

课程详述

COURSE SPECIFICATION

以下课程信息可能根据实际授课需要或在课程检讨之后产生变动。如对课程有任何疑问，请联系授课教师。

The course information as follows may be subject to change, either during the session because of unforeseen circumstances, or following review of the course at the end of the session. Queries about the course should be directed to the course instructor.

1.	课程名称 Course Title	知识产权法 Intellectual Property Law
2.	授课院系 Originating Department	社会科学中心 Center for Social Sciences
3.	课程编号 Course Code	SS119
4.	课程学分 Credit Value	2
5.	课程类别 Course Type	通识选修课程 General Education (GE) Elective Courses
6.	授课学期 Semester	夏季 Summer
7.	授课语言 Teaching Language	中文 Chinese
8.	授课教师、所属学系、联系方式 (如属团队授课, 请列明其他授课教师) Instructor(s), Affiliation & Contact (For team teaching, please list all instructors)	吕炳斌 南京大学法学院教授 Lyu Bingbin; Professor, Law School, Nanjing University 南方科技大学社会科学中心 Center for Social Sciences, SUSTech e-mail: lbb@nju.edu.cn
9.	实验员/助教、所属学系、联系方式 Tutor/TA(s), Contact	无 NA
10.	选课人数限额(可不填) Maximum Enrolment (Optional)	

11. 授课方式 Delivery Method	讲授 Lectures	习题/辅导/讨论 Tutorials	实验/实习 Lab/Practical	其它(请具体注明) Other (Please specify)	总学时 Total
学时数 Credit Hours	32				32
12. 先修课程、其它学习要求 Pre-requisites or Other Academic Requirements	无 NA				
13. 后续课程、其它学习规划 Courses for which this course is a pre-requisite	无 NA				
14. 其它要求修读本课程的学系 Cross-listing Dept.	无 NA				

教学大纲及教学日历 SYLLABUS

15. 教学目标 Course Objectives

本课程以介绍知识产权法的主要理论和基本制度为主，课程内容包括：专利法、商标法和著作权法和其他新技术的知识产权保护问题。本课程以我国知识产权相关法律为基础，全面阐述三大知识产权部门法的基本理论、基础知识和基本制度，使学生了解并掌握知识产权法的主要内容和法律规定。通过学习，要求学生具备知识产权意识，熟悉和掌握知识产权部门法的主要规定和基本制度，能够处理一般知识产权实际问题。

The course focuses on introducing the main theories and basic systems of intellectual property law. The content of the course includes: patent law, trademark law, copyright law and other emerging intellectual property issues brought by new technologies. This course is based on the Chinese laws on intellectual property rights, comprehensively expounds the basic theories, basic knowledge and basic systems of the three major divisions of intellectual property law, so that students can understand and master the main legal provisions of intellectual property law. Through learning, students are required to have intellectual property awareness, be familiar with and master the main provisions and basic systems of the intellectual property law, and be able to deal with general practical intellectual property issues.

16. 预达学习成果 Learning Outcomes

本课程预期让学生掌握以下技能和知识：

- 1、熟悉主要类型知识产权的取得条件、权利内容和保护范围；
- 2、了解知识产权保护的理论基础和政策目标；
- 3、初步掌握针对具体知识产权案例展开法律分析的能力。

Upon successful completion, students will be able to:

1. To apprehend the conditions for protection, rights conferred and protection scope of major types of intellectual property rights;
2. To understand the theoretical basis and policy objectives of intellectual property protection;
3. To master the skill of legal analysis of specific intellectual property cases.

17. 课程内容及教学日历（如授课语言以英文为主，则课程内容介绍可以用英文；如团队教学或模块教学，教学日历须注明主讲人）

Course Contents (in Parts/Chapters/Sections/Weeks. Please notify name of instructor for course section(s), if this is a team teaching or module course.)

本课程共16讲，每讲2学时

第一讲 导论

学习本课程的意义和目标；
知识产权的概念、特征和范围；
知识产权的基本制度和基本原则；
对知识产权制度的理解和评价。

第二讲 专利保护的客体

发明的定义、专利法保护的发明具有的特征；
实用新型的定义、发明与实用新型的异同；
外观设计的定义、构成要素、与发明和实用新型的区别；
计算机软件、商业方法、算法等的专利保护新问题。

第三讲 获得专利权的实质性条件

发明和实用新型的新颖性、外观设计的新颖性，不丧失新颖性的公开；
发明和实用新型创造性的概念、标准和判断；
发明和实用新型实用性的概念、判断；
不授予专利权的情形。

第四讲 专利的申请和审查

专利申请的书面原则、先申请原则、优先权原则和单一性原则；
专利申请文件的种类、作用、基本要求和结构；
专利申请文件的提交；
专利审批制度的基本原理和主要规范；
专利申请的审查和相关程序。

第五讲 专利权的主体；专利权的内容

发明人或者设计人的判断；
职务发明和非职务发明的界定；
专利权的性质、专利权的内容。

第六讲 专利权的保护

专利权的保护范围；
专利侵权行为的构成要件；
发明和实用新型专利侵权的判定方法；
外观设计专利侵权的判断；
专利侵权的民事责任。

第七讲 科技创新中的专利法前沿问题

职务科技成果的混合所有制改革问题探讨；
专利权的“非实施主体”与“专利蟑螂”问题探讨；
标准必要专利的法律问题探讨。

第八讲 著作权法基本原理；著作权的客体

著作权法的立法目的；
著作权法的两大体系；
我国著作权制度的概况；
著作权法保护的客体、作品的概念和要件；
作品的类型。

第九讲 著作权的归属；著作权的具体内容

著作权归属的一般原则；
合作作品、职务作品、委托作者的著作权归属；
各种具体的著作财产权的内涵；
各种具体的著作人身权的内涵。

第十讲 著作权的保护及其限制

著作权侵权的认定方法；
著作权侵权的主要救济方法；
著作权的合理使用的概念与具体情形；
著作权的法定许可的概念与具体情形。

第十一讲 信息网络时代的著作权法前沿问题

网络时代的著作权保护前沿热点问题；
人工智能创作的著作权问题；
著作权保护的理論基础的反思与审视。

第十二讲 商标与商标法概论

商标的概念与性质；
商标保护的基本理论；
商标的功能；
商标的分类。

第十三讲 商标注册

商标注册的基本原则；
商标注册的实体条件；
商标注册的消极条件。

第十四讲 商标权的内容

商标权的权利内容；
商标权的保护期和续展程序；
商标的许可和转让。

第十五讲 商标权的保护

商标侵权的常见类型；
商标侵权的法律责任；
驰名商标的特殊保护问题探讨。

第十六讲 商标法前沿问题

商标抢注的法律规制问题；
涉外定牌加工、互联网关键词广告与商标侵权判断中的“商标性使用”问题；
商标法司法实践中的反向混淆问题。

Lecture 1 Introduction

Objectives and requirements of the course;
The concept, characteristics and scope of intellectual property rights;
The basic system and basic principles of intellectual property protection;
Understanding and evaluation of the intellectual property system.

Lecture 2 The subject matters for patent protection

Definition of invention and characteristics of invention protected by patent law;
The definition of utility model, the similarities and differences between invention and utility model;
The definition of design, its constituent elements, and the differences from inventions and utility models;
New issues of patent protection for computer software, business methods, algorithms, etc.

Lecture 3 Substantive conditions for patent right application

The novelty of inventions and utility models, the novelty of designs, and the disclosure without loss of novelty;
Concepts, standards and judgments of inventiveness of inventions and utility models;
Concepts and judgments of the utility of inventions and utility models;
Circumstances where patent rights cannot be granted.

Lecture 4 Patent application and examination

The written principle, first-to-file principle, priority principle and unity principle of patent application;
Types, functions, basic requirements and structure of patent application documents;
Submission of patent application documents;
The basic principles and main rules of the patent examination system;
Patent examination and related procedures.

Lecture 5 Patent right holder and the content of patent right

The judgment of the inventor or designer;
Definition of service invention and non-service invention;
The nature of the patent right and the content of the patent right.

Lecture 6 patent protection

The scope of patent protection;
Elements of patent infringement;
Methods for determining infringement of invention and utility model patents;
Judgment of design patent infringement;
Civil liability for patent infringement.

Lecture 7 Frontier issues of patent law in technological innovation

Discussion on the reform of mixed ownership of on-duty and technology achievements;
Discussion on the Non-Practicing Entities (NPE) of patent rights and "patent troll";
Discussion on the legal issues of standard essential patents.

Lecture 8 Basic principles of copyright law and objects of copyright

The legislative purpose of the copyright law;
The two major systems of copyright law;
General situation of the Chinese copyright system;
Objects protected by copyright law, concepts and requirements of works;
The types of works.

Lecture 9 The ownership of copyright and the content of copyright

The general principles of copyright ownership;
The copyright ownership of co-operative works, service works, and entrusted authors;
The detailed content of various economic rights in copyright;
The detailed content of various moral rights in copyright.

Lecture 10 Copyright protection and its exceptions

Methods of determining copyright infringement;
The main remedies for copyright infringement;
The concept and specific circumstances of the fair use of copyright;
The concept and specific circumstances of the legal license of copyright.

Lecture 11 Frontier issues of copyright law in the information network era

Frontier issues of copyright protection in the Internet age;
The copyright issue of artificial intelligence creation;
Rethinking and examining the theoretical basis of copyright protection.

Lecture 12 Introduction to Trademarks and Trademark Law

The concept and nature of trademarks;
The basic theory of trademark protection;
The functions of the trademark;
Classification of trademarks.

Lecture 13 trademark registration

Basic principles of trademark registration;
The substantive conditions for trademark registration;
Negative conditions for trademark registration.

Lecture 14 Contents of trademark rights

The content of trademark rights;

The protection period and renewal procedures of trademark rights;
Licensing and assignment of trademarks.

Lecture15 Protection of trademark rights

Typical types of trademark infringement;
Legal liability for trademark infringement;
Discussion on the special protection of well-known trademarks.

Lecture16 Frontier Issues of Trademark Law

Legal regulation of trademark squatting;
"Trademark use" issues in OEM manufacturing, Internet keyword advertising;
The issue of reverse confusion in judicial practice of trademark law.

18. 教材及其它参考资料 Textbook and Supplementary Readings

中国《专利法》《著作权法》《商标法》等法律文本，电子版PPT教学资料及教师指定的阅读文献。
The legal texts of the Chinese Patent Law, Copyright Law, Trademark Law, electronic teaching materials (PPT) and assigned reading materials.

课程评估 ASSESSMENT

19. 评估形式 Type of Assessment	评估时间 Time	占考试总成绩百分比 % of final score	违纪处罚 Penalty	备注 Notes
出勤 Attendance		10%		无故缺席 5 次及以上为不通过 Those who miss more than five classes without a valid reason will fail
课堂表现 Class Performance		15%		考查学生是否认真听课及参与课堂讨论的积极性和表现 Participation in class discussion
小测验 Quiz				
课程项目 Projects				
平时作业 Assignments		25%		案例分析 Case study
期中考试 Mid-Term Test				
期末考试 Final Exam				
期末报告 Final Presentation		50%		按授课教师要求在一定范围内自选题目撰写学期论文 Term paper
其它（可根据需要改写以上评估方式） Others (The above may be modified as necessary)				

20. 记分方式 GRADING SYSTEM

- A. 十三级等级制 Letter Grading
 B. 二级记分制（通过/不通过） Pass/Fail Grading

课程审批 REVIEW AND APPROVAL

21. 本课程设置已经过以下责任人/委员会审议通过
This Course has been approved by the following person or committee of authority

