The Intellectual Property Student Organization (IPSO) & The Institute for Intellectual Property & Information Law present

Law School Course & Exam Preparation (particularly for the 1L year)

by

Greg R. Vetter
Associate Professor of Law, University of Houston Law Center (UHLC)
Co-Director, Institute for Intellectual Property & Information Law, UHLC
Office: (713) 743-3596 • Cell: (713) 213-0360
e-mail: gvetter@uh.edu • web site: www.law.uh.edu/faculty/gvetter

Friday, September 5, 2008
noon – 1:30 p.m.
209 BLB

Approach

1. Law School as a professional development step
2. The need for a feedback loop
3. Class time
4. Study time
5. Closing the feedback loop
6. For persons of an Engineering, Scientific and Technology (ES&T) background
   A. (potentially) inaccurate assumptions
   B. common pitfalls
   C. using your assets
7. Conclusion & group discussion
1. Law School as a professional development step

Daily Activity Satisfaction Mix
Trajectory and Skill/Knowledge Building

Many factors

pre.LawSchool  Law School  post.LawSchool

Attitude  Skills  Knowledge

Dominate factor  Only factor

Prof. Greg R. Vetter, Sept. 2008

Getting in . . .
Resources for once you are in

Resources from the Law Center

Vetter Licensing Course Final Exam Web Page

Here is a document about how to write answers for my course and some information about how I evaluate those answers. There may be references to this document during the Fall 2005 "post-season."

"Old" exam material from my other courses at UHLC.

There are no prior exams for this course. However, the exam will be similar to the exams in IP Survey and International IP.

IP Survey Examinations
See this link.
More resources . . .

Lawyering . . . litigation & transactions & . . .
Law school and the developing professional

The Hidden Sources of LAW SCHOOL STRESS

Avoiding The Mistakes That Create Unhappy and Improfessional Lawyers

Lawrence S. Kriger

2. The need for a feedback loop

- Commonly advised techniques predominately focus on Knowledge
- How do you build the Skills for the exam event itself?
3. Class Time

Class Time

- Value of class time depends on efficacy of pre-class preparations
- It is unlikely one will do really well (as to grades) without nearly full attendance
- Highest use is to gain increasingly nuanced understanding of:
  - Intricacies of the doctrine in different contexts and fact situations; and
  - overall (layered) structure of the doctrine (and underlying policy when that will be tested)
4. Study Time

- **Pre-Class**
  - Briefing (as long as necessary to learn new “reading” skills; may apply in 2L or 3L year for statutes)
  - Outlining (see Moll video)
  - Other possibilities, if they bring value in closing the feedback loop
    - Study group discussion
    - Cross-checking in commercial outlines
    - Supplements such as treatises, restatements, or summary works
    - (typically disfavored) Law Review Articles, i.e., article-length legal scholarship treatment of topics

- **Post-Class**
  - Outlining (see Moll video)
  - Other possibilities as you find them valuable (see above)
  - Immediate post-class notes review, perhaps begin aggregation/summary process
  - Closing the feedback loop
5. Closing the feedback loop: generally

- Scout out the exam answer-writing experience with multiple, increasingly nearly-complete simulations
  “complete” means complete in every possible way as to time, place, manner and environs

<table>
<thead>
<tr>
<th>Key:</th>
<th>Simulation #.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exam Example ?</td>
<td>{ work <strong>part</strong> of it, or <strong>most</strong> of it, or <strong>all</strong> of it }</td>
</tr>
</tbody>
</table>

Using the feedback: writing the exam answer

As I graded my exams for the past semester, I noticed that a troubling number of students wrote very sparse, single-path essay answers that did not consider alternative analyses, show foundational connections, or recognize and explain why one principle and not another applied. This was particularly distressing because their low-scoring answers often offered a sparse, but reasonable solution to the fact situation presented in the exam. It was clear that some students knew the material, but fell far short of building an answer from accepted contract doctrine, identifying alternatives, and discussing multiple analyses of the question that would display the thought processes by which their single-path answer was produced.

When I discussed last semester’s results with several students, I learned that they had been advised that they should spend 1/3 of the allotted time reading the question, 1/3 of the time outlining an answer, and 1/3 of the time writing.

This may be good advice if one is writing for a professor who views law as a black letter or Restatement exercise, with simple analyses and answers. It is probably quite good advice for someone with a cognitive deficiency who requires additional time to process and organize information. We allow additional time for such students who identify themselves. Whatever the limited value of the 1/3-1/3-1/3 formula for some students, it was disastrous when applied to my exam. My essay questions can be read and reasonably understood in five or ten minutes. A student who spent twenty minutes out of an hour reading and re-reading the question would waste valuable time that could otherwise be spent putting points down on a paper that would produce a top grade. Jotting down a few points on the first reading of the essay question is probably useful to provide a check list to be sure the points are covered in the essay answer. But spending another twenty minutes of exam time outlining before starting to write both wastes an enormous amount of time and tends to make the answer too sparse. While making a complete outline, a student is likely to mentally screen out alternatives that would best be identified, discussed, and then eliminated in the exam answer itself, on paper so I can see the analysis. The student who creates a detailed outline is likely to screen out point-getting alternatives, and the final answer now has to be hastily drafted from the outline, and it will be likewise deficient. The product of a fully outlined answer is likely to be just what I got on several papers—an answer that works like an electrical circuit in lighting up a bulb, but that offers only one way to solve the problem. But what could you expect from only twenty minutes of writing out of an allotted hour? Cost is not a likely reward.

(continued next slide)
Using the feedback: writing the exam answer

(continued from prior slide)

I think the best essay is one that addresses points that are presented in the question, and it is likely to be written by a student who uses his or her brain and writing hand as a unified processing device that applies the doctrine, policies, and approaches covered in class, identifies and distinguishes different ways of treating the issue, and displays that very process of thought on the paper so we can trace the reasoning process itself. Conclusions and single path analyses are not worth much when compared with exams that provide explicit responses to the varied law, fact, and policy issues, along with the contradictions that I put into the question to be identified and dealt with. I recognize the danger of too much parenting of capable, intelligent students, so I seldom offer much advice on exam writing. If I do, I am likely to advise that students use whatever method they find most natural. This advice isn’t worth much to a student who has yet to take a law exam, but most understand when I tell them that one way many have found effective is to record their stream of consciousness as they work through the exam question’s statement of facts and produce appropriate legal analysis from their own brains. The very process of writing on an issue is likely to create additional ideas that add to the quality of an exam answer, so too much outlining is positively dangerous. I think none of us grades on word count or length alone. But the top essay in my fall semester class ran fourteen typed and tightly reasoned pages in answering 120 minutes worth of questions. It takes more than forty minutes for most of us write fourteen pages.

Using the feedback: writing the exam answer

- What to do depends on the scouting trips
- Adjust your Study Time activity based on feedback from scouting trips

Apply the facts from the examination question. Don’t spend time merely telling the story back to the professor. This has no opportunity and is unnecessary. In essence, one can “map” one’s comprehension of the proper law and the relevant facts into an integrated sequence that demonstrates mastery over both. For example:

The prior art reference to Smith raises a novelty/inventorship issue for claim 1 because Smith probably has all the elements of claim 1. Arguing on whether the described member in Smith meets the “inhibited” element is claim 1. The other elements of claim 1 clearly rest on Smith, the only claim question being the means for controlling. As to the “inhibited” element, . . . As to the means for controlling. This formulation communicates the key facts on which the issue turns, and also communicates the essence of the novelty/inventorship test. Another sentence or two may be necessary to round out the law and facts, but a surprising number of points can be scored with a small number of words using this approach in the exam.
6. For ES&T persons

- (potentially) inaccurate assumptions
  - My writing isn’t good enough
  - Lack of liberal arts background is a disadvantage

- common pitfalls
  - Failure to recognize the “looseness” of the logic within the system of law
  - No “common knowledge”; contextual vocabulary; contextual system of rules
  - No one right answer (“Getting to Maybe”)
  - Importance (for understanding) and lack of importance of procedural knowledge in particular situations
  - Overfocus on details at the wrong time or of the wrong type

- using your assets
  - Learning to apply analytic skills to the comparatively loose logic of the law
  - Analogies to whatever system of structure you learned as ES&T person to the system of law
  - Leverage your learning style

7. Conclusion

- Questions . . .

and

- Discussion . . .