

Course Outline

COURSE:	LAWS 3908 D - Approaches To Legal Studies II
TERM:	Fall 2012
PREREQUISITES:	LAWS 2908 and third-year Honours standing.
CLASS:	Day & Time: Tuesday 2:35-5:25 pm Room: Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Rajiv Prasad
CONTACT:	Office: B442 Loeb Office Hrs: Tuesday - TBA Telephone: Email: laws3908ip@outlook.com

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Academic Accommodations for Students with Disabilities: The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

COURSE DESCRIPTION

The purpose of this course is to enhance and apply critical thinking and analysis skills through the study of a particular thematic topic. This option in Approaches to Legal Studies II (ATLS2) will explore basic theories and research methods by studying current conceptual and legal issues relating to piracy, policy and panic emerging in modern copyright law discourse. This course will consist of readings, lectures and discussions about both thematic content and critical reading and analysis methodologies. This is a topically and methodologically intensive and demanding course that requires active reading, oral participation and presentations in class, as well as well thought-out and properly written assignments at a senior undergraduate university level.

The quick rise and influence of the internet on access and consumption of media has led to deliberate and systemic shifts in the positioning and perception of intellectual property rights and infringement. In a highly interwoven corporately-consolidated digital age, there has emerged a deepening divide between creators and users of content. In reading some of the literature and policy initiatives coming from government and industry, this divide seems to be morphing towards the more polarized “owners vs. thieves” concept. The reactions of law makers continue to reflect traditional thinking around physical ownership rights and convenient moral absolutism in popular culture. Thematically, this ATLS2 course will study the history and reasons for this shift, who benefits and who suffers, as well as strategies and actual effects of the law and discourse that are developing now.

REQUIRED TEXTS

- Moral Panics and the Copyright Wars by William Patry (2009, Oxford University Press) (*you may prefer to order this book from Amazon.ca since its much cheaper that way*)
- Coursepack + Assigned Reading List (online)

SUPPLEMENTARY TEXT (optional)

- Intellectual Property Law, 2nd edition by David Vaver (2011, Irwin Law)

EVALUATION

(All components must be completed in order to get a passing grade)

Class Participation & Discussion = 20%

- This class will be structured around both lectures and discussion and analysis of the readings. Lectures are front-loaded to provide a quick ramp up to the basics, and the majority of the term will be focused on discussion of the readings and how they reflect themes in copyright law and policy.
- Students will be called on in class to summarize particular readings in class and offer their analyses of the readings. Readings for discussion may appear in this list, or may be from the internet or on a topic that is in the news that is relevant to this class. This will help other students better understand the readings and facilitate a more interactive discussion of the issues.

Critical Review Papers = 2 x 20%

- You are being asked to submit 2 critical review papers based on the readings for a particular class. Your analysis should go beyond mere summaries. Your critical review papers should include the key arguments or issues that you have identified in the class readings. The critical review papers are a maximum of 6 pages (double-spaced). These papers will require formal essay writing style, references and citations, giving you a chance to practice all the skills you learned in LAWS2908.
- One paper will be due in each half of the term, and you will have to sign up for a particular reading or reading set.

Final Assignment = 40%

- You will be asked to complete a short take home essay or essay from a short list of topics and specific reading(s). The essay format is short answer style questions. It will contain questions based on the readings from the course. The aim is to encourage you to use the content, analysis, knowledge and perspectives discussed in the course to critique an argument and provide your own substantiated opinions on the topic.
- As with other assignments, proper essay and citation format is required.
- More details will be provided in class.

SCHEDULE

(Class Schedules and Readings Subject to Reasonable Adjustments During The Course)

Class 1 – Introduction and Course Overview

- Meet-n-Greet
- Course objectives, methodologies, expectations, evaluation overview

Class 2 – Intro to Property and IP – background/theory

- Chapter 1 – Introduction, pp. 1-54 (IP Law 2nd ed, Vaver)
- Chapter 1 – Introduction, pp. 1-5 (Property Law: Cases and Commentary 2nd ed, Mossman/Flanagan, 2004 Emond Montgomery)
- Introduction - pp xv-xxiv (Moral Panics)

Class 3 – Introduction to Copyright

- Chapter 5 – Property as Social Relationship, pp. 97-107 (Moral Panics)
- Chapter 1 – Code is Law (Code v2.0, 2006, L. Lessig), pp. 1-9.

Class 4 – Introduction to Methods of Reading Analysis

- Chapter 1 – How Copyright Wars are Fought and Why, pp. 1-41 (Moral Panics)
- Chapter 2 – Four Puzzles from Cyberspace, (Code v2.0, 2006, L. Lessig), pp. 9-30.
- Web Readings – see course web page

Class 5 – IP: Indoctrination Panic?

- Chapter 6 - Why Classifying Copyright as Property is Important..., pp. 109-132 (Moral Panics)
- Chapter 7 - Moral Panics, Folk Devils, and Fear as a Tactical Weapon, pp. 133-138 (Moral Panics)
- Economic Foundations of Intellectual Property Rights, Joseph E. Stiglitz (2008)
- Is Copyright Ethical? An Examination of the Theories, Laws and Practices Regarding the Private Ownership of Intellectual Work in the United States, S. Warwick (1999 B.C. Intell. Prop. & Tech. F. 060505)

Class 6 - Ownership & Appropriation

- Chapter 2 – The Role of Metaphors pp. 43-56 (Moral Panics)
- The Content of Their Characters - J.D. Salinger, Holden Caulfield and Fredrik Colting, O'Neill, Kate M., (September 4, 2011). Journal of the Copyright Society of the U.S.A., Vol. 59, February 2012; University of Washington School of Law Research Paper No. 2011-23. SSRN: <http://ssrn.com/abstract=1922286>
- Web Readings – see links to selected “look and feel” cases (e.g. Associated Press v. Shepard Fairey (Obama ‘Hope’ image), 12 Monkeys, Rihanna etc.)

Class 7 – Standard Model Critical Perspectives

- Chapter 3 – Metaphors and the Law, pp. 57-58 (Moral Panics)
- Fair Use and the Fairer Sex: Gender, Feminism, and Copyright Law, Bartow, Ann. American University Journal of Gender, Social Policy & the Law. 14, no. 3 (2006): 551-584.
- Intellectual Property at the Intersection of Race and Gender: Lady Sings the Blues., Greene, K.J. American University Journal of Gender, Social Policy & the Law. 16, no. 3 (2008): 365-385.
- Copyright: A Plea for Empirical Research, Png, Ivan P. L., (July 2006). Available at SSRN: <http://ssrn.com/abstract=931587> or <http://dx.doi.org/10.2139/ssrn.931587>

Class 8 - Pirates & Thieves!

- Chapter 8 - Copyright Owners & Moral Panics pp. 139-170 (Moral Panics)
- *R v Stewart*, [1988] 1 S.C.R. 963
- [What Does Copyright Protect?](#), E. Samuels (2000)
- Web Readings – SOPA, PIPA, Mega Upload/Kim Dotcom case

- Web Readings – Sookman vs. Geist various blog articles

Class 9 – Fair Dealing / Fair Use

- Chapter 4 - The Mythical Origins of Copyright pp.61-96 (Moral Panics)
- SCC case law review – *Théberge, CCH, SOCAN v Bell, Alberta . Access Copyright*
- Web Readings - AUCC Model Copyright License and controversy

Class 10 – Internet & Technology

- Moral Panics: Chapter 9 - How Innovation Occurs: Creative Destruction & Disruptive Technologies
- Chapter 10 – Intellectual Property (Code v2.0, 2006, L. Lessig), pp. 169-200.
- Copyright and Commerce: The DMCA, Trusted Systems, and the Stabilization of Distribution, T. Gillespie Available at SSRN: <http://ssrn.com/abstract=1139946> or <http://dx.doi.org/10.2139/ssrn.1139946>
- Web Readings – ecommerce & copyright

Class 11 – Forward We Go...

- SCC case law review of 2012 Copyright ‘Pentology’ Decisions (SCC) + Bill C-11/SC 2012, c.20 (‘Copyright Modernization Act’)
- Web Readings - Creative Commons + Open Source Licensing
- Introduction & Chapter 12 – Effective Global Copyright Laws, (How To Fix Copyright, 2012, W. Patry) pp. 1-6, 245-262.
- *USA Digital Millennium Copyright Act* (statute)

Class 12 – Review

- Review of general themes and perspectives
- Final Assignment topics and instructions