

University of Houston Law Center

Spring 2024 Course Syllabus

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

Room: TBD

Ali Dhanani	Steve Maule	Bryce Barcelo
281.250.2294	281.546.6882	713.398.4159
ali.dhanani@bakerbotts.com	steve.maule@bakerbotts.com	btbarcelo@protonmail.com

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

Materials: Kimberly A. Moore et al. Patent Litigation and Strategy (5th ed. 2018) (“Moore Textbook”). Additional materials will be provided separately. If you’ve not already purchased your textbook, a 15% discount is available from www.westacademic.com using this code upon checkout: WAHOUSTON.

I. Overview of Course

- A. Learning Objectives: 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. Goals: The goal is to provide the students with an overall process for how a patent case is conducted from prior to filing of the complaint all the way through trial. The course will also require students to draft documents that are typically used in patent litigation.
- C. Instructional Mode (IM): This course is designated as a face-to-face course, which means classes are in person by default, but designated classes may occasionally be held as remote classes to accommodate other scheduling needs or other unforeseen circumstances.

II. Assignments

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 per any further 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 the roll sheet. Note, however, that you are responsible for keeping a track of your attendance and meeting the 80% attendance policy.
- B.** Regular class attendance, participation, and engagement in coursework are important contributors to student success. Absences may be excused as provided in the University of Houston Undergraduate Excused Absence Policy and Graduate Excused Absence Policy for reasons including: medical illness of student or close relative, death of a close family member, legal or government proceeding that a student is obligated to attend, recognized professional and educational activities where the student is presenting, and University-sponsored activity or athletic competition. Under these policies, students with excused absences will be provided with an opportunity to make up any quiz, exam or other work that contributes to the course grade or a satisfactory alternative. Please read the full policy for details regarding reasons for excused absences, the approval process, and extended absences. Additional policies address absences related to military service, religious holy days, pregnancy and related conditions, and disability.

V. Miscellaneous

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

VI. 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: <https://www.uh.edu/caps/outreach/lets-talk/v>.

VII. Sexual Misconduct Policy

The University is 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, there is a confidential reporting process 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, available here:

- <http://www.uhsystem.edu/compliance-ethics/uhs-policies/sams/01-general-information/index.php>
- http://www.uhsystem.edu/compliance-ethics/_docs/sam/01/1d7.pdf (antidiscrimination)
- http://www.uhsystem.edu/compliance-ethics/_docs/sam/01/1d8.pdf (sexual misconduct)

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

VIII. Names and Pronouns

Chosen names and preferred pronouns (including non-binary ones such as they/them/their) must be respected in my classroom. Please feel free to reach out to me at any time if you want to make me aware of your chosen name or preferred pronoun, or if you have concerns about how I or your classmates address you.

IX. Reasonable Academic Adjustments/Auxiliary Aids

The University of Houston complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, pertaining to the provision of reasonable academic adjustments/auxiliary aids for disabled students. In accordance with Section 504 and ADA guidelines, UH strives to provide reasonable academic adjustments/auxiliary aids to students who request and require them. If you believe that you have a disability requiring an academic adjustments/auxiliary aid, please contact the Justin Dart Jr. Student Accessibility Center (formerly the Justin Dart, Jr. Center for Students with DisABILITIES).

X. 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 Justin

Dart, Jr. Student Accessibility Center. 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.

XI. Syllabus Changes

Please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible through email. Please check and use your CougarNet email for communications related to this course. To access this email, login to your Microsoft 365 account with your CougarNet credentials.

XII. Presence in Class

If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to class. Please see Student Protocols for what to do if you experience symptoms and Potential Exposure to Coronavirus for what to do if you have potentially been exposed to COVID-19. Consult the Graduate Excused Absence Policy for information regarding excused absences due to medical reasons.

XIII. COVID-19 Information

Students are encouraged to visit the University's COVID-19 website for important information including on-campus testing, vaccines, diagnosis and symptom protocols, campus cleaning and safety practices, report forms, and positive cases on campus. Please check the website throughout the semester for updates.

January 16, 2024 – Week 1: Introduction to structure of course

- No reading assigned.

January 23, 2024 – Week 2: Jurisdiction, Venue, Impact of Patent Reform

- Moore Textbook, 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);
- *In re Apple, Inc.*, 979 F.3d 1332 (Fed. Cir. 2020).

January 30, 2024 – Week 3: Pleadings

Assignment 1 will be assigned via email after class.

- Moore Textbook, 143-169.

February 6, 2024 – Week 4: Discovery – Initial Considerations

- Moore Textbook, 185-190, 198-217.

February 13, 2024 – Week 5: Discovery – Additional Considerations

Assignment 1 due. Assignment 2 will be assigned via email after class.

- No additional reading.

February 20, 2024 – Week 6: Infringement Considerations

- Moore Textbook, 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 27, 2024 – Week 7: Invalidity Considerations

Assignment 2 due.

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

March 5, 2024 – Week 8: Inter Partes Review and Experts

Assignment 3 will be assigned via email after class.

- Moore Textbook, 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).

March 12, 2024 – Spring Break

March 19, 2024 – Week 9: Claim construction

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

March 26, 2024 – Week 10: Markman

Assignment 3 due. Assignment 4 will be assigned via email after class.

April 2, 2024 – Week 11: Preparation for close of discovery and trial

- Moore Textbook, 289-309.

April 9, 2024 – Week 12: Trial and Damages:

- Moore Textbook, 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 16, 2024 – Week 13: Appeals & Other Related Topics

Assignment 4 due.

- Moore Textbook, 1038-1041, 1069-1082.

April 23, 2024 – Week 14: Guest Speaker

- TBD.