

Course description: Industrial Property – Patents and Trade Marks (15 ECTS)

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1. General information about the course

1.1 Content and objectives

Module 2a constitutes an advanced course focused on material law and methodological challenges in the fields of patents and trade marks.

The course covers European patent law and European trade mark law. Within patent law, the course focuses on central aspects of patenting of pharmaceuticals and biotechnical inventions. The course also discusses the patentability of computer-implemented inventions. A main legal source in this respect is the European Patent Convention and the case-law of the European Patent Office's Boards of Appeal. Training is provided in solving complex patent law issues within the biotech and pharmaceutical patent field. Within trade mark law, the course focuses on registration and validity of trade marks and enforcement strategies and challenges alike. The conditions for protection and the scope of protection of a trade mark are studied through practice and case law of the European Union Intellectual Property Office, the General Court, and the Court of Justice of the European Union.

Students are given particular training in how to use legal scientific methods as well as how to develop skills related to the identification, discussion and presentation of alternative solutions during negotiation-like exercises concerning the protection and infringement of patents and trade marks. Since industrial property rights traditionally play an important role in societal development, particularly in industrialised economies, students are also trained in critically reviewing and discussing results of current legislative, practical and judicial developments and on-going negotiations of relevance within the theme of the course.

Students develop an increased awareness of the interplay of economic, cultural and political aspects of industrial property, and are encouraged to contribute to a nuanced and critical view of existing rules and solutions.

1.2 Learning Outcomes

After successful completion of the course, the student is expected to be able to:

- demonstrate advanced knowledge and understanding of overall principles and governance mechanisms in industrial property law, particularly patents and trade marks,
- demonstrate advanced knowledge of intellectual property law methods and other legal or social science methods that can be appropriate for deeper analysis and treatment of intellectual property law issues,
- display the ability to integrate knowledge and analyse, assess and manage complex patent law and trade mark law circumstances and questions, including with regard to economic, political or other social aspects,
- display the ability to clearly in oral and written format report and discuss their conclusions and the knowledge and arguments that form the basis for their conclusions, and

- demonstrate the proficiency required to participate in research and development projects with particular focus on questions of patent law or trade mark law, or to work in other specialised activities concerning industrial property legal protection.

1.3 The Course Structure

1.3.1 Course Outline

Please remember that this is a full-time program, which requires 40 hours of study per week. Lectures, seminars and class exercises will provide the basis for required knowledge, but the students are expected to search and find additional sources (legal sources) in order to complete their tasks.

During the course the students will be expected to work with a case concerning an ongoing dispute between two fictional companies. At the beginning of the course, the Case describing the dispute is distributed to the students, as well information on the company they are representing. During the course, the students are required to write two individual research memoranda (one in patent law and one in trade mark law), which provide the basis for the upcoming Moot Court as well as for the Licensing Negotiation.

Furthermore, as a preparation for the Moot Court, each group submits a group memorandum with either statement of claims or statement of defence (depending on the position of the company they are representing). After the oral Moot Court follows a period of preparation for the Licensing Negotiation, where each group provides a group memorandum with a proposal for a contract between the parties.

Each student thus submits two individual memoranda, contributes with two group memoranda and performs orally in the Moot Court and the Licensing Negotiation.

1.3.2 Written memoranda

The *first two memoranda assignments* will be the result of an independent legal research and objective critical analysis of the IP-related disputes of the case and is written individually.

The *third written assignment* is a group work. It consists of a statement of claims or defence (depending on what company your group will be assigned to) and is the written basis for the moot court. Each student needs to indicate his/her individual contribution in the document, i.e. explain the division of work responsibilities within the group.

The *fourth written assignment* is a group work. It consists of a proposal for a contract and will constitute the starting point for the Licensing Negotiation. Each student needs to indicate his/her individual contribution in the document, i.e. explain the division of work responsibilities within the group.

There is no word limit for the assignments. Use 12 p font size (preferably Ariel, Calibri or Times New Roman), 1.5 spacing and 2.5 margins. As a general guideline, the individual memoranda should be around 15 pages. The group assignments should be shorter.

1.3.3 Submission deadline

Assignment 1 (patent): Tuesday 26 November at 17.00.

Assignment 2 (trade marks): Tuesday 10 December at 17.00

Assignment 3: 3.1: Statements of Claims: Friday 13 December at 9.00
 3.2: Statements of Defence: Monday 16 December at 9.00

Assignment 4 (contract proposal): Monday January 13 at 9.00

1.4 Compulsory Elements

Participation in at least 80 per cent of all seminars and exercises is compulsory. In the event of special circumstances, the head of the course can grant exceptions. In this case, the student will be responsible for completing an additional task.

1.5 Group Work

As mentioned, Module 2a is structured around a practical case containing a series of IP-related legal disputes. Students will be divided into groups and each team will represent one of the companies involved in the dispute in the Moot Court and the Licensing Negotiation.

The teams will provide the course administrator with (i) a Team Name, (ii) a list of participants, and (iii) one e-mail address to be used for communication with the team (the Team Address).

Please note that the two first assignments are written and submitted individually. Although group discussion is encouraged, the writing and submission must be done individually. The teams work together with the preparation and submission of assignment number three and four as well as the Moot Court and negotiation preparations and performances.

2. Instruction

The focus of **Lectures** is predominantly on substantive law issues. In Module 2, external experts will contribute to the teaching and will share their expert knowledge of different aspects of patent and trade mark law.

A new instruction element is introduced in Module 2a, namely a **Case Day**, a seminar that is structured in the form of a workshop. During the patent and trade mark case days, students will work with a case during the whole day. The day will be concluded with a negotiation exercise. Further information will be published ahead of each Case Day.

3. Examination

3.1 Course Requirements

The course's learning outcomes are examined through composition of memoranda, oral argumentation and active participation in seminars and moot court exercises. When the student has completed elements in a group, the individual student's fulfilment of goals is checked through identification of that student's contribution to group work in question as well as through questions at seminars.

All course requirements must be met in order to pass the course. Course grades are determined based on a combination of the individual's performance in each of the different elements of the course:

- memoranda: 60 per cent (written individual and group assignments),
- oral argumentation: 30 per cent (Moot Court and Licensing Negotiation), and
- active participation: 10 per cent (active participation in lectures and seminars).

Students who initially fail the examination are given the opportunity to be assessed a second time. Students who fail the course twice from the same examiner have the right to request a different examiner for their next examination. This, however, does not apply if there are particular reasons justifying that a different examiner cannot be appointed.

Students who have received a passing grade are not allowed to be assessed again in order to achieve a higher grade.

3.2 Grading Criteria

A (Excellent)

- Have excellent advanced knowledge within selected areas of industrial property law for patents and trade marks.
- Have excellent knowledge of industrial property law methods with a focus on patents and trade marks.
- Have excellent ability to integrate knowledge and analyse questions within industrial property law, particularly for patents and trade marks.
- Have excellent ability to identify and formulate questions.
- Have very good ability to clearly report conclusions in oral and written format and the knowledge that forms the basis for the conclusions in dialogues with different groups.
- Have good knowledge of scholarly, social and ethical aspects as well as excellent understanding of overall principles and governance mechanisms for industrial property law with a focus on patents and trade marks.

B (Very good)

- Have very good advanced knowledge within selected areas of industrial property law for patents and trade marks.
- Have very good knowledge of industrial property law methods with a focus on patents and trade marks.
- Have very good ability to integrate knowledge and analyse questions within industrial property law, particularly for patents and trade marks.
- Have very good ability to identify and formulate questions.
- Have good ability to clearly report conclusions in oral and written format and the knowledge that forms the basis for the conclusions in dialogues with different groups.
- Have good knowledge of scholarly, social and ethical aspects as well as very good

understanding of overall principles and governance mechanisms for industrial property law with a focus on patents and trade marks.

C (Good)

- Have good advanced knowledge within selected areas of industrial property law for patents and trade marks.
- Have good knowledge of industrial property law methods with a focus on patents and trade marks.
- Have good ability to integrate knowledge and analyse questions within industrial property law, particularly for patents and trade marks.
- Have good ability to identify and formulate questions.
- Have good ability to clearly report conclusions in oral and written format and the knowledge that forms the basis for the conclusions in dialogues with different groups.
- Have good knowledge of scholarly, social and ethical aspects as well as good understanding of overall principles and governance mechanisms for industrial property law with a focus on patents and trade marks.

D (Satisfactory)

- Have satisfactory knowledge within selected areas of industrial property law for patents and trade marks.
- Have satisfactory knowledge of industrial property law methods with a focus on patents and trade marks.
- Have satisfactory ability to integrate knowledge and analyse questions within industrial property law, particularly for patents and trade marks.
- Have satisfactory ability to identify and formulate questions.
- Have acceptable ability to clearly report conclusions in oral and written format and the knowledge that forms the basis for the conclusions in dialogues with different groups.
- Have good knowledge of scholarly, social and ethical aspects as well as satisfactory understanding of overall principles and governance mechanisms for industrial property law with a focus on patents and trade marks.

E (Sufficient)

- Have sufficient advanced knowledge within selected areas of industrial property law for patents and trade marks.
- Have sufficient knowledge of industrial property law methods with a focus on patents and trade marks.
- Have sufficient ability to integrate knowledge and analyse questions within industrial property law, particularly for patents and trade marks.
- Have sufficient ability to identify and formulate questions.
- Have acceptable ability to clearly report conclusions in oral and written format and the knowledge that forms the basis for the conclusions in dialogues with different groups.
- Have good knowledge of scholarly, social and ethical aspects as well as sufficient understanding of overall principles and governance mechanisms for industrial property law with a focus on patents and trade marks.

Fx (Insufficient)

- Minor deficiencies exist such that the student does not fulfil all the requirements necessary for a grade of E.

F (Entirely insufficient)

- Considerable deficiencies exist such that the student does not fulfil all the requirements necessary for a grade of E.

3. Literature

See the Course website.

4. Course Management**Course Directors**

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