

**SUBJECT DETAILS**

Data on the subject	
Name	<b>EU COMPETITION, IP AND TRADEMARK LAW</b>
Degree	Postgraduate in Master in International and European Business Law
Year	2018-19
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	mafalvarezlabrador@icade.comillas.edu
Telephone	+34 659 600 626
Office	Not applicable
Tutoring Schedule	Upon request from students

Data on the teaching staff	
Teaching staff	SOFIA MARTINEZ-ALMEIDA
e-mail	samartinezalmeida@icade.comillas.edu
Telephone	915829100
Office	Paseo de la Castellana 216, Madrid
Tutoring Schedule	Upon request from students

**SUBJECT DETAILS**  
**PART I**

Data on the subject	
Name	<b>EU Competition, IP and Trademark Law</b>
Degree	Postgraduate in Master in International and European Business Law
Year	2018-2019
Nature	Fall
ECTS Credits	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>

Generic Competences
Instrumental
<ul style="list-style-type: none"> <li>GC 1: Analysis and synthesis abilities</li> <li>GC 6: Team work skills</li> <li>GC 7: Ability to work in an international context</li> <li>GC 8: Critical appraisal skills</li> <li>GC 10: Ability to develop autonomous learning skills</li> <li>GC 11: Concern for quality</li> <li>GC 12: Ability to apply theoretical knowledge into practice</li> </ul>

Specific competences of the subject
Conceptual (knowing)
SC 7 - Mastering the rules governing competition in the EU and in international markets, including specific aspects related to exclusive rights

**THEMATIC AREA AND CONTENT – PROF. MARGARITA FERNANDEZ**

Session 1	<p><b>Topics:</b> <b>Goals of EU competition law, institutional framework, international issues and basic economic principles</b></p> <p><b>Activities in class:</b> Class discussions</p> <p>Case study, test, class discussions, tests, exams, presentations, etc.</p> <p><b>Required Reading:</b></p> <ul style="list-style-type: none"> <li>— Article “The Simplicity of Antitrust Law “</li> <li>— Chapter 4 of Book “Competition Law of the EU and UK” by Sandra Marco Colino</li> </ul>
Session 2	<p><b>Topics:</b> <b>Basic economic principles: market definition, market power, theories of harm in competition cases</b></p> <p><b>Activities in class:</b> Lecture, class discussion and case study #1</p> <p><b>Required reading:</b></p> <ul style="list-style-type: none"> <li>— Tutorial on market definition</li> <li>— Commission Notice on the definition of the relevant market</li> <li>— ICN Online tutorial on market definition (<a href="#">HERE</a>)</li> <li>— ICN Online tutorial on market power (<a href="#">HERE</a>)</li> <li>— ICN Online tutorial on competitive effects (<a href="#">HERE</a>)</li> </ul>
Session 3	<p><b>Topics:</b> <b>Cartels, collusion and EU leniency policy</b></p> <p><b>Activities in class:</b> Class discussion</p> <p><b>Required reading:</b></p> <ul style="list-style-type: none"> <li>— Tutorial on horizontal agreements</li> <li>— Chapter 8 of Book “Competition Law of the EU and UK”</li> <li>— ICN Online tutorial on leniency policy (<a href="#">HERE</a>)</li> </ul>

	<ul style="list-style-type: none"> <li>— Commission Notice on Immunity from fines and reduction of fines in cartel cases</li> </ul>
Session 4	<p><u>Topics:</u> <b>Cooperation and collaboration agreements between competitors</b></p> <p><u>Activities in class:</u> Class discussion and case study #2</p> <p><b><u>Required reading:</u></b></p> <ul style="list-style-type: none"> <li>— Chapter 10 of Book “Competition Law of the EU and UK”</li> <li>— Guidelines on the applicability of Article 101 of the TFEU to horizontal co-operation agreements</li> </ul>
Session 5	<p><u>Topics:</u> <b>Vertical agreements</b></p> <p><u>Activities in class:</u> Discussion and case study #3</p> <p><b><u>Required reading:</u></b></p> <ul style="list-style-type: none"> <li>— Tutorial on vertical agreements</li> <li>— Chapter 10 of Book “Competition Law of the EU and UK”</li> <li>— EC Guidelines on Vertical Restraints</li> </ul>
Session 6	<p><u>Topics:</u> <b>Abuse of a dominant position</b></p> <p><u>Activities in class:</u> Discussion</p> <p><b><u>Required reading:</u></b></p> <ul style="list-style-type: none"> <li>— Tutorial on vertical agreements</li> <li>— Chapter 13 of Book “Competition Law of the EU and UK”</li> <li>— Chapter 16 of Book “Competition Law of the EU and UK”</li> </ul>
Session 7	<p><u>Topics:</u> <b>Abuse of a dominant position</b></p> <p><u>Activities in class:</u> Case study #4</p>

Session 8	<p><u>Topics:</u> <b>EU Merger control</b></p> <p><u>Activities in class:</u> Class discussion and case study #5</p> <p><b><u>Required reading:</u></b></p> <ul style="list-style-type: none"> <li>— EU Fact Sheet on Merger control proceedings</li> <li>— Chapter 18 of Book “Competition Law of the EU and UK”</li> <li>— Chapter 19 of Book “Competition Law of the EU and UK”</li> </ul>
Final exam	<p>Take-home case study similar to be submitted to the professor within 2 weeks from the date of Session 8 (exact date will be announced before the end of the sessions).</p> <p>Students are able to review the exam (on a Skype or phone meeting) by taking an appointment with the professor.</p>
Classroom Etiquette	Do not use your laptops for anything except taking notes.

## BIBLIOGRAPHY AND RESOURCES

<b>Basic Bibliography</b>
<b>Text books</b>
<ul style="list-style-type: none"> <li>– Competition Law of the EU and UK by Sandra Marco Colino (8<sup>th</sup> edition, 23 July 2015)</li> <li>– Whish, R, <i>Competition Law</i>, 7th edn (Oxford, Oxford University Press, 2012)</li> </ul>
<b>Websites</b>
<ul style="list-style-type: none"> <li>– European Commission, DG COMP: <a href="http://ec.europa.eu/competition/index_en.html">http://ec.europa.eu/competition/index_en.html</a></li> <li>– European Competition Network: <a href="http://ec.europa.eu/competition/ecn/index_en.html">http://ec.europa.eu/competition/ecn/index_en.html</a></li> <li>– European Court of Justice: <a href="http://curia.europa.eu/">http://curia.europa.eu/</a></li> <li>– International Competition Network: <a href="http://www.internationalcompetitionnetwork.org/">http://www.internationalcompetitionnetwork.org/</a></li> </ul>
<b>Notes</b>
<ul style="list-style-type: none"> <li>– N/A.</li> </ul>
<b>Other material</b>
<ul style="list-style-type: none"> <li>– Other materials will be delivered by the professor in advance of lectures and/or available on</li> </ul>

Moodle.

### 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 important 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		5
Practical class	5		5
Debate	5		5
In class presentation	2		2
Individual work		15	15
Work in collaboration	3	10	13
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam		5	5
Evaluation: exam review			
Others			
<b>ECTS Credits:</b>	<b>20</b>	<b>30</b>	<b>50</b>

### GRADE EVALUATION AND CRITERIA

Evaluation Activities	Competences	Indicators	Evaluation Weighting
Individual work	<p>GC 1: Analysis and synthesis abilities            GC 7: Ability to work in an international context            GC 8: Critical appraisal skills            GC 10: Ability to develop autonomous learning skills            GC 12: Ability to apply theoretical knowledge into practice</p> <p>SC 7 - Mastering the rules governing competition in the EU and in international markets, including specific aspects related to exclusive rights</p>	By means of the participation in class, the individual work previously carried out by the student will be verified, which should consist in the realization of the readings indicated by the teacher for each module.	5%
Case-study 1: market definition	<p>GC 1: Analysis and synthesis abilities            GC 6: Team work skills            GC 7: Ability to work in an international context            GC 8: Critical appraisal skills            GC 10: Ability to develop autonomous learning skills            GC 12: Ability to apply theoretical knowledge into practice</p> <p>SC 7 - Mastering the rules governing competition in the EU and in international markets, including specific</p>	Preparation, resolution and debate in class	9%

	aspects related to exclusive rights		
Case-study 2: horizontal agreements	Same as above	Preparation, resolution and debate in class	9%
Case-study 3: vertical agreements	Same as above	Preparation, resolution and debate in class	9%
Case-study 4: abuse of dominance	Same as above	Preparation, resolution and debate in class	9%
Case-study 5: merger control	Same as above	Preparation, resolution and debate in class	9%
Final exam (in the form of a take-home case study)	<p>GC 1: Analysis and synthesis abilities</p> <p>GC 6: Team work skills</p> <p>GC 7: Ability to work in an international context</p> <p>GC 8: Critical appraisal skills</p> <p>GC 10: Ability to develop autonomous learning skills</p> <p>GC 11: Concern for quality</p> <p>GC 12: Ability to apply theoretical knowledge into practice</p> <p>SC 7 - Mastering the rules governing competition in the EU and in international markets, including specific aspects related to exclusive rights</p>	Preparation, resolution and written submission	50%



## PART II

Data on the subject	
Name	<b>EU COMPETITION, IP AND TRADEMARK LAW: IP and Trademark Law</b>
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"> <li>1. NATIONAL TRADEMARK (characteristics)</li> <li>2. COMMUNITY TRADEMARK(characteristics)</li> <li>3. NATIONAL vs COMMUNITY TRADEMARK (pros-cons)</li> <li>4. INTERNATIONAL TRADEMARK(characteristics)</li> </ol>
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/TARNISHMENT
- 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/TARNISHMENT

**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
<ul style="list-style-type: none"> <li>1.1. INFRINGEMENT ACTIONS <ul style="list-style-type: none"> <li>1.1.1. REMEDIES</li> <li>1.1.2. RIGHT OS STANDING</li> <li>1.1.3. AQUIESCENCE</li> </ul> </li> <li>1.2. INVALIDITY ACTIONS</li> <li>1.3. REVOCATION ACTION</li> </ul>
Theme 2: JURISDICTIONAL ISSUES
Theme 3: TRADEMARK PROPERTY AND EXPLOITATION RIGHTS
<ul style="list-style-type: none"> <li>3.1 OWNERSHIP</li> <li>3.2. LICENCE</li> </ul>

## BIBLIOGRAPHY AND RESOURCES

<b>Basic Bibliography</b>
<b>Text books</b>
<b>Chapters of books</b>
<p>EU INTELLECTUAL PROPERTY LAW  Chapter 4- Trade Marks  TREVOR COOK  OXFORD</p>
<p>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</p>
<p>INTERNATIONAL HANDBOOK ON UNFAIR COMPETITION  Chapter 4-European Union  Edited by Frauke Henning-Bodewig  C.H. BECK – HART- NOMOS</p>
<b>Websites</b>
<p><a href="http://www.oami.europa.eu">www.oami.europa.eu</a>  <a href="http://www.wipo.int">www.wipo.int</a>  <a href="http://www.oepm.es">www.oepm.es</a>  <a href="http://ec.europa.eu/internal_market/indprop/docs/tm/20110308_allensbach-study_en.pdf">http://ec.europa.eu/internal_market/indprop/docs/tm/20110308_allensbach-study_en.pdf</a>  <a href="http://curia.europa.eu/">http://curia.europa.eu/</a></p>
<b>Notes</b>

<b>Other material</b>
Study on the Overall Functioning of the European Trade Mark System Max Planck Institute for Intellectual Property and Competition Law Munich (15.02.2011)
Spanish Law 17/2001 of December 7, 2001, on Trademarks
Spanish Law 3/1991 of January 10, on Unfair Competition
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

<b>General methodological aspects of the subject</b>
<b>Contact hours methodology: Activities</b>
<ul style="list-style-type: none"> <li>- 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.</li> <li>- 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.</li> <li>- 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.</li> <li>- 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</li> </ul>
<b>Independent study methodology: Activities</b>
<ul style="list-style-type: none"> <li>- Deep reading and comprehension of the legal texts and recommended lectures</li> <li>- Working on the individual case by not just looking at legal text and lectures at class but also making own proper research.</li> </ul>

SUMMARY OF STUDENT WORK HOURS			
Activity	Number of class hours	Number of independent study hours	Total number of hours
Lecture	3	10	
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			
<b>ECTS Credits:</b>	<b>10</b>	<b>25</b>	<b>35</b>

### GRADE EVALUATION AND CRITERIA

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual work	GC 1: Analysis and synthesis abilities GC 7: Ability to work in an international context GC 8: Critical appraisal skills GC 10: Ability to develop autonomous learning skills GC 11: Concern for quality GC 12: Ability to apply theoretical knowledge into practice  SC 7 - Mastering the rules governing competition in the EU and in international markets, including specific aspects related to exclusive rights		25%
Debate	GC 1: Analysis and synthesis abilities GC 6: Team work skills GC 7: Ability to work in an international context GC 8: Critical appraisal skills GC 10: Ability to develop autonomous learning skills GC 11: Concern for quality		15%

	<p>GC 12: Ability to apply theoretical knowledge into practice</p> <p>SC 7 - Mastering the rules governing competition in the EU and in international markets, including specific aspects related to exclusive rights</p>		
<p>Evaluation: exam (final)</p>	<p>GC 1: Analysis and synthesis abilities</p> <p>GC 7: Ability to work in an international context</p> <p>GC 8: Critical appraisal skills</p> <p>GC 10: Ability to develop autonomous learning skills</p> <p>GC 11: Concern for quality</p> <p>GC 12: Ability to apply theoretical knowledge into practice</p> <p>SC 7 - Mastering the rules governing competition in the EU and in international markets, including specific aspects related to exclusive rights</p>		<p>50%</p>

Attendance			10%
------------	--	--	-----