

The Study of Intellectual Property at the William S. Boyd School of Law

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The William S. Boyd School of Law is part of a relatively young university -- the University of Nevada, Las Vegas -- which achieved university status in 1968. The Boyd Law School itself is the youngest public law school in the United States, having admitted its first entering class in the Fall of 1998. Despite its relative youth, the law school has quickly achieved a strong national reputation and has attracted an outstanding faculty. This enables the school to be very selective in its admissions. Recently, the school received 2,456 applications for the 150 slots available in the Fall 2005 entering class. Each year, the majority of admitted students choose to enter the full-time law program, graduating in 3 years. Some students, however, enter the 4-year part-time program.

Making Innovative Use of Resources to Build a Strong Intellectual Property Program

Because our law school has a smaller number of students than most public law schools, we are able to keep our class sizes very small, and our students have many opportunities to work closely with the faculty in small seminars or independent research projects. As a result, I generally get to know my intellectual property students quite well by the time they graduate.

As a smaller school, we cannot always offer as many specialized courses as larger schools. However, in the case of our intellectual property program, we have made innovative use of our resources to offer our students a wide variety of choices, as well as the opportunity to pursue individualized research projects under close faculty supervision. Our intellectual property curriculum has been growing steadily, largely because the number of entering students who express an interest in intellectual property law has increased dramatically since the school was founded, but also because our entire faculty recognizes the importance of a developing a strong intellectual property curriculum.

The Introductory Intellectual Property Courses

Students are eligible to take their first intellectual property courses only after they have completed the entire first-year law curriculum, which consists of contracts, property, torts, constitutional law, civil procedure, and legal research and writing. After completing these foundational courses, most students begin their intellectual property studies with one or both of the two basic intellectual property courses, which can be taken in any sequence. Intellectual Property I covers trademarks, unfair competition, trade secrets, and patent law. This course attracts students who are interested in patent law, as well as those interested in general business law. Intellectual Property II is devoted entirely to federal copyright law, a subject which has become increasingly complex in recent years. This course attracts students who are interested in entertainment law, computer law, and

general business law. These two classes are considered two of the most demanding elective courses in the law school curriculum.

Because the city of Las Vegas is world-renowned for gaming and other forms of entertainment, many students who take Intellectual Property I or Intellectual Property II are interested in applying their studies to the gaming and entertainment industries. For example, patent law is important to protecting new advances in gaming technology; trademark law and unfair competition law are important to protecting the brand identities of the major gaming, hotel, restaurant, and entertainment businesses; and copyright law is important to protecting gaming-related computer software as well as copyrighted entertainment works. Thus, students who plan careers in the gaming or entertainment industries are strongly encouraged to take both Intellectual Property I and Intellectual Property II.

The Advanced Intellectual Property Curriculum

Beyond these basic courses, students may choose from an array of specialized offerings. For example, students with an interest in computers and the Internet may enroll in Cyberlaw, a course which covers the intellectual property aspects of software and Internet activities, as well as other legal doctrines pertinent to the Internet. We also offer a course on Privacy, Defamation, and the Right of Publicity, which includes coverage of the intellectual property rights pertaining to the commercial value of a person's identity. These rights have become extremely valuable to celebrities in recent years, and are frequently the subject of litigation in the United States.

Students who have successfully completed Intellectual Property II – the basic copyright class – may elect to enroll in Entertainment Law, which combines advanced copyright law with other legal doctrines (such as labor and employment law, antitrust, insurance law, and contract law) that are essential to the competent representation of actors, singers, dancers, directors, producers, writers, radio stations, television networks, record companies, film distributors, and other parties in such fields as music, dance, live theatre, television and film production, as well as interactive entertainment such as computer games.

This year, we offered two new Intellectual Property courses for the first time. As the creator and teacher of both of these classes, this has been a very busy year for me, but also a very exciting one. One of these new courses is the Advanced Intellectual Property Seminar. This is a very small class – limited to 15 students – which is available to any student who has completed either Intellectual Property I or Intellectual Property II. Although some students in the Advanced Seminar will have completed both of these courses, others have completed just one of those courses. As a result, some of the students in the Advanced Seminar have studied copyright law, while others have studied patent law, trade secrets, trademarks, and unfair competition. All of them, however, are interested in pursuing advanced topics in their field(s) of interest. The challenge, then, is to structure the course so that each student engages in advanced research on a specialized topic in his or her area of interest, while also sharing the fruits of that research with the

other students in the course who may know very little about that subject area. In effect, the students must learn to teach one another. I begin the course by assigning several books by prominent scholars who provide overviews and well-founded criticism of basic intellectual property policy in the United States. During this time, I also work with each student to select a topic for his or her individualized research. Once the students have begun their individual research projects, I select some additional topics for us to study as a group in our class meetings during the first half of the semester. In the second half of the semester, each student is required to make a formal presentation to the entire class on his or her individualized research topic. In this way, all of the students learn more about a variety of advanced intellectual property topics, and each student learns a great deal about the particular topic he or she has chosen to study in depth. When each student makes a presentation, the other students have the opportunity to ask questions and offer suggestions or criticisms. The student who made the presentation can use this guidance in finishing the research project. At the end of the semester, each student must submit a completed research paper. This research paper satisfies an important requirement for graduation from our law school. For many students, it is their first experience in undertaking serious scholarly research.

My other new course is, I believe, the only one of its kind offered in the United States. The title of the course is Intellectual Property Licensing. This, too is a very small class, limited to 12 students. Although a few other law schools teach licensing law by focusing on legal doctrines and legal theory as expounded by published court opinions, I believe that my course is the only one that emphasizes the actual drafting of licensing agreements. Starting with the first week of the semester, students must complete a drafting assignment every week. Each assignment requires the students to draft a specific portion of a licensing agreement. In some weeks the subject matter of the licensing agreement is a copyrighted work, while in other weeks it is a patented invention, a patent application, a trade secret, confidential information, a trademark, or some form of trade dress. We also focus on different parts of a licensing agreement each week – such as the grant clause, the royalty provision, the quality control provision, or the confidentiality clause. Throughout the first part of the semester, each weekly assignment focuses on just one part of the licensing agreement (or occasionally two) – for example, one week the students will draft a grant clause, and another week they will draft a confidentiality provision. In the later part of the semester, however, the students build on their earlier exercises by drafting (and revising) a complete licensing agreement. At each stage of this process, students learn to interpret the language of a licensing agreement, to draft their own licenses, and to critique and revise poorly drafted licenses. The goal is to learn how to draft licensing agreements that are free of ambiguity and which adequately protect the client’s interests so that they will not end up in litigation. Although lawyers in the United States spend a lot of time drafting contracts and litigating over poorly drafted contracts, traditionally law schools have spent little or no time teaching students how to draft a proper contract. When a young lawyer is asked to do this in practice for the first time, the experience can be intimidating. Many lawyers – even experienced ones -- simply do not draft contracts very well. One of my goals, therefore, is to make sure that my students have the skills and the confidence to use their intellectual property knowledge to draft licensing agreements of high quality for their future clients.

Independent Research and Co-Curricular Activities

If these offerings are not sufficient to satisfy a student, he or she may choose to undertake an additional independent research project under faculty supervision, either through taking a series of individualized tutorials or through completing an individualized research paper. As an example of an individualized tutorial, one student met with me on a weekly basis to study the taxation of intellectual property transactions. Other students choose to write articles on intellectual property topics for publication in academic journals (including our own journal, the Nevada Law Journal), or to participate in national “moot court” competitions on intellectual property topics, which require them to write a brief for a client in a hypothetical intellectual property case, and then argue their client’s position in front of a panel of judges.

Related Course Offerings in Other Areas of Law

In addition to the law school’s intellectual property offerings, students interested in any aspect of intellectual property law are encouraged to take courses in related areas. These include First Amendment Law (which includes the right of free expression), Media Law (covering the rights of journalists and broadcasters), Gaming Law, International Business Transactions, and general business law courses.

Future Course Offerings

In the future, I would like to add a course in International Intellectual Property. I frequently teach this course at summer law programs overseas, in such locations as London, Paris, and Florence, but I have not yet had the chance to teach it at home. As our law school grows, and the demand for advanced intellectual property courses increases, I believe we will have the opportunity to offer this course.

Passing the Patent Bar Exam

Due to the small size of our school, in most years we have only a small number of students who are eligible to pursue careers in patent law. However, that number has been steadily increasing with each new entering class. In the United States, for a person to qualify as a registered patent agent, he or she must have completed an undergraduate degree in science or engineering. In addition, he or she must pass the Patent Bar Exam. Some of our law students have already passed the Patent Bar Exam before they begin their law studies. Others take the exam while they are in law school, and still others take it after they graduate. Our students have an extremely high rate of success on the Patent Bar Exam. A number of our alumni who practice patent law now offer their services to our university inventors.

Relationships with the State, the University, and the Practicing Bar

Because we are the only law school in the State of Nevada, our faculty are often called upon to offer advice to the state legislature. In recent years, this has included advice on intellectual property matters, including the rights of employee-inventors and the complex relationship between state and federal intellectual property laws. Our school also enjoys tremendous support from the private sector, including the gaming and media industries, which in recent years have provided additional financial support for our burgeoning intellectual property program. Also, some of the most prominent and successful lawyers in these industries serve as part-time faculty members in our program.

Strong Prospects for Continued Growth

In recent years, the University of Nevada, Las Vegas has greatly expanded its research activities and its technology transfer program, which assists university inventors in obtaining patents, developing their commercial potential, and making those patents available for licensing in the private sector. Increasingly, university inventors have sought the advice of our intellectual property faculty and alumni in pursuing these goals. The university itself has sought the advice of our intellectual property faculty in developing its own intellectual property policy. Under that policy, university inventors receive a generous 60 percent of the royalties derived from licensing their patented inventions, and the university receives the remaining 40 percent. The expansion of this young university's research activities and technology transfer programs therefore coincides with the rapid expansion of the law school's intellectual property curriculum, and bodes well for our future as a law school and as a university.