Deuel, Foster, Clay, Exercise	359-83
18	2	Patentable Subject Matter	Chakrabarty, Labcorp, Prometheus	58-76, Handouts
19	3	Patentable Subject Matter	Myriad, Benson	Handouts, 76-80
20	1	Patentable Subject Matter	Diehr, Bilski, Exercises	80-88, Handouts
21	2	Utility	Lowell, Juicy Whip, Brenner, Fisher	123-54

22	3	Claim Construction	Markman, Phillips	654-665, 674-690
23	1	Doctrine of Equivalents	Graver Tank, Warner- Jenkinson	697-714
24	2	Prosecution History Estoppel	Corning Glass, Festo	714-31
25	3	Defenses, Injunctions	Madey, eBay	799-808, 835-42
26	1	Damages	Panduit, Rite-Hite	849-69