School:  Harry Radzyner Law School LL.B.

Workshop in Patent and Licensing Law

Lecturer:

Adv. Mark Cohen  mark.cohen@post.runi.ac.il

Course No.: 10065  Course Type : Elective  Weekly Hours : 2  Credit: 2

Course Requirements : Final Paper  Group Code : 221100650  Language: English

Prerequisites

Prerequisite:

4 - Legal English Advanced 2 OR 10061 - Legal English Advanced for - Honors Program

Students who took one of the courses listed below will not be allowed to register to the course Workshop in Patent and Licensing Law (10065):

1893 - Topics In Corporate Governance
1895 - Criminal Proceeding - Workshop

Course Description

Patent Law

Course Description
October 10, 2021 – January 7, 2022

Lecturer-Mark S. Cohen

Overview:

This course is an introduction to patent law, and the existing statues, rules, regulations, and court decisions. We will explore and apply patent law and current issues. This class will be an introductory mix so you will get a good grounding of the fundamental patent law, policy and practice. My starting point will be US patent law but in parallel I will discuss both Israel and European patent law. Students will be required to apply written and oral skills in view of the applicable patent law.

Course Hours Sunday: 15:45pm -17:15pm
Room: L203

I am readily available, so if you do not understand a concept or have a question, please email me at mcohen@pearlcohen.com.

Course will cover:

- Theory and Policy Objectives
- Patent Prosecution
- Patent Validity
- Patent Enforcement
- Licensing

Format of Class:

1. On the syllabus are the topics of patent law we will cover and a number of cases relevant to the respective topics area
   1. I have uploaded US patent US 9,162,262 and its Prosecution History File Wrapper which I will be using throughout each class
2. At the start of each class, a student will brief a selected case regarding the
How you are graded:

1. Final Exam - 50%- Take Home
2. Take Home Assignment (3x)-30%
3. Class Brief- 10%.
4. Attendance – 10% (10 classes)

How to prepare for the course:

There is no book required. I will be uploading my power point presentations, cases, and additional reading material to my web site for all of the classes.

SYLLABUS

Class 1: Introduction to Patent Law

Class 2/3: Claims
Disclosure Requirements
Enablement
Written Description
Inventorship

In re Wright, 999 F.2d 1557 (Fed. Cir. 1993)
Vas-Cath Inc. v. Mahurkar, 935 F.2d 1555 (Fed. Cir. 1991)
Ariad Pharms., Inc. v. Eli Lilly & Co., 598 F.3d 1336.
Regents v. Eli Lilly & Co., 119 F.3d 1559 (Fed. Cir. 1997)
**Additional reading:**


Ethicon, Inc. v. U.S. Surgical Corp., 135 F.3d 1456 (Fed. Cir. 1998)

Burroughs Wellcome Co. v. Barr Labs., Inc 40 F.3d 1223.

Falana v. Kent State Univ. 669 F.3d 1349.

Chou v. Univ. of Chi. & Arch Dev. Corp 254 F.3d 1347

Stern v. Trs. of Columbia Univ. 434 F.3d 1375.

Fiers v Revel, 984 F.2d 1164 (Fed. Cir. 1993)


Wyeth & Cordis Corp. v. Abbott Labs., 720 F.3d 1380.

ScriptPro, LLC v. Innovation Assocs., 762 F.3d 1355.

Young Dental Mfg. Co. v. Q3 Special Prods., 112 F.3d 1137.

Sonix Technology v Publications International, 844 F.3d 1370 (Fed. Cir. 2017)

Amgen Inc. v. Sanofi, 872 F.3d 1367 (Fed. Cir. 2017)

**Class 4:** Patent Eligibility – Utility (35 U.S. Code § 101)


Alice Corp. Pty Ltd v CS Bank International, 134 S. Ct. 2347 (2014)


Enfish LLC v. Microsoft Corp., case number 15-1244

Bascom Global Internet Services Inc. v. AT&T Mobility LLC et al., case number 15-1763

In McRO Inc. v. Bandai Namco Games America Inc. et al., case number 15-1080
Cleveland Clinic Found. v. True Health Diagnostics LLC, 859 F.3d 1352 (2017) (Fed. Cir. 2017)


**Additional reading:**

Digitech Image Techs., LLC v. Electronics for Imaging, Inc. 758 F.3d 1344

*In re Roslin Inst. (Edinburgh)* 750 F.3d 1333.


*Lowell v. Lewis*, 15 F.Cas. 1018 (C.C.D. Mass. 1817)

*In re Brana*, 51 F.3d 1560 (Fed. Cir. 1995)

*In re Swartz*, 232 F.3d 862.


*In re Fisher*, 421 F.3d 1365.

Rapid Litigation Management v Cellzdirect Inc., 827 F.3d 1042 (Fed. Cir. 2016)

*Berkheimer v. HP Inc.*, 881F.3d 1360 (Fed. Cir. 2018)

*Vanda Pharmaceuticals Inc. v. West–Ward Pharmaceuticals*, 887 F.3d 1117 (Fed. Cir. 2018)

**Class 5:** Novelty (35 USC 102)

Titanium Metals Corp. of Amer. v. Banner, 778 F.2d 775 (Fed.Cir. 1985)

*Continental Can Co. USA, Inc. v. Monsanto Co.*, 948 F.2d 1264 (Fed. Cir. 1991)

*Atlas Powder Co. v. IRECO Inc* 190 F.3d 1342.

*In re Moore* 58 C.C.P.A. 1340.

*In re Robertson* 169 F.3d 743.

*In re Seaborg* 51 C.C.P.A. 1109.

*In re Hafner* 56 C.C.P.A. 1424.

*In re Ruschig* 343 F.2d 965 (CCPA 1965)

*In re Donohue*, 776 F.2d 531 (Fed. Cir. 1985)

Class 6: Loss of Rights (Statutory Bars) and Deadlines

Diligence
Public Use
Prior Disclosure
Prior Invention
Third Party Activities

Egbert v. Lippmann, 104 U.S. 333, 26 L.Ed. 755 (1881)

Metallizing Eng’g Co. v. Kenyon Bearing & Auto Parts Co., 153 F.2d 516 (2d Cir. 1946)


Woodcock v. Parker, 30 F.Cas. 491 (C.C.D.Mass. 1813)

Gould v. Schawlow, 363 F.2d 908 (CCPA 1966)


Helsinn Healthcare SA v. Teva Pharmaceuticals USA Inc. (2019)

Public Use

Moleculon Research Corp. v. CBS, Inc. 872 F.2d 407

EZ Dock v Schafer Sys. Inc., 276 F.3d 1347 (Fed. Cir. 2002)

On Sale

Abbott Lab. v. Geneva Pharms., Inc. 182 F.3d 1315.

Plumtree Software, Inc. v. Datamize, LLC 473 F.3d 1152.


Experimental Use
Elizabeth v. American Nicholson Pavement Co. 1878 U.S. No. 203


**Diligence**


Fujikawa v. Wattanasin 93 F.3d 1559.

**Printed Publication**

In re Klopfenstein, 380 F.3d 1345.

**Third Party Activities**

Baxter Int’l, Inc. v. Cobe Labs., Inc. 88 F.3d 1054

Evans Cooling Sys. v. GMC 125 F.3d 1448

**Class 7:** Obviousness/Inventive Step (35 USC 103)


**Additional reading:**

In re Rouffet, 149 F.3d 1350 (Fed. Cir. 1998)

Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367 (Fed. Cir. 1986)

In re Vogel, 422 F.2d 438 (CCPA 1970)

Perfect Web Techs., Inc. v. InfoUSA, Inc. 587 F.3d 1324.

P&G v. Teva Pharms. USA, Inc. 566 F.3d 989.


In re Winslow 53 C.C.P.A. 1574.

In re Kubin 561 F.3d 1351.
Arkie Lures, Inc. v. Gene Larew Tackle, Inc. 119 F.3d 953

*BMS v Teva, 752 F.3d 967 (Fed. Cir. 2014)*


*E.I. DuPont de Nemours v. Synvina C.V., 904 F.3d 996 (Fed. Cir. 2018)*

**Class 8:** Inequitable Conduct/Ethics Rules

Duty of Disclosure

Post Grant Issues

Term

*Inequitable conduct*


*Ohio Willow v Alps South, Fed. Cir. February 19, 2016.*

**Claim Interpretation**

*Phillips v. AWH Corp.* 415 F.3d 1303.

**Additional reading:**


*Critikon Inc. v. Becton Dickinson Vascular,* 120 F.3d 1253, (Fed Cir. 1997)

*Kingsdown Medical Consultants, Ltd. v. Hollister Inc.,* 863 F.2d 867 (Fed. Cir. 1988)

*Molins PLC v. Textron, Inc.,* 48 F.3d 1172 (Fed. Cir. 1995)

*Hewlett-Packard Co. v. Bausch & Lomb Inc.,* 882 F.2d 1556 (Fed. Cir. 1989)

**Class 9:** Invalidity

Reexamination

European Opposition

IPR
Class 10: Enforcement

Literal Infringement

The Doctrine of Equivalents

Prosecution History Estoppel

Claim Interpretation

Safe Harbor


In Life Technologies Corp. et al. v. Promega Corp. et al, case number 14-1538


Additional reading:

Doctrine of Equivalents

Cybor Corp. v. Fas Techs. 138 F.3d 1448


Perkin Elmer v Westinghouse, 822 F.2d 1528 (Fed. Cir. 1987)

Reverse Doctrine of Equivalents

*Induced Infringement*

Akamai v. Limelight

**Class 11:** Licensing Patents/Negotiations

Assignments

Employment Agreements

Government Grants (Bayh-Dole Act and Office of Chief Scientist)

**Class 12:** Due-Diligence for Merges & Acquisitions/Public offering

IP language and sections in SEC filings and capital raising documents

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**Course Goals**

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