

CRITICAL PERSPECTIVES ON INTELLECTUAL PROPERTY***Responsible Faculty Instructor:***

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<u>Credits:</u>	4
<u>Credits Type:</u>	PG (LLM, PhD)
<u>Cross-registration:</u>	Not Applicable
<u>Pre-requisites:</u>	A basic course on IPR

COURSE DESCRIPTION (COURSE VISION):

This elective course comprises of the instructor's ideation of what is and what ought to be the role of the IP system in our contemporary times. We will thus examine the jurisprudence surrounding IPRs, with a focus on modern writings, critical theories and alternative approaches. The course will involve a deeper diving and re-reading of classic cases in copyright, patent and trade mark law, some aspects of community-held rights in geographical indications, traditional cultural expressions and folklore, and a critical revisiting of the traditional justifications and models for IP protection (e.g. the Lockean labour theory, term of protection, expansion of IP rights etc) in light of their historical evolution. Students interested in this elective are expected to have taken the survey course on basics of IPRs, and benefit from the course-learnings for their higher studies in the field of IP.

TEACHING METHODOLOGY:

This course is designed to be an interactive learning experience. Hence students will be re-introduced to themes, concepts and case-law by the instructor so as to allow the opportunity to unravel known perspectives, then push for deeper thinking, and gain critical or even provocative reflections on current and historical legal scenarios. Apart from reading materials, some audio-visual materials, documentaries and court-room snippets will also be used to explain the expected results when applying oneself critically on otherwise trite understandings of traditional and alternative systems of intellectual property protection.

INTENDED LEARNING OUTCOMES:

Course Intended Learning Outcomes	Weightage in %	Teaching and Learning Activities	Assessment Tasks/ Activities
<ul style="list-style-type: none"> Critically read court decisions, scholarly legal opinions, and other legal material; Understand the principles and policies supporting legal decisions in various contexts; Formulate substantive 	30%	<p><i>Reading of cases and other material, and research</i> Students will acquire knowledge of substantive laws pertaining to the topics covered in the syllabus</p> <p><i>Lectures</i> Students will be given guidance on their reading and research for</p>	End-of-course examination (30 marks)

arguments in favour of or against an identified legal proposition.		their lectures. Students will, by responding to questions and performing exercises, develop their analytical and critical capabilities.	
<ul style="list-style-type: none"> • Reading reflection - Present a critical understanding on a thematic reading; • Conduct a mock-interview with a subject in a prominent case-law; • Produce an original thought-provoking critical essay 	70%	<p>The instructor will suggest topics, themes, case-laws and readings for a presentation and for enacting a well-researched and incisive interview with a relevant subject.</p> <p>Students will be expected to write an original thought-provoking response to an allocated theme.</p> <p>Students are also at liberty to select their own topics but must have it pre-approved by the instructor.</p>	Internal assessments (70 marks)

READING LIST (upto 10 select readings):

1. Peter Drahos, “Trading in Public Hope,” *The Annals of the American Academy of Political and Social Science*, Mar., 2004, Vol. 592, *Hope, Power and Governance* (Mar., 2004), pp. 18-38.
2. B.S. Chimni, *Capitalism, Imperialism, and International Law in the Twenty-First Century*, 14 *Oregon Rev. Int’l L.* 17 (2012)
3. Mark Perry & Thomas Margoni, Free-Libre Open Source Software as a Public Policy Choice, *International Journal on Advances in Internet Technology*, Vol. 3, Nos. 3 & 4, pp. 212-222, 2010.
4. K.J., Greene, *Intellectual Property at the Intersection of Race and Gender*, 16 *Journal of Gender, Social Policy and the Law* (2008),
5. Amy Adler, *Against Moral Rights* 97 *Cal. L. Rev.* 263 (2009)
6. Carys J Craig, ‘Critical copyright law and the politics of Intellectual Property,’ (2018)
7. Felix Cohen, *Transcendental Nonsense and the Functional Approach*, 35 *Colum. L. Rev.* 814 (1934).
8. Robert Burrell and Dev Gangjee, ‘Trade Marks and Freedom of Expression: A Call for Caution’(2010) University of Queensland TC Beirne School of Law Research Paper No.10-05.
9. Ikechi Mgbeoji,. *The Juridical Origins of the International Patent System: Towards a Historiography of the Role of Patents in Industrialization.* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1895545
10. Sunita Tripathy, “Interference Proceedings and Innovation Goals of the CRISPR-Cas9 Patent” (*Oxford Journal of Intellectual Property Law and Practice*, OUP) Volume 14, Issue 1, 1 January 2019, Pages 25–32.
11. Peter Drahos, 'Public Lies and Public Goods: Ten Lessons from When Patents and Pandemics Meet' (2021).

WEEKLY READING PLAN (WEEKLY OUTLINE):

A weekly plan is provided below:

MODULES	WEEK(S)
MODULE 1: Introduction & Historical Overview <ul style="list-style-type: none"> • Three questions for deliberation • A list of case-laws will be circulated for all in-class discussions and course assignments 	Week 1
MODULE 2: Justifications for IP and justifications for alternate approaches <ul style="list-style-type: none"> • Individual Rights and Social Values in Intellectual Property • IP without IP • Monopoly privilege 	Weeks 2 & 3
MODULE 3: Copyright for who? <ul style="list-style-type: none"> • Moral rights • Generative AI and Copyright • Ashok Kumar orders: Remediating Piracy • FLOSS 	Weeks 4 & 5
MODULE 4: Trade marks and Geographical Indications (asking the where question) <ul style="list-style-type: none"> • Trademark as a contract, • Series marks • Conflicts between Trademarks and Geographical Indications • Handouts of case studies (MUGA Silk). 	Weeks 6 to 8
MODULE 5: Patents for what? <ul style="list-style-type: none"> • Piracy by Patents • Balance between IP and Competition • Innovation Goals of the CRISPR-Cas9 Patent • Handouts of case studies (Biologics as non-patents) 	Weeks 9 & 10
MIDTERM WEEK	Week 11
MODULE 6: New tech case-studies <ul style="list-style-type: none"> • Patents and Pandemics • Handouts of case studies will be circulated for discussion. 	Week 12
MODULE 7: From theory to practice <ul style="list-style-type: none"> • Interactive session alongwith guest-invitee(s) • Recap of important IP relevant policy developments • Summarizing the main take-aways and resolving any other outstanding concerns 	Weeks 13 & 14
REVISION WEEK	Week 15