

City University of Hong Kong

Course Syllabus

offered by School of Law  
with effect from Semester B 2017/18

---

---

**Part I Course Overview**

**Course Title:** International and Comparative Intellectual Property Law: Trademarks and Patents

**Course Code:** LW6127E

**Course Duration:** One semester

**Credit Units:** 3

**Level:** P6

**Medium of Instruction:** English

**Medium of Assessment:** English

**Prerequisites:**  
(Course Code and Title) Nil

**Precursors:**  
(Course Code and Title) Nil

**Equivalent Courses:**  
(Course Code and Title) LW6127C and LW6127E are equivalent courses.

**Exclusive Courses:**  
(Course Code and Title) LW6527C and LW6527E

## Part II Course Details

### 1. Abstract

This course seeks to examine and compare the trademark and patent law regimes of Hong Kong, the People’s Republic of China, and, where appropriate, the United States of America, the European Union and other jurisdictions.

### 2. Course Intended Learning Outcomes (CILOs)

(CILOs state what the student is expected to be able to do at the end of the course according to a given standard of performance.)

| No. | CILOs  | Weighting<br>(if applicable) | Discovery-enriched curriculum related learning outcomes (please tick where appropriate) |    |    |
|-----|--|------------------------------|---|----|----|
|     |  |                              | A1  | A2 | A3 |
| 1.  | Recognize the theoretical basis for the existence and continuing development of intellectual property law.   |                              | ✓   |    |    |
| 2.  | Recognize the main components of the trademark and patent law regimes of the regions of Hong Kong, the People’s Republic of China, and, where appropriate, the United States of America, the European Union and other jurisdictions. |                              |   | ✓  |    |
| 3.  | Analyse the main differences between the trademark and patent law systems of Hong Kong, the People’s Republic of China, and, where appropriate, the United States of America, the European Union and other jurisdictions.            |                              |   |    | ✓  |
|     |  | 100%                         |   |    |    |

**A1: Attitude**

*Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.*

**A2: Ability**

*Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to self-life problems.*

**A3: Accomplishments**

*Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.*

### 3. Teaching and Learning Activities (TLAs)

(TLAs designed to facilitate students' achievement of the CILOs.)

| TLA               | Brief Description   | CILO No. |   |   | Hours/week<br>(if applicable) |
|-------------------|---|----------|---|---|-------------------------------|
|                   |   | 1        | 2 | 3 |                               |
| Lectures/seminars | <p>Lectures/seminars—Highlight the essential elements and main arguments of the subjects under scrutiny. The seminars will also serve to clarify issues of uncertainty and allow students to make presentations and discuss solutions to problems posed.</p> <p>During seminars student participation will be emphasized and problem solving exercises will be used to provide opportunities for consideration, analysis and evaluation of issues, requirements and expectations in the area of intellectual property. The course will undertake a comparative study of the intellectual property laws of Hong Kong and China with reference to the laws of the United States of America and other jurisdictions where contrast is useful.</p> <p>The lectures/seminars will link with extensive, directed, preparatory study undertaken by the students. The aim is to balance basic information delivery with the continuing development of the students' critical and analytical skills.</p> <p>This course will, when appropriate, consider the intellectual property laws of Hong Kong and China in a social and economic context.</p> | √        | √ | √ | 3                             |

### 4. Assessment Tasks/Activities (ATs)

(ATs are designed to assess how well the students achieve the CILOs.)

| Assessment Tasks/Activities                | CILO No. |   |   | Weighting | Remarks |
|--|----------|---|---|-----------|---------|
|  | 1        | 2 | 3 |           |         |
| Continuous Assessment: 50%                 |          |   |   |           |         |
| Class Participation                        | √        | √ | √ | 20%       |         |
| Mid-Term Assessment                        | √        | √ | √ | 30%       |         |
| Final Examination: 50% (duration: 3 hours) |          |   |   |           |         |
|  |          |   |   | 100%      |         |

Students are required to attend at least 70% of the classes (lectures, seminars, presentations). If a student does not meet this requirement, he/she may be disqualified for assessment.

Students must obtain a minimum mark of 40% in both coursework (class participation and mid-term assessment) and final examination and an overall mark of 40% in order to pass the course.

## 5. Assessment Rubrics

(Grading of student achievements is based on student performance in assessment tasks/activities with the following rubrics.)

| Assessment Task        | Criterion  | Excellent<br>(A+, A, A-)   | Good<br>(B+, B, B-)   | Fair<br>(C+, C, C-)   | Marginal<br>(D)  | Failure<br>(F)  |
|------------------------|--|--|---|---|--|---|
| Class Participation    | Demonstration of oral presentation skills and willingness / ability to answer questions in class.  | Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base. | Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature. | Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material. | Sufficient familiarity with the subject matter to enable the student to progress without repeating the course. | Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature. |
| Mid-Term Assessment(s) | Demonstration of understanding of principles, theories and concepts.<br><br>Demonstration of ability to identify issues.<br><br>Application of knowledge to specific problems and discussion questions.<br><br>Application of research, writing and / or communication skills.<br><br>Ability to engage in argument-based analysis.<br><br>Aptitude for formulating innovative solutions to designated fact-based questions. | Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base. | Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature. | Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material. | Sufficient familiarity with the subject matter to enable the student to progress without repeating the course. | Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature. |
| Final Examination      | Demonstration of understanding of principles, theories and concepts.<br><br>Demonstration of ability to identify issues.<br><br>Application of knowledge to specific problems and discussion questions.  | Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base. | Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature. | Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material. | Sufficient familiarity with the subject matter to enable the student to progress without repeating the course. | Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature. |

|  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|
|  | Ability to engage in argument-based analysis.<br><br>Aptitude for formulating innovative solutions to designated fact-based questions. |  |  |  |  |  |
|--|--|--|--|--|--|--|

## **Part III Other Information** (more details can be provided separately in the teaching plan)

### **1. Syllabus**

#### **1.1 Keyword Syllabus**

*(An indication of the key topics of the course.)*

Intellectual property; TRIPS; trademarks; registration; infringement; passing off; dilution; remedies; international treaties; patents; biotechnology.

#### **1.2 Detailed Syllabus**

(1) An Introduction to Intellectual Property Law

What is intellectual property law? Its legal and economic importance. The theoretical basis for intellectual property and intellectual property law. Protectability of intellectual property. The intellectual property regimes in the People's Republic of China and Hong Kong.

2. Trademarks

Subject matter of trade and service marks. Registration systems. What marks may be registered. Restrictions on registration. Who may apply. Duration. Dealings with registered marks. Infringement. Remedies for infringement. International treaties. Unregistered marks. Related rights (trade names, passing off, dilution, domain name disputes in cyberspace, cybersquatting, etc).

3. Patents

Subject matter of patents. Filing systems. What may be patented. Restrictions on patentability. First ownership. Duration. Dealing with patents. Infringement. Remedies for infringement. International treaties. Compulsory licences. Revocation. Emerging Issues in Patent Law (biotechnology, business method patents, access to generic drugs and essential medicines, etc).

### **2. Reading List**

#### **2.1 Recommended Readings**

*(Additional references for students to learn to expand their knowledge about the subject.)*

##### ***Books***

William Cornish, David Llewelyn & Tanya Aplin, Intellectual Property: Patents, Copyrights, Trade Marks & Allied Rights (7th Ed) (Sweet & Maxwell, 2010)

Peter Ganeva & Thomas Pattloch, Intellectual Property Law in China (Kluwer Law International, 2005)

Xue Hong & Zheng Chengsi, Chinese Intellectual Property Law in the 21st Century (Sweet & Maxwell Asia, 2002)

Gordon Gao, Dixon Zhang & Fang Qi, Intellectual Property Rights in China (Sweet & Maxwell, 2011)

Alan S. Gutterman/Robert Brown, Intellectual Property Law of East Asia, (Hong Kong: Sweet & Maxwell, 1997)

Mark A. Cohen/A. Elizabeth Bang/Stephanie J Mitchell, eds, Chinese Intellectual Property: Law and Practice, (The Hague: Kluwer Law International, 1999)

Michael D. Pendleton, et al., The Law of Intellectual and Industrial Property in Hong Kong, (Hong Kong: Butterworths, 1999)

Peter Feng, Intellectual Property Law in China, 2<sup>nd</sup> ed., (Hong Kong: Sweet & Maxwell, 2003)

Robert P. Merges/Peter S. Menell/Mark A. Lemley, Intellectual Property in the New Technological Age, 4<sup>th</sup> ed., (New York: Aspen Law and Business, 2006)

William P. Alford, To Steal a Book in an Elegant Offence: Intellectual Property Law in Chinese Civilization, (Stanford: Stanford University Press, 1995)

Zheng Chengsi, Intellectual Property Enforcement in China: Leading Cases and Commentary, (Hong Kong: Sweet & Maxwell, 1997)

### **Articles**

Ken Shao, “*The Global Debates on Intellectual Property: What if China is not a Born Pirate?*”, Intellectual Property Quarterly, Issue 4, 2010, pp. 341-355

Peter Yu, “*From Pirates to Partners (Episode II): Protecting Intellectual Property in Post-WTO China*”, 55 Am. U. L. Rev. 901 (2006)

Bryan Bachner/Mark Jiang, “*Governing Trademarks in Cyberspace: A Comparative Study of the Regulation of Domain Names in China*” 8, 2 Asia Pacific Law Review, (2000) pp. 191-209

Bryan Bachner, “*The Promise of Biotechnology in a Traditional HK Environment*” Hong Kong Lawyer (October 2000) pp. 78-88

Keith E. Maskus & Jerome H. Reichman, “*The Globalization of Private Knowledge Goods and the Privatization of Global Public Goods*”, J. Int. Economic Law, No. 7, 2004, pp. 279-320

Haochen Sun, “*Can Louis Vuitton Dance with HiPhone? Rethinking the Idea of Social Justice in Intellectual Property Law*”, University of Pennsylvania Journal of Law and Social Change, Volume 15, 2012, pp. 389-434.

Peter Wu, “*From Pirates to Partners: Protecting IP in China in the 21<sup>st</sup> Century*” 50 American University Law Review (2000) pp. 131-243

Ruth Okediji “*Toward an International Fair Use Doctrine*” 38 Columbia University Journal of Transnational Law (2000)

## **2.2 Online Resources**

[www.ipd.gov.hk](http://www.ipd.gov.hk)

[www.wipo.org](http://www.wipo.org)

[www.icann.org](http://www.icann.org)

[www.unesco.org](http://www.unesco.org)

[www.biodiv.org](http://www.biodiv.org)