

## Law 827: Intellectual Property Workshop

Rebecca Eisenberg & Jessica Litman

Fall 2019

Mondays, 4:10 pm – 6:10 p.m.

*Please note that the following two class sessions will depart from the usual schedule:*

- *Friday, September 13, 2 pm- 4 pm in 1020 JH [makeup for cancellation of the Monday, September 30 class]*
- *Tuesday, October 15, 4:10-6:10*

### Course Description

This Workshop will feature presentations from scholars conducting research on intellectual property law and related topics. Students will prepare for these sessions by reading the papers and writing and submitting short critiques. The Workshop will also be open to the public. Faculty, students and staff from the law school and other University departments, and faculty from other universities in the area, may attend particular sessions.

We will spend the September 16 and 23 classes on a quick introduction to copyright and patent law. The other class sessions will be devoted to the presentation and discussion of scholarly works-in-progress. We will post the papers on the Canvas website and distribute hard copies in class the week before the authors present them. Before each workshop session, students will submit written assignments through the course Canvas website.

### Weekly Assignments and Grading

The written assignments are generally due at 9 a.m. on the Friday preceding the workshop. When you are commenting on the papers of the speakers, you should submit one or more comments or questions designed to help the author to make the paper better. You should ordinarily write approximately 400 to 600 words each week.

A comment should take a critical look at the paper or at one of its main arguments. The tone of your comments should be respectful, consistent with the goal of helping the author to improve the paper. You are not writing a reply brief for a court. You may question the validity of an argument; point to an overlooked implication or extension; debate the empirical validity of claims or assumptions; relate the material to corroborating or conflicting ideas; suggest analogies to other issues or

problems; or offer any other reaction or insight that would be helpful to the author. Words of praise for what the paper does well may also be helpful, but you should NOT merely summarize an idea that appears in the paper and express your agreement. For the September 13 class, you should submit a single comment on the paper, in no more than 300 words. For the following two classes, we will assign short essays based on the reading assignments. In subsequent weeks, you should submit 1-3 comments on the paper you read for that week, for a total submission of 400-600 words.

Each comment should begin with an underlined, one-sentence summary of the main idea pursued in the comment. You should then follow with a discussion elaborating on this idea. You may take one week off – in other words, you need only submit comments on nine of the ten papers. You should read the paper, prepare for discussion and attend the workshop even in the week in which you do not submit comments. We will provide copies of each of your comments to the authors, although they may not have a chance to read them before the session.

Submit your comment(s) via the Canvas website by 9 a.m. the Friday before the workshop. You should post your submission *in two separate places*: first, in the "assignments" section, so that we may read it and give you private feedback; and second, in the appropriate folder in the "discussion" section, where it will be viewable by other workshop participants and speakers. We encourage you to read one another's comments before the workshop session.

We will give you written feedback on your comments each week (by writing our feedback in the "assignments" section of the Canvas site) before that week's scheduled workshop. We will not, however, assign letter grades to your comments on a weekly basis.

At each workshop session, the speaker will typically take 20-30 minutes to present his or her paper. The remainder of the session will be spent in class discussion of the paper. We expect you to be prepared to ask the authors questions about their papers. Your final seminar grade will be based on the overall quality of your weekly written comments and the quality of your contributions to class discussion.

## **Learning Outcomes**

The primary learning objective for the IP Workshop is to give students a rigorous introduction to legal scholarship as a pursuit in an academic community. Through weekly reading and writing exercises, students will learn to engage with scholarly writing as helpful critics. Over the course of the semester, students will read ten works in progress from legal scholars in the IP field and submit written comments. Each week, students will receive written feedback on their comments from

the instructors in advance of the workshop, guiding them on how best to introduce their comments and questions to the authors in the workshop and also how to improve future written comments. Over the course of the semester, students will improve their skills as commentators and gain confidence in their ability to participate in scholarly discussion. These skills are valuable not only to students interested in future academic employment, but to anyone whose professional future includes working collaboratively to improve arguments and texts.

### Other Class Policies

Attendance at all of the workshops is mandatory.

It is the policy and desire of the Law School to provide reasonable accommodations for students with disabilities. Students who may require some type of accommodation should speak with Dean Bayrex Marti in the Office of Student Life (734-764-0516) or the University Services for Students with Disabilities in G 664 Haven Hall (734-763-3000).

### Schedule

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| September 9  | Introductory Session   |
| Friday, September 13:<br>Makeup class<br><br><i>(Comment due Thursday September 12 at noon.)</i> | Rebecca Giblin, University of Melbourne<br><br><i>'It's all taken care of in the contracts'? An empirical study of authors' rights in Australian book publishing contracts</i> |
| September 16<br><br><i>(Short essay due September 15 at 9 am.)</i>                               | Introduction to copyright law  |
| September 23<br><br><i>(Short essay due September 20 at 9 am.)</i>                               | Introduction to patent law   |
| September 30   | No class   |
| October 7<br><br><i>(Comments due October 4 at 9 am.)</i>  | Jorge Contreras, University of Utah<br><br><i>Musing about <u>Myriad</u></i>   |
| Tuesday, October 15  | Nicholson Price  |

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| <i>(Comments due October 11 at 9 am.)</i>                                      | <i>Opacity and Scientific Progress in Machine Learning (with Arti Rai)</i>                                 |
| October 21   | Sapna Kumar, University of Houston   |
| <i>(Comments due October 18 at 9 am.)</i>                                      | <i>Increasing Technical Expertise in Patent Litigation</i>   |
| October 28   | Zvi Rosen, George Washington University  |
| <i>(Comments due October 25 at 9 am.)</i>                                      | <i>Examining Copyright</i>   |
| November 4   | Peter Lee, UC Davis  |
| <i>(Comments due November 1 at 9 am.)</i>                                      | <i>Innovation Consolidation: Industry Concentration and the Commercialization of Intellectual Property</i> |
| November 11  | Joseph Fishman, Vanderbilt University  |
| <i>(Comments due November 8 at 9 am.)</i>                                      | TBA  |
| November 18  | Molly Shaffer Van Houweling, UC Berkeley   |
| <i>(Comments due November 15 at 9 am.)</i>                                     | <i>Private Law Attorneys General</i>   |
| November 25  | Sarah Burstein, University of Oklahoma   |
| <i>(Comments due November 22 at 9 am.)</i>                                     | TBA  |
| December 2   | Alexandra Roberts, University of New Hampshire   |
| <i>(Comments due November 29 – yes, that's Thanksgiving Friday – at 9 am.)</i> | <i>False Influencing</i>   |