



## *The Hebrew University of Jerusalem*

### *Syllabus*

## *IP and Technology Transactions - 62579*

*Last update 13-08-2018*

*HU Credits: 4*

*Degree/Cycle: 1st degree (Bachelor)*

*Responsible Department: Law*

*Academic year: 0*

*Semester: 1st Semester*

*Teaching Languages: Hebrew*

*Campus: Mt. Scopus*

*Course/Module Coordinator: Dr. Michal Shur-Ofry*

*Coordinator Email: [michalshur@huji.ac.il](mailto:michalshur@huji.ac.il)*

*Coordinator Office Hours: Wednesdays, 13:00, , upon coordination*

*Teaching Staff:*

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Dr. Michal Shur-Ofry

Course/Module description:

Commercialization of intellectual property (IP) and technology is performed through various agreements. The Seminar will explore the unique attributes of these agreements, and the interface between technology and IP on the one hand, and contract law on the other hand. It will discuss various types of technology agreements (e.g., software licensing, broadcasting rights agreements, contracts in the pharmaceutical field, online agreements), and will examine different aspects thereof, for example: interpretation in light of technological developments, transfer of tacit knowledge, IP agreements as relational contracts, contractual limitations of statutory IP rights, sub-licensing, royalty mechanisms, and more.

Prerequisites: Open to students from second year onwards. Background in intellectual property is helpful, but not mandatory.

Course/Module aims:

To accumulate basic knowledge of various agreements for commercialization of technology and IP, and of the principal branches of intellectual property. To research the interface between contracts and intellectual property. In particular – to explore the unique attributes of technology and IP commercialization and their possible impact on a series of legal issues.

Participants will make a presentation and submit a seminar on their chosen topic.

Learning outcomes - On successful completion of this module, students should be able to:

- To investigate and explore the interface between technology, IP and contract law
- To criticize rules and legal arrangements pertaining to their chosen topic
- To compare legal arrangements pertaining to their chosen topic in various jurisdictions
- To propose solution or alternative arrangements pertaining to their chosen topic
- To present their research to the seminar participants and to submit a written seminar.

Attendance requirements(%):

100%

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Teaching arrangement and method of instruction: Seminar

Course/Module Content:

1. Introduction to Intellectual Property
2. The unique attributes of technology and IP agreements
3. IP agreements and relational contracts
4. Click-wrap, shrink-wrap and browse-wrap licenses
5. Specific licenses (e.g. software licenses, broadcasting rights agreements, franchises, Pharmaceutical licenses)
6. Technology transfer
7. Commercialization of IP and tacit knowledge
8. GPL Licenses and open-source
9. "Contracting around" IP ?
10. Legal constraints on IP and Technology transactions

Required Reading:

The following is a general reading list designed to help students locate materials for their seminars. Specific reading will be announced before each meeting.

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Articles:

- Bakos, Yannis and Marotta-Wurgler, Florencia and Trossen, David R., *Does Anyone Read the Fine Print? Consumer Attention to Standard Form Contracts* 43.1 JOURNAL OF LEGAL STUDIES (2014)
- Michael Carrier, *Payment After Actavis*, 100 IOWA L. REV. 7 (2014)
- Brian W. Carver, *Share and Share Alike: Understanding and Enforcing Open Source and Free Software Licenses* 20 BERKELEY TECH. L. J. (2005)
- Margareth Chon, *Sticky Knowledge and Copyright*, 2011 WIS. L. REV. 177 (2011)
- Nathan J. Davis, *Presumed Assent: The Judicial Acceptance of Clickwrap*, 22 BERKELEY TECH. L.J. 577 (2007)
- Robin Feldman & Mark A. Lemley, *Do Patent Licensing Demands Mean Innovation?*, 101 IOWA L. REV. 137 (2015).
- Christophe Geiger, *Statutory Licenses as Enabler of Creative Uses* in R.M. Hilty and K.-C. Liu (eds.), *EXPLORING SENSIBLE WAYS FOR PAYING COPYRIGHT OWNERS* (2016, Forthcoming) Available at SSRN: <http://ssrn.com/abstract=2701862>
- Lucie Guibault, *Individual Licensing Models and Consumer Protection* in R.M. Hilty and K.-C. Liu (eds.), *EXPLORING SENSIBLE WAYS FOR PAYING COPYRIGHT OWNERS* (2016, Forthcoming). Available at SSRN: <http://ssrn.com/abstract=2713765>
- Eric von Hippel, *"Sticky Information" and the Locus of Problem Solving: Implications for Innovation*, 40 MGMT. SCI. 429 (1994)
- Mark A Lemley, *Are Universities Patent Trolls?* 18 FORDHAM INTELLECTUAL

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PROPERTY, MEDIA & ENTERTAINMENT LAW JOURNAL, 611 (2008)

- Mark A. Lemley, *Terms of Use*, 91 MINN. L. REV. 459 (2006)
- Mark A. Lemley, *Rethinking Assignor Estoppel* (2016). Available at SSRN: <http://ssrn.com/abstract&eq;2755785>
- Stewart Macaulay, *Non-Contractual Relations in Business: A Preliminary Study*, 28 Am. Soc. Rev. 55 (1963)
- Florencia Marotta-Wurgler, *Competition and the Quality of Standard Form Contracts: The Case of Software License Agreements* 5(3) J. OF EMPIRICAL LEGAL STUDIES 447 (2008)
- Maureen A. O'Rourke, *Drawing the Boundary Between Copyright and Contract: Copyright Preemption of Software License Terms*, 45 DUKE L.J. 479 (1995)
- Pamela Samuelson, *Extended Collective Licensing to Enable Mass Digitization: A Critique of the U.S. Copyright Office Proposal E.I.P.R.* (FORTHCOMING, 2016), Available at SSRN: <http://ssrn.com/abstract&eq;2683522>
- Norman Siebrasse and Thomas F. Cotter, *Judicially Determined FRAND Royalties in Jorge L. Contreas, ed., The Cambridge Handbook of Technical Standardization Law*, , (Forthcoming, 2016). Available at SSRN: <http://ssrn.com/abstract&eq;2712837>
- Michal Shur-Ofry & Ofer Tur-Sinai, *Constructive Ambiguity: IP Licenses as a Case Study* 48(2) U. MICH. J. L. REF., 391 (2015), <http://ssrn.com/abstract&eq;24306383>
- Ted Sichelman, *Commercializing Patents*, 62 STAN. L. REV. 341 (2010)

#### Cases

- KIMBLE ET AL. v. MARVEL ENTERTAINMENT, LLC (S. Ct., 2015) [http://www.supremecourt.gov/opinions/14pdf/13-720\\_jiel.pdf](http://www.supremecourt.gov/opinions/14pdf/13-720_jiel.pdf)
- Adobe Sys. Inc. v. Christenson, (9th Cir., Dec. 30, 2015).
- Rosetta Books LLC v. Random House, Inc., 150 F. Supp. 2d 613 (S.D.N.Y. 2001), *aff'd*, 283 F.3d 490 (2d Cir. 2002)

#### Additional Reading Material:

#### Course/Module evaluation:

End of year written/oral examination 0 %  
Presentation 20 %  
Participation in Tutorials 0 %  
Project work 80 %  
Assignments 0 %  
Reports 0 %  
Research project 0 %  
Quizzes 0 %  
Other 0 %

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Additional information:

*participation in tutorials is part of the partial mark.*

*The Seminar will have a website in the Moodle System.*