

## SYLLABUS

### INTELLECTUAL PROPERTY LAW

- I. Number of Credit Hours** 3 credits
- II. Prerequisites:** None
- III. Instructor of the Course:** Mrs. Aisulu Chubarova, LL.M. in Intellectual Property Law, National University of Singapore; Assistant Professor, AUCA; Senior Lawyer, Kalikova & Associates Law Firm.
- Contact phone numbers: 662221 (office); 0 552 545227 (cell)  
E-mail: [achubarova@k-a.kg](mailto:achubarova@k-a.kg), [aisulu\\_ch@yahoo.com](mailto:aisulu_ch@yahoo.com)
- IV. Class Schedule** Tuesday, 05.00 pm, room # TBD  
Thursday, 05.00 pm, room # 310
- V. Consultations** Consultations shall be provided upon individual appointment at mutually agreed time or by email.
- VI. Course Description** Through a review of the relevant provisions of the Kyrgyz legislation and international conventions, the course covers basic principles of protection of intellectual property objects. The course will highlight two major areas of intellectual property law, namely, industrial property and copyright and related rights. Recent legislative developments in the area of intellectual property law at the European Union, United States and international level will also be examined. Issues of enforcing intellectual property rights in developing countries will be discussed, as well as issues of impact of digital technologies on intellectual property law.
- VII. Teaching Method** The method of teaching combines both theoretical and practical parts. Theoretical information shall be followed by practical assignments in class and at home. Students shall be required to do specific amount of reading for each class, as well as to engage in practical group and individual assignments.
- VIII. Course Policy**
- (A) Mandatory E-mail Policy** E-mail will be used to communicate course-related announcements. Students must provide their e-mail addresses and monitor messages sent to that address. Students can also use the above e-mails for any questions that might arise in the course of the class.
- (B) Attendance Policy** Students are required to attend all classes. The teacher reserves the right to take attendance. Any student who has missed more than 15% of class meetings will not be eligible for completing the final paper. You must keep track of your own absences and will be informed if you have missed more than 15% of the class meetings. You will be excused for medical emergencies, official holidays, or death in the immediate family only if you inform me of the reasons for your absence.
- (C) Academic Honesty** Each student is to follow the Honor Code policy of the University. Violations will earn an 'F' grade for the course. Plagiarism is **NOT** acceptable and is a Code violation under any circumstances.

**Submission Assignments** of Problem Set and/or quiz should be submitted within the specified deadline. Please, see the schedule below. Final research paper should be submitted on the exam date to be set later.

**IX. (A) Grading Policy** The final grade will be computed based on the following factors:

<b>Attendance</b>	10%
<b>Problem Set 1/Quiz</b>	10 %
<b>Problem Set 2/Quiz</b>	10 %
<b>Group Assignment</b>	15 %
<b>Presentation</b>	5%
<b>Research Paper</b>	50%

An extra credit can be awarded for excellent participation in class and to reduce your course grade for lack of preparation for the class or for habitual tardiness (i.e., arriving late for class). Extra credit (or penalty) will only be added (or deducted) after the final grade has been computed. Under no circumstances will participation improve or reduce the final grade by more than 2/3 of your grade (e.g., from B- to B+).

**(B) Grading Scale** Please, also note that when the overall score did not exactly match the percentage offered for each grade below, “the nearest number” (rounding) principle is used.

93% - A  
87% - A-  
81% - B+  
75% - B  
68% - B-  
63% - C+  
57% - C  
50% - C-  
45% - D

**(C) Grading Formula** Grade for Attendance x 10% + Grade for Problem Set 1/Quiz x 10% + Grade for Problem Set 2/Quiz x 10% + Grade for Group Assignment x 15% + Grade for Presentation x 5% + Grade for Final Research Paper x 50% divided by 100% = Final Grade for the course

**X. Evaluation Criteria** The course’s rationale is based on subject matters of intellectual property law. Every block on IP subject matter is followed by a seminar, where students will discuss the most urgent issues of intellectual property law in the class or with representatives of intellectual property community. Every block may be followed by assignment in the form of Problem Set/Quiz and Group Assignment. Students will be requested to write Final Research Paper on the selected topics.

Criteria for evaluation of Problem Set/Quiz, Group Assignment, Presentation and Final Research Paper shall be as follows:

- analytical work of a student – legal analysis, problem formulation, knowledge of a topic;
- application of comparative analysis – international vs. national legislation;
- level of conducted legal research (for final research paper);
- level of understanding of the issue (for problem set).

**XI. Course Readings**

Course readings consist of basic materials, i.e. books available in the University library and hand-outs to be provided to the students in advance. Materials that can be found on Internet may be excluded from handouts. Students are required to bring texts of relevant national laws and international legislation in intellectual property area to the respective class block (e.g. Copyright Law classes will require students to have Civil Code and Law of the Kyrgyz Republic “On Copyright and Related Rights”, as well as certain international conventions, such as, Berne Convention for Protection of Literary and Artistic Works, WIPO Copyright Treaty, WIPO Performance and Phonogram Treaty, and etc. during the duration of the copyright law block).

## **COURSE READINGS**

### 1. Basic materials

A.P. Sergeev, Law of Intellectual Property of the Russian Federation, Moscow, 1999 (hereinafter Sergeev, IP Law)

WIPO Intellectual Property Handbook: Policy, Law and Use, available at [http://www.wipo.org/about-ip/en/index.html?wipo\\_content\\_frame=/about-ip/en/copyright.html](http://www.wipo.org/about-ip/en/index.html?wipo_content_frame=/about-ip/en/copyright.html) (hereinafter WIPO Handbook) IP management handbook

Edward Samuel's history of copyright online <http://www.edwardsamuels.com/>

Advanced Copyright Issues on Internet [http://www.fenwick.com/docstore/355/Advanced\\_Copyright\\_02-29-04.pdf](http://www.fenwick.com/docstore/355/Advanced_Copyright_02-29-04.pdf)

Zhanyl Abdyldabek Kyzy Copyright Law

Basics of Trademark Law at <http://www.registeringatrademark.com/trademark-law-basics.shtml>

Overview of Trademark Law at <http://cyber.law.harvard.edu/metaschool/fisher/domain/tm.htm>

## **DETAILED CONTENT OF THE COURSE**

### **Week 1 (Classes 1 & 2): Overview of Intellectual Property Law**

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1. Survey of Intellectual Property Rights: Underlying Principles
  - What do Intellectual Property Rights Comprise?
  - IP as Property and a Fundamental Right
  - Registration, Liability, Nature of Exclusive Rights
2. Historical Development of IPL: National and International Dimension

Readings:

Sergeev, IP Law, 9-103  
WIPO Handbook, chapters 1-2.

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### **Week 2 (Classes 3 & 4): Copyright Law**

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Basic Principles of Copyright Law  
*Droit D'Auteur* and Common Law Approaches  
Subject matter of Copyright  
Ownership Issues

Readings:

Sergeev, IP Law, 108-180  
Janyl Abdylidabek Kyzy, Copyright and Related Rights, Bishkek, 2003, 135-141, 25-53 (hereinafter Janyl Abdylidabek Kyzy, Copyright)  
Handout on Copyright Law

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### **Week 3 (Classes 5 & 6): Copyright Law**

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The Concept of Moral Rights:

- Nature, Extent and Scope of Moral Rights
- Conflicting Interests of Authors and Users

The Nature of Exclusive Rights:

- Scope of Economic Rights
- New making available right: Overstretching or a Necessity?

Readings:

Sergeev, IP Law, 191-242  
Janyl Abdylidabek Kyzy, Copyright, 62-81  
Handout on Copyright Law

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### **Week 4 (Classes 7 & 8): Copyright Law**

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Copyright Limitations and Exceptions:

- Transformative Use
- Parody
- Reverse Engineering

Author's Contracts and Licensing

Readings:

Sergeev, IP Law, 243, 259-326  
Janyl Abdylidabek Kyzy, Copyright, 99-116  
Handout on Copyright Law

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### **Week 5 (Class 9): Related Rights**

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Creation of “neighbouring or related rights”: performers, producers of phonograms, broadcasters  
Scope of Exclusive Rights  
Limitations and Exceptions

Readings:

Sergeev, IP Law, 327-364  
Janyl Abdyldabek Kyzy, Copyright,  
Handout on Copyright Law

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### **Week 5 (Class 10): Protection of Copyright and Related Rights**

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Enforcement Issues

- Civil, Criminal and Administrative Liability for Copyright Infringement

International Copyright:

- Protection of Kyrgyz Authors Abroad

International copyright conventions

Readings:

Sergeev, IP Law, 327-405  
Janyl Abdyldabek Kyzy, Copyright, 141-170  
Handout on Copyright Law  
WIPO Handbook, chapter 5

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### **Week 6 (Classes 11 & 12): Challenges of the Modern Copyright: Selected Issues**

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Protection of Computer Programs:

- decompilation and reverse engineering, “computer-generated” works

Protection of Databases:

- compilations/databases vs. the concept of originality, *sui generis* protection of databases

Copyright and New Digital Technologies:

- multimedia, technological measures, rights management information, liability of Internet service providers
- peer-to-peer file sharing.

Readings:

Janyl Abdyldabek Kyzy, Copyright, 171-189.  
Handout on Copyright Law

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### **Week 7 (Class 13): Seminar on selected issues of Copyright Law**

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### **Week 7 (Class 14): Patent Law**

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Basic Objectives of Patent Law

Subject matter:

- Inventions;
- Industrial Designs;
- Utility Models

Ownership

Readings:

Sergeev, IP Law, 408-465  
Handout on Industrial Property

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**Week 8 (Classes 15 & 16): Patent Rights**

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Registration  
Transfer and Assignment  
Licensing

Readings:

Sergeev, IP Law, 468-535  
Handout on Industrial Property

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**Week 9 (Class 17): Protection of Authors and Patent Holders**

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General Provisions  
Liability for Patent Infringements

Readings:

Sergeev, IP Law, 540-553  
Handout on Industrial Property  
WIPO Handbook, chapter 4.

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**Week 9 (Class 18): Development of International Patent Treaties**

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Patent Cooperation Treaty  
International Patent Law Treaty  
The European Patent Convention

Readings:

Sergeev, IP Law, 555-560  
Handout on Industrial Property,  
WIPO Handbook, chapter 5

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**Week 10 (Class 19). Modern Patent Law: Selected Issues**

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Patents and Computer Program-Related Inventions  
Patent and Biotechnology: Legal, Ethical, Social and Political Aspects

Readings: Handout on Industrial Property

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**Week 10 (Class 20). Seminar on selected issues of Patent Law**

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**Week 11 (Classes 21 & 22). Trademark Law**

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Basic Principles and Economic Value of Trade Marks  
Types of Trademarks: Color? Sound? Smell? Retail Services?  
Ownership Issues  
Registration, Use and Transfer  
Protection

Readings:

Sergeev, IP Law, 600-651  
Handout on Industrial Property

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WIPO Handbook, Chapter 4.

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**Week 12 (Class 23): Protection of Well-Known and Famous Marks**

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What is Well-Known Mark? Famous Mark?

Exempted Uses

Dilution of Well-Known Marks

Readings:

WIPO Resolution on Protection of TM

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**Week 12 (Class 24); Week 13 (Class 25): International and Comparative Unfair Competition**

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General Classification

Conceptual Basis

Unfair Competition under Paris Convention for Protection of Industrial Property and WTO Agreement on Trade-Related of Intellectual Property Rights

Readings:

WIPO Handbook, chapter 2

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**Week 13 (Class 26): Internet Domain Names**

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Relationship Between Trade Marks and Domain Names

Domain Names and Cybersquatting

The Metatag Problem

Readings: Handout on Internet Domain Names

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**Week 14 (Class 27). Geographical Indications**

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Legal regime under the Kyrgyz Law

The Madrid System and Protection of Geographical Indications

Readings: Handout on Geographical Indications

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**Week 15 (Class 28): Seminar on Selected Issues of Trademark Law and Unfair Competition**

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**Week 15 (Class 29): Non-Traditional Objects of Intellectual Property**

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Commercial Secret: Scope of Protection

Legal Regime of Topology of Integrated Circuits

Readings:

Sergeev, IP Law, 674-701.

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**Week 16 (Class 30): Sui Generis Protection of Plants and Traditional Knowledge**

Issues of Traditional Knowledge, Indigenous Culture and Conservation of Biodiversity

Draft Kyrgyz Law on Traditional Knowledge and Related Genetic Resources

Readings: Handout on Traditional Knowledge

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**Week 16 (Class 31), Week 17 (Class 32). Seminar on Non-Traditional IP Objects, Traditional Knowledge and Genetic Resources**

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Talk by IP expert, Kyrgyzpatent. More Information TBA.

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**Week 17 (Class 33); Week 18 (Class 34): Intellectual Property and Human Rights**

Intellectual Property and Right to Culture

Intellectual Property and Right to Health

Intellectual Property vs. Public Interest: Promotion of Cultural and Scientific Benefits vs. Granting Access to These Benefits

Readings: Handout on IP and Human Rights

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**Week 18 (Class 35 & 36): The Future of Intellectual Property. Overview of the Course**

Recent Developments in IP: National and International Dimension

Readings: TBA

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## **TENTATIVE TOPICS FOR RESEARCH PAPER**

### Comparative Copyright Issues

Originality and Authorship;  
Ownership in Works Created by Employees;  
Moral Rights;  
Protection of Computer Software;  
Protection of Multimedia.

### Comparative Patent Issues

Conditions for Patentability;  
Gene Patents;  
Protection of Pharmaceutical Products.

### Comparative Trademark Issues

Bad Faith and Conflicting Trademarks;  
Dilution and Protection of Well-Known Marks;

### Geographical Indications.

### International Copyright and New Technologies

Internet Piracy;  
Regulation of the Internet and its Impact on Society and Culture;  
Encryption Technologies and Freedom of Expression;  
Circumvention Technologies and Anti-Circumvention Provisions;  
Jurisdictional Issues and New Communications Technologies;  
P2P File Sharing.

### Kyrgyz IP Law

Obligations of the Kyrgyz Republic under WIPO Internet Treaties;  
TRIPS and Obligations of the Kyrgyz Republic;  
Enforcement of IPRs.

### [Global] Protection of Industrial Designs

### [Global] Protection of Trade Secrets

### Internet Domain Names:

Domain Names and Trademark Rights;  
Uniform Domain Name Dispute Resolution Policy;  
Jurisdictional Issues and Trademarks Infringements on Internet.

Unfair competition.