

Loyola Law School
PATENT LAW
Fall 2019 / Syllabus VERSION 2.0

Professors Ben Haber and Justin Hughes

BASIC INFORMATION and SYLLABUS – version 03

INTERNET USE DURING CLASS IS STRICTLY FORBIDDEN

Class room: C401

Class times: Mondays and Wednesday, 1:10-2:40pm

- + As part of the regular LLS schedule, we will NOT have class on **Monday, 2 September** for Labor Day and **Wednesday, 9 October** for Yom Kippur.
- + We MAY have a make-up class on **Monday, 8 October** – regular time and classroom. Please schedule it.

Materials

ROBERT P. MERGES AND JOHN F. DUFFY, PATENT LAW AND POLICY (7th edition, Carolina Academic Press, 2017) and some additional supplemental materials on TWEN.

Class recordings

Class recordings are available only upon request and approval.

Evaluation

Grading in the course will be based on a final, 24-hour take home examination. In addition, class participation may be taken into account in assigning the student's final grade.

Law school-wide notices

Reasonable Accommodations: Students in need of reasonable accommodations may review the application guidelines and appeals process at - <https://my.lls.edu/studentaffairs/disabilityaccommodations>. For additional information, a student may contact Student Accessibility Services (SAS) in the Office of Student Affairs at accessibility@lls.edu or 213-736-8151.

Reporting Requirements of Sexual or Interpersonal Misconduct. As responsible employees, faculty are required to report any case of suspected sexual or interpersonal misconduct and cannot protect student confidentiality. For information about confidential counseling on campus and for general information about consensual relationships, sexual harassment, and sexual assault, please review the following information on the Office of Student Affairs webpage: Student-on-Student Sexual Misconduct &

Interpersonal Conduct Policy & Protocol; LLS & Community Sexual Assault & Interpersonal Misconduct Resource Contact List; and Project Callisto.

Internet use during class is strictly forbidden

As part of class participation, absolutely NO internet use is permitted in the class. *Students found to be using the internet during class may be referred to the Academic Standing Committee and/or Professors Haber and Hughes may lower of the student's final grade significantly.*

OVERVIEW

This course provides an introduction and overview of U.S. patent law. We will begin with a brief introduction into the nature and history of patents as well as the legal institutions that make up the American patent system. We will then explore the constituent elements of a patent and how those relate to key requirements for patenting an invention: utility, “enablement” and written description of the invention, novelty, and “non-obviousness.” The course will also explore the complex (and fluid) question of what kinds of scientific and technological advances are patentable subject matter and what kinds are not. The course then takes up “claim construction,” the process by which courts interpret the metes and bounds of the patentee’s rights and the broader topics of patent infringement and remedies against infringers.

SYLLABUS

version 2.0 – 19 September 2019

Unless noted, all page assignments are from the casebook.

I. INTRODUCTION – THE NATURE OF PATENTS AND THE ARCHITECTURE OF THE PATENT SYSTEM

Skim

3 - 15 [Historical Overview of Patent Law to (and including) Figure 1-1]

Read

19 - 64 [Architecture of a Modern Patent until E. Globalization ...]

68 - 73 [a. Patent Term until 4. Continuing Evolution]

II. REQUIREMENTS FOR AN INVENTION TO BE PATENTABLE

Read

A. UTILITY REQUIREMENT

193 - 204 [until Notes]

226 - 237 [Note #6 through *In re Fisher*]

B. ENABLEMENT AND WRITTEN DESCRIPTION – 35 USC §112

Read

250 - 275 [Anatomy of §112 until Note on the Temporal Paradox]

279 - 289 [“C” until 2. Limitations on Claims Breadth]

293 - 302 [*Ariad Pharmaceuticals* until D. Definite Claims]

C. DEFINITENESS AND FUNCTIONAL CLAIMING

Read

302-310 [D. *Definite Claims* until E. *Definiteness in Functional Claims*]

Skim

310 - 321 [E. *Definiteness in Functional Claims* to end of chapter 4]

Read

TWEN Reading: *Williamson v. Citrix Online* (Fed. Cir. 2015) [skim intro and read parts I.A and II.C]

TWEN Reading: *Aristocrat Technologies v. International Game Technologies* (Fed. Cir. 2008)

D. THE NOVELTY REQUIREMENT

Read

323-369 [until *Notes on Pfaff*]

TWEN Reading: *Helsinn Healthcare v. Teva* through *Notes on Helsinn*

394-403 [C. *Standard for anticipation* until *In re Seaborg*]

415-417 [3. *The ‘Enablement Standard’* . . . and *In re Hafner*]

451-478 [E. *Dates of Invention* . . . until *Trade Secrets, § 102(g)* . . .]

E. NON-OBVIOUSNESS

Read

511 – 527 [until *Note on the Evolution of the “Invention” Standard*]

531 – 551 [“B” through *Graham v. John Deere Co.*]

569 – 582 [*KSR International v. Teleflex* until 9. *Academic Commentary*]

600 – 604 [*Objective Indicia in Obviousness Cases* through *Arkie Lures v. Gene Larew Tackle*]

III. PATENTABLE SUBJECT MATTER

Read

75 – 95 [until *Notes on Chakrabarty and Bilski*]

102 – 116 [B. *Natural Laws and Natural Principles* to *Rapid Litigation Mgmt.*]

128 – 137 [C. *Natural Products and Natural Phenomena* to *Notes on Myriad*]

140 – 163 [6. *The Patent Ineligibility of Clones* to end of page 163]

[possibly more to come]

IV. CLAIM CONSTRUCTION AND INFRINGEMENT

Read

652 – 668 [B. *Interpreting Claims* to *Note on Canons of Claim Construction*]

694 – 705 [5. *Procedural Aspects of Claim Construction* through *Note #4*]

706 – 728 [*The Doctrine of Equivalents* to *Note #8*]

756 - 763 [*Indirect Infringement* until *Notes*]

765 – 780 [*Global-Tech* through *Commil*]

AND IF WE HAVE TIME

VI. REMEDIES

791 – 796 [Remedies through eBay]
817 – 833 [Lucent Technologies]

Once again, INTERNET USE DURING CLASS IS STRICTLY FORBIDDEN
END OF SYLLABUS version 3