

## Course Outline

**Course:** LAWS 3202 – Intellectual Property  
**Term:** Summer 2009  
**Prerequisites:** One of LAWS 2003 or LAWS 2005  
**Class:** Tuesdays & Thursdays – 9:05 – 11:55 AM

**Instructor:** Sara Bannerman  
**Office:** C 476 LA; Office hours TBA  
**Telephone:** TBA  
**sbannerm@connect.carleton.ca**

Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. Please note the deadline for submitting completed forms to the Paul Menton Centre is July 31 2009. For further information, please see: [http://www.carleton.ca/pmc/students/accom\\_policy.html](http://www.carleton.ca/pmc/students/accom_policy.html)

**COURSE OBJECTIVES & CONTENT:**

From movie file-sharing, to patenting human genes, to trademarking the colours of the spectrum, to the design of your espresso machine, intellectual property issues are all around us. Once a relatively esoteric domain of property law, intellectual property now concerns us all as never before. Lines between public and private spaces are blurring; who is a creator and who is a consumer is much more complicated; new technologies enable new cultural practices, from collaboration to theft, depending upon one's perspective. In this class we will study the history, basic premises and socio-cultural implications of different types of intellectual property. Our particular focus will be on Canadian law, with some comparison to American and international intellectual property regimes. More importantly, however, we will interrogate how legal institutions, cultural institutions, citizens, social groups, and social practices interact in interesting and socially significant ways.

**REQUIRED READING:**

The text for this course is *Intellectual Property: The Law in Canada* (2005). It is available on reserve at the Carleton Library. It is recommended that you buy a copy, available through the University bookstore. A copy is also available on reserve at the Carleton Library for those who choose to make photocopies.

Many of the course readings can be obtained online through the Carleton Library (as indicated). Some of these will require that you log on through Carleton's library system in order to have access to the journal; others you can access directly through the link.

The remainder of readings (those not online) will be available on reserve at the Carleton Library for reading and/or photocopying.

**EVALUATION PROCEDURES:**

Attendance	10%	
Short assignment	20%	due July 23
Essay	30%	due Aug 13 (last day of class)
Final exam	40%	

**Attendance**

A substantial portion of the course material will be delivered during class discussions and lectures. Attendance is therefore important and is worth 10% of your grade.

**Absences**

A student who notifies the instructor in advance that he or she will be required to miss a class or a part of a class for an acceptable reason, or, in the case of an unforeseen emergency, who notifies the instructor after the fact of the reasons for

missing class, may make alternate arrangements to hand in assignments. Under such circumstances, the attendance mark will be based on the remaining classes.

### Short assignment

Assignments are to be handed in at the start of class. Assignments handed in to a different location will not be accepted unless prior arrangements have been made. Emailed assignments will not be accepted unless prior arrangements have been made. A full letter grade (B to C) will be deducted for each class the assignment is late. For example, an assignment due at Tuesday's class and handed in on the following Thursday's class will lose one full letter grade. An assignment due at Tuesday's class and handed in on the following Tuesday's class will lose two full letter grades.

### Final exam

The final exam will be based on all material covered in the lectures, required readings, and class discussions. It will take place during the exam period.

**SPECIAL NEEDS:** If you have any special needs which require scheduling accommodation in order for you to maximize your learning experience (employment, travel, childcare, etc.) please speak to me at the beginning of term so that we can arrange a mutually satisfactory approach. Do not expect accommodation for such requests during the week in which an assignment is due if we have not already arranged it.

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## SCHEDULE OF READINGS AND LECTURES

This schedule is subject to revision.

1. July 7            **Introduction**
2. July 9            **What is Intellectual Property?**

Judge, Elizabeth and Daniel Gervais. *Intellectual Property: The Law in Canada*. Toronto: Carswell, 2005. ISBN: 0459242571. Chapter 1.

Hettinger, Edwin C. "Justifying Intellectual Property" in *Philosophy and Public Affairs* 18 (1): 31-52. ISSN: 0048-3915

<https://login.proxy.library.carleton.ca/login?url=http://www.jstor.org/stable/2265190?seq=1> Last checked 21 May 2009.

Martin, Brian. "Against Intellectual Property." *Philosophy and Social Action* 21(3): 7-22. ISSN: 0377-2772

<http://www.uow.edu.au/arts/sts/bmartin/pubs/95psa.html> Last checked 21 May 2009.

Recommended but not required:

Foucault, Michel. "What is an author?" In *Language, Counter-memory, Practice: Selected essays and interviews*. Ithaca, N.Y.: Cornell University Press, 1977, pp. 113-138. ISBN: 0801409799

3. July 14           **Copyright 1**  
*Intellectual Property: The Law in Canada*. Chapter 2, pp. 7-25, 38-46, 47-48, and 114-126.

Geist, Michael "Low-Tech Case Has High-Tech Impact." *Toronto Star*, 22 March 2004, D01. Available online at: <http://www.michaelgeist.ca/content/view/1743/159/> Last checked 21 May 2009.

4. July 16           **Copyright 2**  
Bettig, Ronald. "Critical Perspectives on the History and Philosophy of Copyright." Chapter 2 in *Copyrighting Culture: The Political Economy of Intellectual Property*. Boulder: Westview Press, 1996. ISBN: 0813313856

5. July 21           **Copyright 3**  
Story, Alan. "Burn Berne: Why the Leading International Copyright Convention Must be Repealed". *Houston Law Review*, 40 (3): 763-803. ISSN 0018-6694. Available online at <http://kar.kent.ac.uk/251/> Last checked 21 May 2009.

May, Christopher. "The World Intellectual Property Organization." *New Political Economy* 11(3): 435-445. ISSN: 1356-3467

<http://web.ebscohost.com.proxy.library.carleton.ca/bsi/pdf?vid=4&hid=6&sid=f88e21cd-ab69-4794-8ae2-4da1036e028b%40sessionmgr2> Last checked 21 May 2009.

6. July 23

### Patents 1

*Intellectual Property: The Law in Canada*. Chapter 5, pp. 339-384.

Turner, James. "Has the US Patent System Gone too Far?" *Christian Science Monitor*, 12 March 2009. <http://features.csmonitor.com/innovation/2009/03/12/has-the-us-patent-system-gone-too-far/> Last checked 21 May 2009.

7. July 28

### Patents 2

Resnik, David B. "Discoveries, Inventions, and Gene Patents." Chapter 7 in *Who Owns Life?* Amherst, N.Y.: Prometheus Books, 2002, pp. 135-160. ISBN: 1573929867

Hanson, Mark J. "Patenting Genes and Life: Improper Commodification?" Chapter 8 in *Who Owns Life?* Amherst, N.Y.: Prometheus Books, 2002, pp. 161-174. ISBN: 1573929867

Geist, Michael. "Canadian patent reforms would ease path for AIDS drugs to Africa." *Ottawa Citizen*, 14 April 2009.

<http://www.ottawacitizen.com/business/fp/Canadian+patent+reforms+would+ease+path+AIDS+drugs+Africa/1493486/story.html> Last checked 21 May 2009.

8. July 30

### Traditional Knowledge; Gender

Sherman, Brad. "From the Non-Original to the Ab-original: A History." Chapter 6 in *Of Authors and Origins: Essays on Copyright Law*. New York: Oxford University Press, 1994. ISBN: 0198257929

Bartow, Ann. "Fair Use and the Fairer Sex: Gender, Feminism, and Copyright Law." *American University Journal of Gender, Social Policy & the Law* 14 (3): 551-584. ISSN: 1068-428X Article available by searching in Lexis-Nexis (<http://www.lexisnexis.com.proxy.library.carleton.ca/us/lnacademic>).

9. Aug 4

### Trademark

*Intellectual Property: The Law in Canada*. Chapter 4, pp. 165-168, 189-203, 212-216, 323-333.

Helft, Michael. "Companies Object to Google Policy on Trademarks." *New York Times*, 14 May 2009.

[http://www.nytimes.com/2009/05/15/technology/internet/15google.html?\\_r=1&scp=1&sq=Order%20of%20Ads%20on%20Google%20Leads%20to%20Suit&st=cse](http://www.nytimes.com/2009/05/15/technology/internet/15google.html?_r=1&scp=1&sq=Order%20of%20Ads%20on%20Google%20Leads%20to%20Suit&st=cse) Last checked 21 May 2009.

10. Aug 6

### Appropriation of personality and other forms of Intellectual Property

*Intellectual Property: The Law in Canada*. pp. 576-590.

Cordero, Steven M. "Cocaine-Cola, the Velvet Elvis, and Anti-Barbie: Defending the Trademark and Publicity Rights to Cultural Icons." *Fordham Intellectual Property, Media & Entertainment Law Journal*, 8: 599-654 <http://law.fordham.edu/publications/articles/200flspub6683.pdf> Last checked 21 May 2009.

- Read introduction (pp. 599-608), "The right of publicity" (pp. 618-624), "The First Amendment and the Freedom of Speech Defence" (pp. 624-628), and "Icons of Popular Culture" (pp. 628-639).

11. Aug 11

### International issues

Drahos, Peter. "Negotiating Intellectual Property Rights: Between Coercion and Dialogue." Chapter 10 in *Global Intellectual Property Rights: Knowledge, Access and Development*, Peter Drahos and Ruth Mayne, eds. New York: Palgrave, 2002, pp. 161-182. ISBN: 0333990285

"The A2K (Access to Knowledge) Treaty Group." Section 5.7 in *The Copy/South Dossier: Issues in the Economics, Politics, and Ideology of Copyright in the Global South*. Alan Story, Colin Darch, and Debora Halbert, eds. Canterbury: Copy/South Research Group, 2006, pp. 161-164. <http://kar.kent.ac.uk/6/1/CSdossier.pdf> Last checked 21 May 2009.

12. Aug 13

**Review and Discussion**

Boldrin, Michele and David K. Levine. "Introduction." Chapter 1 in *Against Intellectual Monopoly*. Cambridge: Cambridge University Press, 2008. Available at <http://levine.sscnet.ucla.edu/papers/imbookfinal01.pdf> Last checked 1 June 2009.