



# CENTER FOR INTELLECTUAL PROPERTY RESEARCH

## IP (and IP-Adjacent) Course Descriptions

*Last updated: 03/16/23*

### Fall 2023

- **B561 - Entrepreneurship Law Clinic - Need, M.**

The Elmore Entrepreneurship Law Clinic is designed to provide students the unique opportunity to work on actual business formation, planning, and strategy issues in a multidisciplinary setting. Students interested in transactional law practice, advising entrepreneurs, or becoming entrepreneurs are typical candidates for participation in the Clinic. The Clinic operates like a small law firm extending its services into business advice, with Clinic interns working under the supervision of the Clinic Director, providing legal and business consulting to a variety of early-stage companies. Client projects vary widely, but frequently include advising clients on appropriate business form; drafting necessary formation documents; obtaining permits and licenses; negotiating contracts and leases; and providing business planning advice. Students often have opportunities to review and provide feedback on the business plans of actual startups. Clinic interns meet with the Director in groups or individually to review project status and to discuss experiences and concerns. Clinic interns also attend a two-hour class each week. The course surveys typical legal issues affecting entrepreneurial enterprises, including choice of entity issues; ownership and governance issues; employment issues; operational liabilities and insurance issues; financing issues; and employment issues. Strongly suggested prerequisites for participation in the Clinic include Corporations, Corporate Taxation, and Business Planning, or equivalent preparations as determined by the Director. Per Indiana Supreme Court Rules, students participating in the Clinic must also have completed or be enrolled in a Professional Responsibility course. 3Ls or 4th-year JD/MBAs only. Enrollment in the clinic is limited, so students must, at or prior to enrollment, submit a current resume and a brief statement of interest to the Director by email. After registration, the Director will approve those students who will be enrolled in the clinic.

- **B567 - Intellectual Property Practicum: Legal Aspects of the Entertainment Industry – Meitus, R.**

This course will involve working in a quasi-clinical mode for actual entertainment law clients and compliments Entertainment Law, Copyright Law, and other intellectual property offerings. A prerequisite for this course will be Entertainment Law (or permission of the instructor). Enrollment will be limited to 12 students.

Methods for this course will include readings, legal research, contract drafting, classroom role enactments, client presentations and meeting and discussions. The class will work much in the way a small law firm or legal clinic would work, where the professor will play the role of firm partner or clinic director, and the students will turn in their work product to me. Students will be evaluated on legal writing exercises—either legal memoranda or contracts—and in client presentations and meetings. There will not be a final exam.

Students will be assigned a variety of readings, including from Donald Passman's "Everything You Need to Know About the Music Business" and will work on a wide number of actual entertainment and IP representations and issues (e.g., recording and music publishing agreements, literary publishing agreements, copyright/trademark registrations and disputes) for several types of clients, such as recording artists, authors, visual artists, and creative companies.

- **B572 – Intellectual Property Clinic – Hedges, N.**

The IP Clinic provides students the opportunity to work directly with clients on actual intellectual property law matters (e.g. patent, trademark, and copyright applications, interaction with the United States Patent & Trademark Office (USPTO), NIL (name, image, and likeness) and other IP licenses, due diligence, and non-infringement and/or invalidity opinions). Students interested in IP law and advising individuals, start-ups, and small business are candidates for the Clinic. Because the Clinic is certified by the USPTO, students are eligible to receive temporary registration to practice before the USPTO. The Clinic is organized much like a law firm, with students working with other students and adjunct professors under the supervision of the Clinic Director. Students meet with the Director to review project status and to discuss experiences and concerns and attend one to three hours of class each week.

NEW IP CLINIC STUDENTS elect to participate in either (1) the patent section of the Clinic (3 credits); (2) the non-patent section of the Clinic (trademark and other non-patent IP matters) (3 credits); or (3) both sections (4 credits). Class sessions survey practical IP legal issues, including ethics, ownership, protection strategies, infringement avoidance, and client counseling. Enrollment in the Clinic for NEW students is limited, so students must submit a resume and an interest statement to the Director to obtain permission to enroll. Strongly suggested prerequisites or co-requisites include at least one of Patent Law, Trademark Law, or Survey of IP or equivalent experience. 3-4 credits, professional skills.

RETURNING/ADVANCED IP CLINIC STUDENTS elect to participate in either (1) the patent section of the Clinic; (2) the non-patent section of the Clinic (trademark and other non-patent IP matters); or (3) both sections. Advanced IP Clinic class sessions survey materials requested by Advanced IP Students at the beginning of the semester and/or supervision, advanced client counselling, and advanced project management. Advanced IP Clinic students elect 1-4 credits. Enrollment in the Clinic for RETURNING/ADVANCED students is limited, so students must contact the Director to obtain permission to enroll. Students must have participated in IP Clinic in a prior semester to enroll in Advanced IP Clinic. 1-4 credits, professional skills. Students may enroll in multiple semesters of Advanced IP Clinic. However, total credits for the Advanced IP Clinic will be limited to 8 total credits, not including any credits obtained in their first semester of IP Clinic.

*Informal Description: In the IP Clinic, students represent clients on all forms of IP under the supervision of the IP Clinic faculty. Structured as a law firm, new students (junior associates) work with returning students (senior associates), IP Clinic faculty (partners), and administrative support staff.*

- **B662 - Copyright – Leaffer, M.**

This course provides an introduction to federal copyright law, beginning with a historical overview and leading to current day developments. Matters to be covered include the nature of protected subject matter, the idea-expression dichotomy, duration, the bundle of rights conferred by copyright, joint works, works made for hire, fair use, and remedies for infringement. Special attention will be paid to technological developments affecting copyright, including issues related to computer software and the Internet.

- **B708 - Info Privacy I – Tomain, J.**

Privacy law and policy is one of the most important and rapidly expanding (and changing) fields in the world today. Increasingly most aspects of daily life involve the (often unwitting) collection, communication, and use of personal data. As personal data are generated and collected more widely, and are far more revealing, governments are challenged to determine the proper limits and regulatory structures to enforce those limits, while businesses and other data users must determine how to comply with those emerging rules, often in the context of new technologies and unclear norms. The field of information privacy has grown so large that we are now covering it in two courses. Information Privacy I (this course) covers the academic and constitutional background to privacy, the intersection of privacy and free speech, the intersection of privacy and law enforcement, and (time permitting)

privacy considerations in national security. Information Privacy II (not this course) will focus on privacy issues involving government records, and commercial and international contexts. This class will most likely have a take-home essay exam that is distributed the last day of class and will be due before the exam period starts, instead of an in-class exam during exam period. Class participation is also a component of the final course grade. If you have questions, please contact Prof. Tomain: jtomain@iu.edu

*Instructor Comment: Privacy Law I is not a prerequisite for Privacy Law II. Students can take one or both and take them in either order. Privacy law moves fast! The syllabus has significant changes each semester to stay current. If you would like to see prior syllabi for either or both courses, please email me. I am happy to share them. Ten key course concepts connect the various substantive law within course and across the two semesters. If you would like a more in-depth understanding of my approach to thinking about privacy law, see my paper, Teaching Information Privacy Law or email me to talk more.*

- **B726 – IP Antitrust – Knebel, D.**

This course will focus on the interplay between the antitrust laws and laws protecting intellectual property such as inventions, works of authorship and trademarks. Although both sets of laws are ultimately intended to make our economy more innovative and productive, their distinct ways of accomplishing that objective often seem to put them at odds with each other and courts are routinely called upon to resolve those conflicts. In the process of looking at these conflicts and their resolution, the course will provide an understanding of basic antitrust principles that may be sufficient for students not intending to concentrate in that area.

No previous exposure to antitrust is expected or required. It is recommended that students have taken at least one intellectual property course, or be concurrently enrolled in one.

- **B729 – Antitrust Law - Wallace, S.**

“Antitrust laws ... are the Magna Carta of free enterprise,” and are “as important to the preservation of economic freedom and our free-enterprise system as the Bill of Rights is to the protection of our fundamental personal freedoms.” Justice Thurgood Marshall, *United States v. Topco Associates* (U.S. 1972).

Thousands of lawyers have an antitrust component to their practice – whether in a white collar criminal capacity or in dealing with civil conduct or merger cases. It has also been much in the news in recent years with rising levels of wealth inequality and increased corporate concentration. But are these antitrust problems? Politicians seem to think so and have in recent years held numerous Congressional hearings, called for the break-up of big tech companies like Google and Facebook, and have advanced a number of antitrust legislative proposals. Antitrust policy makers and enforcers are debating whether antitrust laws’ increased focus on economics has lost the thread of Congress’ original intent for antitrust statutes, or whether such criticism is merely #HipsterAntitrust—cool to talk about, useless as a legal approach. The U.S. seems poised to take a step in a new antitrust direction, but despite a lot of political noise, it isn’t clear that it will be in the E.U.’s direction of more active enforcement (with their billion-dollar fines on Google and Amazon).

Gaining some basic knowledge of both civil and criminal antitrust is not just important for being an informed citizen. As our law school’s “general practice” web page advises: “no matter how specialized a lawyer’s practice, there are certain subjects with which every professional should be familiar” and you “should know enough about antitrust to be able to recognize a potential issue and help [your] client avoid running afoul of the law.” Or as a plaintiff’s lawyer, you should know enough about antitrust law so that you don’t miss a chance to sue for treble damages. Or if you are interested in government practice, you should know enough about antitrust law to consider careers with multiple federal agencies (e.g., Federal Trade Commission, DOJ Antitrust Division) and state Attorneys General offices. It is also just plain fun: it is judges and lawyers who have “made antitrust law out of the cryptic antiquated language of the Sherman Act, as later supplemented by the equally cryptic Clayton Act.” (Judge Posner) That is because all of

criminal and civil antitrust law has grown out of a small handful of statutory sentences. (The corollary of that, however, is that if you prefer bright line rules with clear statutory direction, this course might not be for you.) This introductory, comprehensive course charts antitrust law's development and basic concepts—from criminal price-fixing to civil monopoly claims to the analysis of whether proposed mergers are anti- or pro-competitive. You will leave the course both a more informed lawyer, and better equipped as a citizen to predict what value antitrust law may have to offer in the future. The final is an open book/notes three-hour essay exam.

- **B743 – Patent Law – Janis, M.**

This class surveys United States patent law, with an emphasis on the decisions of the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office (USPTO), and the U.S. Supreme Court. The structure follows the basic steps of a patent infringement suit, addressing claim construction, validity, infringement, defenses and remedies. In general, we will draw on cases involving straightforward and sometimes even humble technological developments that illustrate fundamental patent law principles. We will learn how patent law arguments are developed and rebutted before the courts and the USPTO; how the institutions of the patent system operate and how they might be improved; and how changes to the patent law regime, including those enacted as part of the America Invents Act, affect a wide range of innovators, from start-ups to universities to multi-national tech companies. The exam is an open-book take-home exam.

- **L730 – Intellectual Property Seminar – Mattioli, M.**

This seminar will focus on the law's role in shaping technology and creative expression. The central theme of the class is intellectual property with a special focus on patents, copyrights, trademarks, and trade secrets. Around that theme, the class explores related fields and disciplines such as privacy, economics, informatics, and health. Approximately six scholars/commentators will visit campus during the semester to present wide-ranging examples of interdisciplinary works-in-progress to seminar students. Drawing upon these examples of interdisciplinary IP scholarship, students will craft their own articles over the course of the semester. During class sessions, students will study and discuss the visiting scholars' works-in-progress and relevant background readings, and attend the visiting scholars' presentations and pose questions to each presenter. Prior or concurrent enrollment in at least one intellectual property course is a prerequisite.

# Spring 2024

- **B517 – Advanced Patent Law – Janis, M.**

Advanced Patent Law is the follow-on course to Patent Law B743. Advanced Patent Law typically builds on Patent Law B743 in three ways. First, it covers topics that are omitted from Patent Law B743. Second, it presents some topics in much greater depth, sometimes by engaging more deeply in the application of patent law to particular technology areas (such as biotechnology and pharmaceuticals), sometimes by more thoroughly exploring the edges of substantive patent law and their interfaces with other areas of law (such as antitrust law, administrative law or civil procedure). Third, it involves intensive study of very recent case decisions, usually those emanating from the Court of Appeals for the Federal Circuit, along with current scholarly writings. Ordinarily, there will be no final examination. Instead, students will produce a series of short, graded research papers throughout the semester, and will periodically organize and lead class discussions.

Patent Law B743 is a prerequisite, but no technical background is required or expected.

- **B532 – Federal Circuit Advocacy - Castanias, G.**

The U.S. Court of Appeals for the Federal Circuit is an important but controversial part of the federal judicial system. It was formed by an Act of Congress in 1982 with the predominant goal of "strengthen[ing] the United States patent system in such a way as to foster technological growth and industrial innovation." In the intervening 35 years, with the Federal Circuit becoming the exclusive appellate court for patent cases, the United States has indeed seen significant technological growth, but the court has also been widely criticized as being out of step with the Supreme Court which has regularly reversed the Federal Circuit's patent decisions in recent years with some judges and academic writers even calling for the court's ouster as the exclusive appellate venue for patent cases. Nonetheless, given its central role in administering the U.S. patent system it has appellate jurisdiction over virtually every kind of patent-related case that a court or administrative agency could decide it is critical for any practitioner (particularly, but not limited to, IP practitioners), whether a future litigator or otherwise, to possess a systematic understanding of the Federal Circuit, its history, procedures, doctrines, and dynamics. Through selected readings, vigorous class discussion, visits by former (and perhaps current) Federal Circuit judges, and a mock Federal Circuit argument (among other facets of the course), students should complete the class with a far better understanding of this unique court. No specialized knowledge of or background in IP or patent law is required for this course the professor, who has appeared before the Federal Circuit more than almost any other lawyer in the country, majored in English and Philosophy and never took an IP course in law school.

- **B544 – IP Transactions – Mattioli, M.**

Through case studies, class exercises, and in-class discussions, this course introduces students to the theory and practices of IP transactions. In addition, agreements adapted from practice and copies of publicly available deal papers will be used as the basis for in-class exercises. As the course progresses, the complexity and depth of these exercises will expand from discrete topics to fact patterns that take several sessions to work through.

- **B561 - Entrepreneurship Law Clinic - Need, M.**

See description under Fall 2023 class listing.

- **B572 – Intellectual Property Clinic – Hedges, N.**

See description under Fall 2023 class listing.

- **B590 – Entertainment Law – Meitus, R.**

Entertainment law is a respected area of legal practice dealing with representation of both creative talent and business interests. Entertainment law has most notably been at the forefront of popular culture as forms of media distribution have moved to the Internet in digital forms. This course will provide students with the opportunity to

develop both a practical understanding of representing creative and business interests in the fields of music, film & television and literary publishing and a theoretical understanding of the broader IP and constitutional issues at stake with regard to control of creative media. The course is designed to be useful even if a student does not go on to practice directly in the entertainment or media law fields. Either of the courses Survey of Intellectual Property Law or Copyright Law are recommended to be taken either prior to or concurrently with Entertainment Law (but are not required). The subject matter of Entertainment Law, though drawing on copyright law to some extent, does not significantly overlap with any other course to an extent that would preempt students from taking both. Text: Entertainment Law: Fundamentals and Practice, Corey Field, Revised First Edition.

- **B661 - Law and Biomedical Advance - Cripps, Y.**

This course will examine the ways in which law relates to latest advances in biomedicine, including precision medicine; CRISPR technology; and bioinformatics: DNA and mRNA as carriers of encoded information. The sequencing of the human genome has brought us sophisticated genetic testing, screening and the possibility of human genetic modification. These are relatively new arrivals in doctors' and pharmaceutical companies' array of offerings. Genetic modification and the cloning of genes, and indeed whole organisms, raise new questions for lawyers, whether they specialize in HIPAA or other aspects of privacy law; health insurance; or intellectual property law. Fascinating questions of constitutional law must now also be addressed, as is illustrated by litigation instigated by the Association for Molecular Pathology, the ACLU and others against a company holding patents on human genes. The new synthetic biology, which involves the creation of organisms in laboratories, will also be considered, in terms of the novel legal questions that it raises. The several intersections between biotechnology and digital technology will be examined, as will three parent embryos; chimeras and other related technologies which spark legal and ethical issues. No prior knowledge of either biotechnology or intellectual property law is necessary for this class, which will be conducted in an open discussion format, online synchronously, with an online take home exam.

- **B709 – Transactional Drafting - Need, M.**

Knowing the elements of a binding contract and actually writing an enforceable agreement that achieves a client's business objectives are two very different things. This course attempts to bridge that gap. It takes a structured approach to drafting contracts, beginning with the basic building blocks of commercial agreements and finishing with an asset purchase agreement to purchase a small business. Along the way, students will learn various stylistic conventions used by business lawyers, how to translate the terms of a business deal into a written agreement, and how to add value to a transaction. They will be exposed to several types of contracts, including purchase contracts, employment agreements, loan agreements, escrow agreements and license agreements. In-class exercises and drafting homework will give students practice drafting clear contract terms that unambiguously describe a client's proposed business deal. Students should make sure they can allocate time outside of class to complete the drafting and editing homework. Grading is based on two or three graded drafting projects and on class preparation and participation. The final graded exercise (in lieu of a final exam) will consist of a business purchase agreement to be edited at home using techniques learned during the semester. The course is designed for students who are interested in a business transactions practice, but it is useful for any student who plans to negotiate and draft contracts in his or her legal career. Note: 3Ls have priority for this course.

- **B728 – Info Privacy II – Tomain, J.**

Privacy law and policy is one of the most important and rapidly expanding (and changing) fields in the world today. Increasingly, most aspects of daily life involve the (often unwitting) collection, communication, and use of personal data. As personal data are generated and collected more widely, and are far more revealing, governments are challenged to determine the proper limits and regulatory structures to enforce those limits, while businesses and other data users must determine how to comply with those emerging rules, often in the context of new technologies and unclear norms. The field of information privacy has grown so large that we are now covering it in two courses. Information Privacy Law I (not this course) will address the academic and constitutional background to privacy, the intersection of privacy and free speech, and the protection of privacy in law enforcement and

national security. Information Privacy Law II (this course) is a survey course that will provide a foundational background in some or all of the following substantive areas of law: (1) Government Records; (2) Financial Data; (3) Consumer Data; (4) Data Security; (5) Education Privacy; (6) Employment Privacy; and (7) International Privacy Law. While Information Privacy Law I is not a prerequisite, students are encouraged to take both courses in sequence. Course requirements have not been finalized, but will most likely not be in-class exam during finals week. Instead, course requirements will likely be a combination of class participation, a short paper and presentation on a topic of each student's choosing, and a short anonymously graded take home exam that will be distributed on the last day of class and due before the Exam Period starts. For more information on course requirements, please contact Prof. Tomain.

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- **B738 – Cybersecurity II - Lubin, A.**

Cyber insecurities affect the whole of society: from consumers who suffer cybercrimes on their internet connected devices, to media outlets whose websites are hacked or taken offline, to businesses whose intellectual property is plundered, all the way to states that undertake to defend against espionage and uses of force in cyberspace. Enhancing cybersecurity is thus a policy issue of critical importance. Policymakers are fashioning regulatory schemes around the world that promise to shape not only the day-to-day realities of operating information systems, but also cyberspace itself. This course explores the national and international legal frameworks that govern malicious and defensive actions in cyberspace, including laws related to data breaches, cybercrime, cyberespionage, and cyberwar. The course will consider legal questions within the context of broader debates about such topics as:

- (1) governance of cyberspace and the Internet and conflicts of laws in the information society.
- (2) the roles of governmental and non-governmental actors such as multinational corporations and cybersecurity firms.
- (3) Evolving understandings of privacy and data protection from both a domestic and regional perspectives.
- (4) The place for FTC and SEC enforcement in enhancing cybersecurity hygiene in society.
- (5) The anatomy of data breaches and their regulation under both state and federal law (including both statutory and common law frameworks).
- (6) The role of private ordering and the limits of such tools as cyber insurance.
- (7) The Computer Fraud and Abuse Act (CFAA) and other state and federal laws prohibiting and addressing hacking.
- (8) The ethical dimensions of hoarding of zero-day vulnerabilities by law enforcement and the utility of government vulnerability-equities-processes.
- (9) The international law rules that control cyber armed attacks, election interferences, cyber attribution, and cyber espionage.
- (10) Corporate risk assessment, the NIST framework, and other compliance mechanisms for cybersecurity enhancement.
- (11) New frontiers of cyber defenses, including in the context of malicious cyber-attacks on artificial intelligence and machine learning.

The objective of the course is to contextualize cybersecurity threats and responses within corporate, national security, and international law frameworks, while also recognizing the limits of current laws and debates. Students will thus be called to consider the need for further evolution of policy and the real-world impacts of different regulatory solutions. Grades will be based on three short experiential assignments (cyber insurance lab, SEC

disclosures lab, and cyber diplomacy lab), a single response paper to an academic article, and a take home open-book exam. The take home exam will begin on May 3rd at 8am and students will have until May 5th at 8pm to submit their answers. No casebook will be assigned for this course. No technical knowledge is required. Background or familiarity with public international law, national security law, privacy law, cybersecurity law, computer science, and/or international relations is helpful, but not necessary.

- **B751 – Intellectual Property Survey - Marinotti, J.**

Intellectual property (IP) law permeates almost every aspect of modern society, whether we're talking about Apple (the company) or apples (the fruits). This survey course of IP law is designed to provide students with the foundational knowledge necessary to understand the legal nuances of modern culture and business. It covers the six foundational questions of IP law: what, who, where, when, why, and how. The course aims to give students a broad understanding of what kinds of assets can be protected, when are such protections granted, to whom are they granted, where do such protections apply, how are they enforced, and why IP law exists in the first place. The course focuses on copyright, trademarks, and patents, though trade secrets and rights of publicity, among other IP frameworks, will also be mentioned. There are no prerequisites for this course. It is appropriate for anyone who wishes to gain a broader understanding of IP, regardless of their background or career goal.

- **B758 – Trademark & Unfair Competition - Janis, M.**

This course will introduce students to U.S. trademark law, the law of unfair competition, and related common law doctrines that protect against consumer confusion and the appropriation of commercial goodwill. The course will explore how the government recognizes trademark rights (including the registration process), trademark infringement (including defenses and remedies), and the loss of trademark rights. In addition to focusing on statutory law and doctrine, the course will examine the economic foundations of trademark protection and evaluate current trends in trademark law.

- **B785 – Patent Trial Practice - Knebel, D.**

The Patent Trial Practice course will teach the basic skills of a patent litigator by providing experiences as close as practical in a law school environment to those of a practicing litigator. The class of no fewer than eight nor more than twelve students will be divided at the beginning of the course into a plaintiff's team and a defendant's team, which will prepare and take to trial a hypothetical infringement case typically based on an actual United States patent. The hypothetical will be constructed to present generally balanced infringement, validity and/or damage issues. Team members will have the opportunity to participate in mock hearings, take and defend mock depositions, and participate in a mock jury trial before an actual federal judge. Participation in these activities will be arranged so that each student will get at least two half-hours of opportunities for "on his/her feet" experience. In addition, the teams will work together to draft briefs and other documents. Prior to each opportunity for speaking or writing, the class will read and discuss materials and/or hear a lecture or presentation relevant to the task. On occasion, Prof. Knebel will act as "senior partner" with each team separately, helping to identify issues and develop strategies. The course will be conducted in one 150-minute class per week. Students must have completed the basic patent course. Enrollment requires permission of instructor and preference will be given to students who have taken or are taking an evidence course.

- **L637 – Seminar in Introduction to Biotechnological Innovation - Cripps, Y.**

This seminar will focus on the ways in which biotechnological developments, including precision medicine, are affecting traditional notions of property, intellectual property and information. In addition to patent law, other forms of protection, such as copyright, will be examined in relation to biotechnology and compared with the way in which they operate, for example, with regard to the internet and digital technology. There will also be an examination of whether genetically engineered organisms, clones and other biotechnological products should, if at all, be granted intellectual property protection either within the existing frameworks of intellectual property law or under a new regime designed specifically for that purpose. As is inevitable in any discussion of intellectual property



law, international perspectives will be included. No prior knowledge of either biotechnology or intellectual property law is necessary for this class which will be conducted in an open discussion format.

- **TBD – TBD – Dresden, M.**

Professor Dresden will supervise a practicum on legal issues in independent filmmaking (pending faculty approval of this course.)