

# **INTELLECTUAL PROPERTY** **INDEPENDENT PAPERS AGGREGATED**

Spring 2021 Syllabus

## **CONTACT INFORMATION**

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Please email Ms. Carballo for appointment

## **COURSE OVERVIEW**

This is a course aggregating the independent writing projects of several students. Each student will be responsible for finding a topic related to intellectual property law and writing a paper on that topic. I will be guiding the writing process, and there will be opportunities for the several students to interact with each other throughout.

## **CLASS MEETINGS**

Most of the work for the course will be done on your own time. That said, we will have a few synchronous sessions via Zoom, including our first session on Tuesday, January 26 from 4:10 pm to 5:25 pm. You will be notified of other synchronous sessions as we progress during the semester. You should also expect to meet with me either in live messaging and one-on-one Zoom meeting formats; the default time for those conversations will be Tuesdays and Thursdays from 4:10 pm to 5:25 pm, but we can arrange other times as needed.

## **OFFICE HOURS**

In addition to the class meeting times, I also hold general office hours from 2:00 pm to 4:00 pm on Thursdays. If you'd like to meet with me then, please email Ms. Carballo to schedule a time.

## **GRADING**

Your grade will be based on the paper you write.

## **ATTENDANCE**

Most of the work for this course will be done independently. I do not have any firm demands regarding how much time you spend and when you do it—you will be graded on the quality of the paper you produce, and if you don't work on it consistently, it won't be good.

But I do care about helping you form good writing and work habits. So you will be required to submit weekly timesheets indicating when you worked and what you did. You can think of this as practice for law firm billing requirements. I will circulate a sample billing sheet, but you can use something of your making if you prefer.

We will also have a few synchronous class sessions. Students are expected to attend and participate in all of them, absent special circumstances and my prior approval.

I understand, though, that sometimes things happen. I will not lower your grade if you miss class because you have a serious medical or life issue that prevents you from attending. Getting stuck in traffic is not a serious life issue; having your car stolen the day we have class is a serious life issue. In order to avoid my lowering your grade, you must email me about your serious medical or life issue promptly.

You need to use your professional judgment to figure out what “a serious life issue” means and what “promptly” means. If you think you have a serious medical or life event, just tell me that you have one. You don’t need to tell me what it is. I will refer you to someone in the administrative offices so that the law school can do everything it can to help you. If you do not email me promptly, your grade will be lowered even if you have had a serious medical or life issue—for example, if your car is stolen and you don’t email me about it until three weeks later, I will still lower your grade.

## **RESOURCES**

This is a list of resources for you to explore:

1. Looking for some guidance on what legal scholarship is? These are written for current or aspiring law professors, but the perspectives are useful also for students writing traditionally “student” work too (and, of course, if you are a student who wants to write something like what law professors write, then these will help you figure out what that even means without having to read dozens of law professor articles first):
  - a. Martha Minow, *Archetypal Legal Scholarship: A Field Guide*
    - i. <https://jle.aals.org/cgi/viewcontent.cgi?article=1093&context=home>
  - b. Robin West & Danielle Citron, *On Legal Scholarship*
    - i. <https://www.aals.org/wp-content/uploads/2014/08/OnLegalScholarship-West-Citron.pdf>
  - c. Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*
    - i. <https://duncankennedy.net/documents/Photo%20articles/Legal%20Education%20and%20the%20Reproduction%20of%20Hierarchy%20J.%20Leg.%20Ed..pdf>
2. Want some advice directly aimed at law students writing articles? Try these:
  - a. Pamela Samuelson, *Good Legal Writing: Of Orwell and Window Panes*
  - b. Eugene Volokh, *Academic Legal Writing*

- i. [https://edisciplinas.usp.br/pluginfile.php/135669/mod\\_resource/content/1/Academic.pdf](https://edisciplinas.usp.br/pluginfile.php/135669/mod_resource/content/1/Academic.pdf)
  - c. Nancy Leong, *How to Write a Law School Seminar Paper or Law Review Student Note – A Ten Step Process*
    - i. <https://www.youtube.com/watch?v=AETHV7IciDE&feature=youtu.be>
  - d. Nancy Leong, *Five Approaches to a Law School Paper or a Law Review Student Note*
  - e. James Grimmelmann, *Resources for Students*
    - i. <http://james.grimmelmann.net/files/resources>
  - f. James Grimmelmann, *Paper Ideas*
    - i. <http://james.grimmelmann.net/files/research-ideas>
  - g. Michael Froomkin, *Legal Writing Tips*
    - i. <https://law.tm/froomkins-legal-writing-tips-2/>
- 3. Many of the above links give you links to additional resources that will help you find a topic. If you want more, here are a few places to go look.
  - a. SCOTUSBlog tracks what is happening at the Supreme Court. Of course, not all of this related to IP, but the IP cases that do reach the Court tend to be pretty important.
    - i. <https://www.scotusblog.com/>
  - b. Patent practitioners and academics alike rely on Patently-O to stay on top of developments in the field.
    - i. <https://patentlyo.com/>
  - c. All appeals involving patent law are heard by the Federal Circuit. In addition to Patently-O, the Federal Circuit Blog follows that court in more detail.
    - i. <https://fedcircuitblog.com/>
  - d. JOTWELL (which is run by Prof. Froomkin) posts reviews of recent legal scholarship. It has an IP section, which is worth keeping an eye on.
    - i. <https://ip.jotwell.com/>
- 4. Note sure any of this is worth your time?
  - a. Gregory Watson wrote a paper as a student in 1982 arguing that the 27<sup>th</sup> Amendment to the US Constitution could still be ratified. He got a C+. Ten years later, after running a nationwide campaign based on the ideas in his paper, he succeeded. His grade was later changed to an A+.
  - b. Any student who amends the US Constitution based on an article written for me will get an A+, and I will do so retroactively if necessary.
- 5. Want an introduction to some core concepts in legal theory?
  - a. Larry Solum maintains a site with summaries and bibliographies for many of the most important ideas in legal theory, written with law students in mind. Links on the right side of the page take you to whichever entry you are interested in.
    - i. [https://lsolum.typepad.com/legal\\_theory\\_lexicon/2003/09/legal\\_theory\\_le\\_2.html](https://lsolum.typepad.com/legal_theory_lexicon/2003/09/legal_theory_le_2.html)
  - b. An accessible introduction to law and economics, also written with law students in mind, is Ward Farnsworth, *The Legal Analyst: A Toolkit for Thinking About the Law*.

- i. <https://www.amazon.com/Legal-Analyst-Toolkit-Thinking-about/dp/0226238350>
- 6. Want to know what law professors assume that other people have read? Here are a few resources:
  - a. Top ten most cited law review articles ever:
    - i. <http://www.nationaljurist.com/national-jurist-magazine/most-cited-law-review-articles-ever>
  - b. Fred R. Shapiro & Michelle Pearse, *The Most-Cited Law Review Articles of All Time*
    - i. <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1084&context=mlr>
  - c. David Kennedy & William W. Fisher III, *The Canon of American Legal Thought*
    - i. [https://www.amazon.com/Canon-American-Legal-Thought/dp/0691120005/ref=sr\\_1\\_1?crid=TMLMIRDCS9QS&dchild=1&keywords=the+canon+of+american+legal+thought&qid=1611257910&sprefix=the+canon+of+amer%2Caps%2C418&sr=8-1](https://www.amazon.com/Canon-American-Legal-Thought/dp/0691120005/ref=sr_1_1?crid=TMLMIRDCS9QS&dchild=1&keywords=the+canon+of+american+legal+thought&qid=1611257910&sprefix=the+canon+of+amer%2Caps%2C418&sr=8-1)
    - ii. Note that this book is almost entirely devoted to reproducing in their original form some of the most important law review articles ever published. It also contains some short summaries and contextual information to help you understand what they're about. Odds are that it isn't in your interest to read it cover to cover, but you'll probably find the fundamental articles for whatever you actually want to write about.
  - d. Ted Sichelman, *Most-Cited IP Law Articles Published in the Last Ten Years (2005-15)*
    - i. <https://writtendescription.blogspot.com/2016/03/most-cited-ip-law-articles-published-in.html>
- 7. Want to read some stuff about writing?
  - a. George Orwell, *Politics and the English Language*
    - i. <https://www.orwellfoundation.com/the-orwell-foundation/orwell/essays-and-other-works/politics-and-the-english-language/>
  - b. David Foster Wallace, *Tense Present: Democracy, English, and the Wars over Usage*
    - i. <https://harpers.org/wp-content/uploads/HarpersMagazine-2001-04-0070913.pdf>
- 8. Planning to read scientific articles in your research? Read this to see how scientists do that: <https://www.sciencemag.org/careers/2016/03/how-seriously-read-scientific-paper>

If you find cool or useful things to add to this list, please let me know!

## **SPRING 2021 CLASSROOM POLICIES FOR ONLINE COURSES**

### **CLASS RECORDINGS**

Students are expressly prohibited from recording any part of this course. Meetings of this course might be recorded by the University. Any recordings will be available to students registered for this class as they are intended to supplement the classroom experience. Students are expected to follow appropriate University policies and maintain the security of passwords used to access recorded lectures. Recordings may not be reproduced, shared with those not enrolled in the class, or uploaded to other online environments. If the instructor or a University of Miami office plans any other uses for the recordings beyond this class, students identifiable in the recordings will be notified to request consent prior to such use.

### **DISABILITY & ACCOMMODATION**

If a student has a disability, or suspects that he or she may have a disability, please contact Jessie Howell, Director of Accessibility, for information about available opportunities, resources, and services. Her phone number is 305-284-4551, and her email address is [access@law.miami.edu](mailto:access@law.miami.edu).

### **TITLE IX**

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### **INTELLECTUAL PROPERTY**

The course professor is the copyright owner of the courseware. Specifically, pursuant to the University's Policy on Inventions, Intellectual Property, and Technology Transfer, "courseware" includes: course syllabi, assignments, assessments, and/or other materials that are first created and made available to students as part of the educational curriculum at the University.