

IP Survey

Fall 2011, Prof. Michael Risch

Prerequisites

There are no prerequisites for this class, nor do you need any special understanding of technology.

Class Days and Office Hours

Class will meet Mondays and Wednesdays from 11:00-12:15. We will not meet on Aug. 31, and perhaps other days. I will schedule makeups.

My office hours are 9:30-11:00 on Mondays, plus any other time that we might schedule in advance. Additionally, if I am in my office with the door open, please feel free to come in and talk. You may contact me at risc@law.villanova.edu.

Class Goals

You will have a basic understanding of:

1. Trade secret law;
2. Patent law;
3. Copyright law;
4. Trademark law; and
5. How each IP regime interacts with the others

Books and Materials

Unless otherwise noted, all page numbers refer to Merges, Menell, and Lemley, Intellectual Property in the Technological Age, **5th** edition. I do not recommend that you buy a used 4th edition. You should also buy the latest statutory supplement for the book.

You can access the page via the course's Blackboard page. The course page includes this syllabus and associated information, and may contain additional materials in the future, and all notices will be sent via Blackboard. A secondary course website is:

<http://www.casesofinterest.com/tiki/IP+Survey+Fall+2011>

This website will have old exams, syllabi, and other information.

Finally, we will be using clicker devices during the course. You can get these from the Copy and Distribution Center if you do not have one already – you pay a deposit now and get most of your money back when you turn it in. You must register your clicker serial number so that I can keep track of your attendance and participation. Use this site to register your clicker (you can click on it directly from the CasesofInterest.com website):

http://www.casesofinterest.com/tiki/tiki-view_tracker.php?trackerId=9#content2

Class Participation and Attendance

I will be considering class participation in your final grade, with an emphasis on quality over quantity. Short class exercises may be assigned, and they are mandatory but not graded; instead, they will be included in your class participation grade. Please see the "Class Participation and Policy" web page at casesofinterest.com for more discussion.

Your attendance and participation in class is required, and is critical to your learning the material in the assigned readings. Class attendance will not be graded *per se*, but excessive absences may lead to reduction in grades. If you miss too many classes, I may move to exclude you from taking the exam. I have unfortunately done so in the past, but hope not to have to do so in the future. See the “Class Participation and Policy” document at casesofinterest.com for more information:
<http://www.casesofinterest.com/tiki/Class+Participation+and+Policy>

Discussion Panels

Due to the size of the class, I will assign each of you to “panels” that will have primary responsibility for class discussion during each class. I will post the panel assignments (including the first class) in the Course Documents section of Blackboard.

NOTE: this is PRIMARY discussion - I expect you ALL to be ready for class, and I will be calling on others not in the panels periodically, especially during clicker exercises.

Final Exam

The final exam will be an in-class open book/open note/closed internet multiple choice exam. It constitutes your entire grade other than bumps up and down for attendance and participation.

Reading Assignments

All reading assignments include the applicable statute unless advised otherwise.

1. Logistics; Introduction to IP: 1-31
2. Copyright – Intro and Requirements: 420-435; 411-420 (optional background)
3. Copyright – Subject Matter: 478(bottom)-487(bottom), 441-448, 460-463
4. Copyright – Subject Matter: 463-473, 448-460
5. Copyright – Copying: 518-538
6. Copyright –Derivative Works, Distribution, Performance: 556-577
7. Copyright – Secondary Liability: 581-592 (skim Grokster, 684-697)
8. Copyright – Fair Use I: 592-622
9. Copyright – Fair Use II: 635-641, 650-666
10. Trade Secrets - Definition: 33-58
11. Trade Secrets – Public Disclosure: 58- 65, 107-111, 66-70
12. Trade Secrets – Misappropriation: 70-84
13. Patents – Intro and Subject matter: 130-142, Bilski Supreme Court majority opinion (on Blackboard – not the Fed. Cir. version in the book), 161-166; 125-130 (optional background), Bilski concurrences (optional background)
14. Patents – Utility: 166-180
15. Patents – Description: 180-203 (optional background: Michael Risch, A Brief Defense of the Written Description Requirement, 119 Yale L.J. Online 127 (2010),
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1504631)
16. Patents – Novelty and Bars: 209-214, 216 (after the problem)-226 (be sure to read note 6 carefully)
17. Patents – Obviousness: 235-256

18. Patents – Claim Construction: 267 (bottom), 270-294; 268-270 (optional background)
19. Patents – Infringement: 294-305
20. Patents – Contributory Infringement: 334-343
21. Trademark – Subject Matter, Distinctiveness: 740-764; 733-740 (optional background)
22. Trademark – Trade Dress, Priority: 764-786, 796 (problem)
23. Trademark – Infringement: 824-838 (start at the top with note 3)
24. Trademark – Dilution: 838-853 (through the problem)
25. Trademark – Defenses I: 890-897, 900 (include the problem)-919
26. Trademark – Defenses II: 925-942
27. Remedies: 111-119, 377-393, 722-732, 947-959 (skim all, understand different remedies)
28. Summary/Catch-up day: No new reading

Unless otherwise noted or discussed in class, each assignment applies to each class session, even if we haven't finished discussing the last assignment in class. You are, of course, free to read unassigned materials, and those materials may help your understanding of the topics we are studying.