University of Houston Law Center

Spring 2027 Course Syllabus
5227 Procedure for Patent Litigation – 5:30–7:20 PM (Tuesdays) – Section # 12494
Room: LAW 100
Course Listing: https://law.uh.edu/schedule/class_information.asp?cid=23590

Professors



Steve Maule
https://www.bakerbotts.com/people/m/maule-steve



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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

- Sarah Fackrell et al. *Patent Law: An Open-Access Casebook* (Version 2, last revised Jan. 12, 2026) ("Fackrell Textbook"). A PDF version of the textbook may be downloaded from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5864882.
- Mark Janis et al. Patent Law: An Open-Source Casebook (Fall 2023 Version, last revised Aug. 27, 2023) ("Janis Textbook"). A PDF version of the textbook may be downloaded from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3840631.
- Additional materials will be provided separately and cases are available via your student Westlaw/Lexis accounts.

Overview of Course

- **Learning Objectives:** The Course will focus on how to litigate a patent case in district court, the interplay between the district court, the Federal Circuit, and the PTAB, and the role of inter partes reviews (IPRs) in modern patent strategy. Using an actual patent case, the course will walk through the process from pleadings through *Markman* and through trial, emphasizing the practical, day-to-day issues patent lawyers confront in preparing and coordinating parallel proceedings.
- **Goals:** The goal is to give students a clear understanding of how a patent case proceeds from pre-filing through trial, including how district court litigation interacts with

Federal Circuit review and PTAB processes such as IPRs. Students will also draft core documents commonly used in patent litigation.

- **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.

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. "Supplemental" readings are provided for your own edification and optional.

Grading and Evaluation

- **Drafting of Materials:** These assignments will count towards your final grade. These documents will be based on an actual patent case.
    - Notice letter and response – 20%
    - Preparing a complaint and answer – 20%
    - Drafting claim charts – 25%
    - Preparing a section for a claim construction brief – 35%

- This course is not offered on an S/U (pass/fail) basis, and students may not elect S/U grading for this course. Your grade will be based on the quality of work-product, thoroughness, attention to detail, and any further instructions for each of the above assignments. There will not be a final exam.
- Assignments must be turned in at the beginning of class via email. We will provide additional information regarding assignment submissions with the assignment details. Do not include your name on any assignment; all assignments should be anonymous and only your exam number should appear, placed in the header of every page.

Attendance Policy

- The Law Center has an 80% attendance policy. There will be a sign-in sheet at the beginning of each class. Please sign it. Note, however, that you are responsible for keeping track of your attendance and meeting the 80% attendance policy. You may miss 2 classes of the 14 total for the semester before you fall below the 80% threshold.
- Absences need not be excused, and you need not provide a reason for an absence, but advance notice by email is appreciated. A third absence constitutes nonadherence to the Law Center attendance policy, and the student's nonadherence will be notified to the Office of Student Affairs (OSA). Regular class attendance, participation, and engagement in coursework are important contributors to student success and may be used to raise final grades by one third of a letter grade (e.g., from a B to a B+).

Honor Code

- The UHLC Honor Code applies to all aspects of this course. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please inquire if you have any questions regarding how the Honor Code's provisions apply to specific activities or situations related to this course. Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to comply with the Honor Code in relation to this course and to comply with the instructions in the course syllabus.

Student Professionalism

- The Code of Professionalism in the Law Center Student Handbook (https://www.law.uh.edu/jd/current/handbook.pdf#page=44) is incorporated into this syllabus by reference and applies to all aspects of this course. You are responsible for knowing and complying with the Code of Professionalism.

Computer Use

- Computer use is permitted for taking notes, but Internet use unrelated to class is not allowed. If students appear distracted by their computers, they will be instructed to put them away and note-taking will continue only by traditional means.

Mental Health and Wellness Resources

- The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit uh.edu/caps, call 713-743-5454, or visit a Let's Talk location in-person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed. Need Support Now? If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat 988lifeline.org.

Title IX/Sexual Misconduct

- Per the UHS Sexual Misconduct Policy, your instructor is a "responsible employee" for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/.

Names, Pronouns, and Inclusive Community

- Chosen names and preferred pronouns (including non-binary ones such as they/them/their) must be respected in the classroom. Please feel free to reach out to any of us at any time if you would like to make the instructors aware of your chosen name or preferred pronoun, or if you have concerns about how an instructor or a classmate addresses you.
- This is an inclusive learning community. 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. 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. We 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 us. We want to be a resource for you. If you feel more comfortable speaking with someone besides us, the Office of Student Affairs (OSA) is an excellent resource.

Reasonable Academic Adjustments/Auxiliary Aids

- The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website: https://uh.edu/accessibility/, calling (713) 743-5400, or emailing jdcenter@Central.UH.EDU.
- The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment. The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being. The Center for Student Advocacy and Community (CSAC) is where you can go if you need help but don't know where to start. CSAC serves as a resource hub to help you get the resources needed to support academic and personal success, including free groceries through the Cougar Cupboard, 1:1 appointments to connect you to on- and off-campus resources related to essential needs, safety and advocacy, and free clothing through the Cougar Closet. Visit the CSAC homepage or follow @uh_CSAC and @uhcupbrd on Instagram.

Recording of Class

- Students may not record any part of any class, livestream any part of any 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. Instructors' recordings are not authorized to be shared with anyone without the prior written approval of the instructors. 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

- 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.

Student Evaluations

- Near the end of the semester, UH opens a web-based system for students to anonymously evaluate their instructors. We appreciate the feedback you provide through these end-of-semester online evaluations and use it to improve the course.

Resources for Online Learning

- The University of Houston is committed to student success, and provides information to optimize the online learning experience through our Power-On website (https://uh.edu/power-on/learning/). Please visit this website for a comprehensive set of resources, tools, and tips including: obtaining access to the internet, AccessUH, Blackboard, and Canvas; using your smartphone as a webcam; and downloading Microsoft Office 365 at no cost. For questions or assistance contact UHOnline@uh.edu.

Security Escorts and Cougar Ride

- UHPD continually works with the University community to make the campus a safe place to learn, work, and live. The security escort service is designed for the community members who have safety concerns and would like to have a Security Officer walk with them, for their safety, as they make their way across campus. Based on availability either a UHPD Security Officer or Police Officer will escort students, faculty, and staff to locations beginning and ending on campus. If you feel that you need a Security Officer to walk with you for your safety, please call 713-743-3333. Arrangements may be made for special needs. Parking and Transportation Services also offers a late-night, on-demand shuttle service called "Cougar Ride" that provides rides to and from all on-campus shuttle stops, as well as the MD Anderson Library, Cougar Village/Moody Towers and the UH Technology Bridge. Rides can be requested through the UH Go app. Days and hours of operation can be found at https://uh.edu/af-university-services/parking/cougar-ride/.

Use of Artificial Intelligence

- **General:** Generative artificial intelligence is a form of machine learning that creates new and original output based on the data it has been trained on or has access to, employing algorithms to generate content in response to prompts. Examples of the technology include what are known as generative "large language models" (LLMs). Two well-known LLM implementations are ChatGPT and Claude. LLM output can include text, images, music, code, and more. This syllabus policy covers the textual output of generative LLMs (AI-Generated Work Product)—which can include computer code or programs and human-language content. Because AI-Generated Work Product can often mimic human intelligence, it could potentially be used as a substitute for a student's own work product. Such use is potentially problematic to the extent that it becomes a substitute for internalized student understanding of the material or creates a dependency on AI-Generated Work Product, which may be strictly prohibited in settings that include the bar examination.
- **Prohibition:** Subject to the exceptions immediately below, your continuing enrollment in this course constitutes your pledge not to generate or to use any AI-Generated Work Product—whether from yourself or others—in relation to any assessment in this course. The term "assessment" means any graded or ungraded work product for this course that is submitted to the instructor, presented in a class session, or used in an oral or written graded assessment for this course.
- **Exceptions:** The following AI-Generated Work Product uses are exceptions to the preceding prohibition. The exceptions' intent is to allow the generation and use of AI-Generated Work Product for specific, narrowly defined activities related to this course.
    - You may generate and use AI-Generated Work Product for class preparation, although you must disclose the full extent of that use if your instructor asks. You may generate and use AI-Generated Work Product for study supplements to aid with general understanding of course content. This could take different forms that include creating examples or explanations of a concept, generation of diagrams and flow charts, "gamification" of course content, flash cards for study, or sample questions and answers.
    - You may generate and use AI-Generated Work Product for an outline that summarizes the course content.
    - You may use AI-Generated Work Product to check your originally drafted text for misspellings, grammar and punctuation errors, strength and clarity of prose, verbosity, effective transitional language and thesis sentences, word choice, excessive passive voice, and like things.
    - You may use AI-Generated Work Product for the purpose of language translation.

January 19, 2027 – Week 1: Course Introduction

- Fackrell Textbook, 1-27
- 35 U.S.C. §§ 101, 102, 103, 112, 271*Bonito Boats, Inc. v. Thunder Craft Boats, Inc.*, 489 U.S. 141 (1989)

January 26, 2027 – Week 2: Jurisdiction, Venue, Impact of Patent Reform

- Fed. R. Civ. P. 20, 21
- 28 U.S.C. §§ 1391, 1400(b), 1404(a)
- 35 U.S.C. § 299
- *TC Heartland LLC v. Kraft Foods Grp. Brands* LLC, *581* U.S. 258 (2017)
    - Supplemental – Janis Textbook, 66
- *In re TS Tech USA Corp.*, 551 F.3d 1315 (Fed. Cir. 2008)
- *In re EMC Corp.*, 677 F.3d 1351 (Fed. Cir. 2012)

February 2, 2027 – Week 3: Pleadings

- Fed. R. Civ. P. 4(d), 8, 12
- 35 U.S.C. §§ 271, 282
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007)
- *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)
- *In re Bill of Lading Transmission & Processing Sys. Patent Litig.*, 681 F.3d 1323 (Fed. Cir. 2012)
- *Robern, Inc. v. Glasscrafters, Inc.*, 206 F. Supp. 3d 1005 (D.N.J. 2016)
- **Assignment 1 will be assigned via email after class**

February 9, 2027 – Week 4: Discovery – Considerations

- Fed. R. Civ. P. 26
- Applicable local patent rules
- *O2 Micro Int'l Ltd. v. Monolithic Power Sys., Inc.*, 467 F.3d 1355 (Fed. Cir. 2006)
    - Supplemental – Janis Textbook, 138

February 16, 2027 – Week 5: Discovery – Depositions

- No reading assigned, but watch this deposition excerpt on C-SPAN (Feb 19, 2026), https://www.youtube.com/watch?v=OMOytUHtMbY.
- Fed. R. Civ. P. 30 (including 30(b)(1), 30(b)(6), 30(c)(2), and 30(d)(3))
- **Assignment 1 due at the beginning of class**
- **Assignment 2 will be assigned via email after class**

February 23, 2027 – Week 6: Infringement Considerations

- 35 U.S.C. § 271
- *Fujitsu Ltd. v. LG Elecs., Inc.*, 620 F.3d 1321 (Fed. Cir. 2010)
- Janis Textbook, 601-611 (*Transocean Offshore Deepwater Drilling, Inc. v. Maersk Contractors USA, Inc.*, 617 F.3d 1296 (Fed. Cir. 2010))

- *Akamai Techs., Inc. v. Limelight Networks, Inc.*, 692 F.3d 1301 (Fed. Cir. 2012) (*en banc*), *rev'd*, 572 U.S. 915 (2014) (*see* Fackrell Textbook at 413-17)
    - Supplemental – Janis Textbook, 722-35 (*Travel Sentry, Inc. v. Tropp*, 877 F.3d 1370 (Fed. Cir. 2017))
- *Akamai Techs., Inc. v. Limelight Networks, Inc.*, 797 F.3d 1020 (Fed. Cir. 2015)
- Janis Textbook, 738-50 (*Global-Tech Appliances, Inc. v. SEB S.A.*, 563 U.S. 754 (2011))
    - Supplemental – Fackrell Textbook, 404-05
- *Commil USA, LLC v. Cisco Sys., Inc.*, 575 U.S. 632 (2015)
- *Carnegie Mellon Univ. v. Marvell Tech. Grp., Ltd.*, 807 F.3d 1283 (Fed. Cir. 2015)

March 2, 2027 – Week 7: Invalidity Considerations

- **Assignment 2 due at the beginning of class**
- 35 U.S.C. §§ 101, 102, 103, 112(a), 112(b), 112(f), 271, 282
- E.D. Tex. Patent L.R. 3-3
- *Bruckelmyer v. Ground Heaters, Inc.*, 445 F.3d 1374 (Fed. Cir. 2006)
- Fackrell Textbook, 190-95 (*Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898 (2014)); 297-307 (*Transocean Offshore Deepwater Drilling, Inc. v. Maersk Drilling USA, Inc.*, 699 F.3d 1340 (Fed. Cir. 2012))
    - Supplemental – Janis Textbook, 120-121
- *Biosig Instruments, Inc. v. Nautilus, Inc.*, 783 F.3d 1374 (Fed. Cir. 2015)
- *The Medicines Co. v. Hospira, Inc.*, 827 F.3d 1363 (Fed. Cir. 2016)
- *Apple Inc. v. Samsung Elecs. Co.*, 839 F.3d 1034 (Fed. Cir. 2016)
    - Supplemental – Janis Textbook, 611, 614-15
- *Guangdong Alison Hi-Tech Co. v. Int'l Trade Comm'n*, 936 F.3d 1353 (Fed. Cir. 2019)
- *Niazi Licensing Corp. v. St. Jude Med. S.C., Inc.*, 30 F.4th 1339 (Fed. Cir. 2022)

March 9, 2027 – Week 8: *Inter Partes* Review and Experts

- Fed. R. Civ. P. 26
- Fed. R. Evid. 702-705
- 35 U.S.C. §§ 252, 304, 311-319, 321, 325(d)
- 37 C.F.R. § 42.71(c)
- *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993)
- *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc)
- *General Electric Co. v. Vibrant Media, Inc.*, No. 1:12-cv-00526-LPS, 2013 WL 6328063 (D. Del. Dec. 4, 2013)
- Fackrell Textbook, 621-33 (*Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131 (2016); *SAS Institute Inc. v. Iancu*, 138 S. Ct. 1348 (2018))
- *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (P.T.A.B. Mar. 20, 2020)
- **Assignment 3 will be assigned via email after class**

March 16, 2027 – Week 9: Spring Break (no class)

- No reading assigned

March 23, 2027 – Week 10: Claim Construction

- Fackrell Textbook, 330-43 (*Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (*en banc*))
    - Supplemental – Janis Textbook, 109-13
- *O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co.* 21 F.3d 1351 (Fed. Cir. 2008)
- *Am. Med. Sys., Inc. v. Biolitec, Inc.*, 618 F.3d 1354 (Fed. Cir. 2010)
- *Retractable Techs., Inc. v. Becton, Dickinson & Co.*, 653 F.3d 1296 (Fed. Cir. 2011)
- Fackrell Textbook, 364-78 (*Markman v. Westview Instruments, Inc.*, 517 U.S. 370 (1996); *Teva Pharm. USA, Inc. v. Sandoz, Inc.*, 574 U.S. 318 (2015))
    - Supplemental – Janis Textbook, 127-28, 137-38

March 30, 2027 – Week 11: Markman

- No reading assigned
- **Assignment 3 due at the beginning of class**
- **Assignment 4 will be assigned via email after class**

April 6, 2027 – Week 12: Preparation for Close of Discovery and Trial

- Fed. R. Civ. P. 16, 30(b)(1), 30(b)(6), 42, 50, 56
- *N. Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931 (Fed. Cir. 1990)
- *Laitram Corp. v. Hewlett-Packard Co.*, 791 F. Supp. 113 (E.D. La. 1992)
- *Elf Atochem N. Am., Inc. v. Libbey-Owens-Ford Co.*, 894 F. Supp. 844 (D. Del. 1995)
- *Nat'l Presto Indus., Inc. v. West Bend Co.*, 76 F.3d 1185 (Fed. Cir. 1996)
- *Union Oil Co. of Cal. v. Atl. Richfield Co.*, 208 F.3d 989 (Fed. Cir. 2000)
- *Abstrax, Inc. v. Dell, Inc.*, No. 2:07-cv-221-DF

April 13, 2027 – Week 13: Trial and Damages

- 35 U.S.C. §§ 271, 284-286
- Janis Textbook, 904-12 (*Rite-Hite Corp. v. Kelley Co.*, 56 F.3d 1538 (Fed. Cir. 1995) (*en banc*))
- Fackrell Textbook, 664-80 (*Lucent Techs., Inc. v. Gateway, Inc.*, 580 F.3d 1301 (Fed. Cir. 2009))
    - Supplemental – Janis Textbook, 936-41
- *Uniloc USA, Inc. v. Microsoft Corp.*, 632 F.3d 1292 (Fed. Cir. 2011)
    - Supplemental – Janis Textbook, 940-41
- *LaserDynamics, Inc. v. Quanta Computer, Inc.*, 694 F.3d 51 (Fed. Cir. 2012)
    - Supplemental – Janis Textbook, 954
- Fackrell Textbook, 686-95 (*Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. 545 (2014); *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 579 U.S. 93 (2016))
    - Supplemental – Janis Textbook, 974-75
- *Mentor Graphics Corp. v. EVE-USA, Inc.*, 851 F.3d 1275 (Fed. Cir. 2017)

April 20, 2027 – Week 14: Appeals & Other Related Topics

- **Assignment 4 due at the beginning of class**

- Fed. R. Civ. P. 50, 59
- Fed. R. App. P. 4, 21, 28
- Fed. Cir. R. 4, 21, 28, 36, 47.4
- 28 U.S.C. §§ 1292, 1295, 1651
- 19 U.S.C. § 1337
- *Click-to-Call Techs., LP v. Ingenio, Inc.*, 899 F.3d 1321 (Fed. Cir. 2018)
- *LKQ Corp. v. GM Global Tech. Operations LLC*, 102 F.4th 1280 (Fed. Cir. 2024) (en banc)
- *EcoFactor, Inc. v. Google LLC*, 137 F.4th 1333 (Fed. Cir. 2025) (en banc)

April 27, 2027 – Week 15: Guest Speaker [TBD]