

Course Title	Intellectual Property Law
Professor	Samuel F. Ernst
Term	Spring 2026
Meetings	Mondays and Wednesdays, 10:30 – 11:50 a.m.

Professor's Contact Information

Email Address	sernst@wsulaw.edu
Office Hours	By appointment

General Course Information

Required Texts & Materials	<i>The Law of Intellectual Property</i> , by Nard, Madison, and McKenna, Fifth Edition, ISBN 978-1-45-48-7571-0
Course Objectives	<ul style="list-style-type: none"> ● Intellectual Property Law allows students to gain an understanding of the substantive U.S. law of intellectual property in four major areas: patent law, copyright law, trademark law, and trade secret law. Among the skills students will practice in relation to this objective are: <ol style="list-style-type: none"> 1) Close reading of complex materials 2) Finding the rule in a legal case and understanding the holding 3) Understanding the mechanics of statutory schemes and how they apply to fact patterns ● Students will develop legal argument skills. This includes (1) evaluating facts and spotting legal issues; (2) analyzing legal rules and equitable principles as set forth in statutes and common law decisions; (3) applying legal rules, equitable principles, and policy considerations to articulate arguments in favor of clients. ● Students will practice oral communication and active listening skills by responding to the professor's questioning and by presenting analysis in an organized, persuasive, and professional manner. ● Students will practice diagnosing problems confronting clients, understanding clients' objectives, and generating strategies to achieving those objectives competently and ethically.

Course Policies

Attendance, Preparedness, and Class Participation	<p>This course requires regular attendance and preparation. 10% of the class grade is awarded for consistent attendance and active participation, as determined by the index card assignment described immediately below. You should prepare for approximately two hours for each hour of class.</p>
Accommodations	<p>Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.</p> <p>To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Library Building, Room 275-B. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Marisa Cianciarulo at mcianciarulo@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."</p>
Grading Method	<p>10% of the grade is awarded for consistent attendance and preparation for active participation as determined by the index card assignment described immediately below.</p> <p>10% of the grade is determined by a midterm exam.</p> <p>80% of the grade is determined by a final exam.</p>

Index Card Assignment	<p>10% of the class grade is determined by class preparedness and participation under the following procedure:</p> <p>For each class students should prepare an index card (3X5 inches) stating the following information:</p> <ul style="list-style-type: none"> • Your name • The name of a case in the reading • What you believe to be the holding of the case (This should be in the form of at least one complete sentence) • Whether you agree or disagree with the result of the case. <p>Please hand in your index card PRIOR TO EACH CLASS AS YOU ENTER THE CLASSROOM. Cards may not be submitted electronically, outside of the class, or after class because the cards are used as records demonstrating your punctuality and preparedness to participate in class.</p> <p>Students may be asked to discuss any case assigned for that day, and not just the case noted on the student's card.</p>
Midterm	Multiple Choice
Final Exam	Essay

Assignments & Academic Calendar

Date:	
I. Patent Law	
1. Monday, January 12	<ul style="list-style-type: none"> • Patent eligible subject matter • A word about utility Pages 86-107
2. Wednesday, January 14	<ul style="list-style-type: none"> • How to read a patent • Claim construction • Literal infringement • Pages 28-42; 253-256 Please also read the cat patent
3. Wednesday, January 21	<ul style="list-style-type: none"> • Equivalent infringement • Indirect infringement Pages 258-270; 297-309
4. Monday, January 26	<ul style="list-style-type: none"> • Defenses: Novelty and Priority Pages 149-178
5. Wednesday, January 28	<ul style="list-style-type: none"> • Defenses: Non-obviousness Pages 178-214

6. Monday, February 2	<ul style="list-style-type: none"> • Defenses: Statutory bars <p>Pages 214-248</p>
7. Wednesday, February 4	<ul style="list-style-type: none"> • Section 112 Defenses: Enablement, Written Description, and Claim Definiteness <p>Pages 55-84</p>
II. Trade Secret Law	
8. Monday, February 9	<ul style="list-style-type: none"> • Proving a trade secret <p>Pages 1439-1461</p>
9. Wednesday, February 11	<ul style="list-style-type: none"> • Trade secret misappropriation • The employer-employee relationship <p>Pages 1461-1487</p>
10. Tuesday, February 17	ASSESSMENT SESSION
III. Copyright Law	
11. Wednesday, February 18	<ul style="list-style-type: none"> • Copyright eligibility: originality and authorship <p>Pages 437-468</p>
12. Monday, February 23	<ul style="list-style-type: none"> • Copyright eligibility: fixation and expression <p>Pages 468-474; 487-499</p>
13. Wednesday, February 25	<ul style="list-style-type: none"> • Copyright classification <p>Pages 519-558</p>
14. Monday, March 2	<ul style="list-style-type: none"> • Copyright ownership: joint works and works for hire <p>Pages 570-590</p>
15. Wednesday, March 4	<ul style="list-style-type: none"> • Copyright infringement: musical and literary works <p>Pages 595-604; 616-623</p>
16. Monday, March 16	<ul style="list-style-type: none"> • Copyright infringement: pictorial works, derivative works, the right of public display and performance <p>Pages 623-629; 642-650; 665-671</p>
17. Wednesday, March 18	<ul style="list-style-type: none"> • Copyright infringement: secondary liability and the Digital Millennium Copyright Act <p>Pages 689-694; 701-714; 725-736</p>
18. Monday, March 23	<ul style="list-style-type: none"> • Copyright defenses: fair use and a word about copyright exhaustion <p>Pages 767-785; 789-796; 799-819</p>

IV. Trademark Law	
19. Wednesday, March 25	<ul style="list-style-type: none"> Trademark acquisition: distinctive classification of word marks Pages 951-971
20. Monday, March 30	<ul style="list-style-type: none"> Trademark acquisition: distinctive classification of symbols and trade dress Pages 983-997; 1001-1014
21. Wednesday, April 1	Midterm Exam
22. Monday, April 6	<ul style="list-style-type: none"> Trademark acquisition: functionality Pages 1015-1022; 1029-1036
23. Wednesday, April 8	<ul style="list-style-type: none"> Trademark acquisition: functionality Pages 1036-1046; 1057-1064
24. Monday, April 13	<ul style="list-style-type: none"> Trademark acquisition: use in commerce, priority, and geographic scope of rights Pages 1065-1072; 1081-1093
25. Wednesday, April 15	<ul style="list-style-type: none"> Trademark infringement: likelihood of confusion and reverse confusion Pages 1163-1196
26. Monday, April 20	<ul style="list-style-type: none"> Trademark infringement: initial interest confusion and post-sale confusion Pages 1196-1229
27. Wednesday, April 22	<ul style="list-style-type: none"> Trademark dilution Pages 1243-1269
28. Wednesday, April 27	Assessment Session

These descriptions and timelines are subject to change at the discretion of the Professor.