

Syllabus – Intellectual Property Survey

Spring 2023
Prof. Robinson

Course No: 5201

Section No.: 17962

Class Meeting Time: W 5:30-7:30

Professor: Erick Robinson

Email: erobinson@spencerfane.com

Phone: (713) 498-6047 (this is my business cell – please do not abuse it; I prefer initial contact via email to set up a call/Zoom)

Room: TBA

Office Hours: email me to schedule appointments

This is an **in-person class** throughout the semester.

For my bio, see below:

- <https://www.spencerfane.com/attorney/erick-robinson/>
- <https://www.linkedin.com/in/erickrobinson>

Required Text:

Ned Snow, Intellectual Property: A Survey of the Law (2nd Ed. 2020)

ISBN 978-1-5310-1833-7

e-ISBN 978-1-5310-1834-4

LCCN 2019953321gma

Other readings will come from cases or articles that you should be able to easily find on Westlaw/Lexis or online. Weekly Readings and Assignments Will Be Posted in Advance

Learning outcomes:

Students will be learn the basics of intellectual property law, including patent, copyright, trademark, and trade secrets. Readings will be split roughly equally between these four topics. Given the nature of the class, none of these will be covered in exhaustive detail, but the student will learn the main purposes and features of each, their similarities and differences, etc. A technical background is not required and is not particularly necessary or relevant.

This class should provide a useful background to students who do not plan the thoroughly study or practice any area of IP law, but will also provide a foundation for student who do proceed further in their study of intellectual property.

Grading:

Your grade will be based primarily on an in-class open-materials final examination to be administered during the Law Center scheduled examination period for this class. Open-materials means any non-interactive materials prepared by you and/or others. I reserve the discretion to adjust your grade up or down by a third of a letter grade to reflect course attendance, preparation, and performance.

Class Attendance and Discussion:

Attendance will be taken and is mandatory to the extent required by UHLC policy. Reading assignments will be posted online in advance.

CAPS: 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

The Texas Lawyers' Assistance Program (“TLAP”) also supports law students who are dealing with stress, anxiety, depression, substance abuse, and other mental health problems. You can reach TLAP at any time at 1-800-343-8527. TLAP's website includes a page with links to sources about mental health that are of interest to law students:

<https://www.tlaphelps.org/law-students>

Diversity, Inclusion, and Wellness: This is an inclusive learning space. At UHLC, we are committed to ensuring inclusive online and classroom learning spaces, where you'll be treated with respect and dignity, and where everyone is provided the equitable opportunity to participate, to contribute, and to succeed. In this course, all students are welcome regardless of socio-economic status, age, race, ethnicity, disability, religion, national origin, veteran's status, sex, sexual orientation, gender identity, gender expression, political affiliation, marital status and other diverse identities that we each bring to class. Our class is richer for this diversity. Inclusive learning spaces facilitate the innovation and creative thought that enhance student success. This success arises from the participation, support, and understanding of you and your colleagues. I encourage you to speak up and to share your views, but also understand that you are doing so in a learning environment in which we're all expected to engage respectfully and with regard to the dignity of all others. If you feel like your class performance is impacted in any way by your experiences inside or outside of class, please reach out to me. I want to be a resource for you. If you feel more comfortable speaking with someone besides me, Student Services is an excellent resource: 713-743-2182. Finally, I encourage you to bring any issues negatively impacting UHLC's openness to diversity and inclusion to the Law Center's Diversity and Inclusion committee. The D&I committee's charge includes “[building] on the Law Center's strengths as a diverse and inclusive environment.” You can contact the committee directly at UHLCD&I@uh.edu. Your suggestions are encouraged and appreciated. Please let me know ways to improve the effectiveness of this course for you personally, or for other students or student groups.

Accessibility and Accommodations: UHLC is committed to ensuring that all students enjoy equal access and full participation. If you anticipate or experience barriers based on a disability (including any chronic or temporary medical or mental health condition), please feel free to reach out to me so that we may discuss options. If you require any

support services, you may contact Ms. Samantha Ary, Academic Records Coordinator. Ms. Ary is located in room 44A TU-II in the Office of Student Services suite, and she can be reached at sary@central.uh.edu or 713-743-7466. Requests for accommodation that involve graded assignments must be directed to Ms. Ary and should be made as soon as possible to allow adequate time to document and to process the request. If you observe religious or cultural holidays that will coincide with synchronous class sessions or conferences, please let me know as soon as possible, so that we may make arrangements.

UHLC Honor Code: The UHLC Honor Code applies to all aspects of my class. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please ask me if you have any questions regarding how the Honor Code's provisions apply to specific activities or situations related to my course. It is an Honor Code violation to review any graded assignments distributed to, or written by, any of my students from prior years.

Anti-Discrimination and Sexual Misconduct Policies: UHLC and the University of Houston are committed to maintaining and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, a confidential reporting process is available to you. For more information, please refer to the University System's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08.

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty and other University employees are required to report to the University any information received regarding sexual misconduct as defined in the policy. Due to this reporting requirement, faculty members and other employees are not a confidential resource. The reporting obligations under the sexual misconduct policy extends to alleged conduct by University employees and students.

Other UH Resources:

- Diversity and Inclusion Statement

- Non-Discrimination Statement
- Center for Diversity and Inclusion
- Center for Students with DisABILITIES
- LGBTQ Resource Center
- Cougars in Recovery
- Counseling and Psychological Services (see Section XIII)
- Veterans Services
- Cougar Cupboard
- CoogsCare (student assistance resources)
- DACA: What You Need to Know
- Student Health Center
- Wellness

Recording of Class: Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Center for Students with Disabilities . If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor’s recordings for their own studying and notetaking. Instructor’s recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Syllabus Changes: Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Such modifications may include changes to the mode(s) of assessment for the course. Notice of such changes will be announced as quickly as possible through (specify how students will be notified of changes).

Helpful Information:

- COVID-19 Updates: <https://uh.edu/covid-19/>
- Coogs Care: <https://www.uh.edu/dsaes/coogscare/>
- Laptop Checkout Requests:
<https://www.uh.edu/infotech/about/planning/offcampus/index.php#do-you-need-a-laptop>
- Health FAQs: <https://uh.edu/covid-19/faq/health-wellness-prevention-faqs/>
- Student Health Center: <https://uh.edu/class/english/lcc/current-students/student-healthcenter/index.php>

Schedule:

<u>Topic(s)</u>	<u>Readings</u> (all readings from Ned Snow, IP: A Survey of the Law, 2E unless otherwise noted) Note: For all chapters assigned, review the “Key Concepts” at the end of each chapter, regardless of whether they are specifically assigned. These will help in your review of concepts as the semester moves on.
IP Overview	<ul style="list-style-type: none"> • pp. 3-15; • US Patent & Trademark Office (USPTO) overview of Intellectual Property (IP) available at https://erickrobinson.com/IPOverview; • McKinsey discussion paper including the audio recording at https://erickrobinson.com/IntangibleAssets

	<ul style="list-style-type: none"> • “Patent Trolls as Financial Intermediaries? Experimental Evidence” by Stanford Profs. Haber and Werfel at https://erickrobinson.com/HaberTrolls
Trademark	
Intro & Distinctiveness:	17-60
Trade Dress (Secondary Meaning)	65-83
Trade Dress (Functionality)	84-95
Use in Commerce & Registration	99-101, 111, 121-124, 129-131
Infringement (Use in Commerce & Consumer Confusion)	143-176
Types of Confusion	177-195
Contributory Infringement & Dilution	196-216
Defenses	233-252
Copyright	
Intro, Originality, & Fixation	311-329
Categories, Ideas, & Useful Articles	349-364, 372-383
Ownership	387-396, 404-412, 417-418
Reproduction & Derivative Works	423-442
Distribution	449-466 (omit Importation Right)
Public Display & Public Performance	475-490
Infringement	495-497, 504-519
Defenses & Remedies	529-550, 563
Open Source/CopyLeft	None
Patent	
Intro & Subject Matter	599-637
Disclosure	641-674
Claims	675-687
Novelty (Statutory Rules)	691-699
Meaning of Terms	700-728
Experimental Use Exception & Priority	729-744
Non-Obviousness & Utility	749-775
Infringement (Literal & DOE)	779-799

Indirect Infringement	800-812
Defenses & Remedies:	819-834
Design Patents	834-839
Patent Statutes	843-848
Trade Secret	
Intro & Subject Matter	849-861
Efforts at Secrecy	862-872
Role of Contract	873-892
Misappropriation	893-909
Defenses & Remedies	911-929