

SURVEY OF INTELLECTUAL PROPERTY

FALL 2025 — LAW 542.3 — AB 203

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This introductory course will provide a broad survey of intellectual property law. We will cover the basics of:

- copyright law — the branch of intellectual property that protects creativity and artistic expression;
- patent law — the branch of intellectual property that protects technological innovation;
- trademark law — the branch of intellectual property that protects brands; *and*
- trade secrecy — a set of common-law (and recently statutory) rules that protect valuable secret information.

In each module, we will cover the requirements to obtain a right and the scope of its protection. Intellectual property is a particularly dynamic field of law and throughout the course we will discuss the policy concerns that justify and continue to shape the doctrines.

This class is designed for two different audiences:

First, for those who don't plan to specialize in IP, but would like a broad, high-level overview of the doctrines. (IP is everywhere in the modern economy, and being able to spot issues is an asset in many areas of practice.)

Second, for those who plan to focus on one of the constituent areas of IP, but would like a working knowledge of the others (for example, a patent specialist who would like an introduction to copyright and trademark). Students who have taken *two or more* of the single-topic classes must speak with me before proceeding.

COURSE MATERIALS

The primary casebook is LYDIA LOREN & JOSEPH MILLER, *INTELLECTUAL PROPERTY LAW: CASES & MATERIALS* (8th ed. 2023) [LM]. The book is available for purchase in [digital form](#) (\$30) and [paperback](#) (\$74).

We will also make use of excerpts from JONATHAN MASUR & LISA LARRIMORE OUELLETTE, *PATENT LAW: CASES, PROBLEMS, AND MATERIALS* (4th ed. 2025) [MO]. I will supply a PDF copy of the relevant chapters, though the book as a whole is [free to download](#).

From time to time, I will supplement the books with other cases or materials, which I will make available on Canvas [CA].

Beyond the assigned readings, there are many wonderful IP resources available. I particularly recommend [JAMES GRIMMELMANN, INFORMATION PROPERTY](#) (2025); [BARTON BEEBE, TRADEMARK LAW](#) (12th ed. 2025); and [JEANNE FROMER & CHRIS SPRIGMAN, COPYRIGHT LAW](#) (7th ed. 2025), all of which are freely available online.

EXAM

The assessment for this class is a final exam. The exam is a four-hour, in-class exam, which will comprise a mix of short-answer, multiple-choice, and essay-style questions. The exam will be “modified” open-book: you are allowed access to your casebook, your class notes or outline, and class slides, in printed or electronic form. You are not allowed access to any other resources, online or otherwise.

Later in the semester, I will discuss the exam at greater length and distribute sample questions.

PARTICIPATION & ATTENDANCE

Per ABA policy, attendance is required in this class. We have a relatively small class this semester, which makes it all the more important to attend regularly. If you need to miss a class, please email me in advance. Excessive absences without good cause are grounds for lowering your final grade.¹

The class depends on your participation. I’ll use a mix of cold-calls, volunteers, and the occasional lecture. I randomize who I call on each day. If I call on you and you don’t know the answer or you’re not prepared, tell me as much and I’ll move on. (But if you pass, expect to be called on again soon.)

While the exam is responsible for the bulk of your grade, good performance in class discussion can raise your grade and particularly poor performance (including disruptiveness and unprofessionalism) can lower it. In evaluating your classroom performance, being engaged and working hard to think through the issues is *far* more important than making brilliant insights. You will all be wrong in class at some point or another—embrace it! I care only that you are prepared for class and that you are taking our work together seriously.

¹ If something comes up that impedes your ability to attend multiple classes, please come and talk to me so we can figure out a solution.

OFFICE HOURS

I will be available for office hours every Monday from 1:30–3:30pm, [by appointment](#).² If that window doesn't work for you, just send me an email and we'll find a mutually agreeable time.

You're also very welcome—in fact encouraged!—to send me questions via email. If I feel that questions I receive via email or during office hours are generally applicable or might reflect common points of confusion, I may share my answer with the rest of the class. (I will anonymize any questions.)

CLASS RECORDINGS

To facilitate open discussion, I will not record class except when required to by the university to address an accommodation. Even when I am required to record, access will be restricted, downloading will be disabled, and the recordings only will be available for a week. You may not distribute or share any recordings to which you have access nor may you make your own classroom recordings.

GENERATIVE AI POLICY

Students may not use ChatGPT, Gemini, Claude, Casetext, Lexis Briefcheck, Lexis +AI, or any other form of generative AI software for their work in this course. This includes—obviously—the final exam, but also our in-class discussions. These tools are increasingly prevalent in practice, and can be quite useful, **but your goal in this class is to learn how to read and think about the caselaw for yourself.**

LEARNING OUTCOMES

At the end of this course, students will have learned:

1. the substantive requirements for acquiring and enforcing intellectual property rights
2. the procedural requirements for acquiring and enforcing intellectual property rights
3. the policy concerns that animate the IP system
4. the statutory and common law bases of copyright, patent, trademark, and trade secrecy law

² You can also stop by during those times without an appointment, but if no one has made an appointment, I can't promise I'll be in my office.

ACCOMMODATIONS

Washington University is committed to facilitating equal access for students with disabilities and to cultivating a campus culture that is sensitive and responsive to the needs of students. For formal accommodations, your starting point should be the Office of Student Life.

If you experience any health or other concerns during the semester that interfere with your learning, please reach out to me and/or the Office of Student Life sooner rather than later. I'm always happy to meet with you, and we will do our best to develop a plan to enable you to succeed in the course.

REQUIRED DISCLOSURES

ABA Standard 310 requires at least 42.5 hours of in-class and out-of-class work for each credit hour awarded. This three-credit course is designed to meet this requirement, and consequently each student is expected to spend, on average, no less than 10.5 hours per week (in a combination of in-class time and out-of-class student work).³

SCHEDULE & READING ASSIGNMENTS

As we proceed through the class, I may edit the readings or schedule slightly if we move more slowly or quickly through particular topics. I will always confirm which material you should read for the following class.

August 25	Course overview; principles of IP	<i>Optional reading (CA):</i> Grimmelmann 21–38; IPNTA 1–28 (skim 2–17)
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Copyright

August 26	Originality; fixation; subject matter	LM: 321-340
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<i>September 1</i>	<i>Labor Day — no class</i>	
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September 2	Limitations I (the idea/expression distinction)	LM: 341-346; 363-368 CA: <i>Lotus v. Borland</i>
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³ This is, of course, a bit silly. Each of you works at your own pace, and I have no interest in monitoring how long your out-of-classroom preparation takes you. That said, these guidelines are probably roughly sensible, and if you're spending significantly less time than this on reading and preparing for class, there's a decent chance that you're not doing a good job.

September 8	Limitations II (useful articles)	LM: 346-363
September 9	Authorship; ownership; duration	LM: 368-388 CA: <i>Trinity v. Erickson</i>
September 15	Infringement: copying-in-fact and law	LM: 390-409 CA: <i>Selle v. Gibb</i>
September 16	Infringement: derivatives; distribution; performance	LM: 409-420 CA: <i>Anderson v. Stallone</i> ; <i>ABC v. Aereo</i>
September 22	Fair use: transformative uses	LM: 423-425, <i>then</i> : CA: <i>Campbell v. Acuff-Rose</i> LM: 441-456
September 23	Fair use: new technological uses	LM: 425-427, <i>then</i> : CA: <i>Authors Guild v. Google</i> LM: 456-474

Patents

September 29	Introduction and novelty	MO: 13-22, 25-31, 42-56, 60-70
September 30	Nonobviousness	MO: 134-151, 153-154
October 6	<i>Fall Break — no class</i>	
October 7	<i>Fall Break — no class</i>	
October 13	Enablement	MO: 169-171, 181-187, 200-205
October 14	Subject matter	MO: 246-261, 280-288
October 17 (Friday makeup)	Claim construction; indefiniteness	MO: 330-346, 225-233
October 20	Infringement and review	MO: 346, 351-366, 369
October 21	Design patents	CA: “One Day on Designs”

Trade Secrecy

October 27	Introduction; subject matter	LM: 29–40, 53–61
October 28	Reasonable efforts; misappropriation	LM: 62–85
November 3	Departing employees	LM: 94–112

Trademarks

November 4	Introduction; distinctiveness	LM: 511–532
November 10	Genericness; priority; color	CA: <i>USPTO v. Booking.com, Elliott v. Google</i> LM: 532–546
November 11	Trade dress, functionality	LM: 546–568
November 17	Infringement (confusion)	LM: 568–588
November 18	Infringement (dilution)	LM: 615–638
November 24	Defenses	LM: 645–672 CA: <i>Jack Daniel's v. VIP Products</i>

Wrap up

November 25	Review session — <i>will be recorded</i>	-
November 26 (Wednesday)	<i>Day before Thanksgiving — no class</i>	