



Industrial Property Course – Patents, 2018 Edition
 Corso di Proprietà Industriale – Brevetti, edizione 2018
 Politecnico di Milano

Module	Date	Time	Topic	lecturers
			A general introduction into law, including main aspects of European Union law	
1	05 Mar. 18	09:45 - 13:00	a) General introduction into continental law and common law legal system; b) Hierarchy of sources of law in both of aforesaid legal systems including presentation of bodies authorised to create the law as well as its legal and factual position and role in legislative procedure (among others: separation of powers, the importance of parliament sovereignty rule, role of president/king and judges, existence of written constitution, precedents); c) EU legal system including mainly: sources of Union Law and legislative procedure. d) The place of the EU's sources of law in hierarchy of national law of Member States.	Giulio Sironi Stefania Bergia
			Basic knowledge of private law, including contract law, company law and tort law in both common and continental law and EU law	
2	05 Mar. 18	14:00 – 17:15	a) General introduction into private law as the branch of the legal system and features distinguishing from others, mainly: the limited intervention of the states into the private law, corporate/natural persons, legal capacity, the range of private law. b) Contract law <ol style="list-style-type: none"> i. general introduction into the contract law ii. main differences between the contract law principles in both continental and common law legal systems (mainly: the importance of statutory law in contract law in continental law legal system vs. the concept of contract law in common law legal system, <i>parol evidence rule</i>, privity of contract, basic elements of binding contract, other terms in contract, liability for breaching of the terms of contract); iii. license agreement for IP rights; 	Giulio Sironi Stefania Bergia
3	12 Mar. 18	9:45 – 13:00	c) Company law <ol style="list-style-type: none"> i. general introduction into the concept of company and partnership, ii. the difference between the companies incorporated under the continental law vs common law legal system, the internal regulations of companies and the importance of official commercial register as well as annual report. 	Luigi Mansani



			<ul style="list-style-type: none"> iii. international capital groups (holdings) in connection with the idea of IP rights as the subject to the transaction between related entities (on the international level) as the mechanism of obtaining tax benefits for the owners. <p>d) Tort law</p> <ul style="list-style-type: none"> i. general introduction into the concept tort law ii. basic differences between the concept of tortious liability for negligence in both continental and common law legal system, including the presentation the possible responsibility of person from whom the special knowledge is required (e.g. patent attorneys) <ul style="list-style-type: none"> - The idea of Trusts in common law legal system – short introduction into the concept of equity and trust law under the common law legal system 	
			General framework of the IP rights	
4	12 Mar. 18	14:00 – 17:15	<ul style="list-style-type: none"> a) IP rights <ul style="list-style-type: none"> - EU IP rights - The relevance of IP rights regulation in contract, company and tort law (mainly the IP rights as the subject to contract and company law) b) Substantive rules: <ul style="list-style-type: none"> - International conventions, EU regulations and directives c) Enforcement <ul style="list-style-type: none"> - International conventions, EU regulations and directives d) Transfer and licensing <ul style="list-style-type: none"> - vertical agreement regulation - the Tech Transfer Regulation (316/2014) and the law/jurisdiction rules 	Giovanni Casucci
			Basic knowledge of international civil and commercial law	
5	19 Mar. 18	09:45 - 13:00	<ul style="list-style-type: none"> a) Sources of international law b) Jurisdiction: Regulation (EU) 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels Regulation) and its amendments by the Regulation (EU) 542/2014 of the European Parliament and of the Council of 15 May 2014 of the as regards the rules to be applied with respect to the Unified Patent 	Benedetta Ubertazzi



			<p>Court and the Benelux Court of Justice</p> <p>c) Applicable law: Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) and Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) for international transactions;</p>	
6	19 Mar. 18	14:00 – 17:15	<p>d) Recognition and enforcement of judgements: Regulation (EU) 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters (Brussels Regulation)</p> <p>e) Arbitration: Convention on the Recognition and Enforcement of foreign Arbitral Awards (the New York convention 1958)</p> <p>f) Disputes resolutions procedures under the aforesaid Regulations: arbitration, mediation, transaction.</p>	Benedetta Ubertazzi
The role and organisation of the Court of Justice of the European Union				
7	26 Mar. 18	09:45 - 13:00	<p>a) The Court of Justice of the European Union in the legal framework of the EU constituent treaties (TEU, TFEU);</p> <p>b) The structure of the Court of Justice of the European Union: the General Court, the Court of Justice, the Civil Service Tribunal and their composition;</p> <p>c) The jurisdiction of the Court of Justice of the European Union: direct actions, preliminary ruling referrals;</p> <p>d) The Court of Justice of the European Union in the legal framework of the EU constituent treaties (TEU, TFEU);</p> <p>e) The structure of the Court of Justice of the European Union: the General Court, the Court of Justice, the Civil Service Tribunal and their composition;</p> <p>f) Court of Justice, the Civil Service Tribunal and their composition;</p> <p>g) The jurisdiction of the Court of Justice of the European Union: direct actions, preliminary ruling referrals;</p>	Giuseppe Bertoli (to be confirmed)
Substantive law on Patents as resulting from the substantial rules contained in the Agreement on the Unified Patent Court and the patent-related case law of the Court of Justice of the European Union, including case law on supplementary protection certificates				
8	26 Mar. 18	14:00 – 17:15	<p>a) Patentable inventions</p> <p>b) Requirements of validity</p> <p>c) Scope of Protection and limitations thereof</p>	Micaela Modiano



			<ul style="list-style-type: none"> d) Supplementary Protection Certificates e) Review of the case law of the Court of Justice of the European Union in patent-related and supplementary protection certificates matters; 	
			Enforcement of patents, providing knowledge of Directive 2004/48 (EC) on the enforcement of intellectual property rights and relevant case law of the Court of Justice of the European Union	
9	05 Apr. 18	09:45 - 13:00	<ul style="list-style-type: none"> a) Evidence issues: the evaluation of the evidence, the right of information and the preservation of the evidence b) Provisional and precautionary measures: seizure, injunction and alternative measures 	Giovanni Casucci
10	05 Apr. 18	14:00 – 17:15	<ul style="list-style-type: none"> a) Ordinary proceeding: the trial and the assessment of the validity and the infringement issues b) Measures resulting from a decision on the merit: damage evaluation, legal costs and publication 	Giovanni Casucci
11	06 Apr. 18	09:45 - 13:00	Exercises 01 A Questions and answers on the first part of the program	Gualtiero Dragotti
12	06 Apr. 18	14:00 – 17:15	Exercises 01 B Questions and answers on the first part of the program	Mark Bosshard
			A comparative overview on patent infringement proceedings and revocation of patents in Contracting Member States – part A	
13	13 Apr. 18	09:45 - 13:00	The British system	Penny Gilbert
14	13 Apr. 18	14:00 – 17:15	The German system	Carl-Richard Haarmann
			Unitary patent protection, providing advanced knowledge of Regulations 1157/2012 (EU) implementing enhanced cooperation in the area of the creation of unitary patent protection and 1160/2012 (EU) implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements as well as the Rules relating to unitary patent protection	
15	20 Apr. 18	09:45 - 13:00	a) The birth of the unitary patent protection regulations: the concept of enhanced cooperation in the legal framework of the EU constituent treaties (TEU, TFEU); Art. 118 TFEU: ordinary legislative procedure vs special legislative procedure;	Francis Leyder
16	20 Apr. 18	14:00 – 17:15	b) The Unitary Patent Regulation	Francis Leyder



			c) The Translation Regulation	
			A comparative overview on patent infringement proceedings and revocation of patents in Contracting Member States – part B	
17	04 May 18	09:45 - 13:00	The French system	François Pochart
18	04 May 18	14:00 – 17:15	The Dutch system	Richard Ebbink
			The operation of the Unified Patent Court, providing advanced knowledge of the Agreement on the Unified Patent Court and the Unified Patent Court’s Statute (first part)	
19	11 May 18	09:45 - 13:00	a) The legal personality of the Unified Patent Court: a court common to contracting EU Member States b) Sources of law	
20	11 May 18	14:00 – 17:15	c) The structure of the Unified Patent Court - The Court of First Instance: Central Division, Local Divisions, Regional Divisions; - The Court of Appeal;	Giuseppe Colucci
			The operation of the Unified Patent Court, providing advanced knowledge of the Agreement on the Unified Patent Court and the Unified Patent Court’s Statute (second part)	
21	18 May 18	09:45 - 13:00	d) Compositions of the panels of UPC judges: multi-nationalism, pool of judges, technical judges; e) Language regime; f) Jurisdiction, distribution of competence; transitional regime: opt-out, jurisdictions of the national courts;	David Holland
22	18 May 18	14:00 – 17:15	g) Actions before the Unified Patent Court (infringement, revocation, bifurcation); h) First instance proceedings (written proceedings, interim proceedings, oral proceedings) i) Appeal proceedings	Stefan Lieck
			Litigation before the Unified Patent Court, providing advanced knowledge of procedures, litigation and advocacy skills, practice and case management before the Unified Patent Court, with special regard to the Rules of Procedure of the Unified Patent Court.	
23	25 May 18	09:45 - 13:00	Introduction	Cesare Galli



			<ul style="list-style-type: none"> - litigation and advocacy skills, code of conduct, practice and case management before the Unified Patent Court - The role of protective letters and non-infringement actions 	
24	25 May 18	14:00 – 17:15	Coordination of the various procedures <ul style="list-style-type: none"> - Coordination between nullity proceedings and infringement proceedings - Relationship between proceedings pending before Central Division, Local/Regional Divisions and the Court of Appeal - Possible strategies of attack and defence 	Johannes Heselberger
PROCEDURES BEFORE THE COURT OF FIRST INSTANCE (FIRST PART)				
25	01 June 18	09:45 - 13:00	a) Written procedure – first part <ul style="list-style-type: none"> - Infringement action - Revocation action - Action for declaration of non-infringement 	Klaus Grabinski
26	01 June 18	14:00 – 17:15	a) Written procedure – second part <ul style="list-style-type: none"> - Action within articles 33(5) and (6) of the agreement - Action for compensation for licences on the bases of Art. 8 of Regulation (EU) No. 1257/2012 - Action against decision of the European Patent Office in carrying out the tasks referred to in Art. 9 of Regulation (EU) No. 1257/2012 	Wouter Pors
EVIDENCE				
27	08 June 18	09:45 - 13:00	<ul style="list-style-type: none"> a) Witnesses and experts of the parties b) Court experts c) Order to produce evidence and to communicate information d) Order to preserve evidence and order for inspection e) Other evidence 	Kevin Mooney
PROVISIONAL MEASURES				
28	08 June 18	14:00 – 17:15	<ul style="list-style-type: none"> - Application for provisional measures - Oral hearing - Order of the Application for provisional measures - Order of provisional measures without hearing the defendant - Revocation of provisional measures 	Sabine Agé
PROCEDURES BEFORE THE COURT OF FIRST INSTANCE (SECOND PART)				



29	15 June 18	09:45 - 13:00	<p>b) Interim procedure</p> <ul style="list-style-type: none"> - Role of the judge rapporteur - Interim conference - Preparation for the oral hearing <p>c) Oral procedure</p> <ul style="list-style-type: none"> - Role of presiding judge - Conduct of the oral hearing - Absence of one or both parties - Decision on the merits - Interim award of damages 	Matthias Zigann
30	15 June 18	14:00 – 17:15	<p>d) Court fees and procedure for the determination of damages and compensation</p> <p>Fees and legal aid</p> <ul style="list-style-type: none"> - Court fees - Legal aid <p>Determination of damages</p> <ul style="list-style-type: none"> - Application for the determination of damages - Request to lay open books <p>Procedure for the cost decision</p> <ul style="list-style-type: none"> - Compensation for representation costs - Compensation for costs of experts - Compensation for costs of witnesses - Compensation for costs of interpreters and translators - Appeal against the cost decision <p>Security for costs</p> <ul style="list-style-type: none"> - Security for costs of a party and for the costs of the Court 	Eugen Popp
			PROCEDURE BEFORE THE COURT OF APPEAL	
31	21 June 18	09:45 - 13:00	<ul style="list-style-type: none"> - Appealable decisions - Application for suspensive effect <p>a) Written procedure</p> <ul style="list-style-type: none"> - Statement of appeal, statement of grounds of appeal - Statement of response - Reply to a statement of cross appeal - Referral to the full Court 	Ferenc Török



32	21 June 18	14:00 – 17:15	<ul style="list-style-type: none"> - Interim procedure Role of the Judge- rapporteur - Oral procedure - Decisions and effect of decisions - Procedure for application of rehearing 	Manolis Samuelides
GENERAL PROVISIONS				
33	22 June 18	09:45 - 13:00	<ul style="list-style-type: none"> a) General procedural provisions b) Service <ul style="list-style-type: none"> - Service within the contracting member States - Service outside the contracting member States - Service by an alternative method - Service of orders, decisions and written pleadings c) Rights and obligations of Representatives d) Stay of proceedings e) Time periods 	Axel Casalonga
34	22 June 18	14:00 – 17:15	<ul style="list-style-type: none"> f) Parties to proceedings <ul style="list-style-type: none"> - Plurality of parties - Change in parties - Death, demise or insolvency of a party - Transfer of patent - Intervention - Re-establishment of rights g) Miscellaneous provisions on languages h) Case management i) Rules relating to the organization of the Court j) Decisions and orders k) Decision by default l) Actions bound to fail or manifestly inadmissible m) Settlement 	Christopher Stothers (to be confirmed)
35	27 June 18	09:45 - 13:00	<p>Exercises 02 A</p> <p><i>Tech-transfer negotiation</i></p> <p>Introduction of a negotiation case</p> <p>Mock Tech Transfer Negotiation (3 hours)</p>	Case study proposed by Giovanni Casucci



36	27 June 18	09:45 - 13:00	Exercises 02 B Questions and answers on the UP and the UPC	
37	28 June 18	09:45 - 13:00	Exercises 03 A Presentation and discussion of case studies	
38	28 June 18	14:00 – 17:15	Exercises 03 B Presentation and discussion of case studies	
			MOCK TRIAL Andrea Marietti, Benedetta Ubertazzi, Giovanni Casucci, ...	
39	29 June 18	09:45 - 13:00	Exercises 04 <i>Mock Litigation</i> <ul style="list-style-type: none">- Presentation of the case- Preliminary proceedings	Case study proposed by Andrea Marietti
40	29 June 18	14:00 – 18:30	<ul style="list-style-type: none">- Proceeding with/without bifurcation- Appeal <p style="text-align: center;">***</p> <p style="text-align: center;">Conclusion and exam</p>	

A written exam will be carried out with multiple-choice questions on each section topic.
At the end of the course there will be an oral exam on the entire program.
