UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

COURSE SYLLABUS

Industrial Law

2627-2-F7703M011

Learning objectives

The course aims to provide students with the necessary tools for knowledge and understanding of the discipline of unfair competition and industrial and intellectual property (trademarks, appellations of origin and geographical indications, designs and models, patents, trade secrets). This is in order to acquire an awareness in the application of this discipline in the context of business activity observed both in its internal organization and in its actions in the market.
Therefore, the main training objectives can be identified as follows:

1. knowledge and understanding of the rules of competition and protection of industrial and intellectual property;
2. ability to apply the acquired notions to the concrete case. This is both in relation to the enhancement and protection of one's own idustrial and intellectual property, and with reference to respect for the industrial and intellectual property of others;
3. mastery of the regulatory discipline and technical language essential in any work activity that has moments of contact with intellectual and industrial property.
   During the course, lectures will be given by scholars and professionals.
   • Acquire knowledge of the fundamentals of industrial law.
   • Acquire the basic tools for understanding legal phenomena.
   • Gain an understanding of the fundamental issues of industrial law.
   • Acquire institutional knowledge of fundamental legal institutions.
   • Understand the links between the law and its application in specific cases.
   • Develop the ability to analyze and critique legislation and its application to practical cases.
   • Verify the application of principles to decisions made in specific cases through the analysis of case law.

Contents

1. Introduction to industrial law and the competitive matrix of the fundamental institutes of the subject.

2. Unfair competition.
3. Trademarks and distinctive signs.
4. Registered designs and models.
5. Secret business information and Know-how (so-called "trade" secrets).
6. Patents for invention and utility models.
7. Copyright (Overview)

Detailed program

1. Introduction to industrial law and the competitive matrix of the fundamental institutes of the subject. International vocation of the discipline of industrial and intellectual property. International conventions. Exclusive rights. Monopoly rights.
2. Unfair competition. CUP. The relationship of competition. Potential competition. Competition at different market levels. Direct and indirect unfair competition. The different cases referred to in Article 2598 of the Civil Code. Acts of confusion. Servile imitation of product. Protection of product form in industrial law. Competing protections. Requirements for protection of form under servile imitation. Acts of disparagement. Warnings. The disparaging advertisement. Appropriation of merit as an essentially communication tort. The general clause of professional fairness in n. 3 of Article 2598 Civil Code. The cases consistently configured by case law: Parasitic competition, Boycott, Reversal of employees, The protection of unqualified business information and in general the misappropriation of others' secrets as an act of unfair competition.
3. Trademarks and distinctive signs. Concept. Historical evolution. The normative sources of the discipline. The functions of the trademark. The distinctive function. The legally protected functions of the trademark and the debate on them. The constitutive fact of the acquisition of trademark rights: registration and use. The registration process. The prerequisites for validity of trademark registration. Validity requirements or impediments to registration. Absolute impediments. In particular, the signs not capable of being registered as trademarks. The absence of distinctive capacity. Acquisition and loss of distinctiveness: secondary meaning and vulgarization. Form marks. Signs contrary to law, morality and public order; coats of arms, emblems and flags; deceptive signs; protected names, indications and mentions. Relative impediments and other causes of invalidity. The lack of novelty. The conflict with other earlier registered trademarks. The conflict with other earlier distinctive signs: a) earlier de facto marks and with firm, insignia and domain name. Validation. The conflict with other third party rights. The claim of the trademark. Subjects. The prohibition of bad faith registration. The patronymic trademark. Causes of invalidity and causes of revocation. The content of the right (art. 20 c.p.i.). The three types of conflict: dual identity, likelihood of confusion, and the trademark of renown. Lawful use of someone else's trademark. Unlawful use of one's own trademark. Exhaustion of right. Communion of trademark. Assignment of trademark. Trademark license. The firm in the system of distinctive signs. The principle of truth. The constitutive fact of the right. Insignia. Atypical distinctive signs.
4. Registered designs. Subject matter of protection. The former ornamental design patents and special ornamentation as a limitation for access to protection. The change of perspective brought by the directive and the lowering of the level for access to protection. Current regulatory situation. Requirements for registrability. Novelty and individual character. Design. Cumulation of protections and competing protections of product form.
5. Secret business information and Know-how (so-called "trade" secrets). Discipline under Articles 98 and 99 of the Criminal Code. The 2016 directive and its transposition in 2018.
6. Patents for invention and utility models. Protection of technological innovation in general. Content of the right. The right of exclusivity. Patentability and freedom of implementation. Exclusivity is ius excludendi alios. Validity requirements. Extrinsic novelty: pre-disclosure, novelty examination and opposable prior art. Intrinsic novelty or inventive step: originality of invention and examination of it. The branch expert and indicia of evidence and non-evidence. Sufficient description: mechanical and chemical patents. Lawfulness. Industriality. Ownership of the invention and the right to the patent. Employee inventions: service, business and occasional inv. The invention of university researchers. Invention in the context of the self-employment relationship. Research contracts. National patent. The CBE. The patent with unitary effect.

7. Copyright (Overview).

Prerequisites

study of private law

Teaching methods

In-person and remote lectures possibly as follows:
In-person lectures (classroom): 30 hours
Remote lectures in asynchronous mode (Webex // e-learning) hours: 12
The activities will, in addition, be conducted in delivery and interactive mode according to proportions to be determined.

Assessment methods

The final examination is oral. Intermediate tests may be scheduled, again in the oral mode. Overall, the examination, at the stages indicated, consists of the candidate's demonstration of knowledge of the fundamental institutes of Industrial Law. In addition, the candidate is required to master the Italian language as well as the appropriate legal terminology.

Textbooks and Reading Materials

A. Vanzetti, V. di Cataldo and M.S. Spolidoro, Handbook of Industrial Law, Giuffrè latest edition.
Aa. Vv. Industrial law, intellectual property and competition, Giappichelli, latest edition.
Study platform with case studies, concept maps and self-assessment quizzes: www.giappichelli.edu.

Semester

second semester

Teaching language

Italian

Sustainable Development Goals

QUALITY EDUCATION