

INTRODUCTION TO LAW AND THE LEGAL PROCESS
LEGAL STUDIES 101, SPRING 2014
[GARY ROSEN](#)

COURSE OVERVIEW

This course will begin with an overview of law and the U.S. legal system, with particular attention to how law evolves over time, its theoretical basis, the respective roles of courts and legislatures, and the division of authority between the states and the federal government. The remainder of the course will focus on two substantive areas of law of particular importance to nearly all entrepreneurial activity: contract law and intellectual property law. The primary goal will be to equip you with the theoretical foundation and analytical skills necessary to keep pace with a legal landscape that will change dramatically and repeatedly over the course of your career, with secondary emphasis on learning established rules of law. The patent law unit will not require any scientific background.

CLASS MEETINGS

This section will meet Tuesdays and Thursdays at 9:00 am in Room F60. Class sessions will be a combination of Socratic dialogue and group discussion in an informal atmosphere. I will rely upon volunteers as much as possible, but will cold call upon students to the extent necessary to ensure diverse and widespread participation. It is essential that you carefully and critically study all assigned readings before class. Assigned readings are available on the class Canvas site (“Files”→”Readings”), except those marked “SN”, which are on Study.net, or “I”, which are internet links. Regular office hours will be announced.

GRADING

Your final grade will be based on the following:

- Midterm Examination – 30%
- Brief-Writing Exercise – 30%
- Non-Cumulative Final Examination – 40%

The examinations will be closed-book and approximately 1/3 short answer and 2/3 essay. The brief-writing exercise will require you to prepare a written argument of 7-10 pages based on a hypothetical case and a package of legal authorities that will be provided. Although class participation will not be graded directly, please understand that thoughtful class preparation, attendance, and participation will be essential to success on the essay portions of the examinations and on the brief-writing exercise, which will be designed to test your ability to analyze rigorously factual scenarios where the legal rules that you will learn from the readings do not fully determine the result or are in conflict.

I. INTRODUCTION TO LAW AND THE AMERICAN LEGAL SYSTEM

- Jan. 16: Welcome and Course Overview

- Jan. 21: Theories of Law I – Rules & Principles
 1. L. Fuller, “The Case of the Speluncean Explorers”
 2. H.L.A. Hart, *The Concept of Law* 89-96 (SN)
 3. R. Dworkin, *Taking Rights Seriously* 22-28 (SN)

- Jan. 23: Theories of Law II – Politics & Realism
 1. U.S. Constitution , Amendment IV
 2. *Klayman v. Obama*
 3. *ACLU v. Clapper*
 4. J. Frank, *Law and the Modern Mind* 22-31 (SN)
 5. D. Rudovsky, “Police Practices,” in *The Politics of Law* (SN)

- Jan. 28: Sources of Law I – State Law
 1. *Cline v. Dunlora South LLC*
 2. A. Corbin, “The Restatement of the Common Law by the American Law Institute”
 3. *State Farm Automobile Mut. Ins. V. Patterson*
 4. *North Dakota v. Ertelt*
 5. U.S. Constitution , Amendment XIV, Sec. 1
 6. *People of Illinois v. Cassidy*

- Jan. 30: Sources of Law II- Federal Law
 1. U.S. Constitution, Article I, Sec. 8 & Amendment I
 2. *United States v. Comstock*
 3. *Erie R. Co. v. Tompkins*
 4. *United States v. Alvarez*
 5. H.R. Rep. 113-84, “Stolen Valor Act of 2013”
 6. Xavier Alvarez News Story (Video)

- Feb. 4: Regulation of Interstate Commerce
 1. *Perez v. United States*
 2. *National Federation of Independent Business v. Sibelius*
 3. News Coverage of Obamacare Ruling (Video)

- Feb. 6 : Federalism
 1. U.S. Constitution, Articles IV & VI; Amendment X
 2. *US Airways v. O'Donnell*
 3. *Tolchin v. Supreme Court of State of New Jersey*
 4. *New Hampshire v. Goss*
 5. Missouri House Bill No. 436, "Second Amendment Preservation Act"
 6. "Gun Bill in Missouri Would Test Limits in Nullifying U.S. Law"
 7. H.R. Bill 964, "Respect States' and Citizens' Rights Act of 2013"
 8. "Obama Administration will not Block State Marijuana Laws, if Distribution is Regulated"

- Feb. 11: Courts & Procedure I – Pleading & Discovery
 1. Federal Rule of Civil Procedure 8
 2. *16630 Southfield LP v. Flagstar Bank*
 3. Amended Complaint, *16630 Southfield LP v. Flagstar Bank*
 4. Federal Rules of Civil Procedure 26, 30 & 34
 5. First Request for Production of Documents, *MOSAID Tech. v. Samsung Elect.*
 6. *MOSAID Tech. v. Samsung Elect. I*
 7. *MOSAID Tech. v. Samsung Elect. II*
 8. Order on Motion for Sanctions, *Apple, Inc. v. Samsung Elect.*
 9. Deposition Excerpt (I)
<http://www.youtube.com/watch?v=sBgpOLO4BEA>

- Feb. 13: Courts & Procedure II – Summary Judgment & Trial
 1. Federal Rule of Civil Procedure 56
 2. *Camfield Tires, Inc. v. Michelin Tire Corp.*
 3. Federal Rules of Civil Procedure 50 & 59
 4. Arrest of David Wilson (Video)
 5. *Wilson v. City of Hazelwood I*
 6. *Wilson v. City of Hazelwood II*
 7. *Aetna Casualty & Surety v. Markarian*

II. CONTRACT LAW

- Feb. 18: Introduction & Theory
 1. Restatement (2d) of Contracts, §§ 1-4
 2. *City of Everett v. Estate of Oddmund I*
 3. *City of Everett v. Estate of Oddmund II*
 4. *Givens v. Fowler*
 5. *Raffles v. Wichelhaus*
 6. G. Gilmore, *The Death of Contract* 39-45 (SN)

- Feb. 20: Formation
 1. Restatement (2d) of Contracts, §§ 24, 29, 30, 32, 35, 36, 39, 42, 58, 59, 63 & 64
 2. *Tobler v. CDC Realty*
 3. *Cochran v. Norkunas*
 4. *Trinity Homes v. Fang*
 5. *Carlill v. Carbolic Smoke Ball Co.*
 6. “United Airlines Sells ‘Free’ Tickets on Website”

- Feb. 25: Consideration; Hand-Out of Sample Exam Question
 1. Restatement (2d) of Contracts, §§ 17, 71-75 & 90
 2. *Hamer v. Sidway*
 3. *Pennsy Supply, Inc. v. American Ash Recycling Corp.*
 4. *Emberson v. Hartley*
 5. *Stilk v. Myrick*
 6. *Brizendine v. Central Life Ins. Co.*
 7. *Wood v. Lucy, Lady Duff Gordon*
 8. *Harvey v. Dow*
 9. *Stewart V. Cendant Mobility Services Corp.*
 10. 33 Pa. Stat. § 6

- Feb. 27: Unenforceable Contracts
 1. Restatement (2d) of Contracts, §§ 159-164, 178-79 & 208
 2. *Colorado Plasterers’ Pension v. Plasterers Unlimited*
 3. *Rose v. Barclay*
 4. *Jordan v. Knafel*
 5. *Albera v. Sciaretti*
 6. *Williams v. Walker-Thomas Furniture Co.*

- 7. *Crown Mortgage v. Young*
- Mar. 4: Interpretation of Written Contracts; Hand-Out of Sample Exam Answer
 1. "Contracts in Writing"
 2. Restatement (2d) of Contracts, §§ 201-204, 206 & 209
 3. *Intersport, Inc. v. NCAA*
 4. *Sears v. N.Y. Hippodrome Corp.*
 5. *Solomon v. Lighte & Co.*
 6. *Sessions v. The Healthcare, Ltd.*
 7. *Poepfel v. Lester*
- Mar. 6: MIDTERM EXAM (In Class)
- Mar. 18: Performance, Breach & Excuse
 1. Restatement (2d) of Contracts, §§ 205, 224-226, 237, 241, 250-251, 253, 261 & 265
 2. *U.S. v. SAMCO Construction Co.*
 3. *Howard v. Federal Crop Ins. Corp.*
 4. *Jesse L. Lasky Feature Play Co. v. Celebrated Players Film Co.*
 5. *Thomas v. Montelucia Villas*
 6. *Reed Foundation v. Franklin D. Roosevelt Four Freedoms Park*
 7. *476 Grand LLC v. Dodge of Englewood*, 2012 WL 670020
- Mar. 20: Remedies for Breach I – Damages
 1. Restatement (2d) of Contracts, §§ 344, 347 & 349-355
 2. *Groves v. John Wunder Co.*
 3. *Hadley v. Baxendale*
 4. *Ericson v. Playgirl, Inc.*
 5. *Parker v. 20th Century-Fox Film Corp.*
 6. *Chicago Coliseum Club v. Dempsey*
- Mar. 25: Remedies for Breach II – Equitable Remedies; Hand-Out of Brief-Writing Exercise
 1. Restatement (2d) of Contracts, §§ 357-360 & 370-371
 2. *McCallister v. Patton*
 3. *Van Wagner Advertising Corp v. S&M Enterprises*
 4. *Hammerstein v. Mann*,
 5. *Shubert Theatrical Co. v. Rath*

6. *CBS, Inc. v. Merrick*
7. *U.S. v. Algernon Blair, Inc.*

III. INTELLECTUAL PROPERTY LAW

- Mar. 27: The “Progress” Clause/The “Limited Times” Clause
 1. U.S. Constitution., Article I, section 8, clause 8
 2. *Bonito Boats, Inc. v. Thunder Craft Boats, Inc.*
 3. *Eldred v. Ashcroft*
- Apr. 1: Patent Claim Construction & Infringement
 1. 35 U.S.C. §§ 112, 154, 271
 2. *Autogiro Co. of America v. U.S.*
 3. U.S. Patent No. 5,6,28,338
 4. Declaration of Jeffrey A. Pestrue
 5. *Stumbo v. Eastman Outdoors, Inc.*
- Apr. 3: Anticipation and Obviousness
 1. 35 U.S.C. §§ 102, 103
 2. U.S. Patent No. 6,431,415
 3. *In re Schrieber*
 4. U.S. Patent No. 5,803,501
 5. *Media Technologies Licensing v. Upper Deck Co.*
- Apr. 8: Patentable Subject Matter
 1. 35 U.S.C. § 101
 2. *State Street Bank v. Signature Financial Group*
 3. “‘Business-Method’ Patents Create Growing Controversy”
 4. “You Can’t Use that Tax Idea, It’s Patented”
 5. *Bilski v. Kappos*
 6. Materials on *Alice Corp. v. CLS Bank International* (TBA)
- Apr. 10: Patent Enforcement & Remedies

1. 35 U.S.C. §§ 283, 284 & 285
 2. *Rite-Hite Corp. v. Kelley Co.*
 3. *eBay, Inc. v. MercExchange LLC*
 4. Materials on Patent Assertion Entities (“Trolls”) (TBA)
- Apr. 15: Copyrightable Subject Matter, Exclusive Rights & Ownership; Brief-Writing Exercise Due
 1. 17 U.S.C. §§ 102, 106, 201, 202, 302 & 408
 2. *Feist Publications v. Rural Telephone Service Co.*
 3. Sample Copyright Registrations
 4. *Bikram’s Yoga College v. Evolution Yoga*
 5. *In re Application of Cellco Partnership*
 6. *Community for Creative Non-Violence v. Reid*
 - Apr. 17: Copyright Infringement & Remedies
 1. 17 U.S.C. §§ 501-504
 2. *ABKCO Music, Inc. v. Harrisongs Music, Ltd. I (I)*
<http://mcir.usc.edu/cases/1970-1979/Pages/brightharrisongs.html>
 3. *ABKCO Music, Inc. v. Harrisongs Music, Ltd. II*
 4. *Tetris Holding v. XIO Interactive*
 5. *ABKCO Music, Inc. v. Harrisongs Music, Ltd. III*
 6. *Capitol Records, Inc. v. Thomas-Rasset*
 - Apr. 22: Fair Use
 1. 17 U.S.C. § 107
 2. *Campbell v. Acuff-Rose Music*
 3. *Cariou v. Prince*
 4. Georgia State University Fair Use Checklist
 - Apr. 24: Copyright & Digital Technologies
 1. *MGM Studios v. Grokster*
 2. *Viacom International v. YouTube, Inc.*
 3. *Capitol Records, LLC v. ReDIGI Inc.*

- Apr. 29: Trademarks & Trade Dress
 1. *Abercrombie & Fitch Co. v. Hunting World, Inc.*
 2. Sample Trademark Registrations
 3. *Qualitex Co. v. Jacobson Products Co.*
 4. *Star Industries Ltd. v. Bicardi & Co.*

- May 7: FINAL EXAM (12:00-2:00 PM)

1/8/14