

**Intellectual property rights
(35E00800)**

Fall 2017

1. GENERAL INFORMATION

6 ECTS

Period 2 (week 44- 49)

Instructor:

Dr. Rosa Maria Ballardini, Senior lecturer of intellectual property law, University of Lapland (rosa.ballardini@ulapland.fi)

Lecturers:

Ballardini Rosa Maria (rosa.ballardini@ulapland.fi)
Adjunct Prof. Max Oker-Blom, Hanken (max.oker-blom@hanken.fi)

Content:

The value of corporations and entire economies depend on intangible assets and their protection by intellectual property rights (IPR). This course covers IPR's, i.e. trademarks, patents, trade secrets and copyright, from both a legal and a law and economics perspective. In addition the areas of IPR's and competition, as well as enforcement are touched upon.

The course starts by comparing the traditional legal approach with an economic one, it offers a law and economics model of argumentation, where after it scrutinizes the economics of property and ends by the students presenting their term papers focusing on IPR's from a law and economics point of view. Although the students can freely choose their topic each paper has to start by describing the legal issue within the area of IPR to be discussed and then continue by viewing the issue at hand from a law and economics point of view. In order to enrich the discussion and increase the understanding critical views are encouraged.

Learning outcome:

The objective is to equip the student with the necessary tools to evaluate the strategic importance of intellectual property and the various means to protect it, such as patents, copyrights, trademarks, and trade secrecy, as well as ways to generate revenue from intellectual property, such as licensing.

Language of Instruction:

English

Office hours: by appointment

Literature:

- Kur, Annette & Dreier, Thomas, *European Intellectual Property Law. Text, Cases & Materials* (EE Publishing, 2013), Ch. 1, 2, 3, 4 and 5.
- William M. Landes & Richard A. Posner, *The Economic Structure of Intellectual Property Law* (2003), Ch. 1, 2, 4, 5, 6, 7, 11 and 13

Additionally: lecture notes & slides, legislation and cases, as pointed out by the instructor are required for the exam.

Assessment:

Final Grade: 0-5 points

Composition:

- **Written examination (80%)**
80% of the final grade is based on a written examination.
- **Term papers (20%)**
20% of the final grade will be based on a term paper that you will be asked to present in class. Both the term paper and the presentation are mandatory in order to pass the course!

2. LECTURES & READINGS

The lectures are not mandatory to pass the course. However, attending the lectures is strongly recommended.

During the lectures we will highlight together some of the key issues discussed in the readings. During the lectures, there will be several opportunities to discuss various topics of intellectual property rights, as well as case studies. Additional materials will be provided during the course. Active participation of the students is expected.

SCHEDULE FOR THE LECTURES:

Date	Time	Lecturer	Topic	Room	Readings
30.10	13.15-14.45	Ballardini Oker-Blom	1. Introduction to the course 2. Overview and Introduction to IPL & Law and Economics	G-112	Kur, ch 1 & 2 Lendes, Ch. 1, 2, 4, 5, 6, 7, 11,13
3.11	10.15-11.45	Oker-Blom	3. Intro to L&E of IP	G-112	Lendes, Ch. 1
6.11	13.15-14.45	Ballardini	4. European Copyright Law I	G-112	Kur, ch 5
10.11	10.15-11.45	Ballardini	5. European Copyright Law II	G-112	Kur, ch 5
13.11	13.15-14.45	Ballardini	6. European Patent Law I	G-112	Kur, ch 3
20.11	13.15-14.45	Ballardini	7. European Patent Law II	G-112	Kur, ch 3
24.11	10.15-11.45	Ballardini	8. European TM Law		Kur, ch 4
27.11	10.15-11.45	Oker-Blom	8. The Economics of Copyright & TM	G-112	Lendes, Ch. 2, 4, 5, 6, 7
1.12	10.15-11.45	Oker-Blom	10. The Economics of Patents	G-112	Lendes, Ch. 11,13
4.12	13.15-14.45	Ballardini Oker-Blom	11. Seminars: Term Papers Presentations	G-112	
8.12	10.15-11.45	Ballardini Oker-Blom	12. Seminars: Term Papers Presentations	G-111	

LIST OF READINGS:

The list of readings include mandatory and optional readings. Only mandatory readings are needed for the exam.

The purpose the optional readings is to provide extra material for those students interested in deepen their knowledge into certain specific topics. These optional readings might also be useful to support the research work needed for the term paper.

MANDATORY:

- Kur, Annette & Dreier, Thomas, *European Intellectual Property Law. Text, Cases & Materials* (EE Publishing, 2013), Ch. 1, 2, 3, 4 and 5.
- William M. Landes & Richard A. Posner, *The Economic Structure of Intellectual Property Law* (2003), Ch. 1, 2, 4, 5, 6, 7, 11 and 13

OPTIONAL:

Law and Economics of IP

Will be updated later.

Patent Law

- Carrier, Michael A., A Roadmap to the Smartphone Patent Wars and FRAND Licensing (May 3, 2012). CPI Antitrust Chronicle, Vol. 2, April 2012. Available at SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2050743
- Ballardini, R.M., Norrgård, M., & Minssen, T., “Enforcing Patents in the Era of 3D Printing”, *Journal of Intellectual Property Law and Practice*, 2015 Vol. 10, No. 11, Oxford University Press
- Derclaye E., “Should patent law help cool the planet ? An Inquiry from the point of view of environmental law : Part 1”, *European Intellectual Property Review*, 2009, 31 (4), p. 168-184.
- Innovation and Diffusion of Clean/Green Technology: Can Patent Commons Help ? Bronwyn H. Hall and Christian Helmers NBER Working Paper No. 16920 March 2011, Revised June 2011 JEL No. H23,H42,K11,O33,O34 (<http://www.nber.org/papers/w16920>)
- Sustainable development & intellectual property, Access to technologies in developing countries, INPI, 2015 (https://www.inpi.fr/sites/default/files/overview_sustainable-development_and_ip_inpi_20151125.pdf)

Copyright Law

- Rahmatian, Andreas: Originality in UK copyright law: the old "skill and labour" doctrine under pressure. IIC 2013, 44(1), 4-34.
- Derclaye, Estelle: The Court of Justice copyright case law: quo vadis? E.I.P.R. 2014, 36(11), 716-723.
- Hugernholtz, Bernt and Van Velze, Sam: Communication to a new public? Three reasons why EU copyright law can do without a "new public". IIC 2016, 47(7), 797-816. Jütte, Bernd Justin: The beginning of a (happy?) relationship: copyright and freedom of expression in Europe. E.I.P.R. 2016, 38(1), 11-22.
- Christophe Geiger - Jonathan Griffiths - Reto M. Hilty: Towards a balanced interpretation of the "three-step test" in copyright law. E.I.P.R. 2008, 30(12), 489-496.

- Guadamuz, Andres: Do androids dream of electric copyright? Comparative analysis of originality in artificial intelligence generated works. *Intellectual Property Quarterly* 2017

Trademark Law

Will be updated later.

IP Strategies

- Yelnik A, “Commercial value of trademarks: do current laws provide brands sufficient protection from infringement?”, *E.I.P.R.* (2010) vol. 32, pag. 203-219
- Raustiala, K & Sprigman, C: The Piraxy Paradox: Innovation and Intellectual Property in Fashion Design, *Virginia Law Review* vol. 92 (2006), pag.1688-1718. Available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=878401
- D Mendis and D Secchi, *A Legal and Empirical Study of 3D Printing Online Platforms and an Analysis of Users Behavior*, Study I and II, March 2015, UKIPO. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/549045/Study-I.pdf

Open Innovation and Co-creation

- Ballardini R.M, “*Proprietary Software vs. FOSS: Challenges with Hybrid Protection Models*” (2012). *IPR University Center Publications*. IPR Series B, no. 4, *IPR Universtiy Center*, Helsinki. Included in doctoral thesis: Ballardini, R.M, *Intellectual Property Protection of Computer Programs. Developments, Challenges, and Pressures for Change*, Economics and Society – 246 (2012), <https://helda.helsinki.fi/handle/10138/35504>
- Gorbatyuk A, Van Overwalle G, and Van Zimmeren E (2016) “Intellectual property ownership in coupled open innovation processes”, *IIC - International Review of Intellectual Property and Competition Law*, 47: 262
- Ballardini R.M., Lindmam J. & Flores-Ituarte I., “Co-Creation, Commercialization and Intellectual Property Management – Challenges with 3D Printing Technology”, *European Journal of Law and Technology* (2016), Vol 7, Issue 3

3. WRITTEN EXAMINATION

80% of the final grade is based on an in-class examination. The exam will be based on the mandatory readings.

The exam will be either in the form of essay-like questions or of a conventional fact pattern with questions for which you are required to write a concise memo explaining your answer.

4. TERM PAPER

20% of the final grade is based on an individual term paper (including the presentation of the draft term paper– see session 5) below).

By the time the lectures are over, each student will have decided which topic to write the term paper on and have sketched out the way in which the term paper will be structured. Each student will then develop some preliminary ideas on the term paper that shall be presented in class in the seminar sessions (see session 5) below).

The final version of the term paper should be digitised and sent to rosa.ballardini@ulapland.fi and max.oker-blom@hanken.fi by **Friday 15th December 2017 at 16.15 EET**.

Checklist for term paper:

Topic	Task
Choose a topic	By the time the lectures are over student should have chosen a topic for the term paper. We encourage students to choose a topic on their own. Should you encounter difficulties in selecting a topic, please discuss with the instructor.
Length	The term paper should be about 10 pages (12 pt Times New Roman; Line spacing 1,5) including everything (e.g. table of cases, bibliography, references, etc..)
Form	The term paper should be on the form of an academic paper/essay (as opposed to a handbook-like paper!). Headings within the text are encouraged (usually no more than 4 levels of headings). References to the main sources of literature, cases, statutes, etc. are required (always remember to acknowledge when you use ideas/take text from others!)
Submit the term paper	The term paper should be submitted to rosa.ballardini@ulapland.fi and max.oker-blom@hanken.fi by Friday 15th December 2017 at 16.15 EET . <i>Except from exceptional circumstances, late submissions will disqualify all members of the group from passing the course.</i>

5. SEMINARS: TERM PAPER PRESENTATIONS

The seminar sessions will take place on December 4 and 8, 2017.

At the seminar sessions each student is expected to present preliminary ideas about their chosen research topic for the term paper.

All the students are requested to attend and actively participate during all the presentations.

INSTRUCTIONS FOR THE PRESENTATIONS:

Topic	Task
Theme	The theme of the presentations should be in accordance to each students topic's choice for the term paper. In the presentation students should briefly present: (1) the reason why they choose that topic, (2) the research questions they have identified, (3) how they are going to address them and (4) some of their preliminary conclusions.
Length	The presentations should last <i>maximum for 10 minutes</i> .
Form	Power-point slides can be used if necessary (however, the use of slides is not mandatory).

6. COLLECTION OF FEEDBACK

The feedback from the course is collected in the following ways:

1. Via a paper form to be completed in class at the end of the course;
2. Via an electronic form (with specific questions created by the instructor) to be completed at the end of the course.