School: Harry Radzyner Law School LL.B.

Workshop in Patent and Licensing Law

Lecturer:
Adv. Mark Cohen mark.cohen@post.idc.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
respective topic of the class.

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)


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.

Brenner v. Manson, 383 U.S. 519, 86 S.Ct. 1033, 16 L.Ed.2d 69 (1966)

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., 881 F.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)


_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.


_The Medicines Co v Hospira. Fed Cir en banc July 11, 2016._

**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

Therasense, Inc. v. Becton, Dickinson & Co. 649 F.3d 1276.


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)


Class 9:  Invalidity

Reexamination

European Opposition

IPR
In re Recreative Technologies Corp., 83 F.3d 1394 (Fed. Cir. 1996)
In re Swanson 540 F.3d 1368.

**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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