Studying the Law of Innovation, Technology, and Intellectual Property

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1. Overview

The domain of “intellectual property law” includes three predominantly federal doctrines—copyright, trademark, and patent—as well as several state law doctrines, including publicity rights and trade secrets. Although these doctrines tend to complement each other, each has a particular focus of primary concern. Copyright law typically involves artistic or literary creation, while trademark law delves into the world of advertising and marketing, and patent focuses on scientific and other inventions.

Not only are these doctrines among the most interesting in the law, but they also are becoming increasingly important in practice. With law firms and corporations hiring more and more intellectual property (“IP”) attorneys, students will find that even a general knowledge of the subject will pay dividends. Students choosing to specialize in the subject will make themselves even more useful in our “information economy.”

The study of intellectual property law requires no scientific or technical background; nor is such expertise required to practice in the IP field, with one exception. The exception applies only to attorneys who wish to work in the area of patent prosecution before the U.S. Patent & Trademark Office (“USPTO”). The USPTO has its own examination requirement (the so-called “Patent Bar”) that may be taken only by persons possessing certain scientific and technical qualifications (the details are complex and, in some respects, arbitrary; so I won’t try to summarize them here). Further information is available via the USPTO’s web site (www.uspto.gov) or at 37 C.F.R. § 11.7.

Students now may take as many as 10 courses in the Innovation, Technology, and Intellectual Property Program. A description of each course follows, along with suggestions on how to select and sequence these courses during the upperclass years at the College of Law.

2. Courses Offered

Advertising Law (Fall, 3 credits). This class explores copyright, trademark, right of publicity, and other intellectual property issues, as well as defamation and product disparagement issues surrounding the creative world of advertising. Topics will include logos; products and their packaging; the use of images in advertising; celebrity sponsorships; false advertising, comparative advertising; contests and lotteries; internet advertising; government regulation of “unfair” trade practices; children’s advertising; and the relationship between First Amendment concerns and commercial speech. Prerequisite: None. Recommended: Introduction to Intellectual Property Law.

Computer and Internet Law (every other Spring, 3 credits). This course tackles the legal issues surrounding computer technology, including the protectability of computer software; the misappropriation of computer technology; ownership of online “content”; privacy and security in a computer age; and liability for tortious acts and computer crimes. Prerequisite: None. Recommended: Introduction to Intellectual Property Law or Copyright Law.

Computer Crime Law (Fall, 2 credits). This course will introduce students to Computer Crime Law. Areas of coverage include: computer misuse crimes, traditional crimes, sentencing issues, the Fourth Amendment, statutory privacy protections, jurisdiction, and national security. The course will also cover techniques used in computer crime investigations. Prerequisite: None.

Copyright Law (Spring, 3 credits). This course examines copyright law in detail, with particular focus on the Copyright Act of 1976, its history, and its ability to respond to recent developments in technology. Copyright law offers protection for works considered to be within the “fine arts” (music, paintings, photographs, sculpture)
and “literature” (books, stories, plays) as well as more mundane works, including commercial goods such as applied art and some electronic databases. Copyright also covers architectural works and works reliant on technology, such as computer software. Students will gain an understanding of copyright law generally, as well as an understanding of how that law might apply to emerging technologies. **Prerequisite:** None. **Recommended:** Introduction to Intellectual Property Law. *This course is a prerequisite to other courses in the Program.*

**Introduction to Intellectual Property Law** (Fall, 3 credits). This is the broadest and most basic course in the IP Program, giving roughly equal weight to the three primary federal doctrines in the area (copyright, trademark, and patent) and giving students a brief introduction to related state law doctrines such as rights of publicity (e.g., the right of celebrities to prevent unauthorized commercial uses of their name and likeness) and trade secrets (e.g., the formula for Coca-Cola®). This course is ideal for three types of students: First, for those students who do not intend to specialize in intellectual property, the course will provide an interesting and useful overview of one of the hottest areas of the law. Second, for those students who may be interested in intellectual property, the course will provide a “taste” of each doctrine, enabling students to choose a doctrine (or doctrines) in which to specialize. Third, for those students who are interested in taking (or have taken) courses in intellectual property, this course will provide students with the basics of each doctrine as well as an understanding of the ways in which they interact with each other. **Prerequisite:** None. *This course is a prerequisite to other courses in the Program.*

**International Intellectual Property Law** (every other Spring, 3 credits). This course examines the various mechanisms by which intellectual property rights are granted and enforced worldwide—mechanisms that have become increasingly important in our “world without borders.” Topics include treaties covering copyrights, trademarks, patents, and designs; the World Intellectual Property Organization, World Trade Organization, and other multilateral bodies; the regulatory systems of the European Union and other regional bodies; and the ways in which intellectual property owners may navigate these systems and, ultimately, protect their intellectual property across the globe. Students also will learn about special problems relating to international intellectual property law, such as developing countries and developing technologies. **Prerequisite:** Introduction to Intellectual Property Law or two of the three core substantive courses (Copyright Law, Patent Law, or Trademark and Unfair Competition Law).

**Patent Law** (Fall, 3 credits). This course examines the federal statutory system of protection for useful, novel, and nonobvious inventions—those developments that enrich the technological arts. Topics also include the protection of trade secrets, as well as the impact of those trade secrets upon the employment relationship. Students with a science background will find it very helpful to them in this course and this field. **Prerequisite:** None. **Recommended:** Introduction to Intellectual Property Law. *This course is a prerequisite to other courses in the Program.*

**Patent Office Practice and Procedure** (Spring, 3 credits). This course provides students with “hands on” experience in conducting patent practice before the United States Patent and Trademark Office. Topics include patent searches; patentability opinions; claim and patent drafting; filing; responding to correspondence from the Patent Examiner; the requirements of the new America Invents Act; and conducting appeals before the Patent Trial and Appeal Board and the Federal Circuit Court of Appeals. **Prerequisite:** Patent Law.

**Technology in Law Practice** (Fall, 2 hours). The expanding use of technology is affecting the practice of law in all fields and venues. This course will provide you with both conceptual discussion and practical experience aimed at understanding the changing role of technology and the broader changes in practice that it entails. Areas of special focus include case and client management; document management and electronic discovery; information literacy; presentation technologies; and professional responsibility. **Prerequisite:** None.

**Trademark and Unfair Competition Law** (Spring, 3 hours). This course examines the law governing trademarks and other means of identifying products and services in the minds of consumers. Instruction primarily will focus on the federal statute governing trademarks and unfair competition, the Lanham Trademark Act of 1946, but students will learn about state laws and state law doctrines in the field as well. Topics include the protectability of marks, including words, symbols, and “trade dress”; federal registration of marks; causes of action for infringement, dilution, and “cybersquatting”; and defenses, including parodies protected by the First Amendment. **Prerequisite:** None. **Recommended:** Introduction to Intellectual Property Law. *This course is a prerequisite to other courses in the Program.*

### 3. The Tracks

Whether and in what order you decide to take these courses will depend on whether you are interested in practicing: (1) copyright and trademark law; or (2) patent...
law. Of course, students are not forced to take one path or the other. Although passing the Patent Bar is required for those who wish to prosecute patents before the USPTO, litigators practicing in federal court have the ability to try copyright, trademark, and patent cases. Thus, students who think they may wish to “straddle” the two tracks should select courses from each.

Certain principles of course selection and sequencing apply to both tracks. First, students should start with the general and proceed to the more specialized. The Introduction to Intellectual Property Law course provides the foundation for study in the Program, and students are strongly encouraged to take the introductory course in the Fall of their second years. Building upon that foundation are the three doctrinal courses in American law: Copyright Law, Trademark and Unfair Competition Law, and Patent Law. International Intellectual Property Law educates students about international laws, practices, and problems that routinely confront larger businesses and is recommended for students planning careers in private firm or in-house IP practice. The remaining courses and seminars build upon the basic doctrines, provide students with more specialized knowledge, and, frequently, give students an opportunity to learn in smaller settings and from a variety of professors—including practitioners in the field.

Students interested in specific areas of intellectual property also may undertake supervised Independent Research Projects. Other opportunities for students to develop their skills in the IP field include the College’s Intellectual Property and Computer Law Journal and the Patent and Trademark Clinic (which launched in the fall of 2017).

A suggested sequence of courses follows for each intellectual property “track.” Students are free, of course, to choose classes from across the curriculum (so long as they satisfy any listed prerequisites), and the presence or absence of any given class from either “track” should not dissuade you from taking any class in which you are interested. Strongly suggested courses are marked in boldface text. Other intellectual property courses that, when offered, may be used to fill gaps in the curriculum are marked in italicized text. Finally, students interested in an intellectual property practice should be aware that other courses in the curriculum may be particularly helpful. Those courses include Antitrust, Appellate Practice and Procedure, Evidence, Corporations I, Federal Courts, Negotiations, and Remedies.

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<th>YEAR</th>
<th>COPYRIGHT/TRADMARK TRACK</th>
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<td>2L: Fall</td>
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*Students who know they would like to be patent lawyers—and, accordingly, are looking for summer employment in the patent area—should take Patent Law in the Fall of their second year; and Patent Office Practice and Procedure in the Spring of their second year. Students whose schedules permit it may also wish to consider sitting for the Patent Bar during the summer after their 1L or 2L years.*