

**University of Houston Law Center**

**Spring 2018 Course Syllabus**

**Procedure for Patent Litigation - 5:30 - 7:30 PM (Tuesday)**

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Office Hours: With respect to office hours, please email us and we can arrange to meet you the following Tuesday either before or after class.

Materials: Kimberly A. Moore et al. Patent Litigation and Strategy (4th ed. 2013). Additional materials will be provided separately.

**I. Overview of Course**

- A.** The Course will focus on how to litigate a patent case in a district court and the relationship of the district court and Federal Circuit in patent litigation. In particular, the course will examine a hypothetical patent case from the pleadings all the way up through Markman and to Trial and focuses on the hands-on issues that patent lawyers face in their day to day preparation.
- B.** The goal is to provide the students with an overall process for how a patent case is conducted all the way through trial.
- C.** The course will also require students to draft documents that are typically used in patent litigation.

**II. Assignments**

- A.** The assignments for each week are noted below. Additional materials will be identified as needed and will include patents and related files, as well as additional cases.

**III. Grading and Evaluation**

- A.** Drafting of Materials - these assignments will count towards your final grade. These documents will be based on an actual patent dispute.
  - 1.** Preparing a complaint and answer - 20%
  - 2.** Drafting discovery - 20%
  - 3.** Drafting claim charts - 25%

**4. Preparing a section for a claim construction brief - 35%**

- B.** Assignments must be turned in at the beginning of class that day. Please do not email assignments without prior permission. Emailing assignments is an exception and will require a “good” excuse.
- C.** Grading will be based on quality of work-product, thoroughness, attention to detail, and further explained in instructions for each assignment.

**IV. Attendance Policy**

- A.** The Law Center has an 80% attendance policy. There will be a sign in sheet at the beginning of each class. Please sign in to the roll sheet. Note, however, that you are responsible for keeping a track of your attendance and meeting the 80% attendance policy.

**V. Miscellaneous**

- A.** Computer use is allowed for taking notes.
- B.** Internet use that is not related to class is not allowed.

## **January 16, 2018**

Week 1: Introduction to structure of course

No reading assigned

## **January 23, 2018**

Week 2: Jurisdiction, Venue, Impact of Patent Reform

23-24; 56-63 (*MedImmune v. Genentech*); Review problems 1-2 on pages 95-97; 109-110; 129-130; 136-143 (*In re TS Tech*); *In re Genentech*, 566 F.3d 1388 (Fed. Cir. 2009); 145-151 (*In re EMC Corp.*); America Invents Act (Joinder Provision, 35 U.S.C. 299); *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 137 S. Ct. 1514 (2017).

## **January 30, 2018 (Assignment 1 will be assigned via email after class)**

Week 3: Pleadings

157-186

## **February 6, 2018**

Week 4: Discovery - Initial Decisions

205-223

## **February 13, 2018 (Assignment 1 due; Assignment 2 will be assigned via email after class)**

Week 5: Discovery - Additional Considerations

## **February 20, 2018**

Week 6: Infringement Considerations.

405-407, 423-433, 443-452, 555-568; *Limelight Networks v. Akamai Technologies*, 134 S. Ct. 2111 (2014); *Akamai Techs. v. Limelight Networks, Inc.*, 797 F.3d 1020 (Fed. Cir. 2015); *Promega Corp. v. Life Technologies Corp.*, 773 F.3d 1338 (Fed. Cir. 2014); *Carnegie Mellon University v. Marvell*, 807 F.3d 1283 (Fed. Cir. 2015); *Halo Electronics, Inc. v. Pulse Electronics, Inc.*, 136 S. Ct. 1923 (2016).

## **February 27, 2018 (Assignment 2 due; Assignment 3 will be assigned via email after class)**

Week 7: Invalidity Considerations

639-649, 698-717; *Alice Corp. v. CLS Bank*, 134 S.Ct. 2347 (2014)

## **March 6, 2018**

Week 8: Inter Partes Review and Experts

267-271, 280-286, 290-292, 1111-1114, 1119-1132, 1145-1152; *Cuozzo Speed Technologies, LLC v. Lee*, 136 S.Ct. 2131 (2016); Supreme Court decisions to be added.

## **Week of March 12 - 16 (Spring Break)**

## **March 20, 2018 (Assignment 3 due)**

Week 9: Claim construction

337-393 and *O2 Micro Intern. v. Beyond Innovation Tech.*, 521 F.3d 1351 (Fed. Cir. 2008); *Parallel Networks, LLC v. Abercrombie & Fitch*, 2011 WL 3609292 (E.D. Tex. Aug. 12, 2011)

## **March 27, 2018 (Assignment 4 will be assigned via email after class)**

Week 10: Markman

## **April 3, 2018**

Week 11: Preparation for close of discovery and trial

293-320, 992-996

## **April 10, 2018**

Week 12: Trial and Damages:

1039-1040, 1058-1064, 931-947, 959-981; *ResQNet.com v Lansa*, 594 F.3d 860 (Fed. Cir. 2010); *Uniloc USA, Inc. v. Microsoft Corp.*, 632 F.3d 1292 (Fed. Cir. 2011); *In re MSTG*, 675 F.3d 1337 (Fed. Cir. 2012); *LaserDynamics v. Quanta*, 694 F.3d 51 (Fed. Cir. 2012); *VirnetX, Inc. v. Cisco Sys., Inc.*, 767 F.3d 1308 (Fed. Cir. 2014); *Ericsson, Inc. v. D-Link Sys., Inc.*, 773 F.3d 1201 (Fed. Cir. 2014); *CSIRO v. Cisco*, 809 F.3d 1295 (Fed. Cir. 2015); *Summit 6 v. Samsung*, 802 F.3d 1283 (Fed. Cir. 2015); *Apple Inc. v. Samsung Electronics Co., Ltd.*, 786 F.3d 983 (Fed. Cir. 2015); *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 136 S.Ct. 1923 (2016).

## **April 17, 2018 (Assignment 4 due)**

Week 13: Appeals & Other Related Topics

1097-1110

## **April 24, 2018 (Last class)**

Week 14: Guest Speaker - No assigned reading.