

**COURSE TITLE**

**Critical Perspectives on Intellectual Property**  
By  
**Prof. Sunita Tripathy**

[stripathy@jgu.edu.in]  
Associate Professor, JGLS

**Credits:** 4

**Credits Type:** Advance IP Elective (PhD, LLM, BALLB)

**Cross-registration:** NA

**Pre-requisites:** Students interested in this elective are expected to have taken the compulsory course on intellectual property law.

**COURSE DESCRIPTION (COURSE VISION):**

This elective course comprises of the instructor's ideation of what is 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, 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). Students interested in this elective are expected to have taken the survey course on intellectual property law, and benefit from the course-learnings for their higher studies in the field of IP.

Course Aims to specifically:

- Provide a strong theoretical and jurisprudential grounding in comprehending forms of intellectual property rights
- Explore the historical origins and justifications for intellectual property rights more closely
- Acquaint students with major academic, ideological and political debates on intellectual property rights
- Encourage students to think critically and reflect on the impact of the reasonings delivered by Courts, the legislature and even academic lawyers.
- Encourage students to adopt research methods that evoke thoughtful writing outputs.

**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"><li>• Critically read court decisions, scholarly legal opinions, and other legal material;</li><li>• Understand the principles and policies supporting legal decisions in various contexts;</li><li>• Formulate substantive arguments in favour of or against an identified legal proposition.</li></ul>	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 their lectures. Students will, by responding to questions and performing exercises, develop their analytical and critical capabilities.</p>	End-of-course examination (30 marks)
<ul style="list-style-type: none"><li>• Reading reflection - Present a critical understanding on a thematic reading;</li><li>• Conduct a mock-interview with a subject in a prominent case-law;</li><li>• Produce an original though-provoking critical essay</li></ul>	70%	<p>The instructor will suggest topics, themes, case-laws and readings for a presentation and for enacting an incisive interview.</p> <p>Students will be expected to write an original thought-provoking critical essay.</p> <p>Students are also at liberty to select their own topics, and 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. William Landes & Richard Posner, *The Economic Structure of Intellectual Property Law* (2003), pg 1 -10
3. B.S. Chimni, *Capitalism, Imperialism, and International Law in the Twenty-First Century*, 14 Oregon Rev. Int'l L. 17 (2012)
4. K.J., Greene, *Intellectual Property at the Intersection of Race and Gender*, 16 Journal of Gender, Social Policy and the Law (2008),  
<http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1040&context=jgspl>
5. 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](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1895545)
6. Daniel Gervais, *Intellectual Property, Trade & Development: The State of Play*  
<http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4107&context=flr&sei-redir=1&referer=http%3A%2F%2Fscholar.google.co.in%2Fscholar%3Fq%3D>
7. Lionel Bently, *Copyright, Translations, and Relations between Britain and India in the Nineteenth and Early Twentieth Centuries*, 82 Chi-Kent. L. Rev. 1181 (2007)
8. Lawrence Liang, *Meet John Doe's Order: Piracy, Temporality and the Question of Asia*, 2 Indian J. Intell. Prop. L. 154 (2009).
9. Amy Adler, *Against Moral Rights* 97 Cal. L. Rev. 263 (2009)
10. Stuart Green, *Thirteen Ways to Steal a Bicycle: Theft Law in the Information Age*  
[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2027494](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2027494)

WEEKLY READING PLAN (WEEKLY OUTLINE):

MODULES	WEEK(S)
<b>Revisiting IP and its Justifications</b> 1. History of IP 2. Philosophical justifications (labour theory, personhood theory, natural rights) 3. Criticism of justifications of IPRs 4. Different approaches: Law-and-economics, TWAIL, Marxist etc 5. IP and development	Weeks 1 & 2
<b>Critical Perspectives on Copyright</b> 1. Rethinking originality 2. Idea-expression dichotomy 3. Copyleft and open source 4. Copyright expansionism 5. Fair use 6. Moral rights 7. Critical re-reading of cases	Weeks 3 & 4
<b>Critical Perspectives on Trade marks</b> 1. Dilution 2. Parody 3. Free speech 4. Brand image 5. Critical re-reading of cases	Weeks 5 & 6
<b>MIDTERM</b>	Week 7
<b>Critical Perspectives on Patents</b> 1. Right to health 2. Patenting of life forms, GMOs 3. Antitrust issues 4. Critical re-reading of cases	Weeks 8 & 9
<b>Critical Perspectives on Geographical Indications, Traditional Knowledge, Genetic Resources, Folklore</b> 1. GI and trade 2. Appropriation of Indian TK in the West 3. TCEs 4. Cultural works	Weeks 10 & 11

Critical Perspectives on IP in the post-COVID era 1. Vaccine nationalism 2. TRIPS Waiver 3. IP and Sustainable Development 4. IP in a multi-polar world	Weeks 12 & 13
<b>REVISION WEEK</b>	Week 14