University of Houston Law Center Spring 2018 Course Syllabus 5297 Patent Post Grant Proceedings—7:30–9:30 pm (Tue)

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Office Students may arrange to meet on-campus before or after the

Hours next class by email request.

Materials Students will be provided with a packet of edited case law and

discussion relevant to, and in advance of, the following weeks' lectures. Additionally, a list of free electronic references to various relevant statutes, rules, and other PTAB resources will

be provided (hard copies not required).

Additional Provisions have been made to provide students with free full-

Resources access accounts to a post-grant proceeding legal research service.

Course Overview This course is designed to be an "experiential" course, whereby the class will simulate interaction with a client that has been sued for patent infringement in federal district court and is looking to the student-lawyer for advice regarding the filing of a post grant proceeding ("PGP") and additional issues that arise during the PGP. A series of facts and circumstances devised by the professors will be provided as the course progresses, along with client-questions, and the students will prepare short, focused, memoranda and an oral presentation to the client in response. The classroom instructional component will give a framework of PGP rules and law, facilitating further research to answer the given questions.

Prerequisites

The class assumes a general familiarity with substantive patent law which may be obtained via 5201 Patent IP Survey, 5332 Patent Law, 6393 Patent Remedies & Defenses, or other exposure (for example, through work experience).

Grading and Evaluation

The final grade will consist of three written memoranda assignments (2500 words or less), each worth 30%, and an oral presentation (10 minutes or less), worth 10%. Grading will consist of the sum of the grades given on each assignment and presentation, and will be mapped to the UH four-point grading scale using the mandatory curve. Grading will be based on quality of work-product, thoroughness, and attention to detail.

Computer Use

Computer use is allowed for taking notes and class participation.

Attendance Policy

The Law Center has an 80% attendance policy. There will be a sign-in sheet at the beginning of each class for documentary purposes; however, students are ultimately responsible for keeping track of attendance and satisfying the Law Center's attendance policy.

CAPS Notice

Counseling and Psychological Services ("CAPS") can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html

OUTLINE¹

Week 1 (Jan. 16, 2018): Overview and Applicability of the Post-Grant Proceedings

- Historical Context
- PGP Role in Patent Statutory Scheme
- Comparison of Types of PGPs

Week 2 (Jan. 23, 2018): Applicability of the Post-Grant Proceedings Continued; PTAB Legal Research

[Assignment 1 Assigned]

- Comparison of Types of PGPs Continued
- Litigation, in Light of
- Researching PTAB Case Law

Week 3 (Jan. 30, 2018): Overview of Proceeding, Participation, Petition Introduction

- Overview of Proceeding
- Participation
- Petition Introduction

Week 4 (Jan. 30, 2018): Petition Contents

• Petition Contents

Week 5 (Feb. 13, 2018): Protective Orders; Claim Construction

- Filing Under Seal
- Claim Construction
- Examiner Deference

As an inaugural class, the outline is tentative and may be adjusted before and during the semester.

Week 6 (Feb. 20, 2018): Early Termination & Stays

[Assignment 1 Due; Assignment 2 Assigned]

- Early Conclusion
- Staying Proceeding

Week 7 (Feb. 27, 2018): Discovery/Evidence

• Discovery/Evidence

Spring Break (Mar. 6, 2018)

Week 8 (Mar. 13, 2018): Initial Disclosures; Preliminary Response; Supplemental Briefing

- Initial Disclosures
- Preliminary Response
- Additional Briefing

Week 9 (Mar. 20, 2018): Institution; Joinder

[Assignment 2 Due; Assignment 3 Assigned]

- Institution
- Joinder

Week 10 (Mar. 27, 2018): Rehearing; Formal Response

- Motions for Rehearing
- Formal Response

Week 11 (Apr. 3, 2018): Amending Claims

• Amending Claims

Week 12 (Apr. 10, 2018): Reply; Observations and Misc. Motions

- Reply
- Observations on Testimony

• Motions, Other than as of Right

Week 13 (Apr. 17, 2018): Oral Hearing; Final Written Decision; Appeal [Assignment 3 Due]

• Oral Hearing

Week 14 (Apr. 24, 2018): Resolution of the Proceeding

- Final Written Decision
- Appeal