

INTELLECTUAL PROPERTY
Spring 2010
SYLLABUS

Professor Rashmi Dyal-Chand
29 Cargill, x3493, r.dyal-chand@neu.edu

Administrative Matters

Class meets on Tuesdays and Thursdays, 3:30-5. My office hours are Tuesdays, 2-3, Wednesdays, 3:30-4:30, or by appointment.

Evaluation

There will be a 3-hour, in-class, closed-book exam, upon which three-fourths of your evaluation will be based. The remaining quarter of your evaluation will be based on your completion of a drafting exercise and short explanatory memorandum. Strong class participation will also be noted on the evaluation.

Reading Assignments

Unless otherwise specified, all readings are from Merges, Menell, and Lemley, Intellectual Property in the New Technological Age (5th ed. 2010). “Supp” refers to the supplemental reading packet, which will be available from Gnomon Copy (I will announce its availability in class). Rather than requiring purchase of a statutory supplement, I expect you to find the statutory provisions included in the required reading on Lexis or Westlaw.

Hypothetical problems are an important part of this course, and from time to time, I will also assign problems for you to think about ahead of time for class discussion.

The readings outlined below are tentative and subject to change, particularly with respect to when exactly they will be assigned. As the course progresses, I will announce changes in class.

Additional Resources

If you are interested in learning more about current IP legislation and/or exploring the administrative procedures involved in patent, trademark, or copyright applications, the Patent and Trademark Office and the Copyright Office both offer web sites: www.uspto.gov and lcweb.loc.gov/copyright.

I. INTRODUCTION

Class 1 Introduction to intellectual property
p. 1-31 (skip all problems; try to read this by Class 1, but please read it at the latest by Class 2)

Class 1 readings continued below

II. COPYRIGHTS

Class 1 Introduction to copyright; originality requirement

- p. 411-430
Copyright Act, 17 U.S.C. §§ 101, 102 (read 102 carefully; skim § 101)
- Class 2** Fixation requirement; formalities; scope of copyright protection; limitations on copyrightability: idea vs. expression
p. 431-441, 478-487; 441-446 (skip all problems)
§§ 102, 103, 106, 120 of Copyright Act (see 101 for definitions of *fixed*; *literary works*; *architectural works*; *sound recordings*; *audiovisual works*; *derivative works*; *compilations*; *collective works*)
- Class 3** Limitations on copyrightability, cont'd: idea vs. expression, useful article
p. 448-477
§ 113 of Copyright Act (see 101 for definitions of *pictorial*, *graphical and sculptural work*; *useful article*)
- Class 4** Ownership; duration, renewal and transfers
p. 487-518 (skip all problems)
§ 201 and skim §§ 203, 204, 302-305 of Copyright Act (see 101 for definitions of *work for hire*; *joint work*)
- Class 5** Exclusive right to copy
p. 518-556 (skip all problems)
§ 106 of Copyright Act (see 101 for definition of *copies*)
- Class 6** Exclusive rights - derivative works, distribution, public performance, display; moral rights; indirect liability
p. 556-591 (skip all problems)
§§ 106, 103, 109(a,c), 110, 106A of Copyright Act (see 101 for definitions of *derivative work*; *publication*; *publicly*; *display*; *perform*; *work of visual art*)
- Class 7** Fair use
p. 592-610,
§ 107 of Copyright Act
- Class 8** Fair use, cont'd
622-633; 635-641

III. TRADE SECRETS

- Class 9** Introduction; subject matter; misappropriation
p. 33-58, 60-70 (skip all problems)
- Class 10** Misappropriation, cont'd
p. 70-105 (skip all problems)

Class 11 Contract issues; criminal liability
p. 105-111 (top), 119 (bottom) -123 (be prepared to discuss problem 2-15
in class, skip all the other problems)
Review the Economic Espionage Act of 1996, available at
<http://www.economicespionage.com/EEA.html>

Class 11 readings continued below

IV. PATENTS

Class 11 Introduction; patentable subject matter
p. 125-142
Patent Act, 35 U.S.C. § 101 (and skim entire Patent Act)

Class 12 Patentable subject matter, cont'd
p. 142-165 (skip all problems)

Class 13 Utility; enablement
p. 166-171, 175-191, 195-201, 203 (bottom)-204 (skip all problems)
§§ 101, 112 of Patent Act

Class 14 Novelty, statutory bars, first to invent
p. 209-214, 216 (middle) -235 (skip all problems)
§ 102 of Patent Act

Class 15 Non-obviousness
p. 235-256, 264-267(skip all problems)
§ 103 of Patent Act

Class 16 Licensing and transfer (patent, copyright and trade secret in a different
context)
Supp – Drafting Problem, *In re Kollar*, Value Added Reseller Agreement

V. TRADEMARKS

Class 17 Introduction; subject matter; distinctiveness
p. 733-764
Lanham Act §§ 32, 43(a), 45 (15 U.S.C. §§ 1114, 1125(a), 1127) (focus on
definitions of *trademark*; *service mark*; *mark* in § 1127)

Class 18 Trade dress distinctiveness and functionality
p. 764-776, 900-910 (skip all problems)

Class 19 Priority; TM Office procedures
p. 777-810 (skip all problems)
Read carefully Lanham Act § 2 (15 U.S.C. § 1052), and skim §§ 3-33 (15

U.S.C. §§ 1053-1115)

Class 20 Infringement
p. 816-837
Lanham Act §§ 32, 43 (15 U.S.C. §§ 1114, 1125)

Class 21 Dilution; licensing
p. 838-858

Class 22 Wrap up