

City University of Hong Kong

Course Syllabus

offered by School of Law  
with effect from Semester A 2018/19

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**Part I Course Overview**

<b>Course Title:</b>	<u>International and Comparative Law of Copyright, Designs and Allied Rights</u>
<b>Course Code:</b>	<u>LW6195E</u>
<b>Course Duration:</b>	<u>One semester</u>
<b>Credit Units:</b>	<u>3</u>
<b>Level:</b>	<u>P6</u>
<b>Medium of Instruction:</b>	<u>English</u>
<b>Medium of Assessment:</b>	<u>English</u>
<b>Prerequisites:</b> <i>(Course Code and Title)</i>	<u>Nil</u>
<b>Precursors:</b> <i>(Course Code and Title)</i>	<u>Nil</u>
<b>Equivalent Courses:</b> <i>(Course Code and Title)</i>	<u>Nil</u>
<b>Exclusive Courses:</b> <i>(Course Code and Title)</i>	<u>LW6595E Law of Copyright, Designs and Allied Rights in Hong Kong</u>

## Part II Course Details

### 1. Abstract

This course seeks to:

- With a comparative reference to copyright regimes in the EU and US, examine the law of copyright and related rights in the Hong Kong SAR, including the *Copyright Ordinance*, the *Registered Designs Ordinance*, and relevant case law
- Apply the law of copyright and related rights of Hong Kong to fact-based problems
- Provide students with an overview of the law of copyright and related rights of Hong Kong and beyond from an international as well as a practice-oriented and industry perspective

### 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 (if applicable)	Discovery-enriched curriculum related learning outcomes (please tick where appropriate)		
			A1	A2	A3
1.	<b>Identify</b> current legal issues in the law of copyright and related rights of Hong Kong.		√	√	
2.	<b>Identify and analyse</b> the sources and key features of the law of copyright and related rights of Hong Kong.		√	√	
3.	<b>Critically evaluate</b> the significance of the law of copyright and related rights of Hong Kong from an industry perspective and its relevance to Hong Kong society.		√	√	√
4.	<b>Apply</b> the knowledge to hypothetical fact situations and / or in further research.		√	√	√
		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 (if applicable)
		1	2	3	4	
Lectures/seminars	<p>Students are required to pursue intensive, self-directed learning and research. The goal of the teaching approach is to provide essential information as well as to further develop students' analytical and research skills.</p> <p>The seminars will be based on specified / assigned reading materials. Students shall prepare for the seminars by studying the relevant materials as directed by the course leader. Students may be asked to set out and explain the legal decisions of various cases. Existing and proposed legislation may be studied. Students may be asked to discuss the policy rationales underlying selected legislative provisions. The purpose of such an exercise is to develop students' skills in analysis, critical thinking, writing and oral presentation.</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	4		
Continuous Assessment: 50%						
Participation	√	√	√	√	20%	
Coursework	√	√	√	√	30%	
Examination: 50% (duration: 2 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 from writing the final examination.

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. The examination will be open-book and students are required to use computers to type the answers. However, students are NOT allowed to access the internet. Coursework for this purpose means those ways in which students are assessed other than by the final examination.

## 5. Assessment Rubrics

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

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B, B-)	Fair (C+, C, C-)	Marginal (D)	Failure (F)
Participation and Coursework	70% of class attendance required. Coursework demonstrates good grasp of the issues related with both theoretical and practical touch.	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.
Examination	Shows decent grasp of the knowledge covered and able to apply it to both case questions and essay questions critically.	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.

### **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.)*

- Introduction to Copyright;
- Justifications and Theoretical Underpinning;
- Subsistence of Copyright: Classes, Originality, Fixation;
- Authorship and Ownership;
- Exclusive Rights and Infringement;
- Copyright Exceptions;
- Moral Rights;
- Remedies;
- Regional & International Trading Frameworks and Copyright Reform
- Industrial Designs;
- Layout Designs of Integrated Circuits

##### **1.2 Detailed Syllabus**

With a comparative reference to the copyright regimes in the EU, US, and the PRC, this course provides an overview of the law of copyright, designs and allied rights in the Hong Kong SAR from a practice-oriented and / or industry perspective. Particular focus will be on the examination and analysis of the specific legislation on copyright law, such as the *Copyright Ordinance* and the *Prevention of Copyright Piracy Ordinance*. Keeping in mind the regional and international copyright frameworks, in addition to studying the qualifying factors for copyright protection, the types of copyright infringement, exceptions to infringement, and remedies, students will also be introduced to the various copyright societies and associations in Hong Kong and beyond which seek to promote the interests of authors, composers, creative artists, publishers and the recording industry. Recent policy developments relating to copyright amendment in Hong Kong and implications for copyright protection in digital environment, EU copyright reform and the development of the digital single market, regional and international trading negotiations and implications for copyright protection etc., will be explored.

#### **2. Reading List**

##### **2.1 Recommended Readings**

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

##### **Selected Texts**

Kenny Wong & Alice Lee, *Intellectual Property Law and Practice in Hong Kong* (2<sup>nd</sup> ed., Sweet & Maxwell, 2017)

Wenwei Guan, W. *Intellectual Property Theory and Practice: A Critical Examination of China's TRIPS Compliance and Beyond* (Heidelberg: Springer, 2014).

## **Selected Articles**

Wenwei Guan, “When Copyrights Meet Human Rights: ‘Cyberspace Article 23’ and Hong Kong's Copyright Protection in the Digital Era” 42.3 *Hong Kong Law Journal* (2012), 785-808.

Wenwei Guan “Fair Dealing Doctrine Caught between Parody & UGC Exceptions: Hong Kong's 2014 Copyright Amendment and Beyond.” 45.3 *Hong Kong Law Journal* (2015), 719-742.

Wenwei Guan “Copyright v Freedom of Contract: The ‘Contract Override’ Issue in Hong Kong's Copyright Amendment.” 47.1 *Hong Kong Law Journal* (2017), 115-142.

Wenwei Guan “Copyright Anti-circumvention and Free Trade.” 52.2 *Journal of World Trade* (2018), 257-280.

## **2.2 Online Resources**

- Government of Hong Kong: Intellectual Property Protection  
<http://www.gov.hk/en/residents/communication/infosec/intproperty.htm>
- Intellectual Property Department, Hong Kong  
<http://www.ipd.gov.hk/eng/copyright.htm>
- Hong Kong Legal Information Institute  
<http://www.hklii.hk/eng/>
- Department of Justice Bilingual Laws Information System  
<http://www.legislation.gov.hk/eng/home.htm>