OTMEVAL0017-Introduction to EU law and EU IP law

SYLLABUS / SUMMER 2017
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General Information

3 ECTS
Period: week 22 (29-31 May)

Instructor:
University lecturer Rosa Maria Ballardini (rosa.ballardini@ulapland.fi)

Lecturers:
Professor Juha Karhu, ULap
University lecturer Rosa Maria Ballardini, ULap
Professor Haijun Jin, Renmin Law School, China

Learning Goals:
The aim of the course is to give a basic understanding of some of the core concepts and principles of substantive European Union law and European Intellectual Property Law (especially copyright, trademark and patent law). Moreover, the course will provide also a basic overview of the IP system in China.
After having successfully completed the course the students will be able to:
- Master general knowledge of fundamental concepts of EU law and intellectual property law;
- Analyze and apply principles of EU and IP law in a global setting;
- Understand basic concepts of Chinese IP law and system.

Contents:
The course covers issues related to:
1) Fundamental values of EU, its institutional structure and functioning of EU legal order;
2) Fundamental principles of European IP law, including background and history of harmonization, requirements for protection and scope of protection of IP rights in Europe;
3) Basic concepts and framework of the Chinese IP system.

Previous studies:
This course is part of the IPR Summer School program in intellectual property law organized at the IPR University Center (https://iprsummerschool.com/program/). Other students are welcome. However, the instructors may limit the number of other students. There are no pre-requisites for this course.

**Methods:**
Lectures (12 contact hours), learning diaries, self-study, independent research, exercises.

**Language of Instruction:**
English

**Office hours:** by appointment

**Assessment:**
1) Required readings (literature, case law, laws and regulations, lecture notes and slides);
2) 12 h Lectures (100% mandatory attendance);
3) Leaning diary (1 page per lecture);
4) Term paper (15 pages).

**Total students workload:** 82, devided in:

<table>
<thead>
<tr>
<th>Task</th>
<th>Hours of work</th>
<th>Grade %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lectures and preparation (i.e. Required readings)</td>
<td>24</td>
<td>20%</td>
</tr>
<tr>
<td>Learning diary</td>
<td>8</td>
<td>10%</td>
</tr>
<tr>
<td>Term paper</td>
<td>50</td>
<td>70%</td>
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# Lectures and Readings

## Schedule for the lectures

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Lecturer</th>
<th>Topic</th>
<th>Room</th>
</tr>
</thead>
<tbody>
<tr>
<td>29.05</td>
<td>13.00-14.00</td>
<td>Ballardini</td>
<td>Introduction to the course Law and Innovations in a European context</td>
<td>LS8</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Karhu</td>
<td></td>
<td></td>
</tr>
<tr>
<td>29.5</td>
<td>14.00-16.00</td>
<td>Ballardini</td>
<td>Introduction to IP law in Europe Introduction to European copyright law</td>
<td>LS8</td>
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<tr>
<td>30.5</td>
<td>9.00-12.00</td>
<td>Ballardini</td>
<td>Introduction to European patent law</td>
<td></td>
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<tr>
<td>30.5</td>
<td>13.00-16.00</td>
<td>Ballardini</td>
<td>Introduction to European trademark law</td>
<td></td>
</tr>
<tr>
<td>31.5</td>
<td>8.00-10.00</td>
<td>Haijun Jin</td>
<td>Introduction to Chinese IP system</td>
<td></td>
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<tr>
<td>31.5</td>
<td>10.00-11.00</td>
<td>Ballardini</td>
<td>Summing up</td>
<td></td>
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</table>

## Readings:

*NOTE: You are expected to do the readings before coming to class!*

1) **Introduction to EU law (29.5)**

**Literature:**

2) **Introduction to IP Law, Europeanization of IP law (29.5)**

**Literature:**


3) Introduction to European Copyright Law (29.5)

Literature:

Legislation (for reference purposes):

The EU Copyright Legislation:

Case law:

Monkey selfies dispute (ownership)

Football Dataco (C-604/10) (originality)
http://curia.europa.eu/juris/liste.jsf?&num=C-604/10

Trumf AS vs Stokke AS, Supreme Court of Norway (27.06.2012) (scope of protection)
http://www.internationallawoffice.com/Newsletters/Intellectual-Property/Norway/Bryn-Aarflot-AS/Supreme-Court-rules-on-chair-copyright

http://www.bailii.org/ew/cases/EWPCC/2012/1.html
‘Blurred Lines’ vs ‘Got to Give it Up’ (reproduction rights)/ Settled
https://www.youtube.com/watch?v=ziz9HW2ZmmY

Meltwater (C-360/13) (temporary copies)

Usedsoft (C-128/11) (distribution right)

Art&Allposters (C-419/13) (distribution right)

Svensson (C-466/12)(communication to the public; linking)

4) Introduction to European Patent Law (30.5)

Literature:


Case Law:
Referral to Enlarged BoA - G03/8 (patentable subject matter/software and business methods)
Brüstle (Case c-34/10) (patentable subject matter/biotechnology)

G 0002/06 (Use of embryos/WARF) of 25.11.2008
(patentable subject matter/human embryonic stem cells; morality)

EPO - T 641/00 (COMVIK) (inventive step - problem/solution approach)

Legislations (for reference purposes):

EPO Guidelines for examination:

Unitary patent agreement:

Regulation (EU) No 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection

Council regulation (EU) No 1260/2012 of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements

EU Directive 98/44/EC on Biotechnological inventions
SPC Regulation

Finnish patent Act

Examples of patents:

5) **Introduction to European Trade Mark Law (30.5)**

**Literature:**


**Case law:**

C-283/01 Shield Mark/Kist (protectable subject matter)

C-273/00 Sieckmann/DPMA (graphical representation, smell marks)
Joint cases C-53/01 & C-54/01 Linde AG, Winward Industries, Rado Uhren AG (distinctiveness)

T-123/04 - Cargo Partner /OHIM (CARGO PARTNER) (compound marks)

T-508/08, Bang&Olufsen/OHIM (particular forms of signs - shapes of products)

C-108/97 and 109/97, Windsurfing Chiemsee/Huber & Attenberger (acquired distinctiveness)

C-299/99, Philips/Remington (limits on registrations of shapes)

C-291/00 - LTJ/Vertbaudet (double identity)

C-251/95 – SABEL/Puma, Rudolf Dassler Sport (Likelihood of confusion)

C- 375/97 - General Motors (Marks having a reputation - earlier reputation)

C-408/01 - Adidas-Salomon and Adidas Benelux (Marks having a reputation - similar marks)

C-487/07 - L'Oréal SA/Bellure NV (Marks having a reputation - unfair advantage)

C-252/207 – Intel (Marks having a reputation - blurring/dilution)

**Legislations (for reference purposes):**


Trademarks Directive (89/104/EEC)
6) Introduction to Chinese IP System (31.5)

**Literature:**


**Legislations (for reference purposes):**

Chinese Copyright Law (1990, as amended in 2010)


**Case law:**

US v. China WTO Dispute on China’s protection and enforcement of IPRs, Especially concerning Article 4(1) of Chinese Copyright Law: [https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds362_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds362_e.htm)

Term Papers

The term paper is mandatory in order to pass the course!

Checklist:

1) Choose a topic: Please choose a topic for your term paper from the list of available topics.

2) Length of the TP: The term paper should be about 15 pages (12 pt Times New Roman; Line spacing 1,5) including everything (e.g. table of case, bibliography, references, etc.).

3) Form of the TP: The term paper should be on the form of an academic paper/essay (as opposed to a handbook-like paper!). Headings within the text are encouraged (usually no more than 4 levels of headings). References to the main sources of literature, cases, statutes, etc. are required (always remember to acknowledge when you use ideas of others!).

- Submit the TP: The final term paper should be sent to rosa.ballardini@ulapland.fi by Friday 16 June 2017 at 16.15 EET. Please remember to include:
  - Title of the work
  - Student name
  - Student number (if you have)
  - Programme where you are enrolled

*NOTE: List of topics for term papers will be made available during late April!*
Learning diaries

- Students are requested to write a learning diary from the lessons learned from the readings and the related lectures
- You should write one diary per each lecture (total 6 diaries):
  - Introduction to EU law
  - Introduction to IP law in Europe
  - Introduction to European copyright law
  - Introduction to European patent law
  - Introduction to European trademark law
  - Introduction to Chinese IP system
- The length of the diary is about 1 page per lecture (i.e. tot. about 6 pages)
- Each diary should highlight one main issue that the student considers to be the most important lesson learned from that specific lecture and related readings.
- The diary should also be a way to provide feedback from the students to the instructor with concern to the lecture at stake.
- Please send your learning diaries in one document (i.e. one document of about 6 pages, not 6 documents of about 1 page each!) to rosa.ballardini@ulapland.fi not later than Friday 2 June 2017 at 16.15 EET. Please remember to include in the document:
  - Title of the essay
  - Student name
  - Student number (if you have)
  - Programme where you are enrolled
## Summary of deadlines

<table>
<thead>
<tr>
<th>Deadline</th>
<th>Task</th>
</tr>
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<tbody>
<tr>
<td>1) Friday 2 June 2017 at 16.15 EET</td>
<td>Send learning diary to <a href="mailto:rosa.ballardini@ulapland.fi">rosa.ballardini@ulapland.fi</a></td>
</tr>
<tr>
<td>2) Friday 16 June 2017 at 16.15 EET</td>
<td>Submit the final term paper via sending it to <a href="mailto:rosa.ballardini@ulapland.fi">rosa.ballardini@ulapland.fi</a></td>
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</tbody>
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