

**Prof. Andrew Chin**  
chin@unc.edu  
www.andrewchin.com  
Room 3025

**Spring 2024 Syllabus**  
University of North Carolina School of Law  
Law 265: 001  
MTh 2:35-4:00 p.m. (3 hours)

## **INTELLECTUAL PROPERTY LAW**

### **Description**

Although the law of intellectual property has historically been deeply intertwined with commerce, trade, technology, culture, and the human condition, recent innovation and cultural change have dramatically elevated its significance in the economy and in the legal profession. Modern intellectual property law includes such diverse topics as trademarks, copyrights, trade secrets and patents. This course provides an introduction to these substantive areas and to the legal reasoning skills involved in intellectual property counseling and litigation.

### **Teaching Approach**

My classroom instruction employs a combination of lecture and Socratic questioning, with the aim of providing the conceptual scaffolding necessary for you to engage the material before inviting you to inform the discussion. My aim in questioning you is to provoke critical thinking, self-directed learning, and a search for the connections between the detailed facts of a case and the deeper principles it illustrates. Eventually, such questioning should become a habit of mind, so that you will independently be able to incorporate legal materials efficiently and critically into your knowledge base and work product.

### **Learning Outcomes**

Students shall know and be able to apply the core substantive and procedural legal doctrines and rules. Students shall be able to find, analyze, and use relevant legal materials (including, among others, statutes, cases, regulations, and other administrative materials) in order to identify and resolve problems and communicate legal analysis in a variety of written and oral formats.

### **Prerequisites**

None.

### **Casebook, Supplement, and Additional Materials**

The casebook is PETER S. MENELL ET AL., *INTELLECTUAL PROPERTY IN THE NEW TECHNOLOGICAL AGE: 2023* (vols. 1 (1-516) & 2 (517-1313)), published by Clause 8 Publishing. You may also wish to obtain the 2022 statutory supplement accompanying the casebook. Other sources of the statutory materials are acceptable and available online. You will need hard copies of each of the principal statutes in their entirety for reference during the exam; however, we will focus on the following sections.

- 1976 Copyright Act, 17 U.S.C. §§ 102, 103, 106, 113, 114, 115, 117, 107, 201, 202, 301, 302, 401, 501-06
- Lanham Trademark Act, 15 U.S.C. §§ 1058, 1072, 1064, 1065, 1115, 1114, 1116, 1117, 1125(a)
- Uniform Trade Secrets Act with 1985 Amendments §§ 1-12

- Patent Act, 35 U.S.C. §§ 100, 101, 102, 103, 112, 154, 271

Additional materials will be linked from the course website at [unclaw.com/teaching/ip](http://unclaw.com/teaching/ip). Please make a point of visiting there regularly. Materials may also be distributed via the Sakai listserv, but I will not otherwise be using the course Sakai site.

### **Course Format; Reading; Problems**

Lectures and discussion will consume the bulk of our class time. We will average about one unit per class day — usually a little less, but sometimes a little more. Read ahead by at least one-half unit to be “safe.”

### **Attendance**

Please mark yourself present during the class on my website at [unclaw.com](http://unclaw.com) or [andrewchin.com](http://andrewchin.com).

Your attendance is subject to the Law School’s attendance policy requiring attendance at 80% of class sessions. The names of students who have accumulated seven or more absences during the semester will be brought to the attention of the Associate Dean for Academic Affairs. You are responsible for managing your absences and ensuring that your total number of absences does not reach this threshold. You may email me in advance regarding excusable absences, but any excused absences will still count toward the threshold and will be subject to review. Absences, excused or unexcused, below the threshold level will not affect your participation grade, but they may make it difficult for you to keep up with assignments, and all due dates will be enforced as specified below.

You may contact Assistant Dean for Student Development John Kasprzak if you have attendance-related questions or challenges.

### **Grading, Class Participation, and Device Use**

There will be a three-hour final examination on **Wednesday, December 7 at 9 a.m.** Your exam grade will be combined in a weighted average with an A+ for your participation grade, the latter of which will be weighted between 0% and 20%, depending on the overall quality of your participation. The law school curve will be applied to the resulting average. (High-quality participation reflects time, effort and study on *your* part, as contrasted with reliance on the efforts of others.) The examination likely will consist of three or four questions, at least one of which will involve some discussion of theoretical and policy issues, and the remainder of an issue-spotting variety. You may use the casebook, statutes, and any other materials I have assigned or distributed to the class. You may also use notes, outlines or other works over which you own copyright individually or jointly.

If you are unprepared and wish to be spared being called on in class, you may email or speak to me before class and I will do my best to remember not to call on you.

Do not use your computer, smart phone, e-reader or similar device in a way likely to distract others. This includes browsing to Web sites unrelated to intellectual property law, chat applications, e-mail, or other uses not related to note-taking for class or viewing of course materials.

### **Contact Information and Office Hours**

Room 5079, 919-962-4116, [chin@unc.edu](mailto:chin@unc.edu). Noon-1 p.m. Mondays; other times if my door is open. For time-sensitive matters, please rely on email, not voicemail.

## **Honor Code**

The Honor Code is in effect in this class and all others at the University. I am committed to treating Honor Code violations seriously and encourage all students to become familiar with its terms set out at <http://instrument.unc.edu>. In particular, I will pursue and administer appropriate academic sanctions for plagiarism “in the form of deliberate or reckless representation of another’s words, thoughts, or ideas as one’s own without attribution in connection with submission of academic work, whether graded or otherwise.” If you have questions, it is your responsibility to ask me about the Code’s application. All exams and other graded work must be submitted with a statement that you have complied with the requirements of the Honor Code in all aspects.

## **Accommodations and ARS**

The University of North Carolina at Chapel Hill facilitates the implementation of reasonable accommodations, including resources and services, for students with disabilities, chronic medical conditions, a temporary disability or pregnancy complications resulting in difficulties with accessing learning opportunities. Accommodations are determined through the Office of Accessibility Resources and Service (ARS) for individuals with documented qualifying disabilities in accordance with applicable state and federal laws. See the ARS Website for contact information: <https://ars.unc.edu> or email [ars@unc.edu](mailto:ars@unc.edu). Relevant policy documents as they relate to registration and accommodations determinations and the student registration form are available on the ARS website under the About ARS tab.

## **Counseling and Psychological Services**

The University is committed to providing an inclusive and welcoming environment and to ensuring that educational decisions are based on individuals’ abilities and qualifications. It is therefore the University’s policy not to discriminate on the basis of age, color, disability, gender, gender expression, gender identity, genetic information, national origin, race, religion, sex, sexual orientation or veteran status as consistent with the University’s Policy on Prohibited Discrimination, Harassment and Related Misconduct. If you experienced unlawful discrimination, harassment, or retaliation, you are encouraged to report the incident and seek resources. Resources on campus include the Director of Title IX Compliance or Director of Equal Opportunity and Compliance ([eoc@unc.edu](mailto:eoc@unc.edu)), Report and Response Coordinators ([reportandresponse@unc.edu](mailto:reportandresponse@unc.edu)), Counseling and Psychological Services (CAPs) (confidential) in Campus Health Services, the Gender Violence Services Coordinators ([gvs@unc.edu](mailto:gvs@unc.edu)), and resources listed at [safe.unc.edu](http://safe.unc.edu).

## **Diversity, Equity and Inclusion**

In this course we will study [law] as it has been written, interpreted, and enforced in the past, but we will also study the value choices that have influenced the creation of that law and how it could be reformed to achieve different and perhaps more effective forms of justice. When discussing such topics, as with discussions on all topics, I value the perspectives of individuals from all backgrounds reflecting the diversity of our students. The term “diversity” in this statement refers to race, gender identity, national origin, ethnicity, religious, social class, age sexual orientation, political beliefs, and physical and learning ability. In class discussion, students are encouraged to share their

own experiences as they relate to the course; however, no student is expected to speak for anyone or anything other than their own experience or point of view. Please remember to give one another the benefit of the doubt, including in situations in which we inadvertently fail to express ourselves as sensitively as we might. We must also never forget that another person's humanity cannot be up for debate. I am given a class roster with students' legal names, and I will gladly honor a request to address you by whatever name or gender pronoun you use. Please advise me of this preference early in the semester so that I may make appropriate changes to my records. Please also let me know if there is anything I can do to improve.

### Order of Topics

This is largely a course in statutory law; therefore, much of the law taught in this class is not covered by a principal case. You are responsible for reading all of the cases and materials on the pages as indicated below. You are responsible for all assigned Problems and any Comments and Questions following the cases that we discuss during class. You are not responsible for Problems, Comments or Questions that are neither assigned nor discussed; however, you may find them helpful in your independent study and review of the cases they accompany.

Each unit covers approximately one class period. When a class period breaks in the middle of a unit, please err on the side of reading ahead by completing the reading for the next unit. ***Minor revisions to this syllabus are likely; they will be announced in class as soon as possible and new versions will be posted on the class Web site.***

<i>Unit</i>	<i>Principal Cases and Problems</i>	<i>Casebook</i>
1	Introduction to the Course	1-40
TRADE SECRET LAW		
2	Trade Secret Introduction; Mallet	44-67
3	Rockwell; Dupont; Smith	67-98
4	Kadant; Problem II-13; Edwards; Pepsico	98-104; 128-45
PATENT LAW		
5	Patent Introduction; Rosaire	170-93
6	Hall; Egbert; Elizabeth; First-to-Invent	193-210
7	First-to Invent (cont'd); AIA; Problems III-2, 3, Worksheet	215-220; Worksheet
8	Graham, KSR, Problem III-4	220-243
9	Amgen; Gentry Gallery; Problem III-9	258-282
10	Mayo; Myriad; Thaler	283-85; 291-323; 330-33
11	Nautilus; Larami; Graver Tank (time permitting)	378-98
COPYRIGHT LAW		
12	Copyright Introduction; Feist; Problem IV-3	520-44; 550-58
13	Baker; Lotus, Problem IV-14	568 (ix.)-90, 593
14	Arnstein, Problem IV-28	666-75
15	Nichols, Anderson, Problems IV-30, 31	675-90; 709-14
16	Kirtsaeng, ABC v. Aereo, Castillo	724-61
17	Sony, Grokster, Harper & Row	766-97; 806-08
18	Campbell, Warhol, Problem IV-49	811-846

19	American Geophysical Union, Google (time permitting)	848-879
TRADEMARK LAW		
20	Trademark Introduction; Zatarains	931-59
21	Elliott; Two Pesos; Qualitex	959-79
22	Wal-Mart; Traffix; Problems V-6, 7	979-1001
23	Zazu; Nantucket	1003-37
24	Park 'N' Fly; Sleekcraft; LSU	1037-70
25	Multi Time Machine; Vuitton; Problem V-17	1071-1102
26	KP Permanent Makeup; Mattel; Problem V-22 (time permitting)	1150-57; 1171-72