

Patent Law – Spring 2026

Tuesdays & Thursdays, 1:15 – 2:40PM	Room: Holland Hall 283	Professor Derek Bambauer
Course: LAW 6573 Class: 23140	Credits: 3	Office Hours: Thursdays, 10:45AM – 12:45PM, and by appointment

Last updated: 18 November 2025

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Course Description

Welcome to Patent Law! In this course, we will study the legal protections for inventions available under the U.S. Patent Act. We will follow a life cycle approach to studying patents, beginning with patentability requirements, then the rights conferred once a patent is granted, followed by conduct that infringes those rights and defenses to infringement, and closing with remedies. The class does not assume any prior exposure to intellectual property or to the technologies that draw upon it.

Contact Information

Professor Bambauer can be reached by e-mail (bambauer@law.ufl.edu), by telephone (352.273.0957), or in Holland Hall 326. The best way to reach me is via e-mail; I infrequently check voice mail. If you haven't received a reply to your e-mail within 48 hours, please politely remind me.

Professor Bambauer's office hours are Thursdays, 10:45AM – 12:45PM; you are welcome (and encouraged!) to stop by. I have candy in my office.

I am also available by appointment, and am happy to get together over coffee / tea / lunch, in real space or via Zoom, to discuss patent law, jobs in IP, the obvious superiority of the Boston Red Sox (coming soon), or anything else of interest. You can also follow me on Twitter/X and Bluesky (mostly retweets) [@dbambauer](#).

Logistics

- **Materials** - The required textbook for this class is Robert Merges & John Duffy, [Patent Law and Policy](#) (8th ed. 2021). Any additional materials for this course are linked from this syllabus or posted to the course Canvas site. The textbook has been out for several years, and [used copies are available on Amazon](#).
- **Course Meeting Times** – The class will meet live on Tuesdays and Thursdays at 1:15PM, in Holland Hall 283. These sessions will be recorded automatically. In addition, if you would like me to record a class via Zoom and make it available on Canvas, please send me an e-mail, preferably at least 24 hours in advance of the class. **In addition**, there will be unscheduled assignments, group activities, and asynchronous video lectures. You are responsible for completing these course components by the deadlines indicated.
- **Communication** - I will communicate with the class via e-mail and via the course Canvas site. Please monitor your e-mail account, sign up for the course Canvas site, and check the Canvas site regularly (**at least twice a week**).
- **Assignments** - Please see the syllabus below for reading assignments. You are expected to have read and prepared the materials assigned for each class meeting. Please note carefully the page numbers and instructions; often, you will only need to read part of a case or section.

The syllabus will undoubtedly change; please check Canvas regularly for updates and note the “Last Updated” date at the top of the syllabus. You are responsible for reading the materials closely, and for posing questions about anything you do not understand.

In my experience, the class often runs slightly behind schedule during the first few weeks, since patent law is complex and topics such as novelty are particularly challenging. Please keep up with the reading as scheduled and rest assured that we will get back on schedule.

- **Helpful Resources** – You should not need any additional resources beyond the required materials. However, if you would like more information on patent law, I recommend:
 - Dan Hunter, [Intellectual Property](#) (Oxford University Press 2012).
 - Janice M. Mueller, [Patent Law](#) (7th ed. 2024).
 - Treatise: CHISUM ON PATENTS (available on Lexis).
 - U.S. Patent & Trademark Office, [Manual of Patent Examining Procedure](#) – this sets out the rules for patent examination, with extensive discussion of requirements, case law, and examination practice.

- Dennis Crouch & Jason Rantanen, [Patently-O](#) – an excellent blog on patent-related decisions and issues (you can [request a free student membership](#))
- Peter Menell et al., PATENT CASE MANAGEMENT JUDICIAL GUIDE (3rd ed. 2016) – a litigation treatise distributed to all federal district court judges that is accordingly influential (available in [PDF](#), [paper](#), or [on demand](#))

Policies

- **Attendance** - Regular, punctual attendance is required under the College of Law and American Bar Association rules. You are responsible for ensuring that you are not recorded as absent if you arrive late. If you miss more than 5 classes, you may be dropped from the course. The law school's policy on attendance can be found [here](#).

If you face special circumstances that require you to arrive late, leave early, or miss class sessions, please contact me so we can discuss how best to manage the situation. In particular, if you face an extended absence, contact me so I can help you stay current on the material.

- If you feel sick or may have been in contact with someone who is infectious, please stay home and contact me so you can participate by Zoom. Except for seeking medical care, avoid contact with others and do not travel.
 - Please notify me if you will miss a scheduled course component. All course sessions are recorded so that you can access material that you miss, or review course content.
- **Professionalism** - Please be professional while attending class and while participating in assignments outside class (for example, blog discussions and e-mail exchanges). This includes treating other students and faculty courteously, being prepared for class, ensuring that you do not distract other students, and engaging the material as best you are able. In particular, I ask that you curb electronic distractions: turn cellular phones **off** whenever possible, avoid playing computer games, and do not use communication tools such as instant messaging or e-mail during class time. In return, I commit to treat you with respect and professionalism, including by beginning and ending class on time.
- **Blogging / Podcasting** - You are welcome to blog and podcast about class discussions and assignments, with this proviso: you may not identify any of your classmates by name (for example, "Jane Doe said that everything in this class is infringement") without that person's permission. This policy seeks to ensure frank, enthusiastic discussion in class without concern that an inadvertent error may be preserved forever by Google.
- **Recording Class** - Florida law permits all students to make their own video and/or audio recordings of all "class lectures," and professors may not prohibit or interfere with such recordings. A "class lecture" is defined as an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-

led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A “class lecture” does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, or private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Student may use such recordings **only for the following purposes**: (1) their own educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. **All other purposes are prohibited, and students may not “publish” recorded lectures without the written consent of the instructor.** A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code. “Publish” is defined as sharing, transmitting, circulating, distributing, or providing access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third-party note/tutoring services.

- **Special Circumstances** - If you face special circumstances that could affect your participation in class or your ability to prepare adequately (such as a life event, a disability, repetitive strain injury (RSI), or stage fright), please contact me. There are resources at the College of Law and beyond that we can enlist to assist you. Law school can be a stressful experience; I (along with the rest of the faculty and administration) am here to help you manage its challenges. This applies outside of class as well: if you need help or are facing a problem, please reach out. There are a lot of resources here to assist you. In particular, I would like you to be aware of:
 - [Wellness at UF Law](#)
 - [U Matter, We Care](#) – contact at <umatter@ufl.edu> or 352.392.1575 (24 hours). A team member will reach out to you or to whomever needs assistance when in crisis.
 - [Counseling and Wellness Center](#) – <UFLawCares@law.ufl.edu> or 352.392.1575
 - [Student Health Care Center](#) – 352.392.1161 (24 hours)
 - [University of Florida Shands Emergency Room / Trauma Center](#) – 352.733.0111; the ER is at 1515 SW Archer Road, Gainesville, FL 32608
 - [UF Police Department](#): Call 352.392.1111 (or 9-1-1 for emergencies)

- **Vaccines** - The UF Student Health Center offers vaccines to students at no charge. Information is available [here](#).
- **Preferred Name and Pronouns** - It is important to me and to the learning environment that you feel welcome and safe in this class; and that you are comfortable participating in class discussions and communicating with me on any issues related to the class. If your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise. I would like to acknowledge your preferred name, and pronouns that reflect your identity. Please let me know how you would like to be addressed in class, if your name and pronouns are not reflected by your UF-rostered name.

You can also change your “Display Name” in Canvas. By default, Canvas sets the “Display Name” based upon your personal data in myUFL. You can change the Display Name to what you want people to see in the UF Directory—for example, “Ally” instead of “Allison.” To change your Display Name, go to one.ufl.edu, click on the drop-down menu at the top right, and select “Directory Profile.” Click “Edit” on the right side of the name panel, uncheck “Use my legal name” under “Display Name,” enter how you wish your name to be displayed, and click “Submit” at the bottom. This change may take up to 24 hours to appear in Canvas. This does not change your legal name for official UF records.

- **Out-of-Class Requirements** – American Bar Association Standard 310 requires devoting 2 hours of preparation outside (before) class for each hour of classroom instruction. This class has approximately three hours of classroom instruction per week; thus, you should spend roughly six hours per week outside class reading the assigned materials, preparing practice problems, formulating questions, and so forth.
- **Feedback** - At several points during the course, I will ask you for feedback in writing / electronically about how the course is progressing and how it can be improved. This feedback is anonymous, and it is extremely important to me. It is also a **required component** of the class. I will read and carefully consider everything that the class shares with me; then, I will summarize it at the start of the next session and also describe how I will respond based upon it.
- **College of Law Policies and Resources** - Information about UF Levin College of Law policies can be found at [this link](#).
- **UF Policies and Resources** - Information about UF academic policies and resources can be found at [this link](#).
- **Exam Delays and Accommodations** - The law school policy on exam delays and accommodations is [here](#).

Grading

Your grade for the class will be based upon **5 components**: class feedback, a claim drafting exercise, seven quizzes, a midterm examination, and the final examination.

Deadlines are vitally important to patent lawyers. Failing to meet a deadline can mean that your client will be treated as having abandoned a patent application (thereby forfeiting any rights to the claimed invention), or as having waived objections or counterarguments in litigation. I may grant deadline extensions for these evaluation components in my discretion, on a case by case basis, **if you ask for the extension in advance**. Late assignments will be penalized or will receive no credit **at my discretion**.

- **Feedback (2% total grade)** – At one or more points during the semester, I will ask you to submit feedback about the course via written response, Canvas post, or e-mail message. I use this feedback to adjust the course during the semester and to improve it year to year. **You earn points simply for submitting feedback – you will *not* be evaluated in any way based upon the content of the feedback.** (That's the point of asking for candid input!)
- **Drafting Exercise (3% total grade)** – After the first two classes, you will complete a claim drafting exercise for a given invention. The exercise is intended to help you think about how claims are phrased / framed, how to translate an innovation into text that describes it (and that provides the inventor with as much coverage as possible given other constraints), and how claim language functions. I will distribute a memo describing the assignment and the invention.
- **Subject Quizzes (21%)** - You are expected to prepare for class by reading the assigned materials and, more importantly, thinking about how they fit together and how they relate to the overall arc of the course. After completing a set of course modules, you will be asked to respond to a short, multiple-choice quiz (typically 5-7 questions) on Canvas that will help you gauge your understanding of the material. You will have **20 minutes** to complete the quiz; this is twice as much time as you should need. Each quiz will be available for a period of **7 days**; you must submit your answer within those seven days. Quizzes are **closed-book / notes / Internet / etc.** In total, your quiz scores will count for **21%** of your final grade.
- **Midterm Examination (21%)** - The midterm examination will cover the material on patentability. It will consist of a **90-minute test** that uses multiple-choice questions; this is twice as much time as you should need. The midterm is **closed-book / notes / Internet / etc.**
- **Final Examination (53%)** - The largest single component of your grade will be the final examination. It will consist of an **8-hour test** that you can download and take **at a point of your choosing** during exam period (May 1 – 14, 2025). The exam is designed to be completed in 4 hours. I will post instructions for the final exam to the course Canvas site well in advance of the test - **read them carefully**. You can use your notes, the textbook, and any other resource available to you to respond to the problem. You may not copy pre-prepared material into your exam answer. It goes without saying that your exam must consist of your own work; you may not accept assistance from anyone

or provide aid to other students during the examination. (Collaborative preparation in studying for the exam is permitted, and encouraged, to the degree you find it helpful.)

This course follows the College of Law's grading policies--see [here](#). This chart describes how letter grades correspond to GPA:

Letter Grade	Point Equivalent
A	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C	2.0
C-	1.67
D+	1.33
D	1.0
D-	0.67
E (Failure)	0.0

Course Objectives and Student Learning Outcomes

This class is designed to enable you to:

- Understand the theoretical rationales for granting exclusive legal entitlements over inventions, and for limiting those grants
- Explain why a claimed invention is or is not eligible for protection under the U.S. Patent Act and related regulations and case law
- Analyze and apply:
 - The five statutory criteria for eligibility for protection, and how these differ before and after the enactment of the America Invents Act in 2011
 - Rights granted to the patentee / patent owner
 - Elements in a claim for infringement of those rights under both literal infringement and the doctrine of equivalents
 - Applicable defenses to infringement
 - Remedies available in a successful infringement suit
 - Procedural requirements for obtaining protection and litigating infringement
- Understand the mechanisms and procedures for applying for a patent, prosecuting a patent, and litigating alleged infringement of a patent

Syllabus

Page numbers refer to the textbook unless otherwise indicated. “MPEP” indicates a citation to the [Manual of Patent Examining Procedure](#) published by the U.S. Patent and Trademark Office. Statutory references are to Title 35 of the U.S. Code, which codifies patent law.

Some modules will be covered asynchronously: you will watch a recorded lecture on the material at a time of your choosing. These modules are marked as “**ASYNC**” in the list of assignments below.

Note: We will be working with **two** versions of the Patent Act, the version established by the 1952 Act and in effect through March 15, 2013 (the “Old” or “1952” Act), and the version instantiated by the America Invents Act that principally took effect March 16, 2013 (“AIA”). **Please look carefully** to make sure you read the correct version of the statute. (I recommend downloading [this version of the Patent Act](#), which includes both pre- and post-AIA provisions.)

This syllabus will change as we move through the course; I anticipate that I will reduce, but not increase, the reading as we assess our pace over the semester.

Module and Topics	Date	Assigned Reading
<i>Introduction:</i> Course Overview and Theoretical Rationales	3 Feb. 2025	Skim 3-20; read 58-65, 66-67, 72-76; read pages 1-8 in William W. Fisher III, Theories of Intellectual Property , in NEW ESSAYS IN THE LEGAL AND POLITICAL THEORY OF PROPERTY (Stephen Munzer, ed., 2001); “Life of a Patent” diagram (Canvas).
<i>Introduction:</i> Reading a Patent	5 Feb.	Read 20-21, 29-33; find and read Patent No. 5,443,036.
Patentability		
<i>Subject Matter:</i> Categories, Natural Phenomena & Laws	5 & 10 Feb.	35 U.S.C. § 101 ; 541-548, skim 571-575; read 575-584, 559-571.
<i>Subject Matter:</i> Abstract Ideas	10 Feb.	548-558, 584-593, 593-595.
Claim Drafting Exercise	Due 11 Feb. at 11:59PM	33-41; claim drafting memo.
<i>Utility</i>	12 Feb.	35 U.S.C. § 101 ; 269-276, 278-293, 286-295, 306-315.

Quiz 1: Subject Matter	Available 13 Feb. at 9:00AM; due by 20 Feb. at 11:59PM	
<i>Novelty</i> : Introduction, Anticipation, AIA Basics, On Sale	17 February	35 U.S.C. §§ 102(a), 102(b), 102(d) ; 79-85, 187, 164-174, 85-109.
<i>Novelty</i> : AIA – Public Use, Otherwise Available to the Public, Printed Publication, Patents, & Patent Applications; Grace Period	19 February	114-122, 131-132, 133-149, 150-160.
<i>Novelty</i> : AIA	24 February	Finish remaining material
<i>Novelty</i> : Pre-AIA Anticipation, Statutory Bars, & Priority	26 February	Pre-AIA 35 U.S.C. § 102 ; 201-206, 212-226, 226-228.
Quiz 2: AIA Novelty / Priority	Available 27 February at 9:00AM; due by 6 March at 11:59PM	
<i>Non-Obviousness</i> : Introduction	3 March	35 U.S.C. § 103 ; 325-332, 346-360, 384-386.
<i>Non-Obviousness</i> : Modern Approach, Motivation to Combine, & Secondary Factors	5 March	387-404, 408-411, 411-418; skim 424-438; read 438-451.
Quiz 3: Non-Obviousness	Available 6 March at 9:00AM; due by 13 March at 11:59PM	
<i>Disclosure</i> : Policy, Enablement	10 March	35 U.S.C. § 112 ; 453-478; <i>Amgen v. Sanofi</i> , 598 U.S. 594 (2023) (excerpts, Canvas).
<i>Disclosure</i> : Written Description, Definiteness, Best Mode	12 March	491-494, 501-516, 516-519, 519-525.
Quiz 4: Non-Obviousness & Disclosure	Available 13 March at 9:00AM; due by 20 March at 11:59PM	
Midterm	Available 24 March at	

	5:00PM; due by 31 March at 11:59PM	
Infringement		
Claim Construction	24 March	619-641, 647-649, 673-676, skim 698-707.
<i>Infringement</i> : Introduction, Claim Construction, Literal Infringement	26 March	35 U.S.C. §§ 271(a), 282(a) ; Larami Corp. v. Amron , 27 U.S.P.Q.2d 1280 (E.D. Pa. 1993).
<i>Infringement</i> : Doctrine of Equivalents	31 March	711; <i>Warner-Jenkinson Co. v. Hilton Davis Chemical Co.</i> , 520 U.S. 17 (1997) (Canvas); 718-728.
<i>Infringement</i> : Contributory Infringement, Inducement	27 March	35 U.S.C. §§ 271(c) ; 35 U.S.C. §§ 271(b) ; 759-784.
<i>Infringement</i> : Divided Infringement, Extraterritorial Infringement, Government Infringement	2 April	35 U.S.C. §§ 271(f) ; 691-698, 785, 788-794.
Quiz 5: Infringement	Available 3 April 9:00AM; due by 10 April 11:59PM	
Defenses		
<i>Defenses</i> : Inequitable Conduct	7 April	MPEP § 2001 (37 C.F.R. § 1.56); 1042-1059.
<i>Defenses</i> : Laches, Experimental Use; Prior User Rights	9 April	737-752, 758-759, 1066-1067 (##4-6).
<i>Defenses</i> : Exhaustion & Inventorship	14 April	1217-1232, 1071-1080.
Quiz 6: Defenses	Available 15 April 9:00AM; due by 22 April 11:59PM	
Remedies		
<i>Remedies</i> : Injunctions & Damages: Reasonable Royalty	16 April	35 U.S.C. § 283 ; 35 U.S.C. §§ 284 ; 795-809, 812-820; 822-839.
<i>Remedies</i> : Damages: Reasonable Royalty, Willful Infringement, Fees	21 April	35 U.S.C. § 285 ; 846-858, 875-878, 891-897; 904-914; 897-903.
Quiz 7: Remedies	Available 22 April at	

	9:00AM; due by 29 April at 11:59PM	
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Procedural Issues in Litigation		
<i>Procedure:</i> Post-Issuance Review	23 April	955-959, 971-998.
Course Review	Zoom / ASync	
Exam	Available 1 May at 9:00AM; due by 14 May at 11:59PM	