

# SM3743: LAW AND CREATIVITY

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## Effective Term

Semester A 2022/23

## Part I Course Overview

### Course Title

Law and Creativity

### Subject Code

SM - School of Creative Media

### Course Number

3743

### Academic Unit

School of Creative Media (SM)

### College/School

School of Creative Media (SM)

### Course Duration

One Semester

### Credit Units

3

### Level

B1, B2, B3, B4 - Bachelor's Degree

### Medium of Instruction

English

### Medium of Assessment

English

### Prerequisites

Nil

### Precursors

Nil

### Equivalent Courses

Nil

### Exclusive Courses

Nil

## Part II Course Details

### Abstract

This course provides the knowledge and skills necessary to protect creativity and effectively deal with various legal issues in the media and creative industries.

Because of the global and mass distribution of creative works and projects, the course considers rules, cases, situations, and practices from Hong Kong, the U.S., Europe, and other regions.

In the first part, the course explains how creative people need to protect their creative ideas. It also clarifies how to avoid violations of free speech, reputation, publicity, and privacy. It also provides skills and knowledge on how to portray people and places lawfully.

The second part addresses copyright issues and clarifies how to use works created by others without any legal risks. It also concerns dealmaking to provide skills and tips on reading and evaluating key contracts, such as collaboration, production, and distribution contracts, as well as licensing.

### Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	Describe and explain basic legal rules, issues and practices in creative and media industries	20	x		
2	Apply standards and practices regulation to solve legal issues in creative and media industries by: <ul style="list-style-type: none"> <li>· considering and interpreting cases</li> <li>· reading, understanding and interpreting contracts as well as deal memos</li> <li>· interpreting statutory provisions</li> <li>· developing strong argumentation</li> <li>· communicating on legal issues in creative and media industries</li> </ul>	50	x	x	
3	Critically evaluate legal standards and contractual provisions and provide adequate solutions in line with rule of law and needs of creative people	30	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.

### Teaching and Learning Activities (TLAs)

TLAs	Brief Description	CILO No.	Hours/week (if applicable)
1	Lectures	Introduction and discussions of main legal concepts, issues and cases in creative and media industries	1, 2
2	Tutorials	Reading and evaluation of key cases in creative and media industries	2, 3

3	Tutorials	Reading and evaluation of deal memos and contracts in creative and media industries	2, 3	
4	Project' s development and pitching	Developing and presenting creative projects or projects' ideas (synopsis, format "bible," script, etc) alongside legal strategies to reduce legal risks and ensure projects' legal protection at production, pitching, and distribution stages. Students are required to develop and present projects/ ideas in groups. Students may choose any format for their projects (text, video, audio, poster, etc.).	2, 3	

**Assessment Tasks / Activities (ATs)**

	ATs	CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	<p>Participation: Describing and explaining basic legal rules, issues, and practices related to creative work</p> <p>Solving legal problems and reducing legal risks related to creative work by</p> <ul style="list-style-type: none"> <li>· reading and interpreting case law, statutory and contractual provisions</li> <li>· evaluating facts</li> <li>· deciding cases</li> <li>· developing persuasive arguments</li> <li>· communicating orally</li> </ul>	1, 2, 3	30	

2	Presentations in groups – Moot Court competition Developing legal strategies for self-defence in legal dispute related to creative work by <ul style="list-style-type: none"> <li>· conducting legal research</li> <li>· evaluating facts and legal risks</li> <li>· applying and interpreting legal rules and principles</li> <li>· solving problems</li> <li>· developing persuasive arguments</li> <li>· communicating orally</li> <li>· team work</li> </ul>	2, 3	20	
3	Project, including presentation - pitching of students' projects and presentation of legal strategies  Developing creative projects and innovative ideas in compliance with the rule of law by <ul style="list-style-type: none"> <li>· constructing creative works and ideas</li> <li>· conducting research</li> <li>· evaluating legal risks</li> <li>· applying legal rules, principles, contractual provisions, and practices in creative industries</li> <li>· solving problems</li> <li>· developing persuasive arguments</li> <li>· developing legal strategies to eliminate legal risks</li> <li>· communicating orally</li> <li>· team work</li> </ul>	1, 2, 3	50	

**Continuous Assessment (%)**

100

**Examination (%)**

0

**Assessment Rubrics (AR)****Assessment Task**

1. Participation

**Criterion**

Depth of understanding, strong argumentation, active participation in discussions, ability to work with peers.

**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.

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**Assessment Task**

2. Presentations

**Criterion**

Depth of research and analysis, ability to work independently and in groups

**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.

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**Assessment Task**

3. Project, including presentation

### **Criterion**

Capacity to create and manage projects creation/production in line with legal requirements and practices; capacity to develop a legal strategy to protect their ideas and projects; depth of understanding, ability to apply rules, strong argumentation and depth of analysis

#### **Excellent (A+, A, A-)**

Strong evidence of original thinking; good management and strategical skills, capacity to create, 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 creative, critical capacity and analytic ability; some evidence of management skills and strategical thinking; reasonable understanding of issues; evidence of familiarity with course' s material.

#### **Fair (C+, C, C-)**

Student who is profiting from the university experience; understanding of the subject; basic management skills; ability to develop solutions to simple problems.

#### **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 creative and management skills; limited, or irrelevant use of course' s material.

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### **Additional Information for AR**

All A+/A/A- grade assignment should comply with the highest performance of Discovery-oriented learning.

## **Part III Other Information**

### **Keyword Syllabus**

Freedom of expression and creativity; hate speech; protection of reputation; protection of privacy; publicity rights; ideas protection; copyright law; plagiarism; fair use; dealmaking in creative and media industries; licensing; creative commons; production contracts; distribution contracts.

The following topics are studied in detail:

- a. Rules and practices on creative ideas protection. The legal notion of media formats and their "bibles." The Format Recognition and Protection Association (FRAPA). Submission of ideas for projects' pitching and key contracts. Non-disclosure agreement and submission release in creative and media industries.
- b. International and regional legal perspectives on the right to freedom of expression and its limitations with regards to creative content. Balancing exercise. Hate speech and the right to reputation.
- c. Rights to privacy and publicity in the creative and media industries. Permission to portray people and places.
- d. Basic principles of copyright law. Moral and economic rights of creative people. Legal issues arising from creating works under employment contracts.
- e. Lawful use of works created by others in new projects and works. Parody and fair use.
- f. Production of derivative works, including remakes and remixes. Use of sampling. Plagiarism and the doctrines of merger and scenes-a-faire in creativity.
- g. Co-authorship and collaboration agreements.
- h. Rights acquisition in the creative and media industries. Practices of copyright registration.
- i. Licensing of music, audiovisual works, and software. Creative commons, "royalty-free," and open source licenses. Legal use of photo-, video- and music stocks.
- j. Content production and distribution contracts.

**Reading List****Compulsory Readings**

Title	
1	Chen, K. (2013). <i>Media and entertainment: A practical legal, business and strategy guide</i> . Subang Jaya, Selangor, Malaysia: Sweet & Maxwell Asia/Thomson Reuters.
2	Fosbrook, D., & Laing, A. (2001). <i>Media contracts handbook</i> (2nd ed.). London: Sweet & Maxwell.
3	Smartt, U. (2014). <i>Media &amp; entertainment law</i> (Second ed.). Abingdon, Oxon ; New York, NY: Routledge.

**Additional Readings**

Title	
1	Moore, R., Murray, M., Farrell, J., & Youm, K. (2018). <i>Media Law and Ethics</i> (5th ed., Vol. 1). Routledge.
2	Rowbottom, J. (2018). <i>Media law</i> . Oxford ; New York: Hart Publishing.
3	Weisenhaus, D., Gloccheski, R., & Yan, M. (2014). <i>Hong Kong media law: A guide for journalists and media professionals</i> (Expanded second ed., HKU Press law series). Hong Kong: Hong Kong University Press.