

International Intellectual Property
Lewis & Clark Law School
Syllabus Spring 2009—Version 2.0
 Prof. H. Tomás Gómez-Arostegui

Casebook: Daniel C.K. Chow & Edward Lee, INTERNATIONAL INTELLECTUAL PROPERTY: PROBLEMS, CASES, AND MATERIALS (Thomson/West: 2006). **Supplement:** Chow & Lee also has a separate documentary supplement which contains all the major international instruments [hereinafter SP].

Web Supplement: Some readings may be posted on my class website as PDFs for you to download; they will be posted at: <http://www.law.lclark.edu/faculty/tomas/internationalip.html> [hereinafter WEB].

Reading Assignments: The syllabus will be distributed in parts as we progress throughout the course. I will post each part on my webpage as needed. Please note that we will not always discuss all the assigned materials in class (in particular some of the notes). I usually (but not always) qualify those assignments by asking you to merely SKIM them. Though you are responsible for all the assigned materials, whether discussed or not, I consider the material we discuss in class to be the most important.

Meeting Time: We meet every Tuesday and Thursday, 10:30 a.m. to 12:00 p.m., in Classroom 5.

Contact Information and Office Hours: My office is on the top floor of the Legal Research Center, No. 320 (next to Dean Klonoff's office). My phone number is 503-768-6816, and my e-mail is tomas@lclark.edu. My office hours are the hours I am not teaching, so feel free to drop by any time.

Student Evaluation: Your grade for the course will largely be based upon a final examination at the end of the semester. The exam will be open book, meaning that you may bring in your casebook, any handouts or supplementary materials I provided to you, and any printed notes or outlines that you prepared or took a substantial part in preparing. Class participation may also affect your grade. Your participation may merit a one-step upward or one-step downward adjustment from your exam grade, or (as is more often the case) it may not merit any adjustment at all. I will consider both the quantity and quality of your participation.

Student Obligations: You are required to attend class (be on time please), read the assignments, and participate in discussions relating to those assignments. Though I will take volunteers, I will also call on people without prior notice. If you are unprepared on a particular day, please let me know before class and I will not call on you. If you feel uncomfortable with public speaking, please come see me.

Class & Day	Topics	[Approx. Total Pages for Class Session]	Notes
[01] Tues 1/13	I. Introduction A. Approach [1–4] B. IP Going International [4–16] C. System of International IP 1. Territoriality [16–29]	[29pp]	SKIP Problem 1–3
[02] Thu 1/15	2. National Treatment [29–39] 3. Most-Favored Nation [39–41] 4. Choice of Law [41–55]	[26pp]	
[03] Tues 1/20	D. International Legal Institutions 1. WTO [55–64]	[14pp + 6pp to skim]	

	<p>2. WIPO [64–65] 3. European Union [65–68] E. Overview of U.S. IP Laws [68–74]</p>	SKIM
[04] Thu 1/22	<p>[25pp + 29pp to skim] II. Copyright and Neighboring Rights A. Introduction 1. Rights of Authors [76–78] 2. International Agreements [78–86]</p> <p>a. Berne Conv. §§ 1–19, 33, 35 [SP: 67–78, 89–90] b. Rome Conv. §§ 1–16, 30 [SP: 132–37, 140] c. TRIPS §§ 1–14, 64 [SP: 2–8, 30] d. WIPO §§ 1–12 [SP: 105–09]</p> B. Foreigners Acquiring Copyrights & Neighboring Rights 1. Copyrights [86–94] 2. Berne Prohibition on Formalities [94–99]	<p>SKIP Problem 2-1 & Notes 1, 3, and 4</p> <p>SKIM SKIM SKIM SKIM</p>
[-] Tues 1/27	Class Canceled Due to Snow	
[05] Thu 1/29	<p>[30pp] 3. Berne Retroactivity [99–113] 4. Neighboring Rights [113–122] 5. Ownership and Transfer of Copyrights [122–126]</p> C. Subject Matter 1. Protected Works [126–130]	
[06] Tues 2/3	<p>[35pp + 7pp to skim] 2. Originality/Creativity Requirements [130–146] 3. Database Protection [146–164] 4. Folklore and Traditional Knowledge [164–173]</p>	SKIM <i>Feist</i>
[07] Thu 2/5	<p>[28pp] 4. Folklore and Traditional Knowledge (cont.)</p> D. Exclusive (Economic) Rights [174–183] E. Musical Works & Sound Recordings [183–186] F. Exceptions to Exclusive Rights [196–213]	SKIP U.S. Law §
[08] Tues 2/10	<p>[37pp] G. Duration of Economic Rights 1. Berne and TRIPS [213–220] 2. EU Directive [220–231] H. Moral Rights [231–246; 253–56]</p>	

[09] Thu 2/12	<p style="text-align: right;">[26pp + 11pp to skim]</p> III. Patents A. Introduction 1. Rights of Inventors [267–269] 2. International Agreements [269–276] a. Paris Conv. §§ 1–5 <i>quater</i> , 28 [SP: 194–200, 221] b. TRIPS §§ 27–34 [SP: 14–18] 3. North-South Debate [276–284] 4. Transitional Provisions [284–293]	SKIM SKIM
[10] Tues 2/17	B. Ownership and Formalities [293] 1. Patent Prosecution [294–317] 2. Working Requirements [317–320] 3. Ownership [320–335]	[42pp]
[11] Thu 2/19	C. Patent Requirements 1. Subject Matter [335–365] 2. Utility [365–371]	[36pp]
[12] Tues 2/24	3. Novelty [371–397] 4. Nonobviousness [397–409] 5. Enablement [409–410]	[40pp]
[13] Thu 2/26	D. Exclusive Rights 1. Patent Rights [411–418] 2. Limitations [418–435]	[25pp]
[14] Tues 3/3	3. Exceptions [435–449] 4. Compulsory Licenses [449–464] 5. Duration [465–473]	[37pp]
[15] Thu 3/5	<p style="text-align: right;">[32pp + 11pp to skim]</p> IV. Trademarks and Geographical Indications A. Introduction 1. Rights in Marks for Goods/Services [474–478] 2. International Agreements [478–480] a. Paris Conv. §§ 6–10 <i>ter</i> [SP: 201–207] b. TRIPS §§ 15–23 [SP: 8–11] B. Trademarks 1. Formalities etc. [481–487] 2. Priority and Multi Registration a. Paris Priority: Article 4 [487–493] b. Paris “As Is” Provision [494–506]	SKIM SKIM
[16] Tues 3/10	2. Priority and Multi Registration (cont.)	[18pp]

	c. Filing an Application Under Madrid [506–512] d. Community Trademark [513–523]	
[17] Thu 3/12	3. Ownership, Transfer, Exhaustion [523–543]	[21pp]
[18] Tues 3/17	4. Subject Matter [544–568] 5. Exclusive Rights a. General Approach [568–575]	[32pp]
[19] Thu 3/19	b. Famous Marks [575–604]	[29pp]
[—] Tues 3/24	SPRING BREAK	
[—] Thu 3/26	SPRING BREAK	
[20] Tues 3/31	c. Dilution Claims [605–619; WEB: § 1125(c)] 6. Abandonment [619–620] 7. Exceptions [620–26] 8. Duration [626–627] 9. Other Marks [627–628]	[27pp]
[21] Thu 4/2	C. Geographical Indications [628] 1. Basic Approach [629–655] 2. Wines and Spirits [655–660]	[33pp]
[22] Tues 4/7	3. Unresolved Issues [660–671] D. Relationship b/w TMs and GIs [671–684] E. Special Discussion: Internet Domain Names [684–685] 1. Madonna Case [686–692]	[25pp +8pp to skim] SKIM SKIM
[23] Thu 4/9	V. Unfair Competition and Trade Secrets A. Unfair Competition 1. National Approaches [705–721] 2. Paris Convention and TRIPS [721–735] B. Trade Secrets [746–755]	[39pp]
[24] Tues 4/14	VI. International Enforcement A. Introduction [756–757] B. Commercial Piracy 1. Overview [757–763] 2. Magnitude of Piracy [764–773] 3. China Case Study [773–792]	[36pp]
[25] Thu 4/16	C. Obligations Under TRIPS [792–818]	[27pp]

[26] Tues 4/21	<p style="text-align: right;">[26pp]</p> <p>D. Private Enforcement [818–819]</p> <ol style="list-style-type: none"> 1. Choice of Forum/Law and Jurisdiction [819–825] 2. Recognition/Enforcement of Judgments [825–834] 3. Exhaustion of Rights [834–837] <ol style="list-style-type: none"> a. Approach in the EU [838–845] 	
[27] Thu 4/23	<p style="text-align: right;">[14pp]</p> <p>b. Approach in the USA [845–859]</p>	
[28] TBD	<p>REVIEW SESSION: Please try to e-mail your questions to me 24 hours before class (to better enable me to answer them).</p>	