

## **INTERNATIONAL INTELLECTUAL PROPERTY LAW**

**Professor Chon**

### **COURSE DESCRIPTION:**

This course covers both public and private sources of international intellectual property law and policy, including copyright, patents, trademarks, geographical indications, unfair competition and trade secrets. The public component will include multilateral agreements such as the Berne Convention, the Paris Convention, and TRIPS—as well as some regional agreements such as European Union directives. We will trace how these agreements are administered through international institutions such as the World Intellectual Property Organization and the World Trade Organization, which in turn impact national laws and international harmonization. On the private side, we will cover briefly choice of forum, choice of law and other problems related to private enforcement. While a survey intellectual property course is a prerequisite, we will review briefly major U.S. intellectual property law concepts before discussing comparable rules in the assigned cases, whether those rules are derived from international treaties or from other countries' national laws. Relying on a combination of cases and problems, you should develop a familiarity with the foundational principles and challenges of international intellectual property law and practice, and be sensitive to the development component of intellectual property in the context of globalized commerce and trade. Special emphasis will be placed throughout on the global public interest and social justice calculus involving intellectual property-protected knowledge goods. International law is a recommended but not required pre-requisite.

### **TEXTS:**

You should bring both the casebook and the statutory supplement to each class. Occasionally, I will pass out handouts or post links or documents on the class TWEN site to supplement the materials in the casebook. The required texts for the class are:

- 1) CHOW & LEE, INTERNATIONAL INTELLECTUAL PROPERTY: PROBLEMS, CASES, AND MATERIALS (Thomson/West 2006).
- 2) CHOW & LEE, DOCUMENTS SUPPLEMENT TO ACCOMPANY INTERNATIONAL INTELLECTUAL PROPERTY: PROBLEMS, CASES, AND MATERIALS (Thomson/West 2006).

### **LARGE CLASS AND SMALL GROUP DISCUSSIONS:**

To facilitate class discussion about the assigned cases, each of you will be assigned to a small group (A through C), which will be assigned to be on expert panels on designated

days. If you have a scheduling conflict (e.g., absence due to a job interview), please let me know beforehand so that I can reschedule you to another panel. I will also take questions and comments from volunteers, but I would like to focus for the most part on the students in the expert panel. Each group has about the same amount of reading overall.

Regardless of when your expert panel is “up,” each of you is expected to complete the assigned reading before class so that we can enjoy an informed in-class discussion.

We will break in the middle of each class so that you can meet briefly in small groups (not necessarily the same as the expert panels) to discuss one of the assigned problems for the class. One or two additional assigned problems will be available for follow-up discussion after class via TWEN, on an optional basis. You can also use your TWEN expert panel forums to help each other prepare for class before your expert panel is “up.” In any event, plan on checking the TWEN site about once a week before class.

### **EVALUATION:**

Your final grade will be based on a combination of class participation (30%) and a final open book take-home examination (70%). The class participation component of your grade will be based primarily on your expert panel participation, with a bump up if your in-class small group participation and TWEN postings are robust.

Also, please remember that as a condition of accreditation, the ABA requires that students miss no more than 20% of their classes. More than *three* unexcused absences from class will result in a lowering of your final grade by 1/3 point (e.g., A to A-). Requests for excused absences must be made in writing, and either e-mailed or delivered to my faculty mailbox. Please do not leave messages on my voice-mail about absences – I will need written records.

### **OFFICE HOURS:**

My spring 2008 office hours will be on Tuesdays 4-5 and Thursdays 3-4. My office number is 454. If you need to reach me outside of my office hours, please schedule an appointment by e-mailing me at [mchon@seattleu.edu](mailto:mchon@seattleu.edu), or telephoning me at (206) 398-4042. If I am in my office with the door open, you should feel free to pop your head in. Although I welcome drop-ins, a closed office door generally means that I am working on something that should not be interrupted. Please do NOT knock during the hour before class, unless it is a true emergency. E-mail is usually the best way to reach me with a non-emergency request, and I will try to answer non-urgent e-mail messages within one week. My assistant is Junsen Ohno and she is located on the 4<sup>th</sup> floor (XT 4283/[ohnoj@seattleu.edu](mailto:ohnoj@seattleu.edu)).

### **ASSIGNMENTS:**

Assigned casebook readings are indicated by class below. I have tried to assign a reasonable amount of reading for each class session.

How will you know which treaties or other supplementary materials to consult? The casebook may refer you to documents that should be in the documentary supplement.

Focus especially on those specific sections cited within the materials that are assigned for class discussion; refer to the full document only if you have time. This is a heavily code-based class, so make sure to bring your documentary supplement as well as the casebook to class.

As the beginning of this syllabus states, the goal of this class is to give you the opportunity to sample some of the issues in international intellectual property. It's not possible to learn all the "black letter law" or policy in this very far-ranging and complex area. The purpose of the expert panels is to allow certain students to prepare thoroughly in advance so that the class discussion of doctrine will proceed efficiently. It may help you to prepare as an expert panelist if you identify the one or two most important points that are being made, as well as the legal detail. In other words, pay attention to the fine points but remember to think about the "big picture" too. Ideally, I would like each class to be a mix of black letter law instruction and seminar-like policy discussion.

EXPERT PANEL/ DAYS	TOPICS (these track the table of contents in your casebook)	READING ASSIGNMENTS
1/15	1. Introduction <ul style="list-style-type: none"> <li>• The "System of International Intellectual Property"</li> <li>• International Legal Institutions</li> <li>• Brief Overview of U.S. Intellectual Property Laws (optional review)</li> </ul>	Chapter 1: pp. 1-4, 16-41, 55-68  Optional: pp. 68-75  Problems: <ul style="list-style-type: none"> <li>• 1-2 (p. 18)</li> <li>• 1-4 (p. 38)</li> <li>• 1-5 (p. 39)</li> </ul>
<b>A</b> : 1/22	2. Copyright and Neighboring Rights <ul style="list-style-type: none"> <li>• Introduction</li> <li>• Foreign Nationals Acquiring Copyrights and Neighboring Rights</li> <li>• Subject Matter</li> </ul>	Chapter 2: pp. 76-99, 126-30, 136-48, 151-57  Problems: <ul style="list-style-type: none"> <li>• 2-3 (p. 91)</li> <li>• 2-6 (p. 97)</li> </ul>
<b>B</b> : 1/29	3. Copyright and Neighboring Rights (continued) <ul style="list-style-type: none"> <li>• Exclusive Rights of Copyright (Economic)</li> <li>• Special Discussion: Rights in Musical Works, Sound Recordings, Performances, and Broadcasts</li> <li>• Exceptions to Exclusive Rights</li> </ul>	Chapter 2: pp. 174-213  Problems: <ul style="list-style-type: none"> <li>• 2-14 (p. 179)</li> <li>• 2-16 (p. 187)</li> </ul>
<b>C</b> : 2/5	4. Copyright and Neighboring Rights (continued) <ul style="list-style-type: none"> <li>• Copyright Term</li> <li>• Moral rights</li> </ul>	Chapter 2: pp. 213-46, 253-56  Problems: <ul style="list-style-type: none"> <li>• 2-18 (p. 217)</li> <li>• 2-22 (p. 232)</li> </ul>
<b>A</b> : 2/12	5. Patents	Chapter 3: pp. 267-76,

	<ul style="list-style-type: none"> <li>• Introduction</li> <li>• Ownership and Formalities</li> </ul>	<p>293-310</p> <p>Problems:</p> <ul style="list-style-type: none"> <li>• 3-1 (p. 276)</li> <li>• 3-2 (p. 293)</li> </ul>
2/19	<p>6. Special Topics on IP and Globalization</p> <ul style="list-style-type: none"> <li>• Why Has Intellectual Property Gone International?</li> <li>• Special discussion: Folklore and Traditional Knowledge</li> <li>• Special Discussion: Biopiracy</li> </ul> <p>Guest lecturers: Dr. Anil Gupta and Heng Wang, Esq.</p>	<p>Chapter 1: pp. 1-16; Chapter 2: pp. 164-74; Chapter 3: pp. 385-97</p> <p>Dr. Gupta will deliver a public lecture on Thursday, February 21 at 5:30 p.m. in Pigott Auditorium.</p>
<b>B</b> : 2/26	<p>7. Patents (continued)</p> <ul style="list-style-type: none"> <li>• Patent Requirements</li> </ul>	<p>Chapter 3: pp. 335-51, 365-66, 369 (notes and questions)-379, 411-18</p> <p>Problems:</p> <ul style="list-style-type: none"> <li>• 3-12 (p. 371)</li> <li>• 3-13 (p. 372)</li> </ul>
<b>C</b> : 3/4	<p>8. Patents (continued)</p> <ul style="list-style-type: none"> <li>• Exclusive Rights</li> </ul>	<p>Chapter 3: pp. 418-53</p> <p>Problems:</p> <ul style="list-style-type: none"> <li>• 3-17 (p. 419)</li> <li>• 3-19 (p. 450)</li> </ul>
<b>A</b> : 3/11	<p>9. Trademarks and Geographical Indications</p> <ul style="list-style-type: none"> <li>• Introduction</li> <li>• Trademarks</li> </ul>	<p>Chapter 4: pp. 474-513, 523-33</p> <p>Problems:</p> <ul style="list-style-type: none"> <li>• 4-2 (p. 487)</li> <li>• 4-3 (p. 494)</li> <li>• 4-4 (p. 506)</li> </ul>
3/18	<b>Spring break</b>	Enjoy!
<b>B</b> : 3/25	<p>10. Trademarks and Geographical Indications (continued)</p> <ul style="list-style-type: none"> <li>• Trademarks</li> </ul>	<p>Chapter 4: pp. 544-88, 600-03 (omit question 10)</p> <p>Problems:</p> <ul style="list-style-type: none"> <li>• 4-9 (p. 544)</li> <li>• 4-11 (p. 575)</li> </ul>
<b>C</b> : 4/1	<p>11. Trademarks and Geographical Indications (continued)</p> <ul style="list-style-type: none"> <li>• Trademarks</li> <li>• Geographical Indications</li> <li>• The Relationship Between Trademarks and Geographical Indications</li> </ul>	<p>Chapter 4: pp. 620-28, 628-46, 671-84</p> <p>Problems:</p> <ul style="list-style-type: none"> <li>• 4-15 (p. 629)</li> <li>• 4-21 (p. 671)</li> </ul>
<b>A</b> : 4/8	<p>12. Unfair Competition and Trade Secrets</p>	<p>Chapter 5: pp. 705, 721-55</p>

	<ul style="list-style-type: none"> <li>• Unfair Competition</li> <li>• Protection for Undisclosed Test Data for Pharmaceuticals and Agricultural Chemical Products</li> <li>• Transnational Lawsuits: Protecting Trade Secrets Internationally</li> </ul>	<p>Problems :</p> <ul style="list-style-type: none"> <li>• 5-2 (p. 721)</li> <li>• 5-3 (p. 735)</li> </ul>
<b>B</b> : 4/15	<p>13. International Enforcement of Intellectual Property Rights</p> <ul style="list-style-type: none"> <li>• Introduction</li> <li>• Commercial Piracy</li> <li>• Enforcement Obligations Under TRIPS</li> </ul>	<p>Chapter 6: pp.756-73, 779-88, 792-99</p> <p>Problems :</p> <ul style="list-style-type: none"> <li>• 6-1 (p. 771)</li> <li>• 6-4 (p. 793)</li> </ul>
<b>C</b> : 4/22	<p>14. International Enforcement of Intellectual Property Rights (continued)</p> <ul style="list-style-type: none"> <li>• Enforcement Obligations Under TRIPS (continued)</li> <li>• Private Enforcement: Procedural and Substantive Concerns</li> </ul>	<p>Chapter 6: pp. 799-834</p> <p>Problems:</p> <ul style="list-style-type: none"> <li>• 6-6 (p. 813)</li> <li>• 6-7 (p. 825)</li> </ul>
4/29	<p>15. International Enforcement of Intellectual Property Rights (continued)</p> <ul style="list-style-type: none"> <li>• Private Enforcement: Procedural and Substantive Concerns (continued)</li> </ul> <p>Wrap-up and Review: The Public Interest in International Intellectual Property: <i>Where Is It Located?</i></p>	<p>Chapter 6: pp. 834-59</p> <p>Chapter 3: pp. 453-65</p> <p>Additional reading to be posted on TWEN</p>