

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>	International and Comparative Law of Trade Marks and Patents
<b>Course Code:</b>	LW6196E
<b>Course Duration:</b>	One semester
<b>Credit Units:</b>	3
<b>Level:</b>	P6
<b>Medium of Instruction:</b>	English
<b>Medium of Assessment:</b>	English
<b>Prerequisites:</b> (Course Code and Title)	Nil
<b>Precursors:</b> (Course Code and Title)	Nil
<b>Equivalent Courses:</b> (Course Code and Title)	Nil
<b>Exclusive Courses:</b> (Course Code and Title)	LW6596E Law of Trade Marks and Patents in Hong Kong LW6196E Law of Trade Marks and Patents in Hong Kong (old course title) LW4642 Intellectual Property Law: Theory, Patents and Trademarks

## Part II Course Details

### 1. Abstract

This course seeks to:

- Examine the law of trade marks and patents in the Hong Kong SAR, including the *Trade Marks Ordinance*, the *Patents Ordinance* and relevant case law
- Apply the law of trade marks and patents of Hong Kong to fact-based problems
- Understand the trade mark and patent regime of Hong Kong from an international and comparative perspective
- Discuss, at an introductory level, important developments in selected jurisdictions, such as the United States of America, Canada, the People’s Republic of China, the United Kingdom and the European Union (where appropriate)

### 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 trade mark and patent laws of Hong Kong.		✓		
2.	<b>Identify and analyse</b> the sources and key features of the trade mark and patent laws of Hong Kong.		✓	✓	
3.	<b>Critically evaluate</b> the significance of Hong Kong’s trade mark and patent laws from an industry perspective and to compare these laws with those of other jurisdictions (where appropriate).			✓	✓
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>Lectures/seminars—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. Student participation will be emphasized and problem solving exercises will be used to provide opportunities for analysis.</p> <p>The class discussions 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. 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	Demonstration of oral presentation skills and willingness / ability to answer questions in class.	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.
Coursework	<p>Demonstration of understanding of principles, theories and concepts.</p> <p>Demonstration of ability to identify issues.</p> <p>Application of knowledge to specific problems and discussion questions.</p> <p>Application of research, writing and / or communication skills.</p> <p>Ability to engage in argument-based analysis.</p> <p>Aptitude for formulating innovative solutions to designated fact-based questions.</p>	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	<p>Demonstration of understanding of principles, theories and concepts.</p> <p>Demonstration of ability to identify issues.</p>	Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of	Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of	Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the	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.

	<p>Application of knowledge to specific problems and discussion questions.</p> <p>Ability to engage in argument-based analysis.</p> <p>Aptitude for formulating innovative solutions to designated fact-based questions.</p>	<p>extensive knowledge base.</p>	<p>familiarity with literature.</p>	<p>material.</p>		
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**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 trade marks
- Tort of passing off in Hong Kong
- Types of registered trade marks
- Criteria for registration
- Procedures for registration and examination
- Grounds for refusal of registration
- Classification of goods and services
- Revocation of registered trade marks
- Rectification of the Register
- Ownership and use of registered trade marks
- Transactions affecting registered trade marks
- Licences
- Infringement
- Exceptions to Infringement
- Remedies
- Trade mark offences
- Protection of domain names in Hong Kong
- Introduction to patents
- Applications for standard patents
- Examination of patents
- Disclosure of inventions
- Registration of patents
- Date of filing
- Patent claims
- Priority right
- Patentable subject matter
- Criteria for patentability
- Novelty
- Inventive step
- Industrial application
- Revocation of patents
- Ownership
- Employees' inventions
- Term of protection
- Types of licences
- Compulsory licences for patented pharmaceutical products
- Government use of patented inventions
- Infringement
- Remedies

- Patent offences
- Short-term patents
- Biotechnology patents in Hong Kong
- Protection of plant varieties in Hong Kong

## 1.2 Detailed Syllabus

This course provides an overview of the law of trade marks and patents in the Hong Kong SAR.. Specific legislation on trade mark and patent law, such as the *Trade Marks Ordinance* and the *Patents Ordinance*, will be examined and analysed. Strategies for the enforcement and protection of trade mark and patent rights in Hong Kong may be considered and discussed. Recent policy and industry developments relating to the trade mark and patent laws of Hong Kong will also be explored, where appropriate.

### An Introduction to Intellectual Property Law

What is intellectual property law? Its legal and economic importance. The theoretical basis for intellectual property and intellectual property law. Protectability of intellectual property. Sources of intellectual property law in Hong Kong. International treaties and conventions on intellectual property law.

### Trademarks

Subject matter of trade and service marks. Registration systems. What marks may be registered. Restrictions on registration. Who may apply. Duration. Dealings with registered marks. Infringement. Remedies for infringement. International treaties. Unregistered marks. Related rights (trade names, passing off, dilution, domain name disputes in cyberspace, cybersquatting, etc).

### Patents

Subject matter of patents. Filing systems. What may be patented. Restrictions on patentability. First ownership. Duration. Dealing with patents. Infringement. Remedies for infringement. International treaties. Compulsory licences. Revocation. Emerging Issues in Patent Law (biotechnology, microbiorobotics, business method patents, access to generic drugs and essential medicines, etc).

## 2. Reading List

### 2.1 Recommended Readings

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

### Selected Texts

Lionel Bently, Brad Sherman, Dev Gangjee, and Phillip Johnson, Intellectual Property Law (latest edition) (Oxford University Press)

Tanya Aplin and Jennifer Davis, Intellectual Property Law: Text, Cases, and Materials (latest edition) (Oxford University Press)

## 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>