

**MBU 3520 - INTELLECTUAL PROPERTIES  
FINAL EXAM STUDY GUIDE**

**General Information:** The following information is provided as an aid in reviewing for the final exam. Please note that, although this information should be helpful in studying for the exam, *this study guide is NOT intended to be a comprehensive source of all of the information you are required to know. Instead, you are responsible for all of the material covered in class and the corresponding assigned readings.*

**Exam Dates:** The specific date and time for each class section is on the course syllabus as well as the Belmont Final Exam schedule on the Belmont website. I do not commit these times to memory so if you ask me, my honest response will be “I don’t know.” You can look up the time just as easily as I can so please do so. *Please note that University policy requires that all final exams be given on the dates scheduled by the University and instructors do not have the authority to give final exams at any other times unless approved in writing by the Provost.* I also expect you to show up on time for the exam and I reserve the right to deduct points from your exam if you show up over 10 minutes late.

**Format of Exam:** The exam will contain 40-50 multiple choice questions (some true/false) and is worth 30% of your overall course grade. Although the exam will be comprehensive, the majority of questions will be from material covered after the Midterm Exam. The following are the main topics you will be tested on. To help you allocate your study time, I have indicated an approximate number of questions for each topic. Reading assignments for all of these topics are specified by the course syllabus (some reading assignment are modified below).

Trademarks (3-5 questions)

Patents (1-2 questions)

Trade Secrets (1-2 questions)

Subject Matter of Copyright (3-5 questions)

- What is copyright and what does it protect?
- What are the three basic requirements for copyrightability
- Understand the important distinction between uncopyrightable ideas and copyrightable expression of ideas

Ownership of Copyright (3-5 questions)

- What are the requirements for joint authorship?
- What are the rights and duties of joint copyright owners?
- What are works made for hire?
- How can copyrights be transferred?

- What are authors' termination rights & how are they exercised?

#### Reproduction Right (1-3 questions)

- What is the compulsory mechanical license and how is it exercised?
- What is the Audio Home Recording Act?

#### Derivative & Distribution Rights (1-3 questions)

- What is a derivative work?
- What does the copyright in a derivative work protect?
- What is the first sale doctrine?

#### Performance Right (1-3 questions)

- What does the public performance right apply to?
- Distinguish between the performance right applicable to songs from the performance right applicable to sound recordings.
- Be familiar with the main exemptions from the public performance right (i.e., Face-to-Face Teaching Activities, Religious Services, Fairness in Music Licensing Act).

#### Duration of Copyright (1-3 questions)

- How long does copyright last under current law?
- How does the current term of copyright differ from the past?
- Note: If any questions require you to determine the term of a copyright other than according to the rules for post-1978 works, you will be provided with a copy of Table 8.1 on page of the text.

#### Formalities - Registration & Notice (1-3 questions)

- What is copyright registration?
- How do you register a copyright?
- What are the benefits of registering a copyright?
- When can you register & when must you register to be eligible for certain enforcement remedies?
- Registering a collection (or group) of works
- What is copyright notice & what is the purpose of using copyright notice?

#### Infringement of Copyright (5-10 questions)

- What is copyright infringement?

- What are the elements of the legal test for copyright infringement?

Defenses to Infringement - Fair Use only (3-5 questions); pp. 129-136

- What is fair use?
- What are the factors that courts must apply to determine whether the use of a copyrighted work is fair or not?
- How is the fair use doctrine applied to situations involving parody?

Remedies for Infringement (2-5 questions)

- What are the remedies for copyright infringement?
- Are there any circumstances where a copyright owner would not be entitled to certain remedies?

International Copyright (1-2 questions)

- Why is it important that there be some means of protecting copyrights on an international basis?
- How is copyright law enforced between different countries?
- What is the Berne Convention?

Copyright & Digital Technology (5-7 questions); Ch. 14 & 15

- How are the exclusive rights commonly exercised online?
- What is the Digital Millennium Copyright Act ? (all you need to know are the few things covered in class, not the details).
- You should be familiar with the main file sharing lawsuits (e.g., Napster, Grokster, RIAA lawsuits against individuals)
- How are the doctrines of contributory and vicarious infringement applied to cases involving file sharing?

### **Additional Review Materials**

1. I have posted lecture note outlines for the topics covered on my website at [www.copyrightguru.com/belmont\\_classes/IntellectualProperties/intellectual\\_properties.htm](http://www.copyrightguru.com/belmont_classes/IntellectualProperties/intellectual_properties.htm) which you can feel free to use to supplement your class notes.
2. I recently attended a seminar that showed an old [Saturday Night Live](#) clip featuring [Guido Sarducci](#). You may be too young to remember Father Guido, but he did a skit about a 5 minute university in which he teaches you everything you'll remember 5 years after graduation in 5 minutes - watch it at this link - <mms://videosrv6.cs.washington.edu/general/5minuteU.wmv> - In that vein, the following is my "least you need to know" review for trademarks, patents and trade

secrets which shouldn't take too much more than 5 minutes to review. Notice, I haven't included copyrights since you'll probably need to spend more than 5 minutes on that, but hey that's why you're paying the big bucks to come to Belmont rather than paying \$20 to Father Guido.

### **The Least You Need to Know About Trademarks**

- A [trademark](#) is something used to identify a company's goods or services & distinguish them from others.
- A word, phrase, logo, symbol (or sometimes even a color, sound or smell) used by a business to identify a product & distinguish it from competitors' products.
- Although ownership of trademarks is based on use in commerce in the U.S., trademarks can be federally registered with the U.S. Patent & Trademark Office ([USPTO](#)) which provides certain benefits over non-registered marks. While trademark ownership in the U.S. is based on use, most foreign countries require registration to own a trademark.
- Trademarks last for as long as the mark continues to be used in commerce to identify a brand of products or services. A federal trademark registration lasts for 10 years, but can be renewed for additional 10-year periods (subject to continued use).
- Trademark infringement involves the use of a trademark by someone other than the trademark owner in a way that is likely to cause confusion among consumers of the products or services identified by the trademark.
- Trademark dilution involves the unauthorized use of a famous trademark on products or services that do not compete with those of trademark owner and is intended to protect the distinctive quality and goodwill of very well known trademarks.
- Internet domain names can include trademarks and a domain name can be registered by someone other than the trademark owner. However, if a trademark is used in a domain name for bad faith purposes (e.g., to sell to the trademark owner), the trademark owner can sue to domain registrant for violating the Anti-Cybersquatting Consumer Protection Act or, as an alternative to litigation, can file an arbitration complaint which usually resolves the dispute in a quicker and less costly manner (although unlike a lawsuit, arbitration can only result in transfer of the domain name, not any monetary remedies).

### **The Least You Need to Know About Patents**

- A [patent](#) is grant from the government (U.S. [Patent & Trademark Office](#)) giving the owner a monopoly for limited period of time on the use & development of an invention which the PTO finds to qualify for patent protection. A patent allows the owner to prevent others from making, using or selling the patented invention (even if another

person independently creates the same invention).

- In order to be patentable, an invention, process or discovery must be useful, novel and non-obvious.
- Patents last for 20 years from the filing date are not renewable.
- While the U.S. follows a first-to-invent patent system (patent is granted to first person to make the invention), other countries follow a first-to-file system (patent is granted to first person to file patent application).

### **The Least You Need to Know About Trade Secrets**

- A [Trade Secret](#) can be any information that used in the operation of a business that is sufficiently valuable & secret to afford an actual or potential economic advantage. Some types of information commonly protected as trade secrets includes customer lists, manufacturing processes, formulas or recipes for producing products and business and marketing plans.
- Inventions & processes that are not patentable might be protected by trade secret law.
- In order to protect trade secrets, businesses must take reasonable steps to maintain the secrecy of the information and the more valuable the information, the more rigorous procedures to maintain secrecy should be.
- Although the specific procedures taken to maintain secrecy depend on the type of information to be protected, its generally a good idea to: Mark information with a confidential notice; Store information securely; Restrict access as much as possible; Do not make important information available over the Internet; Inform employees on the importance of confidentiality and their duty not to disclose confidential information; Have employees sign [Non-Disclosure Agreements](#) (NDA).
- Trade secret protection can potentially last indefinitely (as long as kept secret), but is risky since the protection will be lost if the owner fails to take reasonable steps to keep it secret or if it is independently discovered or [reverse engineered](#).
- Trade secret law only protects against [misappropriation](#) (i.e., people and businesses who steal or use the information in violation of a duty not to disclose).