

University of Houston Law Center

Spring 2020 Course Syllabus

5227 Procedure for Patent Litigation - 5:30 - 7:30 PM (Tuesday)

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

Materials: Kimberly A. Moore et al. Patent Litigation and Strategy (5th ed. 2018). 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.** Notice letter and response – 20%
 - 2.** Preparing a complaint and answer - 20%
 - 3.** Drafting claim charts - 25%

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

- B. Because your grading will be based on the above assignments, there will not be a final exam.
- C. 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.
- D. 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. **Counseling and Psychological Services (CAPS):** 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. See: http://www.uh.edu/caps/outreach/lets_talk.html.

VI. Miscellaneous

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

January 14, 2020

Week 1: Introduction to structure of course

No reading assigned

January 21, 2020

Week 2: Jurisdiction, Venue, Impact of Patent Reform

89-96; Review notes 3-6 on 109-111; 115-137; *TC Heartland, LLC v. Kraft Foods Group Brands, LLC*, 137 S. Ct. 1514 (2017); *In re Cray Inc.*, 871 F.3d 1355, 1361 (Fed. Cir. 2017); *Seven Networks LLC v. Google LLC*, 2018 WL 3634589 (E.D. Tex. Jul. 19, 2018).

January 28, 2020 (Assignment 1 will be assigned via email after class)

Week 3: Pleadings

143-169

February 4, 2020

Week 4: Discovery – Initial Considerations

185-190, 198-217

February 11, 2020 (Assignment 1 due; Assignment 2 will be assigned via email after class)

Week 5: Discovery - Additional Considerations

No additional reading

February 18, 2020

Week 6: Infringement Considerations

395-403, 413-424, 431-434, Note 2 on 435-436, 436-446, *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 25, 2020 (Assignment 2 due; Assignment 3 will be assigned via email after class)

Week 7: Invalidity Considerations

621-651, 688-700, 703-704, 709-726, 756-762

March 3, 2020

Week 8: Inter Partes Review and Experts

263-266, 273-282, 1085-1105, 1119-1129; *Oil States Energy Services, LLC v. Greene's Energy Group, LLC*, 584 U.S. ____ (2018); *SAS Institute Inc. v. Iancu*, 584 U.S. ____ (2018).

Week of March 9 - 14 (Spring Break)

March 17, 2020 (Assignment 3 due)

Week 9: Claim construction

317-330 (through *Parallel Networks, LLC v. Abercrombie & Fitch*, 2011 WL 3609292 (E.D. Tex. Aug. 12, 2011) discussion), 334- 383

March 24, 2020 (Assignment 4 will be assigned via email after class)

Week 10: Markman

March 31, 2020

Week 11: Preparation for close of discovery and trial

289-309

April 7, 2020

Week 12: Trial and Damages:

905-918, 931-952, Notes 8, 9 & 10 on 955-961, Notes 12, 13 & 14 on 963-965, 966-982; 983-990, *CSIRO v. Cisco*, 809 F.3d 1295 (Fed. Cir. 2015); *Summit 6 v. Samsung*, 802 F.3d 1283 (Fed. Cir. 2015); *Exmark Mfg. Co. Inc. v. Briggs & Stratton Power Prod. Grp., LLC*, 879 F.3d 1332 (Fed. Cir. 2018); *Finjan, Inc. v. Blue Coat Sys., Inc.*, 879 F.3d 1299 (Fed. Cir. 2018).

April 14, 2020 (Assignment 4 due)

Week 13: Appeals & Other Related Topics

1038-1041, 1069-1082

April 21, 2020 (Last class)

Week 14: Guest Speaker

TBD