

IP Law of China

Department: Fudan International Summer Session

Course Code			
Course Title	IP Law of China		
Credit	2	Credit Hours	36+3 (one credit hour is 45 minutes)
Course Nature	<input type="checkbox"/> Specific General Education Courses <input type="checkbox"/> Core Courses <input checked="" type="checkbox"/> General Education Elective Courses <input type="checkbox"/> Basic Courses in General Discipline <input type="checkbox"/> Professional Compulsory Courses <input type="checkbox"/> Professional Elective Courses <input type="checkbox"/> Others		
Course Objectives	<p>This course aims to provide an introduction of the fundamental concept and analytical tools in China's IP Law to international students at undergraduate level. This course aims to introduce and explain Chinese application of rule of/by law as legal philosophy, with case-analytical method, this course tries to reveal the acquisition, (management & exploitation, selective when time available) and protection of intellectual property rights (IPR in China), the implementation of IP System and their impacts upon doing business in China. The course covers following subjects: Copyright, Patent, Trade Mark, Trade Secret and Anti-Unfair Competition.</p>		
Course Description	<p>This course provides an introduction to China's Intellectual Property Law, and in-depth survey of Chinese Legal Tradition & Legal Philosophy on a historic-cultural analysis basis. The students will also learn the unspoken rules of cultural-genetic application of laws and regulations in China, helping international students a better understanding of Chinese legal culture as a part of business environment.</p> <p>With the focus on Copyright Law, Patent Law, Trade Mark Law and Legal Protection of Trade Secret, doctrine-hermeneutics and case-analysis will be applied in each part of the course. SME's IP strategy, the enforcement of IPR and Dispute settlement will be discussed in the class.</p> <p>Students shall get their scores based upon the performance of class and assignments, presentation(s), and the performance of final examination. The percentage of A scores (including A-) shall not exceed to 30% of total participants of the class.</p>		

Course Requirements:

The study of this course involves attending lectures, discussing key concepts and its real-life applications. Homework assignments are encouraged to be discussed in group(s) but completed independently. Students are also encouraged to read popular on-line/off-line press widely and observe related phenomena in real life and use what they have learnt in class to analyze them. Thus, students are all required to join a We-chat group for the updating reading materials and/or follow-up discussion(s).

Teaching Methods:

This course will provide an in-depth survey of Chinese Legal Tradition & Legal Philosophy on a historic-cultural analysis basis. The course will help international students a better understanding of Chinese legal culture as a part of business environment, the students will be learning not only from the legal texts but also from discovering the unspoken rules of cultural-genetic application of laws and regulations in China under the current transition.

Doctrine-hermeneutics and case-analysis will be applied in each part of the course.

Instructor's Academic Background:

Prof. WANG Jun (James) jointed in our Law Faculty after he graduated from Peking University in 1985. He received his graduate studies on Civil Law & Civil Procedure at Fudan University between 2001 and 2003. Prof. WANG has been working with colleagues at University of Konstanz as a visiting scholar and guest speaker of EMBA program in University of St. Gallen. He has been a registered lawyer since 1994, focusing on IP proceedings and civil litigations. He is also an arbitrator to the Arbitration Committee of Jing-Hua Municipality, Zhejiang Province.

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Course Schedule:

Tentative Course Schedule: (12 episodes, 3 hours each¹)

Episode 1 Introduction to China's Legal Tradition

- Formation of China's Legal Tradition
- Impacts of *Chinese Legalism*
- rule of law v. rule by law, white cat/black cat theory

Episode 2 IP Philosophy

- Absence & lack of property protection
- book-stealing is not a crime, etc.
- IP as a measure for development
- Chinese-logic of unfair dealing
- Case study: Doing Better Business like Tesla Super Factory

¹ For summer session of 2021.

- Episode 3 The Establishment of China's IP System**
- General Principles
 - Sources of IP Law, International Conventions, Treaties & Agreements
 - Historic approach of IP System of China
- Episode 4 Subject-Matter of Copyright**
- copyrightable formalities
 - criteria of originality
 - excluded objects, etc.
- Episode 5 Copyrights & Allied Rights**
- Ascription of Copyrights & Allied Rights
 - Legal Issue on internet (making available to the public)
 - Case Study: YouTube, We Chat, Tick Tock, etc.
- Episode 6 Copyright Infringement & Remedies**
- Public Policy & fair use
 - Actions for Infringement
 - Remedies, etc.
- Episode 7 Subject-Matter of Patent**
- Exclusion of Patent Application
 - Novelty, Inventive Step & Practical Applicability
 - Patent Proceedings
 - PCT extension
- Episode 8 Patent Infringements, Exemptions & Remedies**
- Patent infringements & Exemptions
 - Remedies
 - Industrial Design Protection
- Episode 9 Subject-Matters of Trade Mark**
- Voluntary/Compulsory Registration
 - Exclusions
 - Criteria of Significant Feature
 - Well-Known Mark Protection, etc.
- Episode 10 Trade Mark Proceedings and Remedies of Infringement**
- Registration, Revocation, Opposition
 - TM Territory Extension
 - Review at TRAB
 - Invalidation

- Likelihood of confusion, remedies of infringement

Episode 11 Legal Protection of Trade Secret and Trade Dress

- IPR Protection with Anti-Unfair Competition Law
- Trade Secret protection, a comparative study of Sino-US-EU
- Passing off and Trade Dress protection

Episode 12 Final Exam

The design of class discussion or exercise, practice, experience and so on:

Class Participation

There will be in-class quizzes, presentation(s), discussions, and/or other exercises each time class meets and if/when available online.

Homework Assignments

There will be no less than **two** off-line homework assignments and **one** presentation for each registered student throughout the summer session. Homework assignments will be comprised of mini-papers and case analyses (legal-battle workshops based upon group cooperation) . The purpose of homework is to get knowledge and skills so that to better prepare not only for the tests, but also a preparation for real practice. Students are encouraged to work in groups, but should write up their own answers. Assignments are due at the beginning of the mid-week class. Please be sure to staple the pages together before you hand it in, while the PDF files of assignments should also be submitted at e-learning platform for school records. Late homework may be accepted with certain penalty on the due date, beyond which there will be more penalty for each additional day.

Presentation(s)

Students are encouraged to apply their presentation(s) into legal-battle workshops either in class or in one of the field trips. When the amount of participants is over 30 in the class, presentation(s) shall be made upon group-work basis.

Filed trip(s)

Course topic related field trip(s) is on the list of course activities, on the condition of the class scale, at the students' ex-curriculum availability.

Test & Exam(s)

The final exam is an off-line open notes and books test, in paper-printing form, but participants are NOT allowed to use laptop, iPad, smartphone, etc. to get instant access to internet during the test. Final exam will be comprised of multiple choices, short answer questions, and/or case analyses.

Final exam's open-close policy may change based upon majority voting of the class.

Make-Up Exam

There will be no make-up exam.

Grading & Evaluation:

Class Participation	20%
Completion of Assignments	30%
Presentation(s)	20%
Final Exam	30%

When there are more than 10 students in the class, the percentage of A scores (including A-) shall not exceed to 30% of total enrolled participants of the class.

Teaching Materials & References (Including Author, Title, Publisher and Publishing time):

Textbook(s):

- [*Protection of Intellectual Property Right in China*](#)², by Si Wei-Jiang, Zhan Yi & others, 2009, Law Press
- *China Court Cases on Intellectual Property Rights*, by Zhou Lin, 2011, Wolters Kluwer
- *Legal texts of Copyright Law, Patent Law, Trade Mark Law, Anti-Unfair Competition Law*

Supplementary Materials:

- *Annual Reports on Intellectual Property Cases of the Supreme People's Court*, by the IP Division of the Supreme People's Court, 2017, China Legal Publishing House
- *Leading Court Cases on Chinese Intellectual Property*, by Zheng Shen-li, Marina Timoteo 2011, Intellectual Property Publishing House

² A digital duplication of this book is available at the University Library, access approved only for registered students