

SUBJECT DETAILS

Data on the subject	
Name	EU COMPETITION, IP AND TRADEMARK LAW
Degree	Postgraduate in Master in International and European Business Law
Year	2017-18
Nature	Fall
ECTS Credits	3
Department	Law
Area	Law
Teaching staff	MARGARITA FERNÁNDEZ & SOFIA MARTINEZ-ALMEIDA

Data on the teaching staff	
Teaching staff	Prof. Margarita Fernandez Alvarez-Labrador
e-mail	margarita.fernandez-alvarez@hp.com
Telephone	+34 681 175 032
Office	Not applicable
Tutoring Schedule	Upon request from students

Data on the teaching staff	
Teaching staff	SOFIA MARTINEZ-ALMEIDA
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Telephone	915829100
Office	Paseo de la Castellana 216, Madrid
Tutoring Schedule	Upon request from students

SUBJECT DETAILS
PART I

Data on the subject	
Name	EU Competition, IP and Trademark Law Antitrust, Merger Control and State Aid Unfair Competition
Degree	Postgraduate in Master in International and European Business Law
Year	2015-16
Nature	Fall
ECTS Credits	20 HOURS = 2 CREDITS
Department	Law
Area	Law
Teaching staff	Prof. Margarita Fernandez Alvarez-Labrador

SPECIFIC DATA ON THE SUBJECT

Pre-requisites
None
Contribution of the degree to the professional profile
<p>This subject allows students to identify risks and opportunities derived from the regulatory framework that sets the rules for market competition. The study of EU Competition law complements the knowledge of other areas of Economic law and is particularly relevant in terms of corporate compliance and corporate strategy. Therefore, this subject helps develop professional skills relevant to business counsel (both external and in-house).</p>

COMPETENCES TO BE IMPROVED

What skills you'll gain from this class:
<p><u>Generic skills:</u></p> <p>Problem solving, written and oral expression of own ideas. Appraisal of other's work and self-assessment based on peer-review and suggestions. Ability to apply theoretical principles to real case-studies. Legal research and investigation.</p> <p><u>Specific competences of the subject:</u></p> <p>Main pillars of EU competition law and their impact on general corporate law and corporate</p>

strategy. Being able to assess a wide variety of real life examples of competition law issues and cases. Presenting ideas, research or case-studies result and conclusions in a professional manner written and orally.

THEMATIC AREA AND CONTENT

AREA 1:

Theme 1: Introduction to competition law

Topics:

- Goals and tools of EU competition law
- Sources of EU competition law
- Overview of practices controlled by EU competition law
- Market definition and market power
- Enforcement of EU competition rules

Basic reading:

- Steuer, R.: *The simplicity of antitrust law*
- EC Commission notice on the definition of the relevant market
- EC Commission Guidance Paper on exclusionary (only Section III.A on Market Power)

Case #1:

- Market definition and market power

Theme 2: Collusion and anticompetitive agreements

Topics:

- Article 101 TFUE: Prohibition, nullity and efficiency defence
- Vertical agreements
- Horizontal agreements

Basic reading:

- Commission Regulation 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices.
- Commission notice - Guidelines on Vertical Restraints.
- Communication from the Commission - Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements.

Case #2:

- Selective Distribution Systems.

Case #3:

- Joint production and purchasing agreement.

Theme 3: Abuse of a dominant position

Topics:

- Article 102 TFEU: Dominance, abuse, objective justification
- Review and assessment of the most frequent abusive practices under Article 102 TFEU

Basic Reading:

- Article 102 of the Treaty on the Functioning of the European Union
- EC Commission Guidance Paper on exclusionary

Case #4: The Erne/Sannon Canals Authority.

Theme 4: Abuse of a dominant position

Topics:

- Introduction to EU merger control
- Main substantive analysis
- Main procedural aspects
- Practical aspects of merger control in the context of international M&A deals

Case #5: Mergers in the music industry.

BIBLIOGRAPHY AND RESOURCES

Basic Bibliography

Text books

- Whish, R, *Competition Law*, 7th edn (Oxford, Oxford University Press, 2012)
- Competition Law of the EU and UK by Sandra Marco Colino (12 May 2011)

Chapters of books

- N/A

Articles

- Steuer, R.: The simplicity of antitrust law
- Technology and Antitrust, Here we go again. *The Economist* (May 2009)
- Fox, E.: US and EU Competition Law: A comparison. Institute for International Economics
- Pétit, N.: Injunctions for FRAND-pledged steps: The request for an appropriate test of abuse under Article 102 TFEU.

Websites
<ul style="list-style-type: none"> – European Commission, DG COMP: http://ec.europa.eu/competition/index_en.html – European Competition Network: http://ec.europa.eu/competition/ecn/index_en.html – European Court of Justice: http://curia.europa.eu/ – International Competition Network: http://www.internationalcompetitionnetwork.org/
Notes
– N/A.
Other material
– Other materials will be delivered by the professor in advance of lectures.

TEACHING METHODOLOGY

General methodological aspects of the subject
Contact hours methodology: Activities
– Mix of lectures and case method / problem solving activities
Independent study methodology: Activities
– It is highly relevant to read and prepare in advance. Debates will explore advanced issues, so the study of basic materials and regulations should be conducted by the students independently.

SUMMARY OF STUDENT WORK HOURS			
Activity	Number of class hours	Number of independent study hours	Total number of hours
Lecture	5		
Practical class	5		
Debate	5		
In class presentation	2		
Individual work		20	
Work in collaboration	3	10	
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam		5	
Evaluation: exam review			
Others			
ECTS Credits:	20		

GRADE EVALUATION AND CRITERIA

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual work			10%
Work in collaboration			10%
Debate			20%
Class presentation			
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam (final)			50%
Attendance			10%

PART II

Data on the subject	
Name	EU COMPETITION, IP AND TRADEMARK LAW: IP and Trademark Law
Degree	Postgraduate in Master in International and European Business Law
Year	2016-17
Nature	Fall
ECTS Credits	1 credit
Department	Law
Area	Law
Teaching staff	SOFIA MARTINEZ-ALMEIDA

SPECIFIC DATA ON THE SUBJECT

Pre-requisites
None
Contribution of the degree to the professional profile
Understanding of EU trademark law.

COMPETENCES TO BE IMPROVED

What skills you'll gain from this class:
Understanding of the European trademark system and general principles of Trademark Law. Acquisition of practical and strategic vision of real trademark conflicts and how to solve them.

THEMATIC AREA AND CONTENT

AREA 1: EU Trademark System (I)
Theme 1: ACQUISITION OF THE TRADEMARK RIGHT
<ol style="list-style-type: none">1. NATIONAL TRADEMARK (characteristics)2. COMMUNITY TRADEMARK(characteristics)3. NATIONAL vs COMMUNITY TRADEMARK (pros-cons)4. INTERNATIONAL TRADEMARK(characteristics)
Theme 2:TRADEMARK CONCEPT
Theme 3: MARK TYPES ACCORDING TO THEIR STRUCTURE

- 3.1. WORD TM
- 3.2. FIGURATIVE TM
- 3.3. THREE-DIMENSIONAL TM
- 3.4. COLOUR TM
- 3.5. OLFATORY TM
- 3.6. TASTE TM
- 3.7. ANIMATED TM
- 3.8. HOLOGRAMS TM
- 3.9. POSITION TM
- 3.10. TRACER TM
- 3.11. PATTERN TM

Theme 4: ACQUISITION OF THE TRADEMARK RIGHTS

Theme 5: REGISTRATION SYSTEM (i)

- 5.1. ABSOLUTE GROUNDS FOR REFUSAL

AREA 2: EU TRADEMARK SYSTEM (II)

Theme 1: REGISTRATION SYSTEM (ii): RELATIVE GROUNDS FOR REFUSAL

- 1.1 THIRD PARTY'S RIGHTS
- 1.2. LIKELIHOOD OF CONFUSION
- 1.3. WELL KNOWN TRADE MARKS
- 1.4. UNFAIR ADVANTAGE/DILUTION/TARNISMENT
- 1.5. OTHER THIRD PARTY'S RIGHTS

Theme 2: REGISTRATION SYSTEM (ii): DURATION OF TRADEMARK PROTECTION

AREA 3: EU TRADEMARK SYSTEM (III)

Theme 1: EXCLUSIVE RIGHTS

- 1.1. IDENTITY
- 1.2. SIMILARITY
- 1.3. UNFAIR ADVANTAGE/DILUTION/TARNISMENT

Theme 2: LIMITS

- 2.1. EXHAUSTION
- 2.2. FAIR USE

Theme 3: USE OBLIGATION

- 3.1. CONDITIONS
- 3.2. PENALTIES
- 3.3. JOINT USE
- 3.4. COMMERCIAL IMPRESSION
- 3.5. REAL AND EFFECTIVE USE

AREA 4:
Theme 1: TRADEMARK ACTIONS
1.1. INFRINGEMENT ACTIONS 1.1.1. REMEDIES 1.1.2. RIGHT OS STANDING 1.1.3. AQUIESCENCE 1.2. INVALIDITY ACTIONS 1.3. REVOCATION ACTION
Theme 2: JURISDICTIONAL ISSUES
Theme 3: TRADEMARK PROPERTY AND EXPLOITATION RIGHTS
3.1 OWNERSHIP 3.2. LICENCE

BIBLIOGRAPHY AND RESOURCES

Basic Bibliography
Text books
Chapters of books
EU INTELLECTUAL PROPERTY LAW Chapter 4- Trade Marks TREVOR COOK OXFORD
CONSTRUCTING EUROPEAN INTELLECTUAL PROPERTY. ACHIEVEMENTS AND NEW PERSPECTIVES. Evaluation of the Functioning of the EU Tademark System: the Trademark Study Edited by CHRISTOPHE GEIGER ANNETTE KUR
INTERNATIONAL HANDBOOK ON UNFAIR COMPETITION Chapter 4-European Union Edited by Frauke Henning-Bodewig C.H. BECK – HART- NOMOS
Websites
www.oami.europa.eu www.wipo.int www.oepm.es http://ec.europa.eu/internal_market/indprop/docs/tm/20110308_allensbach-study_en.pdf http://curia.europa.eu/
Notes

Other material
Study on the Overall Functioning of the European Trade Mark System Max Planck Institute for Intellectual Property and Competition Law Munich (15.02.2011)
Additional Bibliography
Text books
Chapters in books
Articles
Websites
Notes
Other material
Spanish Law 17/2001 of December 7, 2001, on Trademarks
<u>Spanish Law 3/1991 of January 10, on Unfair Competition</u>
COUNCIL REGULATION (EC) No 207/2009 of 26 February 2009 on the Community trade mark (codified version)
DIRECTIVE 2008/95/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 22 October 2008 to approximate the laws of the Member States relating to trade marks (Codified version)
DIRECTIVE 2005/29/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

TEACHING METHODOLOGY

General methodological aspects of the subject
Contact hours methodology: Activities
<ul style="list-style-type: none"> - The subject will be divided in 4/2 hours theoretical classes in which each of the 4 different books will be explained by the professor.

- In each class some practical cases will be discussed between students and professor and active debate and participation on this activity will be evaluated at the end of the course.
- The last day there will be a test exam on the subject taught and discussed at the classes that will represent 50% of the final qualification.
- At the end of the first class, the professor will distribute a case that should be considered individually out of the class by the students. One week after the finalization of the course, students should send a report in writing to the professor, solving the issues posed by the case. This work will be also evaluated in the final qualification. This work will represent 25% of the final qualification

Independent study methodology: Activities

- Deep reading and comprehension of the legal texts and recommended lectures
- Working on the individual case by not just looking at legal text and lectures at class but also making own proper research.

SUMMARY OF STUDENT WORK HOURS			
Activity	Number of class hours	Number of independent study hours	Total number of hours
Lecture	3	20	
Practical class	2	15	
Debate	1		
In class presentation			
Individual work	2		
Work in collaboration	1		
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam	1		
Evaluation: exam review			
Others			
ECTS Credits:	10	35	455

GRADE EVALUATION AND CRITERIA

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual work			25%
Work in collaboration			
Debate			15%
Class presentation			
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam (final)			50%
Attendance			10%