

LAW7579: CRN 77043 (Law); CRN 77044 (Business) 2 credits (MBA or JD)	Susan Barbieri Montgomery Executive Professor of Law and Business 25 Cargill Hall 617 373 7071 s.montgomery@neu.edu
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Spring 2010 schedule: Classes meet in 230 Dockser Hall, twice a week for five weeks, commencing March 8, 2010, on Mondays and Wednesdays from 5:20 PM to 7:20 PM. Office hour sign-up sheets are posted on the door of my office, 25 Cargill.

Innovation Workshop: **New Product Development (NPD) and Intellectual Property (IP)**

As the importance of intellectual property (IP) grows, managers and lawyers need to understand IP opportunities and risks and to collaborate effectively during new product development (NPD) in order to establish valid IP assets and effective IP strategies. This course for MBA and JD students will address the legal and business challenges of integrating NPD processes with IP asset development and IP risk management, with an emphasis on establishing and exploiting IP assets for competitive advantage and clearing or minimizing the risk of IP infringement.

Students will work in teams to collaborate on proposals for managing the development of a next generation product to assure timely launch and strategic IP positioning, including developing a plan for identifying potential IP assets and defining the team, resources, critical stages and decision points.

The **requirements** for this course are full preparation, attendance and participation in class sessions (including participation in group and individual exercises) and completion of a plan for an integrated product development (including a team presentation and individual student papers). The team presentations are scheduled for the final class on April 7, 2010 and the papers are due on or before April 16, 2010. Each team will present their proposals for a cross-functional team and a plan for an IP-integrated approach to development of the product. Each student's paper (5 page maximum) should cover the following points with respect to their team's proposal: (i) potential IP assets and IP-related risks for the new product; (ii) description of the development team, including member expertise and functional responsibilities; (iii) identification and description of the development, test and launch stages, with an emphasis on integration of IP tasks and triggers; (iv) definition and explanation of gating items, including the nature, timing and impact of IP decisions; and (v) the student's conclusions regarding the strengths and weaknesses of their team's plan.

The **grading** for this course is pass/fail based on the quality and substance of each student's contributions to class discussion and exercises, participation in the team proposal and presentation and final paper.

Reading Materials and Preparation for Class

The assigned reading materials for each class are listed below. Copies of assigned materials are either included in the course pack for this courses (marked * below) or available by links or scans that are posted on the Blackboard page for this course (marked ** below).

The reading assignments draw on a combination of business and legal resources; the materials are intended to provide a mix of familiar and unfamiliar approaches and content for MBA and JD candidates. These reading materials will serve as a starting point and shared knowledge base for class discussion and the project teams. Students should come to class and team meetings fully prepared to discuss and analyze information and ideas gleaned from the reading materials and to raise questions and contribute insights based on their prior business or law courses, as well as relevant co-op or other work experience.

<i>Class & topic</i>	<i>Reading Assignment</i>	<i>Project Team Assignment</i>
3/8 Introduction to Course & Topic	<i>*C. Kalamje, "Role of Intellectual Property in Innovation and New Product Development," WIPO White Paper</i> <i>**Rule, "Marketing vs. Legal: the internal battle over trademarks"</i>	
<i>Rule, "Marketing vs. Legal: the internal battle over trademarks"</i> <ul style="list-style-type: none">• What are the reasons for "internal warfare" between a Marketing Department and Legal Department?• What are the potential benefits of replacing that antagonism with cooperation? Who enjoys those benefits?• What shared interests might support a cooperative, team approach to developing and launching a new ad campaign (the example in the article) or to developing and launching a new product (our project)? <i>C. Kalamje, "Role of Intellectual Property in Innovation and New Product Development," WIPO White Paper</i> <ul style="list-style-type: none">• This paper starts with a discussion of various types of 'innovation.' What is innovation and why is it important?• The paper then discusses the relationship between 'innovation' and 'intellectual property' (or 'IP'). How does IP contribute to successful innovation?• Why does the author say it is important to "take into consideration from the initial stage of the new product development process the full range of IP issues"?		

3/10 Types of IP & IP Strategies	<p>*HBS #9-897-046, M. Hart & H. Zaharoff, <i>"Protection of Intellectual Property in the United States"</i></p> <p>*<u>Zatarains, Inc. v. Oak Grove Smokehouse, Inc.</u>, 698 F 2d 786 (CAFC 1983) (Fish-Fri trademark legal case), pp 786 -796</p> <p>**Cohen, <i>"IP Strategies for True Innovation"</i></p>	
<p>HBS #9-897-046, M. Hart & H. Zaharoff, <i>"Protection of Intellectual Property in the United States"</i>:</p> <ul style="list-style-type: none"> The authors present a complex array of IP variables and requirements. This will be a useful reference for the project. For now, concentrate on identifying at least one useful attribute for each of the 4 most common types of IP: trade secrets, patents, copyrights and trademarks. <p><u>Zatarains, Inc. v. Oak Grove Smokehouse, Inc.</u>, 698 F 2d 786 (CAFC 1983) pp 786 -796</p> <ul style="list-style-type: none"> This is the court's written decision in a dispute between competitors regarding Zatarain's trademarks. You need only read through page 786, regarding the 'Fish-Fri' trademark. If the companies had known then what they know now about how this case would turnout, do you think Zatarains or Oak Grove would have selected a different mark for their product? Why? Could a trademark attorney have helped Oak Grove to avoid this dispute? In what way? <p>Cohen, <i>"IP Strategies for True Innovation"</i></p> <ul style="list-style-type: none"> The author talks about strategically 'aligning' IP rights and business objectives. Consider the patent right to exclude others from making or selling a patented product. What kinds of business objectives might be served by that IP right? What types of IP (trade secrets, patents, copyrights or trademarks) best align with the business goal of differentiating a product from the competition? 		
3/15 NPD Process & Planning	*R. Cooper, <i>"The New Product Process: The Stage-Gate™ Game Plan,"</i> pp 113-144	Establish teams
3/17 Cross-functional NPD Teams	*HBS Case #4059, A. Donnellon & J. Margolis, <i>"MediSys Corp"</i> (product development team business case)	Define NPT team, including R&D, marketing & IP legal functions

3/22 When IP isn't part of the process or legal isn't on the team.....?	*HBS Case #9-803-041, C. Bagley & D. Lane, <i>"X-IT and Kidde (A)"</i> (disclosure, misappropriation and competitive threat) **Yonowitz & Brand, <i>"Implementing a TS Protection Program"</i>	Start to identify & define potential IP assets and IP-related tasks & trigger events
3/24 Gating functions in a Stage-Gate NPD plan	*R. Cooper, <i>"The New Product Process: The Stage-Gate™ Game Plan,"</i> pp 144 – 153 **Craane, <i>"IP Triggers"</i>	Refine task & trigger lists and start to identify & define IP gating items
3/29 Integrating IP & NPD	**Shreve & Breuer, <i>"Clearing a Trademark for Use"</i> **Sachs, <i>"Framework for Identifying Inventions Worth Patenting"</i>	Develop product development plan for Stages 3, 4 & 5, with integrated IP tasks and IP-related gating items
3/31 Managing IP-related Risk	**Leit & Sandler, <i>"Barbie Disciplines a Brat"</i> (9/11/2008) (Mattel v MGA, the Bratz doll case) ** <i>B Bakeries v Botticella</i> (complaint, 1/2010) (the English Muffin case)	Refine IP tasks, triggers & gating items
4/5 Impact of Mark Selection on Branding	* <u>Sands, Taylor & Wood v. The Quaker Oats Company</u> , 978 F2d 947 (7th Cir 1992)(the THIRST AID clearance case) **Scheinfeld <i>"The Ever-Increasing Duty to Conduct a Search"</i>	Finalize integrated plan and prepare presentation
4/7 Last class Team presentations	No assigned reading	Finalize and rehearse presentation
4/16	Deadline for submitting papers	