

Intellectual Property, Patents and Trademarks

MAPO_014131

Departments	Department of International, European Union and Comparative Law, Department of Law
Teaching Languages	English
ECTS	3
Teacher responsible	Marta Baylina Mele - marta.baylina@esade.edu

Course Goals

By the end of the course, students should be able to identify the main categories of intellectual property rights and distinguish their subject matter, requirements, duration, registration rules, and business functions.

Students should also understand the core legal concepts of originality, the idea-expression dichotomy, authorship, and ownership in copyright; distinctiveness, likelihood of confusion, dilution, and trademark defenses; and patentability requirements such as novelty, inventive step, industrial application, and sufficiency of disclosure.

Students should further be able to apply intellectual property rules to practical business situations, assess alternative protection strategies, identify risks arising from premature disclosure, prior rights, or infringement, and make reasoned recommendations on registration, licensing, enforcement, and portfolio management.

Previous knowledge

None.

Prerequisites

This course is not open to MUA students in the IP-IT track.

Teaching methodology

The course is taught through a practical, case-based methodology that combines short theoretical introductions with problem-solving exercises, class discussion, and individual preparation. Students work with legal materials, case law, legislative texts, and business-oriented hypotheticals in order to understand how intellectual property rules operate in practice and how they support the strategic protection and exploitation of innovation, brands, creative works, technical information, and know-how.

The course is structured around the main intellectual property rights covered in the syllabus—copyright, trademarks, patents, and trade secrets/know-how—and each block links core legal concepts to practical exercises and hypothetical cases. Students are expected to prepare the assigned readings and materials in advance, participate actively in class, and apply legal reasoning to factual scenarios similar to those used in the continuous assessment and final examination.

Description

Course contribution to program

This course aims, through a practical approach of the laws relating to copyrights, trademarks, patents and trade secrets (know-how), to examine the protection provided by the law in regards to ideas, inventions, information and other forms of creative effort. The course will provide insight and will consider basic and practical issues arising from the exploitation and the strategic business use of intellectual property. Students completing this course should have a basic grounding in the law of the area, its limitations, policies, and objectives, including the basic features of the various systems of protection.

The course is divided into three parts each dedicated to an intellectual property right (copyrights, trademarks, and patents) combining theory and practical exercises.

This course is not open to students in the IP-IT track.

Short description

This course takes a practical approach to the law of copyright, trademarks, patents, and trade secrets (know-how), examining the protection the law affords to ideas, inventions, information, and other forms of creative effort. It also offers insight into the exploitation and strategic business use of intellectual property, while addressing the basic legal principles, limitations, policies, and objectives of the various systems of protection. Intellectual property is commonly understood to include rights such as patents, copyright, trademarks, and trade secrets, and it plays an important role in supporting creativity and innovation.wipo

The course is divided into three parts, each devoted to a different intellectual property right: copyright, trademarks, and patents. Each part combines theory with practical exercises to reinforce understanding and application.

Activities

In-class discussions and debates

Active class participation, when it contributes to the group, may be taken into account by the

instructor — always in a positive way — to round up the final grade.

Written and/or oral exams

Final Exam:

It will consist of an open book test based on one or more hypothetical cases. Only printed materials will be allowed during the exam (no web-browsing or checking documents in electronic format).

Other

Attendance:

Attendance is mandatory. Students who miss 2 or more sessions will fail the class. Late attendance is not allowed.

Readings

Readings:

In the course Moodle you will find, session by session, the required readings. During the course, the professors will also suggest and post, from time to time, other non-mandatory readings and resources for those wishing to explore themes more in-depth.

Case study resolution

2 practical case studies to be prepared at home and answered in class.

Content

#	Topic
1	Introduction to the course. Intellectual Property: concept and differences in terminology. Overview of different Intellectual Property Rights. Purpose of protection. Coexistence of Intellectual Property Rights
2	Patents v. Trade Secrets Copyright basics. Legal Framework. Foundations of Copyright protection. The subject matter of Copyright: works of authorship. Originality.
3	Idea-expression dichotomy. Absence of formalities: advantages of registration. Author's rights: exploitation rights v. moral rights. Exclusive exploitation rights: right of reproduction, right of distribution and first-sale doctrine, right of communications to the public (what is public?), and right of transformation (aka right to make derivative works).
4	Exclusive exploitation rights (C'ed). Term of Protection. Ownership v. Authorship. Transfer v. Licenses. Key issues when licensing IP rights. Defences. What is a trademark? Types of trademark signs. Principle of Specialty / Purpose of Trademarks. Principle of territoriality. Distinctiveness. Dynamism of distinctiveness: vulgarization of trademark and acquired distinctiveness. Securing Protection. Grounds for rejection (or invalidity).
5	Resolution of Hypothetical No. 1 *** What is a trademark? (C'ed)
6	The trademark Rights. Special rights conferred by well-known Brands. Defences. Life of a Trademark. Risk/Likelihood of confusion, association, and dilution. Defences.
7	Basics about Domain Names and conflicts between Trademarks and Domain Names. PATENTS. What is a patent? Patentability requirements. Industrial Application (utility), Novelty, and Inventive Step (non-obviousness). Sufficiency of disclosure. Inventorship v. Ownership. Duration. The patent rights.
8	Resolution of Hypothetical No. 2 Patents (C'ed) Inventorship v. Ownership. Duration. The patent rights. Direct and indirect infringement. Literal infringement. The doctrine of equivalence. Defences. Private use. Experimental use. Types of patents based on territory: PCT, European Patent, Unitary Patent, and national patent: defining the best strategy for

#	Topic
8	maximizing protection.

Assessment

Tool	Assessment tool	Category	Weight %
Quizzes/tests	Resolution of 1st Hypothetical	Retake and ordinary round	25.00%
Quizzes/tests	Resolution of 2nd Hypothetical	Retake and ordinary round	25.00%
Participation in program activities		Retake and ordinary round	
Quizzes/tests	Final Exam* To pass the class, the student must have a minimum of 4/10 in the Final Exam.	Retake and ordinary round	50.00%

PROGRAMS

113-Law Exchange Program (Undergraduates: Law)
113 Year 1 (Optative)

DD05-Double Degree Program (exchange) (Undergraduates: Law)
DD05 Year 1 (Optative)

LIB23-Master of Lifelong Learning in International Business Law (Masters: MUA)
LIB23 Year 1 (Mandatory)

MUA23-Master in Professional Legal Practice and Procuring (Masters: MUA)
MUA23 Year 1 (Optative)