Spring 2010

Intellectual Property Litigation: Trademark and Copyright (Law 823D)

SYLLABUS

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REQUIRED TEXTS:

No Text. Course readings and materials will be made available online (to be discussed on the first day of class)

GGU CYBERCAMPUS NOTICE:

This class will have a GGU CyberCampus website. This site will contain the official syllabus—including any changes or amendments, as well as any official class announcements. All of the weekly class handouts will also be made available on this site. Students are expected to access this site regularly to keep apprised of course developments.

COURSE GRADING AND ASSESSMENT:

This course meets on Mondays from 4:30 to 6:10 p.m. Students are expected to have read the material assigned for each class and to be prepared to participate in classroom discussions and exercises.

Please Note: The course is designed to have both discussion and lecture component. Students are graded on the basis of weekly written assignments—which receive extensive written feedback—as well as their contribution in class discussions and analysis of the course materials and assignments. The weekly assignments are designed to require students to perform legal research and analysis that beginning attorneys would experience in actual IP litigation. There is no requirement that students have taken any IP course prior to taking this course (since attorneys often work in areas of law in which they have not taken a class!) But students who have not taken an IP course will have to be creative in determining how to get up to speed on substantive law issues. Class enrollment is
limited to 20 students in order to allow for sufficient feedback on written assignments as well as on in-class performance.

Given the nature of this course, regular class attendance and participation is mandatory. There will be regular written class assignments which require students to prepare materials (e.g., cease and desist letter, sample discovery requests, sample pleadings) outside of class. These assignments will be worth 75% of the final grade. In-class participation will be worth 25% of the final grade. There is no final exam. Rather, at the last class session there will be one additional assignment to be completed by the date set for a final exam in this class. This assignment is included as part of the 75% total for the course grade.

**COURSE GOALS:**

- Develop “applied lawyering skills” by requiring weekly written problems that are based on tasks typically faced by lawyers in the pre-trial stages of trademark and copyright litigation in federal court.
- Develop the ability to do realistic practice-oriented legal research and problem solving requiring complex case and statutory analysis.
- Develop skills in both oral and written legal analysis.
- Practice professional skills of competence, diligence, and self-responsibility.

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| Class 1 | **Introduction to the Course:** Course mechanics and overview of intellectual property (“IP”) law; Phases of civil litigation in the IP context  
**ASSIGNMENT #1:** Prepare memo for client strategy meeting re potential trademark infringement action. |
| Class 2 | **Pre-Litigation Issues and Strategies I:** Pre-litigation considerations; available forums for adjudicating IP cases; alternative dispute resolution; trademark and copyright remedies; the litigation budget.  
**ASSIGNMENT #2:** Prepare a cease and desist letter re copyright infringement action. |
| Class 3 | **Pre-Litigation Issues and Strategies II:** Jurisdiction and venue; Transfer and removal; Declaratory judgments; Preparing for and responding to IP claims  
**ASSIGNMENT #3:** Prepare a memo analyzing jurisdiction and venue issues for copyright case. |
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| Class 4 | Preliminary Injunction Motions:  
ASSIGNMENT #4: Prepare a draft preliminary injunction motion for trademark claim. |
| Class 5 | Drafting the IP Complaint, Answer, Counterclaims, Attacking the Pleadings:  
ASSIGNMENT #5: Prepare a memo stating the elements of proof for a copyright and trademark infringement case. |
| Class 6 | Drafting the IP Complaint, Answer, Counterclaims, Attacking the Pleadings (cont’d)  
Pretrial Discovery in IP Litigation (1): protective orders; document requests and responses; interrogatories and responses; motions to compel; non-party discovery  
ASSIGNMENT #6: Prepare a draft Complaint for copyright and trademark infringement; Prepare a draft Answer. |
| Class 7 | Pretrial Discovery in IP Litigation (2): Taking and Defending IP Depositions  
ASSIGNMENT #7: Prepare document requests and interrogatories for plaintiff/defendant in copyright and trademark litigation. |
| Class 8 | Pretrial Discovery in IP Litigation (3): Taking and Defending Depositions (cont’d)  
ASSIGNMENT #8: Prepare a deposition outline for plaintiff in trademark case; in-class deposition exercise. |
| Class 9 | Selection and Use of Expert Witnesses:  
Selecting IP experts; preparation of expert reports; expert discovery and deposition issues; trademark surveys  
ASSIGNMENT #9: Prepare a memo re survey expert on issue of likelihood of confusion in trademark litigation. |
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<td>Class 10</td>
<td>Remedies in IP Litigation (1): Monetary Damages, Injunctive Relief, Attorney’s Fees and Costs:</td>
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<td>ASSIGNMENT #10: Prepare Memorandum of Points and Authorities for Attorney fees and costs in trademark and copyright litigation.</td>
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<td>Class 11</td>
<td>Remedies in IP Litigation (2); Dispositive Pretrial Motions: Summary Judgment (1)</td>
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<td>ASSIGNMENT #11: Prepare memo analyzing legal standard for summary judgment in copyright case; identify issues amenable to summary judgment in copyright case.</td>
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<td>Class 12</td>
<td>Dispositive Pretrial Motions: Summary Judgment (2)</td>
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<td>ASSIGNMENT #12: Prepare draft Motion for Summary Judgment in trademark case.</td>
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<td>Class 13</td>
<td>Pretrial oral advocacy: Arguing a Summary Judgment in Court</td>
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<td>ASSIGNMENT #13: Prepare to argue MSJ (in class)</td>
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<td>Class 14</td>
<td>MSJ Arguments in class; Final Assignment Handed Out</td>
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