

City University of Hong Kong

Course Syllabus

offered by School of Law
with effect from Semester A 2022/23

Part I Course Overview

Course Title: Intellectual Property: Law, Practice and Procedure

Course Code: LW6198E

Course Duration: One semester

Credit Units: 3

Level: P6

Medium of Instruction: English

Medium of Assessment: English

Prerequisites:
(Course Code and Title) Nil

Precursors:
(Course Code and Title) Nil

Equivalent Courses:
(Course Code and Title) Nil

Exclusive Courses:
(Course Code and Title) Nil

Part II Course Details

1. Abstract

This course seeks to:

- Examine the various types of intellectual property rights (IP) and allied rights, the law and procedure in obtaining protection of statutory IP rights and the law regarding infringement proceedings of IP rights in the Hong Kong SAR;
- Equip students with the procedural skills and techniques necessary to provide legal advice on contemporary IP issues and to represent clients effectively in both contentious and non-contentious IP-related proceedings;
- Discuss and analyze the legal remedies available to clients in IP and technology related disputes;
- Apply the above skills and techniques to fact-based problems.

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.	Identify current legal and policy issues in the laws of Hong Kong relating to IP practice and procedure.		√		
2.	Identify and analyse the sources and key features of the laws of Hong Kong relating to IP practice and procedure.		√	√	
3.	Critically evaluate the procedural rules for obtaining and enforcing IP rights in Hong Kong from an industry perspective and / or practice-oriented perspective.			√	√
4.	Apply 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.</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%	

Applicable to students admitted in Semester A 2022/23 and thereafter

Students must obtain a minimum mark of 50% in both coursework and examination and an overall mark of 50% in order to pass the course. Coursework for this purpose means those ways in which students are assessed other than by the final examination.

Applicable to students admitted before Semester A 2022/23

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.)

Applicable to students admitted in Semester A 2022/23 and thereafter

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B)	Marginal (B-, C+, C)	Failure (F)
Participation	Demonstration of oral presentation skills and willingness / ability to answer questions in class.	High	Significant	Moderate	Inadequate
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>	High	Significant	Moderate	Inadequate
Examination	<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>Ability to engage in argument-based analysis.</p> <p>Aptitude for formulating innovative solutions to designated fact-based questions.</p>	High	Significant	Moderate	Inadequate

Applicable to students admitted before Semester A 2022/23

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.)

- Copyright and Design Rights: The nature of copyright and various types of copyright; Ownership and subsistence of copyright; Infringement of copyright and moral rights; Statutory defences; Remedies; Dealings in copyright including licensing rights and the Copyright Tribunal; An overview on the law of registered designs and the registrability and registration of design rights.
- Trade Marks and Passing Off: What is a trade mark?; Registrability of marks; Registration procedure and Opposition Proceedings; Infringement Proceedings and statutory defences; Remedies; European law and unsatisfactory state of Hong Kong trade mark regime; An introduction and overview on the law of Passing Off. Patents, Confidence and Trade Secrets and Malicious Falsehood: Introduction and overview of the Patents Ordinance and patent law in Hong Kong; Introduction to the law of confidence and trade secrets; Overview on the law of malicious falsehood.
- General and special remedies in IP-related disputes: damages, interlocutory and final injunctions, account of profits, delivery up and Anton Piller orders and Mareva injunctions, gagging orders, Norwich Pharmacal orders, John Doe or “Persons Unknown” orders.

1.2 Detailed Syllabus

This course provides an overview (and where appropriate a detailed and critical examination) of the law relating to IP practice and procedure in the Hong Kong SAR. Specific evidential and procedural rules on the registration, acquisition and enforcement of IP rights, defences, counterclaims and remedies will be discussed and analyzed. Special emphasis will be placed on the practice-oriented skills necessary to provide legal advice in practical fact-based situations and to represent clients effectively in both non-contentious and contentious IP-related proceedings, including the use of Alternative Dispute Resolution (ADR) procedures in IP and technology related disputes. The legislative and institutional framework governing IP practice and procedure, including but not limited to the ordinances, rules and regulations pertaining to copyright, designs, trade marks, patents and related rights, will also be explored and considered. Policy, technology and industry-related developments in IP practice and procedure may also be canvassed, where appropriate.

2. Reading List

2.1 Selected Text

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

Cornish, Llewelyn & Aplin, *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights* 8th Edition (Sweet & Maxwell, 2013)

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>