

USC Gould

School of Law

Law 525: Fundamentals of Intellectual Property Law

Units: 3

Term—Day—Time: Thursday—5:30-8:20 p.m.

Location: Law School, Room 1

Instructor: Monica Pa Moye

Office Hours: By appointment. Email to set up an appointment.

Contact Info: mpamoye@law.usc.edu **and** monicapa4@gmail.com

Course Description

Any company wishing to prosper will have to manage their intellectual property (“IP”) portfolio efficiently. It is therefore essential to understand the different types of IP and how they are exploited. This class will focus exclusively on issues related to copyright and fair use, trademark, trade secrets, and related laws that seek to protect intellectual property. In addition, students will learn strategies for licensing, enforcing, and safeguarding a company's IP. The course will not address patents other than superficially in the context of how trademarks, copyrights, and trade secrets differ from patents.

Learning Objectives

By the end of the course, students will be able to:

1. Distinguish between, list the rights associated with, and understand the policies behind different types of IP (i.e., trademark, copyright, and trade secrets);
2. Determine whether a work is copyrightable, what constitutes a trade secret, and identify the types of words, symbols, and other designations that can function as a trademark;
3. Analyze and explain court opinions, filings, and orders, and federal and state statutes involving IP;
4. Analyze and identify key provisions and defined terms of IP-related contracts, such as license agreements, assignments, and work-made-for-hire agreements;
5. Converse substantively, critically, and in-depth about various IP doctrines, such as parody, fair use, dilution, and misappropriation;
6. Submit an application to register a trademark and copyright a work;

7. Research IP ownership rights and digest IP registrations and records;
8. Explain procedures, mechanisms, and claims to enforce IP rights; and
9. Formulate and articulate orally and in writing arguments typically asserted in IP enforcement actions, such trademark infringement, dilution, and fair use, and convey arguments about complex legal doctrines and principles in simple, plain English.

Prerequisite(s); co-requisite(s), or recommended preparation: None.

Required Materials:

- Stephen M. McJohn, *Examples & Explanations: Intellectual Property* (6th ed.), available at <https://gould.usc.edu/library/resources/?id=1000048> Click on the “Wolters Kluwer Online Study Aid Library” link.
- Trademark laws, available at https://www.uspto.gov/sites/default/files/documents/trademark_rules_statutes_2013-11-25.pdf
- Copyright laws, available at <https://www.copyright.gov/title17/title17.pdf>
- Other materials, such as case law, sample contracts, and pleadings, will be handed out during class or will be available for free on the Internet.

Description and Assessment of Assignments

Discussion and Participation (5%)

You are expected to think deeply and critically about the concepts covered in the assigned readings and during class. You should strive to convey your deep and critical thinking during class discussions. For example, you should know not only the legal doctrines (e.g., list the *Sleekcraft* factors) but also the policies or rationales behind them so you know whether, when and how to apply them in practice, particularly to new situations. On occasion, you will be called on during class to provide answers, weigh in on discussions, or articulate legal arguments for or against certain positions—regardless of whether you volunteer. You will never be penalized for a wrong answer, for failing to come up with something “intelligent,” or being unable to “articulate” your thoughts cogently. The point is to simply try, get comfortable thinking and speaking on your feet, and putting complex legal concepts into simple, plain English that people with no background or knowledge of IP can even understand.

Assignment No. 1 (10%)

Assignment #1 is a scenario-based essay where you will answer a series of questions. Your answer should be no longer than 500 words. You will have 3 weeks to complete the assignment.

Assignment No. 2 (10%)

Assignment #2 is a scenario-based essay where you will answer a series of questions. Your answer should be no longer than 500 words. You will have 3 weeks to complete the assignment.

Weekly Quizzes (25%)

Quizzes will be given in Weeks 2 through 14 (excluding Spring Break), for a total of 12 quizzes. Each quiz will consist of 10 questions, which you will have 15 minutes to answer. The questions will be multiple-choice, true or false, fill-in-the-blank, or some combination thereof. Questions will be based on the prior week's assigned readings, homework, and lecture. Answers will be discussed during class immediately after each quiz. Your lowest two quiz scores will be dropped in calculating your overall quiz score, with any missed quiz resulting from an absence, regardless of the reason for the absence, counting as a zero.

Final Exam (50%)

The final exam will be taken in class during Week 15 and may consist of short-answer, multiple-choice, true or false, or fill-in-the-blank questions; issue spotting based on a fact pattern; a practical application exercise (e.g., outline contractual provisions; draft arguments), or some combination thereof. Any material covered in class or assigned readings and homework has the potential to appear on the Final Exam. You will have the full 2 hours and 50 minutes of class time to complete the exam. A portion of Week 14 class time will be devoted to reviewing and preparing for the Final Exam.

Grading Breakdown

Assignment	% of Grade
Discussions and Participations	5%
Assignment #1	10%
Assignment #2	10%
Weekly Quizzes	25%
Final Exam	50%
Total	100%

Course-specific Policies

- Class will begin promptly at 5:30 p.m. Do not be late.
- During class, laptops, smart phones, and the internet should be used for class purposes only, with limited exceptions.
- Depending on how the class progresses, additional or substituted readings and homework may be provided. If that occurs, an updated syllabus will be posted on Blackboard.
- Students should strive to attend every class, because the material covered in class will not necessarily be the same, including in terms of depth of treatment and subject matter, as the material covered by readings and homework for a particular week.
- Except for Week 1, students are expected to have completed and thought deeply and critically about that week's assigned readings and homework *before* class.
- The Examples and Explanations ("E&E") textbook has example questions and answers. Students should work through those as part of the assigned reading, thinking deeply and critically about each question and answer.

- Assignment #1, Assignment #2, and the Final Exam must be typewritten, double-spaced, and in 14-point font, with your name appearing in the header on every page. You should keep a copy of what you submit.

Course Schedule: A Weekly Breakdown

	Topics/Daily Activities	Readings, Homework, and Assignment Due Dates
Week 1 (Jan. 15)	<ul style="list-style-type: none"> • Class Member Introductions • Syllabus Review • Legal Basics • Introduction to Intellectual Property 	<ul style="list-style-type: none"> • E&E: Chapter 1, and Chapter 6 (pages 249-255) • Watch: USPTO’s “Basic Facts: Trademarks, Patents, and Copyrights” (9 minutes) • Watch: USPTO’s “Trademark Basics” (11 minutes) • Watch: Copyright Office’s “What is Copyright?” (5 minutes) • Watch USPTO’s “Trade Secrets” (3.5 minutes), and preceding “Trade Secret Policy”
TRADEMARKS		
Week 2 (Jan. 22)	<ul style="list-style-type: none"> • Quiz #1 • The Lanham Act • Categories of Marks • Symbol • Source-Identifying Function 	<ul style="list-style-type: none"> • E&E: Chapter 10
Week 3 (Jan. 29)	<ul style="list-style-type: none"> • Quiz #2 • Distinctiveness • Unprotectable Symbols 	<ul style="list-style-type: none"> • E&E: Chapter 11
Week 4 (Feb. 5)	<ul style="list-style-type: none"> • Quiz #3 • Trademark Ownership 	<ul style="list-style-type: none"> • E&E: Chapter 12 • Elliot v. Google, Inc., 860 F.3d 1151 (9th Cir. 2017).

		<ul style="list-style-type: none"> • USPTO, Trademark Process - An Overview of a Trademark Application and Maintenance Process • Watch: USPTO's TEAS Nuts & Bolts Videos
<p>Week 5 (Feb. 12)</p>	<ul style="list-style-type: none"> • Quiz #4 • Trademark Application Process 	<ul style="list-style-type: none"> • E&E: Chapter 13 • <i>AMF Inc. v. Sleekcraft Boats</i>, 599 F.2d 341 (9th Cir. 1979) • 15 U.S.C. § 1114-20 (remedies) • 15 U.S.C. § 1125(a) (false advertising and unfair competition) • 15 U.S.C. § 1125(c) (dilution) • Complaint and Demand for Jury Trial, <i>Adidas Am., Inc. v. Topline Corp.</i> (W.D. Wash. 2009). • Permanent Injunction on Consent and Stipulated Dismissal, <i>Adidas Am., Inc. v. Topline Corp.</i> (W.D. Wash. 2009). <p>Assignment No. 1 will be given during class. Due Week 8.</p>
<p>Week 6 (Feb. 19)</p>	<ul style="list-style-type: none"> • Quiz No. 5 • Trademark Registration • Trademark Infringement • False Designation of Origin and False Descriptions • Remedies • Dilution (blurring and tarnishment) 	<ul style="list-style-type: none"> • Same readings as Week 5

	<ul style="list-style-type: none"> • Cybersquatting 	
COPYRIGHT		
Week 7 (Feb. 26)	<ul style="list-style-type: none"> • Quiz #6 • The Copyright Act • Justifications for Copyright Law • Legal Structure of Copyright • Originality • Work of Authorship • Categories of Work • Fixation 	<ul style="list-style-type: none"> • E&E: Chapter 2 • Circular 1: Copyright Basics • <i>Cartoon Network, LP v. CSC Holdings, Inc.</i>, 536 F.3d 121 (2d Cir. 2008)
Week 8 (Mar. 4)	<ul style="list-style-type: none"> • Quiz #7 • Ideas and Functional Aspects • Infringing Works • Government Works 	<ul style="list-style-type: none"> • E&E: Chapter 3 <p>Assignment No. 1 due at start of class.</p>
Week 9 (Mar. 11)	<ul style="list-style-type: none"> • Quiz #8 • Initial Ownership of Copyright • Ownership of Copyright v. Material Object 	<ul style="list-style-type: none"> • E&E: Chapter 4

	<ul style="list-style-type: none"> • Copyright as Property • Copyright Notice, Deposit, and Registration • Period of Protection 	
Week 10 (Mar. 18)	<ul style="list-style-type: none"> • Spring Break: No Class! 	<ul style="list-style-type: none"> • None
Week 11 (Mar. 25)	<ul style="list-style-type: none"> • Quiz #9 • Exclusive Rights • Limitations on Exclusive Rights • First Sale and Importation • Contributory Infringement and Vicarious Liability • Standing and Remedies 	<ul style="list-style-type: none"> • E&E: Chapter 5 • 17 U.S.C. § 501-07 (copyright infringement and remedies) <p>Assignment No. 2 will be given during class. Due Week 14.</p>
Week 12 (Apr. 1)	<ul style="list-style-type: none"> • Quiz #10 	<ul style="list-style-type: none"> • E&E: Chapter 14-15
Week 13 (Apr. 8)	<ul style="list-style-type: none"> • Quiz #11 	<ul style="list-style-type: none"> • E&E: Chapter 16 • Defend Trade Secrets Act of 2016

TRADE SECRETS		
Week 14 (Apr. 15)	<ul style="list-style-type: none"> • Misappropriation • Reasonable Security Measures • Trade-Secret Related Contracts • Remedies 	<ul style="list-style-type: none"> • E&E: Chapter 17 <p>Quiz No. 11 due at start of class.</p> <p>Assignment No. 2 due at start of class.</p>
STATE LAW THEORIES & IP-RELATED CONTRACTS		
Week 15 (Apr. 22)	<ul style="list-style-type: none"> • Misappropriation • Right of Publicity • Federal Preemption • Common Law Unfair Competition • Licenses • Assignments • Work-Made-for-Hire • Confidentiality/ Nondisclosure • Review for Final Exam • Reviews 	<ul style="list-style-type: none"> • Sample Licensing Agreement • Sample IP Assignment • Sample Work-Made-for-Hire Agreement • Circular 30: Works Made for Hire • Sample Confidentiality / Nondisclosure Agreement • 15 U.S.C. § 1060 (trademark assignment) • Any readings assigned for prior weeks that you have not already completed. • Quiz No. 12 due at start of class

Statement on Academic Conduct and Support Systems

Academic Conduct:

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in SCampus in Part B, Section 11, “Behavior Violating University Standards” policy.usc.edu/scampus-part-b. Other forms of academic dishonesty are equally unacceptable. See additional information in SCampus and university policies on scientific misconduct, policy.usc.edu/scientific-misconduct.

Support Systems:

Student Health Counseling Services - (213) 740-7711 – 24/7 on call
engemannshc.usc.edu/counseling

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

National Suicide Prevention Lifeline - 1 (800) 273-8255 – 24/7 on call
suicidepreventionlifeline.org

Free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

Relationship and Sexual Violence Prevention Services (RSVP) - (213) 740-4900 – 24/7 on call
engemannshc.usc.edu/rsvp

Free and confidential therapy services, workshops, and training for situations related to gender-based harm.

Office of Equity and Diversity (OED) | Title IX - (213) 740-5086
equity.usc.edu, titleix.usc.edu

Information about how to get help or help a survivor of harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants. The university prohibits discrimination or harassment based on the following protected characteristics: race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, age, physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations.

Bias Assessment Response and Support - (213) 740-2421
studentaffairs.usc.edu/bias-assessment-response-support

Avenue to report incidents of bias, hate crimes, and microaggressions for appropriate investigation and response.

The Office of Disability Services and Programs - (213) 740-0776
dsp.usc.edu

Support and accommodations for students with disabilities. Services include assistance in providing readers/notetakers/interpreters, special accommodations for test taking needs, assistance with architectural barriers, assistive technology, and support for individual needs.

USC Support and Advocacy - (213) 821-4710

studentaffairs.usc.edu/ssa

Assists students and families in resolving complex personal, financial, and academic issues adversely affecting their success as a student.

Diversity at USC - (213) 740-2101

diversity.usc.edu

Information on events, programs and training, the Provost's Diversity and Inclusion Council, Diversity Liaisons for each academic school, chronology, participation, and various resources for students.

USC Emergency - UPC: (213) 740-4321, HSC: (323) 442-1000 – 24/7 on call

dps.usc.edu, emergency.usc.edu

Emergency assistance and avenue to report a crime. Latest updates regarding safety, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

USC Department of Public Safety - UPC: (213) 740-6000, HSC: (323) 442-120 – 24/7 on call

dps.usc.edu

Non-emergency assistance or information.