

LA3C7-15 Intellectual Property Law 2: Copyright and Trade Marks

24/25

Department

School of Law

Level

Undergraduate Level 3

Module leader

Luminita Olteanu

Credit value

15

Module duration

10 weeks

Assessment

100% coursework

Study location

University of Warwick main campus, Coventry

Description

Introductory description

This module, "Intellectual Property Law 2: Copyright and Trade Marks," is designed to provide a comprehensive understanding of trade mark law, passing off, and copyright law. It will explore these areas from the perspective of their historical development, shedding light on the social and political context in which trade mark law and copyright have emerged, offering students insights into the evolution of legal frameworks for protecting intellectual property.

Throughout the course, students will gain a contextual understanding of how these legal constructs grant protection to various forms of knowledge, distinctive signs, language, and culturally significant symbols and whose interests are served or ignored in this process. Moreover, the module will delve into the intricate world of enforcement practices and their impact on the overarching objectives of these laws.

Module aims

By the end of this module, students will enhance their knowledge of the political and economic dimensions of trade mark and copyright law, as well as gain valuable insights into the sociology of the law in practical application. This interdisciplinary approach will offer students a fresh perspective on intellectual property rights, their historical context, and the contemporary socio-

legal dynamics that shape their implementation.

Outline syllabus

This is an indicative module outline only to give an indication of the sort of topics that may be covered. Actual sessions held may differ.

The module will cover the following topics:

- 1 Copyright Law Historical Developments and Justifications
- 2 Copyright Criteria for Protection & Authorship
- 3 Copyright Enforcement and Mentalities of Exploitation
- 4 Exceptions to Copyright Infringement and the Absence of a General Fair Dealing Defence
- 5 Trade Mark Law Historical Developments and Justifications
- 6 Trade Mark Bureaucracies: Navigating the Registration Route
- 7 Passing Off and Trade Mark Enforcement: Bullying Competition or Protecting the Average Consumer?
- 8 Trade Mark Defences Work, Don't They?
- 9 Revision Lecture

Learning outcomes

By the end of the module, students should be able to:

- Understand and critically assess the normative bases underpinning trade mark and copyright law protection, considering their historical evolution and broader societal implications.
- Understand and contextualise the requirements for trade mark, passing off, and copyright protection, allowing students to navigate and assess the criteria necessary for intellectual property rights in practical scenarios.
- Develop written communication skills, enabling them to articulate their understanding of trade mark and copyright law effectively and collaborative teamwork skills
- Demonstrate an ability in critical analysis, the formulation and testing of concepts and assumptions related to the theory and practice of trade mark and copyright law.
- Develop robust research skills, including the identification and navigation of IP-related registers and databases, which will enable students to be proficient in conducting in-depth research, synthesizing information, and presenting well-substantiated arguments based on their findings.

Indicative reading list

1. Aplin T and L Bently, *Global Mandatory Fair Use: The Nature and Scope of the Right to Quote Copyright Works* (CUP 2020)
2. Aaker D A, *Building Strong Brands* (Pocket Books 2010)
3. Bently L, Ginsburg J and Davis J, *Trade Marks and Brands: An Interdisciplinary Critique* (CUP 2010)
4. Brian Jones D G and Mark Tadajewski (eds), *The Routledge Companion to Marketing History* (Routledge 2016)
5. Bently L and others, *Intellectual Property Law* (6th edn, OUP 2022)

6. Berger, Peter L., and Thomas Luckmann. *The Social Construction of Reality : A Treatise in the Sociology of Knowledge* (Open Road Integrated Media, Inc., 1967)
7. Boyle J, *The Public Domain. Enclosing the Commons of the Mind* (Yale University Press 2008)
8. Fhima I, *Trade Mark Dilution in Europe and the United States* (OUP 2011)
9. Griffiths A, *An Economic Perspective on Trade Mark Law* (Edward Elgar 2011)
10. Howe H R and J Griffiths (eds), *Property Concepts in Intellectual Property Law* (CUP 2013)
11. Kaufman JC and Sternberg RJ (eds), *The International Handbook of Creativity* (Cambridge University Press 2006)
12. Kretschmer M, Bently L and D Ronan, *Privilege and Property Essays on the History of Copyright* (Open Books Publishers 2010)
13. Krikorian G and Kapczynski A, *Access to knowledge in the age of intellectual property* (Zone Books 2010)
14. Keller K L and Swaminathan V, *Strategic Brand Management: Building, Measuring, and Managing Brand Equity* (Pearsons 2020)
15. Leczykiewicz D and Weatherill S (eds), *The Image(s) of the Consumer in EU Law* (Hart Pub 2015)
16. Leiss W, Kline S and Jhally S, *Social Communication In Advertising. Persons, Products and Images of Well-Being* (2 edn, Routledge 1997)
17. Mazzucato, *The Value of Everything* (Penguin Books 2019)
18. Merges R, *Justifying Intellectual Property* (HUP 2011)
19. Posner R A and Landes W M, *The Economic Structure of Intellectual Property Law* (Harvard University Press 2003)
20. Simone D T, *Copyright and Collective Authorship: Locating the Authors of Collaborative Work* (CUP 2019)

Research element

The research element of the module is reflected in the mandatory seminar activities (e.g., group presentations, client advice scenarios), and formative and summative assessments (e.g., 2000-word essay).

Interdisciplinary

The module features a strong interdisciplinary component that enhances the depth and breadth of understanding in trade mark law and copyright concepts. This interdisciplinary approach reconceptualizes fundamental notions such as the "average consumer" and "originality" by drawing from a diverse range of theories and materials derived from fields such as consumer research, marketing, history, and economics. This interdisciplinary perspective is evident in the provisional reading list, which reflects the rich tapestry of influences and knowledge sources used in the course.

International

The module has a significant international component, emphasizing that the concepts explored and the justifications for intellectual property (IP) law extend well beyond the boundaries of the UK

or Europe. This international perspective recognizes that IP law is a global framework with principles and practices that transcend geographic borders.

Subject specific skills

Robust knowledge of the normative bases underpinning trade mark and copyright law protection, considering their historical evolution and broader societal implications.

Understanding and contextualisation of the requirements for trade mark, passing off, and copyright protection, thus students will be equipped to navigate and assess the criteria necessary for intellectual property rights in practical scenarios.

Written and communication skills, enabling students to articulate their understanding of trade mark and copyright law effectively and collaborative teamwork skills

Critical analysis skills, enabling students to formulate and test concepts and assumptions related to the theory and practice of trade mark and copyright law.

Transferable skills

Research skills which will enable students to be proficient in conducting in-depth research, synthesizing information, and presenting well-substantiated arguments based on their findings. Written and oral communication skills through written assignments, presentations, and peer feedback.

Problem-solving by applying their knowledge of intellectual property law to real-world scenarios and offering solutions to complex legal issues.

Time management by way of balancing lectures, seminars, assessments, and assignments, a necessary skill for meeting deadlines and managing workloads efficiently.

Ethical awareness of the context in which law operates which will allow students to make ethically sound decisions and judgments in various contexts.

Study

Study time

Type	Required
Lectures	9 sessions of 1 hour (6%)
Seminars	8 sessions of 2 hours (11%)
Private study	58 hours (39%)
Assessment	67 hours (45%)
Total	150 hours

Private study description

In the "Intellectual Property Law 2: Copyright and Trade Marks" module, private study and independent learning play a crucial role in enhancing the students' understanding and proficiency

in the subject matter. These self-directed efforts will be dedicated to a variety of essential activities, which collectively contribute to a comprehensive and well-rounded learning experience:

1. Reading the mandatory material and preparing for workshop questions and activities.
Students are expected to engage in in-depth reading of the mandatory course material every week. To actively participate in workshops, students are encouraged to prepare responses to seminar questions provided in advance.
2. Group Presentation preparation. As part of the seminar format, a mandatory small group presentation will be assigned. Preparing for this presentation involves collaborative work with peers, researching, and developing a coherent presentation to share insights on specific topics.
3. The preparation for the formative assessment which will help students fine-tune their understanding and presentation skills.
4. Summative Assessment Preparation. The summative assessment represents the culmination of the module and requires thorough preparation. Students should allocate time to synthesize their knowledge, conduct research, and demonstrate their understanding of the subject in their final assessments.

Costs

No further costs have been identified for this module.

Assessment

You must pass all assessment components to pass the module.

Assessment group A

	Weighting	Study time	Eligible for self-certification
Assessment component			
Essay Question Critically assess a topic given in advance	50%	33 hours 30 minutes	Yes (extension)

Reassessment component is the same

Assessment component			
Answering a problem question	50%	33 hours 30 minutes	Yes (extension)

Weighting**Study time****Eligible for self-
certification**

The students will be given a scenario and they will have to apply the law and case law in the form of a problem question.

Reassessment component is the same

Feedback on assessment

Students will receive written group and individual feedback on the formative and summative. Feedback will also be provided in class during seminars.

Availability**Courses**

This module is Optional for:

- Year 2 of ULAA-M130 Undergraduate Law
- ULAA-M105 Undergraduate Law (3 year) (Qualifying Degree)
 - Year 2 of M105 Law (3 year) (Qualifying Degree)
 - Year 3 of M105 Law (3 year) (Qualifying Degree)
- Year 2 of ULAA-M131 Undergraduate Law (4 Year)
- ULAA-M106 Undergraduate Law (4 year) (Qualifying Degree)
 - Year 3 of M106 Law (4 year) (Qualifying Degree)
 - Year 4 of M106 Law (4 year) (Qualifying Degree)
- Year 2 of ULAA-M132 Undergraduate Law (Year Abroad)
- Year 4 of ULAA-M108 Undergraduate Law (Year Abroad) (Qualifying Degree)
- Year 2 of ULAA-M133 Undergraduate Law with French Law
- Year 2 of ULAA-M134 Undergraduate Law with German Law
- ULAA-M136 Undergraduate Law with Humanities (3 Year)
 - Year 2 of M136 Law with Humanities (3 year)
 - Year 3 of M136 Law with Humanities (3 year)
- UPHA-V7MW Undergraduate Politics, Philosophy and Law
 - Year 2 of V7MW Politics, Philosophy and Law
 - Year 3 of V7MW Politics, Philosophy and Law
- Year 4 of UPHA-V7MX Undergraduate Politics, Philosophy and Law (with Intercalated Year)

This module is Option list A for:

- Year 4 of ULAA-ML35 BA in Law and Sociology (Qualifying Degree) (with Intercalated year)
- Year 3 of ULAA-M131 Undergraduate Law (4 Year)
- Year 3 of ULAA-M135 Undergraduate Law and Sociology

- Year 4 of ULAA-M10A Undergraduate Law with French Law (Qualifying Degree)
- Year 4 of ULAA-M10C Undergraduate Law with German Law (Qualifying Degree)

This module is Option list B for:

- ULAA-ML34 BA in Law and Sociology (Qualifying Degree)
 - Year 3 of ML34 Law and Sociology (Qualifying Degree)
 - Year 4 of ML34 Law and Sociology (Qualifying Degree)
- Year 3 of ULAA-M130 Undergraduate Law