

INTRODUCTION TO LAW AND THE LEGAL PROCESS
LEGAL STUDIES 101-02, SPRING 2015
GARY ROSEN

Classroom: F90 Huntsman Hall
Office: 619 Huntsman Hall
Class Times: Tuesdays & Thursdays, 10:30-11:50 am
Office Hours: Tuesdays, 1-2:00 pm; other times by appointment
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COURSE OVERVIEW

The 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 areas of law of particular importance to nearly all entrepreneurial activity: contract law and intellectual property law (copyrights, patents, and trademarks). 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 continuously evolve over the course of your lifetime, with secondary emphasis on learning “black letter” rules of law. The patent law unit will not require a scientific or technical background.

CLASS SESSIONS

Class sessions will be a combination of Socratic dialogue and group discussion in an informal atmosphere. Depending on enrollment, each student will share responsibility for being fully prepared to discuss the day’s readings 3-5 times over the course of the semester. An unexcused absence or lack of preparation on one of your assigned days will result in a course grade reduction of one level (e.g., from B- to C+). Although class attendance and participation will not otherwise be graded directly, the correlation between the classroom discussions and the skills and material the exams will test, and therefore the correlation to exam performance, will be very strong.

ASSIGNED READINGS

There is no textbook. Assigned readings—mostly primary legal materials (court opinions, statutes, etc.) along with a few secondary sources—will be available through the class Canvas site (Go to Files>Readings>Date). It is strongly recommended that you print out all assigned readings, annotate them manually, and keep them in loose-leaf binders.

GRADING

The final grade will be based on the following: Midterm Examination – 30%; Writing Exercise – 30%; Non-Cumulative Final Examination – 40%.

The examinations will be approximately 1/3 short answer and 2/3 “essay” questions designed to test your ability to spot multiple legal issues raised by a hypothetical factual scenario and to analyze them rigorously where the rules and principles that you have learned from the readings do not fully determine the result or are in conflict. (Sample exam questions and answer keys will be available on the Canvas site in advance of the midterm.) The writing exercise will require you to prepare a written legal argument of approximately 5 pages based on a hypothetical case and legal sources that will be provided.

SYLLABUS

I. INTRODUCTION TO LAW AND THE U.S. LEGAL SYSTEM

- Jan. 15: Welcome and Course Overview

- Jan. 20: Theories of Law I – Rules & Principles
 - L. Fuller, “The Case of the Speluncean Explorers” (Truepenny, Foster, Tatting, JJ)
 - H.L.A. Hart, *The Concept of Law*, pp. 89-95
 - R. Dworkin, *Taking Rights Seriously*, pp. 23-28

- Jan. 22: Theories of Law II – Politics & Pragmatism
 - L. Fuller, “The Case of the Speluncean Explorers” (Keen, Handy, JJ)
 - U.S. Const., Amend. XIV, sec. 1
 - *Lawrence v. Texas*
 - F. Coffin, “The Constraint of Writing”

- Jan. 27: Sources of Law I – State Law
 - *Cline v. Dunlora South*
 - *Young v. Beck*
 - *North Dakota v. Ertelt*
 - *People v. Cassidy*

- Jan. 29: Sources of Law II- Federal Law
 - U.S. Const., Art. I, sec. 8
 - *United States v. Comstock*
 - U.S. Const., Art. III
 - *Erie Railroad v. Tompkins*
 - U.S. Const., Amend I
 - *United States v. Alvarez*

- Feb. 3: Regulation of Interstate Commerce
 - *Katzenbach v. McClung*
 - *Nat’l Federation of Independent Business v. Sebelius*

- Feb. 5 : Federalism
 - *NCAA v. Miller*
 - U.S. Const., Art. IV , cl 2, Amends. IX & X
 - *US Airways v. O'Donnell*
 - Kansas Second Amendment Protection Act
 - Letter from US Attorney General Holder to Kansas Gov. Brownback

II. CONTRACT LAW

- Feb. 10: Theory & Formation of Contracts I
 - *City of Everett v. Estate of Oddmund I & II*
 - *Givens v. Fowler*
 - *Raffles v. Wichelhaus*
 - Restatement (2d) of Contracts, §§ 152-154
- Feb. 12: Theory & Formation of Contracts II
 - *Tobler v. CDC Realty*
 - *Carlill v. Carbolic Smoke Ball Co.*
 - *Trinity Homes v. Fang*
 - Restatement (2d) of Contracts, §§ 24, 30, 33, 35, 36, 58, 59, 63 & 64
- Feb. 17: Consideration
 - *Hamer v. Sidway*
 - *Pennsy Supply, Inc. v. American Ash Recycling Corp,*
 - *Emberson v. Hartley*
 - *Stilk v. Myrick*
 - 33 Pa. Stat. § 6
 - Restatement (2d) of Contracts, §§ 17 & 71-74

- Feb. 19: Enforceable Noncontracts & Unenforceable Contracts
 - *Harvey v. Dow*
 - *Colo. Plasterers' Pension v. Plasterers Unlimited*
 - *Jordan v. Knafel I & II*
 - *Crown Mortgage Co. v. Young*
 - Restatement (2d) of Contracts, §§ 90, 161-164, 167, 178 & 208

- Feb. 24: Written Contracts
 - "Contracts in Writing" – Statute of Frauds
 - *Intersport, Inc. v. NCAA*
 - *Sessions v. The Healthcare, Ltd.*
 - *Poeppel v. Lester*
 - Restatement (2d) of Contracts, §§ 202-203, 206 & 209

- Feb. 26: Performance & Breach
 - *U.S. v. SAMCO Construction Co.*
 - *Howard v. Federal Crop Ins. Corp.*
 - *Thomas v. Montelucia Villas*
 - Restatement (2d) of Contracts, §§ 224-225, 241, 250 & 254

- Mar. 3: Excuse for Nonperformance; Review for Mid-Term
 - *Reed Foundation v. FDR Four Freedoms Park*
 - *476 Grand LLC v. Dodge of Englewood*
 - Force Majeure Clause
 - Restatement (2d) of Contracts, §§ 261 & 265

- Mar. 5: MIDTERM EXAM (In Class)

- Mar. 17: Remedies for Breach I – Damages
 - *Hawkins v. McGee*
 - *Hadley v. Baxendale*
 - *Rockingham County v. Luten Bridge Co.*
 - *Columbia Park Golf Course Inc. v. City of Kennewick*
 - Restatement (2d) of Contracts, §§ 344, 347 & 349-352

- Mar. 19: Remedies for Breach II – Equitable Remedies
 - *McCallister v. Patton*
 - *Van Wagner Advertising Corp v. S&M Enterprises*
 - *Schubert Theatrical Co. v. Rath*
 - Restatement (2d) of Contracts, §§ 357, 359 & 360

III. INTELLECTUAL PROPERTY LAW

- Mar. 24: Copyright I – Originality & Copyright Term
 - U.S. Constitution., Article I, section 8, clause 8
 - *Feist Publications v. Rural Telephone Service Co.*
 - 17 U.S.C. § 302
 - *Eldred v. Ashcroft*
 - Rosen, “Copyright Theory in Action”
 - Lee, “If Congress Hadn’t Extended Copyright”
- Mar. 26: Copyright II – Authorship, Ownership & Exclusive Rights
 - 17 U.S.C. §§ 102, 106, 201 & 202
 - *Bikram’s Yoga College v. Evolation Yoga*
 - *In re Application of Cellco Partnership*
 - Rosen, “Chunga’s Revenge”
 - *Community for Creative Non-Violence v. Reid*
- Mar. 31: Copyright III – Registration, Infringement & Remedies; Writing Exercise Handed-Out
 - 17 U.S.C. §§ 408, 411 & 502-504
 - Copyright Registration Samples – Harry Potter & Derivative Works
 - *Allen v. Destiny’s Child*
 - *ABKCO Music, Inc. v. Harrisongs Music, Ltd*
 - *Capitol Records, Inc. v. Thomas-Rasset*
- Apr. 2: Copyright IV – Fair Use
 - 17 U.S.C. §§ 107 & 109
 - *Campbell v. Acuff-Rose Music*
 - *Cariou v. Prince*
 - Boucher, “Landmark Copyright Lawsuit Cariou v. Prince is Settled”
 - Rosen, “Some Pushback on Transformative Use”
 - Georgia State University Fair Use Checklist

- Apr. 7: Patent I - Claims & Infringement
 - 35 U.S.C. §§ 112, 154, 271
 - *Autogiro Co. of America v. U.S.*
 - *Phillips v. AWH Corp.*
 - U.S. Patent No. 5,628,338
 - *Stumbo v. Eastman Outdoors, Inc.*

- Apr. 9: Patent II – Prior Art, Novelty & Non-Obviousness
 - 35 U.S.C. §§ 102, 103
 - *Suffolk Technologies v. AOL, Inc.*
 - U.S. Patent No. 5,803,501
 - *Media Technologies Licensing v. Upper Deck Co.*

- Apr. 14: Patent III - Patentable Subject Matter
 - 35 U.S.C. § 101
 - *State Street Bank v. Signature Financial Group*
 - Angwin, “‘Business-Method’ Patents Create Growing Controversy”
 - Norris, “You Can’t Use that Tax Idea, It’s Patented”
 - *Bilski v. Kappos*
 - Abstract Ideas (TBA)

- Apr. 16: Patent IV - Enforcement & Remedies
 - 35 U.S.C. §§ 283, 284 & 285
 - *Rite-Hite Corp. v. Kelley Co.*
 - *eBay, Inc. v. MercExchange LLC*
 - Patent Assertion Entities (“Trolls”) (TBA)

- Apr. 21: Trademark I –Distinctiveness & Registration; Writing Exercise Due
 - *Abercrombie & Fitch Co. v. Hunting World, Inc*
 - *Qualitex Co. v. Jacobson Products Co.*
 - Rosen, “Red Shoes Don’t Make It”
 - 15 U.S.C. § 1052
 - Rosen, “Trademark is Not a Verb”
 - Sample Trademark Registrations
 - *In re Fox*

- Apr. 23: Trademark II –Infringement & Fair Use
 - *Star Industries v. Bacardi & Co.*
 - *New Kids on the Block v. New America Publishing*
 - Rosen, “The Big Games is Upon Us”

- Apr. 28: Current Cases; Review for Final
 - TBA

Final Exam: Friday, May 8, Noon-2:00 pm

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