

CEU Business School



Technology, Innovation and the Law

BUSI 5307 (1.5 credits)

Fall 2016 (September 24, 2016 – November 5, 2016)

Instructor: Caterina Sganga, Ph.D. LL.M. (See last page for bio sketch)
Class meets: September 24, November 5, November 26 (Saturdays), 12.15 pm - 3 pm and 3.15 pm- 6 pm
Classroom: TBA
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1. PREREQUISITES

No prerequisites

2. POLICY ON ADMITTING NON-KEMBA STUDENTS

It is the general policy of the Business School to admit students from other units of CEU.

3. REQUIRED TEXTS AND READINGS AND WHERE AVAILABLE

The required readings are made available to registered course participants through the Moodle E-Learning platform.

4. ABOUT THIS COURSE

New technologies have had a revolutionary impact on the ways of doing business and on the pace of creation, modification and obsolescence of business models. Among other effects, they have dramatically affected the process of building a new venture, the balance between companies' tangible and intangible assets, and the nature of distribution channels and marketing strategies.

Examples of such epochal changes are everywhere. The fast constitution and growth of start-ups, built around one or more high-tech intellectual assets, represents a completely new phenomenon compared with the relatively slow establishment and development of a traditional company. At the same time, the fact that intangible assets of Fortune 500 firms account today for more than 75% of their total value is in sharp contrast with the former 20% they represented in the 1970s. In addition, on the side of commercialization, the advent of the Internet has opened the door for the abandonment of the traditional brick-and-mortar distribution of goods and services, offering a plethora of new market opportunities characterized by low entrance and maintenance costs and by a cross-border and virtually unlimited target of consumers.

While in the past law was considered in the business jargon as synonym of uncertainty and risk, today legal astuteness – defined as the capability to use legal tools as value generator - is more and more recognized as one of the most relevant managerial tools for creating innovative solutions and acquiring competitive advantage. In dealing with intellectual capital, a legally astute manager will be able to use the firm's intangible assets as strategic tools to pursue specific business goals, instead of limiting the role of patents, copyright and trademark to that of mere defensive weapons. In deciding whether and where to constitute a company, and which business form to opt for, a legally savvy entrepreneur will take into account all the opportunities offered by market globalization with a long-term perspective, instead of focusing on local, short-sighted tax concerns and simple prevention of legal risks. In exploring new digital commercialization channels offering or offering innovative high-tech products and services, a legally sophisticated entrepreneur or manager will build up consumer trust by using positively and creatively different legal rules in different geographical markets.

5. COURSE OBJECTIVES

The aim of this course is to help students developing legal astuteness and a new, pro-active approach to law. Instead of proposing a traditional, static, review of business law topics, "Technology, Innovation and the Law" focuses on selected subjects relevant for innovative entrepreneurship, with a special two-pronged focus on the protection of the creation/development of intellectual capital and the rules regulating the digital marketplace. We will start with a brief introduction on the role played by law in the regulation of technology and innovation, and on the importance of learning how to cooperate at best with legal counsels for the achievement of specific business goals. Then, we will turn to the analysis of intellectual property rights, unanimously defined as the key engine of innovation. Here the discussion of the main features of patent, copyright, trademark and trade secret will be coupled with an analysis of the main stages of their strategic management. After a study of the legal problems arising from the cross-border nature of the Internet, we will focus on online

contracting and the regulatory framework of e-commerce. Last, we will conclude with an overview of the opportunities offered by law to raise capital for the enterprise or to abandon a no-longer profitable or stimulating entity.

6. MAIN TOPICS

- The strategic importance of law for entrepreneurs and managers
- Working with a legal counsel
- Protecting your intellectual capital: the key role of intellectual property rights
- Capturing value from your intellectual capital: selected issues of IP management
- Selecting the proper business form and shape the ownership
- Commercialize your product. From the brick and mortar environment to the electronic market

7. INTENDED LEARNING OUTCOMES

Core Learning Area	Learning Outcome
Management skills	Understanding the key relevance of law for entrepreneurship and to capture value from innovation; ability to select and work with an attorney, to connect legal strategies with business goals and to use legal tools for risk management and as source of competitive advantage.
Legal astuteness	Understanding the fundamental role played by law in the context of strategic management. Ability to cooperate with legal counsels in a pro-active way. Development of sound judgment in using legal tools to foster opportunities, and to preserve and increase the value created by the company.
Problem solving	Ability to use the acquired skills to strategically approach opportunities and challenges presented by the legal system, and to develop creative solutions.
Risk management	Ability to predict, assess the impact of and prevent legal risks arising from selected entrepreneurial/managerial activities.
Communication skills	Ability to talk about selected legal issues fundamental for entrepreneurship and innovation, and to use such skills in managing contacts with attorneys and other professionals having different backgrounds.

8. HOW THE CLASS SESSIONS WILL BE CONDUCTED

All classes will be interactive in format, thus you are required to thoroughly prepare and actively participate (see point 11 on class participation). Each session will be structured in two parts. In the first half we will discuss foundational concepts and theories of intellectual property management; in the second half, we will apply the theoretical tools in the analysis of a major case study illustrating each problem.

9. MY POLICY ON THE AVAILABILITY OF LECTURE NOTES

PDF version of the slides for each session will be available through Moodle before class.

10. MINUTE PAPERS

No minute papers will be administered during this course.

11. POLICY ON CLASS ATTENDANCE

Regular and punctual attendance at every class session is a requirement of all degree programs at CEU Business School. Each class covers material not found in the readings. Furthermore, participation in class discussions is an important part of the learning experience for all students as well as a factor in grading. If illness or another unusual circumstance requires missing a class, please do your best to inform me (or, if I cannot be reached, the Program Coordinator) in advance. A grade of "AF" (Administrative Fail) may be assigned for failure to regularly attend a course, to drop the course in time, or to complete requirements on time. This is a general CEU regulation that the Business School also follows. The "AF" grade earns no credit, 0 points, and affects your GPA in the same way as a regular "F" grade.

12. CLASS PARTICIPATION

Given the importance of class participation to the learning experience, regular and punctual attendance at each of the 6 course sessions is vital for successful completion of the class. You will not be awarded your reading and participation grades for sessions you have not attended. If you have a good reason for your absence and inform ME about it **in advance** are welcome, however, to arrange with me a make-up assignment.

You will be evaluated on a 0 to 5 scale. 0 represents a missed session, or a silent and non-disruptive attendance of class. Note that judging individual frequency and quality of class participation compared to others in the class is discretionary, and no quantitative-qualitative

rule of thumb can be exactly stated in advance.

13. GRADING

- **40% of your grade** will be one **Individual Assignment**, to be submitted by Moodle by 11.59 pm on the night BEFORE Session 4 (as reported also in the Course Outline section). Late assignment will **NOT** be accepted. The instructions will be posted on Moodle in due time.
- **30% of your grade** will be your **class participation**, graded on a 0 to 5 scale.
- **30% of your grade** will be awarded for the **final group presentation**. Your individual grade will be calculated on the basis of the final group score and the average percentage of individual participation as stated by your group fellows. For more details, see the Memo "Instructions for the Final Group Presentation".

Since the above-mentioned elements can effectively assess your preparation and learning progress, neither a midterm nor a final will be given.

14. ACADEMIC INTEGRITY

The Business School expects all students to adhere to the fundamental principles of academic integrity in any and all behaviors associated with their course work and otherwise, as stated in the CEU Honor Code (see Student Handbook). Attempted cheating of all forms is treated extremely seriously and can result in dismissal from the School and University.

15. LIBRARY AND INTERNET LIBRARY RESOURCES

The CEU Library, at Nador St. 9, has the largest collection of English-language materials in the social sciences and humanities in Central Europe: 180,000 monographs and 30,000 volumes of periodicals, working papers, dissertations and so on. CEU faculty and students have access to 30,000 electronic journals, searchable via the Journal Search tool on the library catalogue page (<http://goya.ceu.hu/> - the icon is in the upper right corner).

CEU Business School core faculty, students and staff are automatically eligible for full membership in the Library, after registering at the Circulation Desk. (To use the Library, adjunct faculty should first obtain a pass at the B School Academic Office Rm 311). The CEU Library has 5,000 business-related titles, supplemented by leading electronic databases, accessible through <http://www.library.ceu.hu/databases.html> (Click on the icons and then click on the tag next to "connect to".) The Ebsco Host Business Source Complete contains 3,700 periodicals in full text, many monographs, some case studies, and videos of the Harvard Faculty Seminar Series. Emerald Management Journals collection has a portfolio of 175 journals in management, marketing, econ and finance.

New business databases include OneSource, the most comprehensive company & executive

information. Global Market Information Database has comprehensive data and reports across industries, countries and type of consumers. Thomson One Banker provides data on internationally quoted companies, international stock exchange indices, private equity, and financial deals. Science Direct is an extensive full-text database covering authoritative titles from the core scientific literature. The Company Dossier in Lexis Nexis Academic allows users to browse in-depth company profiles and industry reports. Core statistical databases include IFS, GFS Online, OECD Main Economic Indicators, National Accounts Statistics, and Tax Statistics. Econlit at the CSA/Proquest platform provides bibliographic coverage of a wide range of economics-related literature.

Business dailies and weeklies can be accessed through the library. Business Eastern Europe by EIU is a weekly briefing on operating a business in Eastern Europe. Country Reports also by EIU provide in-depth economic, political and business analysis and short-term market outlooks. Electronic versions of The WSJ are in PressDisplay. The Economist is included by EbscoHost. For The Fin. Times online, see Journal Search. News on economic and social developments in the Caucasus and Central Asia can be downloaded directly (not via the CEU Library): <http://www.icegec.hu/eng/index.htm>.

15. COURSE OUTLINE AND SESSION ASSIGNMENTS

Date	Issue
	<u>The importance of law for entrepreneurship. Select and work with an attorney.</u>
Session 1 September 24, 12.15 – 3 pm	Required readings: <ul style="list-style-type: none"> - C.E.BAGLEY, <i>Winning Legally: The Value of Legal Astuteness</i>, 33 Academy of Management Review (2008), pp.378-390 - CASE STUDY: <i>Human Resource Management at Hal GmbH</i> (CIBER, 2000)
	<u>Protect your intellectual capital: the key role of intellectual property rights</u>
Session 2 September 24, 3.15 – 6 pm	Required readings: <ul style="list-style-type: none"> - J.G.CONLEY, D.OROZCO, <i>Intellectual Property – The Ground Rules</i>, Kellogg School of Management, 2005, pp.1-24 - CASE STUDY: <i>Cadence vs. Avant! (A)</i>, (Stanford, 2003)

Capture value from your intellectual capital: selected issues of intellectual property management

Session 3

October 15,
12.15 – 3 pm

Required readings:

- K.G.RIVETTE, D.KLINE, *Discovering New Value in Intellectual Property*, *Harvard Business Review*, Jan.-Feb. 2002, pp.2-12
- **CASE STUDY:** *Valuation and Management of an Intellectual Property Based Company. The Case of Anchorus SA* (CEFS, 2007)

Structure your company and ownership

Session 4

October 15,
3.15 – 6 pm

Required readings:

- H.HANSMANN, R.KRAAKMAN, *What is Corporate Law?*, in KRAAKMAN et al., *The Anatomy of Corporate Law: a Comparative and Functional Approach*, Oxford University Press, 2004, pp.1-19.
- **CASE STUDY:** *H&S Company* (University of Virginia, 2010)

Individual Assignment due by October 29 at 11.59 pm (submit it on Moodle)

From the brick and mortar environment to the internet: legal aspects of e-commerce

Session 5

November 5,
12.15 – 3 pm

Required readings:

- C.PACINI, C.ANDREWS, W.HILLISON, *To Agree or Not to Agree: Legal Issues in Online Contracting*, *Business Horizons*, Jan-Feb 2002, pp.43-51.
- R.REINSCH, *E-Commerce: Managing the Legal Risks*, 47 *Managerial Law* 168 (2005)
- **CASE STUDY:** *EBay: Private Ordering for an Online Community* (Stanford, 2001)

Dispute resolution (1.5 h)

N.B. The first part of Session 8 will be devoted to DR only if the size of the class and, accordingly, the time needed for group presentations will not exceed 1.5 hours.

Session 6

November 5,
3.15 – 6 pm

Required readings:

- T.B.CARVER, A.A.VONDRA, *Alternative Dispute Resolution: Why it Doesn't Work and Why it Does*, *Harvard Business Review*, May-June 1994, pp.120-130

Group presentations (1.5 h)

- See Memo "Instructions for the Final Group Presentation" for details
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16. BRIEF BIO OF THE INSTRUCTOR

Caterina Sganga is Assistant Professor of Law and Management at CEU Business School in joint appointment with CEU Legal Studies Department since August 2012. She holds a Ph.D. *summa cum laude* in Private Comparative Law from Scuola Superiore Sant'Anna (Pisa), an LL.M. from Yale Law School, and an LL.B. and J.D. *summa cum laude* from University of Pisa.

Before joining CEU she worked as post-doctoral research fellow in Intellectual Property at Scuola Superiore Sant'Anna, where she also served as executive coordinator of the Permanent Observatory of Personal Injuries Damages. Beside her activities in Pisa, Caterina held visiting teaching appointments at CEU Legal Studies Department, CEU Business School and the Europa-Kolleg of the University of Hamburg, was a fellow at the Information Society Project at Yale Law School and a visiting researcher at the Center for Intellectual Property Policy at McGill University (Montreal). She also carried out research at WIPO (Geneva) and the Max Planck Institute for Intellectual Property and Competition Law (Munich).

Her current research interests focus on comparative intellectual property law, intellectual property strategic management and the interplay between IP law and fundamental rights. She has authored several book chapters and articles on comparative tort law, property law and copyright law, published in Italian and American law journals.

Caterina is also a licensed attorney in Italy and New York State.