

**SYLLABUS**  
**INTELLECTUAL PROPERTY – SPRING 2010**

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Class meets: Tuesday & Thursday, 2:35-3:50PM, LCR

Office hours: Monday, 11:00-1:00PM, Wednesday, 11:00-1:00PM,  
Thursday 4:30-6:30PM, and by appointment.

**ABOUT INTELLECTUAL PROPERTY**

Intellectual property is at the root of some of today's most important and cutting-edge legal disputes concerning matters such as YouTube videos, file-sharing, fair use, and more. This course serves as a survey of the major areas of intellectual property law, including copyright, trademarks, patents, trade secrets, and right of publicity. Although the course may vary from year to year, studies may go beyond merely reading cases and statutes to considering the "real world" of practice. Accordingly, class will include activities such as drafting cease-and-desist letters, conducting trademark searches, considering registration issues, and reviewing issued patents. We'll analyze historical as well as contemporary intellectual property disputes, with an eye towards sharpening an understanding of IP doctrine, policy, and practice.

**REQUIRED MATERIALS**

The course materials consist of the two required volumes listed below as well as materials available on and through the course website.

- Casebook: Robert P. Merges, Peter S. Menell, and Mark A. Lemley, *Intellectual Property in the New Technological Age* (5th ed. Aspen 2009).
- Supplement: Robert P. Merges, Peter S. Menell, and Mark A. Lemley, *Intellectual Property in the New Technological Age, 2009 Case and Statutory Supplement* (Aspen 2009).
- Materials assigned on course website. Information on accessing the website may be found at the end of the syllabus.

**FIRST ASSIGNMENT**

**Read Chapter 1 of the Merges casebook.** Please be aware that our casebook is brand new. Aspen Publishers hopes to have it in the bookstore no later than Jan. 7 or 8. If the book is not available in time, I will make copies of the first assignment available to the class in the syllabus bin outside of Dean Singer's office. Ms. Karla Garcia, the receptionist in the faculty suite, may have copies as well.

## COURSE WEBSITE, EMAIL

Future assignments will be posted to the course website. For information on how to access the course website, see the last section of this syllabus. In addition to posting information to the course website, sometimes I send notices out to the class via email. It is the professional responsibility of every STU student to check their email account regularly.

## GRADING

Grading will come from three sources. The **first** source will be two (2) practicum assignments, each of which will constitute 12.5% of the final grade. These assignments will require students to engage in legal analysis, factual research, and drafting similar to what lawyers might do in the real world. Although the substance of each practicum is subject to change, as of this writing, I plan the following:

- **Copyright Cease-and-Desist Letter:** Students will investigate online infringement and draft a cease-and-desist letter to an adverse party. Students will include supporting documentation, including proof of the infringing activity, information regarding contact information, and samples of any letters used as a basis for drafting. Finally, students will draft a short memo-to-file on steps taken to ensure compliance with relevant ethical rules, such as making clear who they represent, dealing with unrepresented persons, and avoiding misstatements of fact or law.
- **Trademark “Knock-Out” Search:** Students will choose a trademark and conduct a “knock-out” search to see if any pre-existing marks prevent use and registration of the chosen mark. Students will write a supporting memorandum, include supporting documentation, and draft a short memo-to-file discussing whether it is ethical to provide opinions regarding marks owned by other clients.

The **second** source of grading is the final examination. The final examination will be open-book and consist of multiple-choice and one or more essay questions. In addition, I may grant a limited number of bump-ups for outstanding "class participation," which can boost any student's final grade by one-half letter grade (e.g. B+ to A, or C to C+). Bump-ups are only available for students who would otherwise receive grades of C- or higher for the course.

## ATTENDANCE AND CLASSROOM POLICIES

**PREPARATION AND PASSES:** Students who are unprepared may be marked absent regardless of their presence in the classroom. However, each student may "pass" once per term without being marked absent. To exercise a pass, the student must inform me before class that they do not wish to be called on.

**CLASS START TIME:** Our time – your classmates and mine – is precious. Class will start and end on time.

**SIGN-IN SHEET & ATTENDANCE POLICY:** Attendance is measured solely by the sign-in sheet. It is each student's responsibility to sign the sheet at the beginning of class. Any student who arrives late is required to indicate on the sign-in sheet their time of arrival. Cf. Fed. R. Civ. P. 11(b)(3), 11(c).

**COMPUTER USE:** Laptop use is a revocable privilege. Apply a rule of reason to computer use. Surfing, emailing, IMing, MySpace, Second Life, WWE.com, whatever! – unless part of classroom discussion – is neither reasonable nor permitted. I do walk around the classroom during class and may see what you're doing.

**CONSEQUENCES OF IMPROPER CONDUCT:** Students who are unprepared, late, exit the classroom for improper reasons (taking a smoke, coffee, or cell phone break is not appropriate), violate the computer usage policy, or engage in other improper activities in class may be marked as absent for that session regardless of their presence in the classroom; they may also be asked to leave.

### **ACCESSING THE COURSE WEBSITE**

To access the course website:

- 1) Go to <http://webcourses.lexisnexis.com>
- 2) Click on the "LOGIN" button and enter your LexisNexis ID when prompted (you'll need your LexisNexis ID to access the webpage).
- 3) Click on "LAUNCH WEB COURSES."
- 4) Click on the "COURSES" tab.
- 5) Scroll down to "ST. THOMAS UNIVERSITY." Click on the link.
- 6) Browse through the selections until you get to "INTELLECTUAL PROPERTY SPRING 2010 - NATHENSON." Alternatively, use the search tool to search for INSTRUCTOR as NATHENSON. You'll find the course that way too.
- 7) Click on "ENROLL."

Once you have enrolled and return to <http://webcourses.lexisnexis.com>, the course website should appear as one of your choices after you login. Check the course website regularly, as I update assignments, announcements, and materials throughout the semester.