



INSTITUTE OF EUROPEAN STUDIES OF MACAU
澳門歐洲研究學會
INSTITUTO DE ESTUDOS EUROPEUS DE MACAU

IEEM Intellectual Property Law Programme 2019

The 16th Intellectual Property Law School 28 October to 1 November 2019, Macau Cultural Centre

The IP Law School is a unique initiative in Asia, offering a taught programme in international Intellectual Property Law and its relevance for global, European and Asian economic development and innovation policy. The IP Law School is extremely suited for trainee lawyers, Intellectual Property professionals with an economic or policy background, and master's students in Intellectual Property wishing to enhance their skills at post-academic level.

Starting from the basics of the Paris and Berne conventions, the course covers the development of Intellectual Property Law all the way to the WTO TRIPS Agreement and the WIPO Copyright treaties. Attention is also devoted to regional arrangements, such as the European Patent Convention, and other new international and national initiatives. From a policy perspective, free trade agreements and bilateral investment arrangements covering Intellectual Property, as well as ongoing negotiations in the area of protection of traditional knowledge, will be covered. The classes are taught using an intensive Socratic and interactive format by experts in the field.

This challenging programme also expects participants to jointly prepare and argue several moot cases in a friendly, yet competitive atmosphere, providing a unique insight into the way in which colleagues from various jurisdictions approach international and domestic legal problems.

The 19th Intellectual Property Seminar: Topic: 25 Years of TRIPS Agreement 4 and 5 November 2019, Macau Grand Lapa Hotel

The annual two-day Intellectual Property Seminar offers a forum for IP professionals wishing to be part of a thought-provoking discussion on cutting-edge developments in intellectual property and international trade. Distinguished practitioners, judges and academics from all over the world have contributed to this event. The papers they have presented have been published in book form by Kluwer Law International and Hart Publishing.

The Professional IP Update 2019: 6 November 2019, HK IP Department, HK

The annual professional update provides an overview of all relevant cases and legislative developments of the past year from Europe, the US and Greater China. During one day, you will be brought up to speed on the major important legal decisions and developments in intellectual property law and policy

Programme

28 Oct to 1Nov	The 16 th IEEM Intellectual Property Law School
Monday, 28 October	Lecture: Introduction: History and Structure of IP Laws
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	Lecture: International IP treaties and its guiding principles: National treatment, independence, priority, jurisdiction and dispute settlement
	Mock trial: Preparation for mock trials
Tuesday, 29 October	Lecture: Principles of trade mark law, passing off and the protection of well-known marks
	Lecture: Trademarks: confusion/dilution/passing off, three-dimensional marks
	Case studies: Unfair Competition
	Mock trial: Opel (Trademarks; similarity; confusion)
Wednesday, 30 October	Lecture: National and international copyright law
	Lecture: Interfaces - Slavish imitation, copyright and works of applied art
	Case studies: Digital Copyright
	Mock trial: Wheelies – Designs, trade marks, exhaustion
Thursday, 31 October	Lecture: National and international patent law – Basic Principles
	Lecture: How to read patents, claims, descriptions, priority issues
	Case studies: Patents: Monopolies, Rights and Limits
	Mock trial: Fair Game? – Copyrightable works, acts of copying, private use, communication to the public, applicable law
Friday, 1 November	Lecture: Enforcement Issues
	Lecture: Internet Issues: Infringement and Liability
	Lecture: Technology Transfer and Licensing
	Mock trial: Tick Card – Patents, validity, claim interpretation



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Fees for IP 2019

- IP Law School, 28 Oct to 1 Nov 2019: MOP 8000 or USD 1000
- IP Law School, single day (no moot court participation): MOP800 or USD100per day
- IP Seminar, 4 and 5 Nov 2019: MOP 6,000 or USD 750
- Annual Professional IP update, 6 Nov 2019: MOP 3000 or USD 375
- IP Law School + Annual Professional IP update + IP Seminar: MOP 14,400 or USD 1800
- Each IP Seminar dinner: MOP 400 or USD 50

Early bird registration:

Discount of 15% for enrolment before 9 August 2019 and discount of 10% for enrolment before 6 September 2019

Requirements for admission to the IP Law School

The expected level of English proficiency is the equivalent of a minimum of 6.0 on the IELTS/550 on the TOEFL.

Participants should hold a bachelor degree or above, preferably in law or economics. Work experience will also be considered.

In order to safeguard interactive teaching, the number of participants to the IP Law School is limited to 24 individuals, with a cap of 4 participants per jurisdiction. Should applications exceed 24, a waiting list will be opened until there are sufficient candidates to warrant the opening of a second group.

For the Annual IP Seminar and the Professional IP Update no restrictions apply.

Registration

IP School (with option to register for IP Seminar and Update):

<http://lawstudy.maastrichtuniversity.nl/conference/files/index.asp?cn=12&ln=1>

Seminar and Update only:

<http://lawstudy.maastrichtuniversity.nl/conference/files/index.asp?cn=11&ln=1>



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Terms and Conditions

Program cancellation: The IEEM reserves the right to cancel the whole or part of the IP Programme should there be insufficient registrants;

Registration deadline: Enrolment is open until 15 October 2019;

Refund policy: 80% of fees paid for the IP Law School will be refunded if cancellation occurs before 27 September 2019. Dinner fees are not refundable;

Payment: Fees should be settled by remittance to the following bank account:

Banco Comercial de Macau

Av. da Praia Grande, 572. Macau

Account n. 706450

Name of beneficiary: Instituto de Estudos Europeus de Macau, Swift code: CMACMOMX

Please specify “Fee for the IPS2019” and your name in the message column and send a copy of your remittance form to:

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The 19th IEEM Intellectual Property Seminar

25 Years of TRIPS Agreement

Grand Lapa Hotel

Macau 4 and 5 November 2019

When the TRIPS agreement was negotiated in the context of a comprehensive multilateral free trade agreement, this marked a new era for intellectual property rights. First, it brought intellectual property law within the ambit of international trade, which arguably meant a shift in paradigm: Intellectual property rights not as obstacles to, but as a precondition of international trade. Second, the agreement overcame the impasse that had been reached with the Paris and Berne Conventions a reform of which could not be achieved. Based upon the principles of Berne and Paris, the TRIPS Agreement required comprehensive minimum standards in all fields of IP law, added a chapter on enforcement standards and as part of the WTO Agreement provided for a dispute resolution procedure in case of non-compliance. Many countries signed up to the agreement in the belief that it would bring an end to unilateral threats of sanctions, and to the demands of developed countries for an adequate level of IP protection.

The presentations look at the developments in the direct ambit of the TRIPS Agreement (namely panel decisions under the dispute resolution scheme), at the wider picture such as IP developments in the context of international organisations (WIPO, OECD, UN, WHO etc.), under domestic law, and under bilateral or multilateral trade or IP agreements. In doing so, the presentations compare the framework of intellectual property rights as it was pre-TRIPS, where we are now, and, most importantly, what the future of intellectual property rights – within the context of TRIPS and beyond - will be, taking into account changes in technology, society and politics.

Schedule and Contents

Monday
4 Nov 2019

Morning

09:00 Registration

09:30 **Welcome Address**

José Luís de Sales Marques, IEEM President

Gonçalo Cabral, Legal advisor to the Secretary for Economy and Finance, Macau – Seminar Convenor

09:45 **The Political Promise of TRIPS as the Agreement to end all IP Agreements**

Jens Hillebrand Pohl, Maastricht University, The Netherlands

When TRIPS was concluded, many understood the agreement to embody a new gold standard of IP protection that made not only reforms to the Paris and Berne Conventions, but also further IP agreements unnecessary. The ubiquitous sprawling of specific IP agreements and especially the inclusion of IP chapters in bilateral and multilateral free trade agreements has proven this wrong. Obligations to protect IP rights can now be found in bilateral and multilateral trade agreements, and can be enforced before domestic courts, the WTO and before investor-state tribunals. IP has become far more pervasive in society than ever before. For good, better, or worse?

10: 30 Q&A followed by Coffee Break

11:00 **TRIPS in the Context of International Law**

Anselm Kamperman Sanders, Maastricht University, The Netherlands

TRIPS has led to a number of issues in the context of international law: The relationship between GATT and TRIPS (e.g. freedom of transit), the relationship between the Paris and Berne Conventions with TRIPS (whether rights specified under Paris and Berne were actionable by way of WTO dispute resolution; what the MFN obligation meant in the context of Berne and Paris), the relationship between the WTO and WIPO (settle by way of an agreement), the direct applicability of TRIPS (not uniformly answered). These issues were partly dealt with by agreements, partly by DS decisions and partly by decisions of national courts.

Discussant: Peter van den Bossche, World Trade Institute, Switzerland

12:00 **TRIPS in the Field of Copyrights**

Marketa Trimble, University of Nevada, Las Vegas

Copyright law has been the IP field with the highest number of dispute settlement proceedings. Outside the WTO context, a number of subsequent copyright agreements have been concluded under the auspices of WIPO, and domestic legislation responded to internet-related challenges with the introduction of new rights such as communication to the public. Both technology related to the use of copyrighted works and the way copyrighted works are consumed have changed beyond recognition over the last 25 years and will keep changing.

Discussant: Jens Hillebrand Pohl, Maastricht University, The Netherlands

Monday
4 Nov 2019

13:00 Q&A followed by Lunch

Afternoon

14:30 TRIPS in the Field of Trade Marks

Guy Tritton, Hogarth Chambers, London

While trade marks have only become a TRIPS issue in the recent dispute resolution on plain packaging, the agreement as such has confirmed the notion of trade marks as proprietary rights that can find protection even beyond confusion. Approaches to further strengthen trade mark rights seem to have come from elsewhere, e.g. the CJEU, though. Will trade mark rights irretrievably move beyond the concept of origin confusion and towards the exclusive right of determining image and perception? And how has technology (AI, internet, social media) changed the traditional concepts of trade mark law?

Discussant: T.B.C

15:30 Q&A followed by Coffee Break

16:00 TRIPS in the Field of Geographical Indications

Natale Rampazzo, CNR - IRISS National Research Council, Naples, Italy

The protection of geographical indications has been a controversial issue between the old and new world from the beginning. DS 174 concerns the conflict between trade marks and geographical indications. Starting in 1992 with the EU-Australia Wine Agreement, a rising number of bilateral agreements between the EU and third countries have now mandated protection of specifically listed indications, and also the successful conclusion of the Geneva Act to the Lisbon Agreement has given a new impetus towards world-wide protection, but also towards renewed conflicts. And while the EU claims to champion GIs in negotiations with third countries, there may be an internal movement to water down the quality requirements of GIs in order to accommodate producers at the expense of consumers.

Discussant: Anselm Kamperman Sanders, Maastricht University, The Netherlands

17:00 Q&A & Closure

19:30 Dinner

Tuesday
5 Nov 2019

Morning

9:00 TRIPS in the Field of Patents – A System on Autopilot?
 T.B.C

The introduction of minimum standards and the reduction of flexibilities in patent policy was arguably the most controversial issue in the TRIPS negotiations. Although some DS proceedings focussed on issues of legal construction (e.g. stockpiling), most of the patent discussion took place in the political arena (allowability of parallel imports; possibility of discrimination against foreign production; compulsory licensing; inventive step requirements for pharmaceuticals). The Doha Declaration somewhat eased these political tensions. Against this background, the presentation will look at whether the future of the patent system will continue on a technology-driven autopilot or whether societal interests (Arts. 7, 8) will play a greater role in interpreting the system of patent rights and/or how technological developments such as AI will require changes to the system.

Discussant: t.b.c

10:00 Q&A followed by Coffee Break

10:30 TRIPS in the Field of Enforcement
 Xavier Seuba, University of Strasbourg, France

The enforcement chapter in the TRIPS Agreement finds no precedent in previous IP Agreements. Different from the chapters on substantive law, most provisions are worded as recommendations rather than obligations. No dispute settlement has dealt with enforcement issues. Yet even the soft law character of the enforcement provisions may have led to changes in domestic law: The EU Directives on Enforcement and Border Enforcement, domestic attempts to improve evidence collection, the protection of trade secrets in court proceedings, increased damage awards and the multitude of jurisdictions that set up specialised courts or court divisions dedicated to IP are evidence thereof. But has increased enforcement also, as Hugh Laddie once put it, become an instrument of oppression? Has it led to an over-zealous spill over in the private sphere, to extortion rackets and to patent trolls?

Discussant: Guy Tritton, Hogarth Chambers, London

11:30 The Dispute Resolution Scheme under WTO/TRIPS and its Uncertain Future
 Peter van den Bossche, World Trade Institute, Switzerland

The Dispute Resolution Scheme as introduced under the WTO Agreement meant a significant departure from previous, rather incomplete mechanisms to secure compliance. Under the two-tier mechanism of first-instance ad hoc panels and a permanent appeal board, a high number of cases in all fields of WTO have been decided in the last 25 years. Yet the future of this core feature of the WTO Agreement is uncertain due to a political impasse over the appointment of appeal board judges. The presentation looks into the history and procedure of the Dispute Resolution Mechanism, compliance of Member States with its rulings and its viability for the future.

Discussant: Marketa Trimble, University of Nevada, Las Vegas



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Tuesday 5 Nov 2019	12:30 Q&A followed by Lunch <i>Afternoon</i> 14:15 Mock Trial 17:00 Closure followed by drinks



This Programme is supported by Macau Foundation

<p align="center">IEEM IP Programme 2019: The Professional Intellectual Property Update Hong Kong Intellectual Property Department, Function Room 2501 25/F Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong Wednesday 6 November 2019</p>		
	8:30 - 8:45	Registration
	8:45 - 9:00	<p>Welcoming remarks:</p> <ul style="list-style-type: none"> • José Luís de Sales Marques, IEEM President • David FL Wong, JP, Director of Intellectual Property, the Government of the HKSAR
	Morning	
	9:00 - 10:30	<p>New Developments in Intellectual Property and International Trade:</p> <ul style="list-style-type: none"> • Peter van den Bossche, World Trade Institute, Switzerland • Xavier Seuba, University of Strasbourg, France <p>New Developments in the US:</p> <ul style="list-style-type: none"> • Marketa Trimble, University of Nevada, Las Vegas <p>Q & A</p>
	10:30 - 11:00	Coffee break
	11:00 - 12:30	<p>New IP Developments in Europe:</p> <ul style="list-style-type: none"> • Anselm Kamperman Sanders (copyright), Maastricht University, The Netherlands • (patents), T.B.C • Guy Tritton (trade marks), Hogarth Chambers, London • Natale Rampazzo (GIs), CNR - IRISS National Research Council, Naples, Italy <p>Q & A</p>

	12:45 - 14:00	Lunch
	<u>Afternoon</u>	
	14:00 - 16:30	<p>New IP Developments in Greater China – Hong Kong, Mainland China, Taiwan</p> <ul style="list-style-type: none"> • t.b.c. • Tianxiang He – City University, HK – case law overview • Reinout van Malenstein – HFG, Shanghai – enforcement strategies • Kung Chung Liu - Singapore Management University/ Renmin University of China - <p>Chair: Henry Wheare – Nixon Peabody CWL, HK</p>
	16:30	Closing remarks