

LW6217E: ADVANCED PATENT THEORY AND CONTEMPORARY ISSUES

Effective Term

Semester A 2026/27

Part I Course Overview

Course Title

Advanced Patent Theory and Contemporary Issues

Subject Code

LW - Law

Course Number

6217E

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

P5, P6 - Postgraduate Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

Nil

Exclusive Courses

Nil

Part II Course Details

Abstract

Patent law is fraught with tensions. Since its inception, various theories have been put forward to justify its existence, yet scepticism regarding these justifications remains pervasive. The debates not only focus on the normative foundations of patent law but also concern the nature of patents, alternative mechanisms to patents, the overlap between patents and other intellectual property rights, the interface between patent law and competition law, and the challenges posed by technological development. In addition, while patents aspire to promote the public good, they often conflict with public health, technology diffusion, and sustainability. This course engages critically with these tensions, which make patent law one of the most contested and dynamic fields of intellectual property.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	Critically evaluate the theoretical framework of patent protection by analyzing the normative justifications, economic theories of innovation, and competing conceptions of patents as property and investment, whilst comparing patent and non-patent incentives for innovation; understand and apply substantial patentability criteria.		x	x	x
2	Explain how patent law intersects with other IP laws and competition law and assess how this interaction impacts the operation of the IP system, and analyze the doctrinal and policy considerations to resolve this overlap.		x	x	x
3	Identify and analyze the doctrinal challenges that emerging technologies, particularly artificial intelligence, biotechnology, pose to traditional patent law concepts (e.g., inventorship, enablement, person skilled in the art, infringement).		x	x	x
4	Evaluate the tensions between patent protection and broader public goods, including access to medicines, technology diffusion, and sustainability.		x	x	x

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 real-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.

Learning and Teaching Activities (LTAs)

LTAs		Brief Description	CILO No.	Hours/week (if applicable)
1	Lectures	Engage students with structured discussions on the newest issues of Chinese intellectual property law, the related principles, and the concepts and issues concerned by lectures and guest seminar(s).	1, 2, 3, 4	
2	Group presentations	Organize students as groups to work on case studies that require the application of learned principles to solve complex IP issues, fostering teamwork and practical application skills.	1, 2, 3, 4	
3	Reading Week (Week 7)	During Reading Week, provide structured guidance on key readings that reinforce and expand on lecture topics, culminating in a reflective writing assignment that encourages critical analysis.	1, 2, 3, 4	

Assessment Tasks / Activities (ATs)

ATs		CILO No.	Weighting (%)	Remarks ("- for nil entry)	Allow Use of GenAI?
1	Take Home Assignment: Students will complete a take-home assignment that requires them to conduct independent research on a selected topic, analyze legal texts, and formulate arguments based on their findings.	1, 2, 3, 4	40	-	No

2	Participation: Active participation in discussions and presentations, assessed on the relevance and depth of contributions to class understanding.	1, 2, 3, 4	10	-	No
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Continuous Assessment (%)

50

Examination (%)

50

Examination Duration (Hours)

2

Minimum Continuous Assessment Passing Requirement (%)

40

Minimum Examination Passing Requirement (%)

40

Additional Information for ATs

Applicable to students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter

Students must obtain a minimum mark of 40% in both coursework and examination and an overall mark of 40% in order to pass the course.

Applicable to students admitted from Semester A 2022/23 to Summer Term 2024

Students must obtain a minimum mark of 50% in both coursework and examination and an overall mark of 50% in order to pass the course.

Assessment Rubrics (AR)**Assessment Task**

Take Home Assignment (Applicable to students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Original thinking

Rational analysis

Structure and formation

Reasonable conclusion

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Participation (Applicable to students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Quality of the presentations
questions/comments/
General attendance

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Final Exam (Applicable to students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Application of Law in factual/theoretical scenarios
critical thinking in essay questions

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Take Home Assignment (Applicable to students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Original thinking
Rational analysis
Structure and formation
Reasonable conclusion

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Assessment Task

Participation (Applicable to students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Quality of the presentations
questions/comments/
General attendance

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Assessment Task

Final Exam (Applicable to students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Application of Law in factual/theoretical scenarios
critical thinking in essay questions

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Part III Other Information

Keyword Syllabus

- Foundations: Justification, Scepticism, and Pluralism
- Invention, Innovation, and Economic Theory
- Alternatives to Patent as Innovation Incentivising Mechanism
- Substantial Patentability Criteria: Subject Matter, Novelty, Inventive Step, Scope, Disclosure, Industrial applicability
- Overlap with Trademark, and Copyright and Trade Secret
- Patent and Challenges from Technological Development
- Patent and Artificial Intelligence
- Patent and Biotech
- Access to Medicines
- Patent and Sustainability
- The intersection between patent law and competition law

Detailed Syllabus

This course is organised into four main parts. The first part examines the justifications for patents, the nature of patents, and substantive patentability criteria. The second part explores the overlaps and interactions between patents and other intellectual property regimes. The third part addresses how technological development continues to challenge patent doctrines. The final part investigates the tensions between patent protection and broader public goods, including access to medicines, technology diffusion, and sustainability. This course will cover the following topics, where applicable:

1. Justification, Scepticism, and Pluralism
2. Patent, Innovation, and Economic Theory
3. Alternatives to Patent as Innovation Incentivising Mechanism
4. Substantial Patentability Criteria: Subject Matter, Novelty, Inventive Step, Scope, Disclosure, Industrial applicability
5. The Interface between Patents and Other IPRs
6. Patent and Artificial Intelligence
7. Patent, Biotechnology, and Health

8. Patent and Sustainability
9. The intersection between patent law and competition law

Reading List

Compulsory Readings

Title	
1	Alan DURHAM, Patent Law Essentials: A Concise Guide, Praeger Publishers Inc, 2018
2	Douglas CLARK, Intellectual Property in Hong Kong, LexisNexis, 2024
3	Saraswathy KRISHNANN, Butterworths Hong Kong patent law handbook. Patents Ordinance (Cap 514), 2023
4	Kenny WONG & Alice LEE, Intellectual Property Law and Practice in Hong Kong, Sweet & Maxwell, 2012.
5	Bently L and others, Intellectual Property Law, Oxford University Press, 6th edn, 2022
6	Neil Wilkof, Shamnad Basheer, and Irene Calboli (eds), Overlapping Intellectual Property Rights, Oxford University Press, 2nd edn, 2023.
7	Graham Dutfield and Uma Suthersanen, Dutfield and Suthersanen on Global Intellectual Property Law, Edward Elgar, 2nd ed, 2020.
8	Ryan Abbott (ed), Research Handbook on Intellectual Property and Artificial Intelligence, Edward Elgar, 2022.
9	Larry A DiMatteo, Cristina Poncibò and Michel Cannarsa (eds), The Cambridge Handbook of Artificial Intelligence, Cambridge University Press, 2022.
10	Jorge L. Contreras, The Cambridge Handbook of Technical Standardization Law, Cambridge University Press, 2017.
11	Igor Nikolic, Licensing Standard Essential Patents: FRAND and the Internet of Things, 1st ed, Bloomsbury Publishing, 2021.
12	Liu Kung-Chung, Deciphering IP Law and Its Conflict and Complementarity with Competition Law: Global Norms Against Asian Context, 1st edn, Routledge, 2025.
13	Margherita Colangelo, Regulation, Innovation and Competition in Pharmaceutical Markets: A Comparative Study, Hart, 2023.
14	D. Daniel Sokol, Patent assertion entities and competition policy, New York, NY: Cambridge University Press, 2016.
15	Additional readings will be provided to students in class as they become available.

Additional Readings

Title	
1	Weekly Readings:
2	To be specified and circulated by relevant weekly speakers ahead of time.
3	Online Resources:
4	Intellectual Property Department, Hong Kong: http://www.ipd.gov.hk/eng/home.htm
5	· Patent Basics, https://www.ipd.gov.hk/en/patents/patent-basics/index.html
6	· Apply for a Patent, https://www.ipd.gov.hk/en/patents/apply-for-a-patent/index.html
7	· Hong Kong IP Journal – Patents, https://www.ipd.gov.hk/en/hkipjournal/index.html?cat=2&section=patent
8	· Patents Examination Guidelines, https://www.ipd.gov.hk/en/patents/patents-examination-guidelines/index.html
9	· Patent system since December 2019 and New initiatives, https://www.ipd.gov.hk/en/patents/new-initiatives/index.html
10	Patents Ordinance (Cap. 514), https://www.elegislation.gov.hk/hk/cap514