**University of Baltimore School of Law**

**Spring 2018**

**Course**: IP Current Developments (Patent Litigation)

LAW 845

Section 511

**Assignment for First Class:**

Wednesday, January 17, 2018: Introduction to Patent Law

* Kimberly A. Moore et al., Patent Litigation and Strategy (4th ed. 2013)
* Read syllabus carefully[[1]](#footnote-1)
* Enroll in the TWEN site

**Instructor**: Professor William Hubbard

LC 508

[whubbard@ubalt.edu](mailto:whubbard@ubalt.edu)

OFFICE HOURS: Tuesday/Thursday from 3:00 p.m. to 5:00 p.m. or by appointment (Or just stop by. Unless I’m under the gun with some other commitment, I will be happy to talk with you.)

**Days/Time:** Monday and Wednesday from 3:00 p.m. to 4:15 p.m.

**Location:**  Room assignments are available through MyUB. (The administration asks professors not to list room numbers in syllabi. I think they want to keep their options open.)

**Course Description**:

This workshop is intended to give students a greater understanding of patent litigation. Specifically, it will explore the life cycle of a patent dispute, including pre-suit investigation, jurisdiction and forum selection, discovery, infringement and defenses, fact and expert discovery, summary judgment and other pretrial motions, damages, injunctive relief, and appeal. Knowledge of patent law is required for this class, so that Law 761 is a required prerequisite (or concurrent with permission). Indeed, in the course of learning more about patent litigation, students will also gain a greater understanding of substantive patent law.

**Course Materials:**

Kimberly A. Moore et al., Patent Litigation and Strategy (4th ed. 2013)

**Student Learning Outcomes:**

By the end of this course, the successful student will be able to:

1. Identify viable claims and defenses arising under patent law in factual scenarios,
2. Draft pleadings related to patent disputes
3. Draft discovery requests and responses related to patent disputes
4. Critique and demand supplementation of discovery requests related to patent disputes
5. Draft motions to compel related to discovery in patent disputes
6. Argue in support of and against motions to compel in patent disputes
7. Draft summary judgment motions related to patent disputes

**Grades:**

Your grade will be based on 11 drafting assignments as follows:

|  |  |
| --- | --- |
| **Assignment Due** | **Weight** |
| Read prior art (TWEN) and draft caption | 1% |
| Complaint | 8% |
| Answer | 8% |
| Interrogatories | 8% |
| Response to Interrogatories | 8% |
| Discovery Demand Letter | 5% |
| Response Letter & Meet and Confer | 7% |
| Letter Brief | 10% |
| Response Letter Brief | 10% |
| Hearing | 10% |
| Motion and Brief for Summary Judgment | 25% |

**Course Expectations:**

American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work each week for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours.

**Additional Class Policies:**

* 1. Class Participation:
     1. I hope that you will all actively participate in class discussions and contribute your thoughts and ideas.
     2. I encourage you to volunteer in class, but I will also call on people at random if necessary to make sure that everyone gets a chance to contribute.
  2. Professionalism: I expect you to behave like graduate students, and I expect you to behave professionally. That means you should generally be prompt, prepared, and polite. I consider this part of your class participation, and failure to behave professionally may therefore affect your grade.
  3. Seating Chart
     1. Don’t bother. I know you all.
  4. Internet use:
     1. I love the Internet truly, madly, deeply. I think it makes all of our lives better. If I could, I would hug the Internet. I would send the Internet a present every year on her birthday. I would give the Internet a pony.
     2. Unfortunately, in my experience Internet use during class does not help students learn. Almost always, a student who surfs learns less and participates less in class discussions. Online activities are also distracting to the people around you. Online social networking (e.g., a chat room) is even worse, as it adds peer pressure to online distractions.
     3. As a result, during our class we will take a break from the information superhighway.
     4. When you come to class, please turn off your Wi-Fi altogether. If you have trouble figuring out how to do this, you can ask me or call OTS (x6262).
  5. Email: If you email me from an email account other than your University of Baltimore account, the University’s spam filter may prevent me from getting your email. To be on the safe side, always use your University of Baltimore email account to contact me.
  6. Recording classes: I allow audio/video taping allowed with permission. Please let me know if you would like to record class so that I can adjust the lighting, my makeup, etc.
  7. Facilitating learning: If anything happens in our class that makes you feel less inclined to participate or learn, *please let me know*.

**Attendance**:

Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowed absences (generally 20% of class sessions) as illustrated below may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools.

|  |  |  |
| --- | --- | --- |
| Regular Semester Hours | | |
| Credit Hours | Meetings Per Week | |
|  | 1 | 2 |
| 2 | 2 absences | 5 absences |
| 3 | 2 absences | 5 absences |
| 4 | -- | 5 absences |

Attendance will be taken each class. If you do not sign in, you will not be counted as present. If you have not signed in when the attendance sheet is collected, it may count as an absence. A student who is present but unprepared for class may be treated as absent.

**IMPORTANT NOTE**: Don’t fool yourself. Missing class probably will lower your grade even in the absence of a formal rule that reduces your grade. The more engaged you are in any class the more you will learn and the better you will perform.

**Course Website:**

This course has a TWEN page that links to this syllabus, announcements, the class assignments, and other class materials. You are responsible for self-enrolling in the TWEN page and for checking it regularly for course information.

**Computers:**

Students may use laptop computers for class related purposes.

**Class Cancellation:**

If the instructor must cancel a class, notices will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule.

**Academic Integrity:**

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor\_code/.

**Title IX Sexual Misconduct and Nondiscrimination Policy:**

The University of Baltimore’s Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB’s nondiscrimination policies can be found at: http://www.ubalt.edu/titleix.

**Disability Policy:**

If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director of Student Services, at 410-837-5623 or lmetzger@ubalt.edu.

**ASSIGNMENTS**

For this course, there are BOTH reading assignments and written assignments.

Readings

Please read the material listed below for each class session carefully, and think about it before class. The expected schedule for reading may be adjusted depending on our pace.

|  |  |  |  |
| --- | --- | --- | --- |
| **Date** | **Topic** | **start** | **stop** |
| January 17, 2018 | Overview | 1 | 17 |
| January 22, 2018 | Assignment v. license | 23 | 35 |
| January 22, 2018 | forum shopping | 99 | 109 |
| January 24, 2018 | Jurisdiction | 109 | 109 |
| January 24, 2018 | Subject matter | 109 | 109 |
| January 24, 2018 | Personal | 109 | 129 |
| January 29, 2018 | Venue - TWEN | 1 | 10 |
| January 31, 2018 | Complaint | 157 | 177 |
| February 5, 2018 | Answer, motion, counterclaims | 177 | 186 |
| February 5, 2018 | Scope | 193 | 205 |
| February 12, 2018 | Discovery mechanisms | 205 | 212 |
| February 12, 2018 | Planning for Discovery | 223 | 228 |
| February 12, 2018 | Opposing discovery - 1 | 228 | 231 |
| February 14, 2018 | Opposing discovery - 2 | 231 | 253 |
| February 26, 2018 | Inventors | 267 | 268 |
| February 26, 2018 | Selection of experts | 268 | 269 |
| February 26, 2018 | Technical Experts | 269 | 270 |
| February 26, 2018 | Damages Experts | 278 | 280 |
| February 26, 2018 | Discovery of experts' work | 280 | 286 |
| February 26, 2018 | Proper role of experts | 286 | 293 |
| March 5, 2018 | Dispositive motions | 293 | 302 |
| March 5, 2018 | Motions in limine | 302 | 302 |
| March 5, 2018 | Basic Concepts | 321 | 322 |
| March 12, 2018 | *Phillips v. AWH Corp* | 337 | 355 |
| March 19, 2018 | Canons of claim construction - 1 | 356 | 374 |
| March 21, 2018 | Canons of claim construction - 2 | 374 | 393 |
| March 26, 2018 | Literal | 405 | 412 |
| March 26, 2018 | DOE | 412 | 423 |
| April 2, 2018 | Acts constituting infringment | 423 | 427 |
| April 2, 2018 | All elements | 555 | 568 |
| April 4, 2018 | Prosecution History Estoppel | 568 | 594 |
| April 9, 2018 | Practicing the prior art | 594 | 606 |
| April 9, 2018 | Presumption | 639 | 642 |
| April 9, 2018 | Identifying prior art | 642 | 643 |
| April 9, 2018 | patentable subject matter | 643 | 649 |
| April 11, 2018 | Anticipation - Pt 1 | 649 | 663 |
| April 16, 2018 | Anticipation - Pt 2 | 663 | 680 |
| April 18, 2018 | Obviousness - 1 | 698 | 716 |
| April 18, 2018 | Obviousness - 2 | 716 | 729 |
| April 23, 2018 | Enablement | 729 | 740 |
| April 23, 2018 | Definiteness | 760 | 760 |
| April 23, 2018 | Nautilus v. Biosig (TWEN) | 1 | 10 |

Drafting-Related Assignments

|  |  |  |
| --- | --- | --- |
| **Assignment Due** | **Weight** | **Due Date** |
| Read patent and case background (TWEN) |  | January 24, 2018 |
| Read file history (TWEN) |  | January 31, 2018 |
| Read prior art (TWEN) and draft caption | 1% | February 7, 2018 |
| Complaint | 8% | February 14, 2018 |
| Answer | 8% | February 21, 2018 |
| Interrogatories | 8% | February 28, 2018 |
| Response to Interrogatories | 8% | March 7, 2018 |
| Discovery Demand Letter | 5% | March 14, 2018 |
| Response Letter & Meet and Confer | 7% | March 28, 2018 |
| Letter Brief | 10% | April 4, 2018 |
| Response Letter Brief | 10% | April 11, 2018 |
| Hearing | 10% | April 18, 2018 |
| Motion and Brief for Summary Judgment | 25% | May 6, 2018 |

1. The irony of putting this in the syllabus is not lost on me, but the Administration requests that I put my first assignments in my syllabus. [↑](#footnote-ref-1)