

**Indiana University**  
**Request for a New Credit Certificate Program**

Campus: Indianapolis, Indiana University Robert H. McKinney School of Law

Proposed Title of Certificate Program: Graduate Certificate in Intellectual Property Law

Projected Date of Implementation: September 2013

TYPE OF CERTIFICATE: (check one)

☐ UNDERGRADUATE CERTIFICATES – These programs generally require 12-29 credits of undergraduate-level academic work.

☒ GRADUATE CERTIFICATES – These programs generally require 12-29 credits of graduate-level academic work or undergraduate academic work carrying graduate credit.

☐ POST-BACCALAUREATE CERTIFICATES –These programs generally require 12-29 credits of undergraduate-level academic work, although students enrolling in these programs must have completed their baccalaureate degrees.

**I. Why is this Certificate needed? (Rationale)**

Pursuant to its strategic plan, Indiana University Robert H. McKinney School of Law has committed to the development of particular expertise in Intellectual Property law. The Center for Intellectual Property and Innovation was established to expand the curriculum and teaching of IP law at the Law School and provide opportunities for student participation in Center-sponsored research and educational programs.<sup>1</sup>

Given the increasing importance of intellectual property to society, IP issues are ubiquitous throughout the legal world. Indeed, intellectual property law is the lifeblood of many of society's most important industries, institutions, and endeavors. Accordingly, intellectual property law continues to grow and evolve, incentivizing what will become the breakthrough creations of the future. This dynamic area of the law requires highly trained lawyers who combine in-depth doctrinal understanding of complex legal issues with practical skill sets, enabling them to use the means of IP law to effectuate its grand ends, such as promoting the progress of science and useful arts.

The Law School has an extensive IP curriculum, taught by full-time faculty as well as adjunct professors, providing our IP students with unsurpassed practical education on cutting edge intellectual property issues. Alumni of the Law School are at the forefront of protecting

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<sup>1</sup> The Law School is currently conducting a search for a distinguished scholar to fill the Gerald Bebko Chair in Intellectual Property Law, who will serve as the Director of the Center on Intellectual Property and Innovation.

and advancing intellectual property rights. Our IP graduates include award-winning private practitioners of patent, trademark, copyright, and right of publicity law, chief patent counsel of Fortune 500 companies, and IP litigators and counselors throughout Indiana and the nation.

The Certificate will aid students seeking employment in IP and related fields. The Certificate will signal to prospective employers that a student has a serious interest in these fields and has engaged in a rigorous course of studies providing a critical foundation for practicing in these fields. In addition to educating a new generation of IP lawyers, the course of study will also benefit students whose future work concerns just about any area of law, including but certainly not limited to property law, transactions, corporate acquisitions, university research and development, technology and manufacturing, public health, and international law, as well benefiting those students interested more generally in licensing, consulting, or government service, particularly with certain federal agencies.

Upon successful completion of the IP Certificate course of study, a student should possess (1) a deep and broad historical and theoretical foundation in IP law and (2) a sophisticated understanding of the practical application of the law to the real-world legal issues actually confronting practicing lawyers and in-house counsel in contemporary society.

Intellectual property includes patents, copyrights, trademarks, trade secrecy, and the right of publicity. Copyright law provides authors and artists with exclusive rights to their works for limited periods of time as a means of stimulating the creative arts, including the various expressive and applied arts. Students will be educated in the fundamental principles of copyright law, with attention to its historical development, international treatment, and future adaptability to rapidly changing modes of expression and the technological developments and other circumstances that affect enforcement of copyright privileges while preserving freedom of expression and other concerns.

Trademark law protects a brand owner's property investment of their products and services, which in turn facilitates consumer product differentiation and protects the public and the trademark owner from deception and the wrongful diversion of trade. Students will learn about the trademark spectrum of potentially protectable words and symbols, the elements of trademark infringement, the protection from dilution afforded to famous marks, and actions for unfair competition under the Lanham Act.

Trade secrecy protects a variety of ideas, information, and expression that is or may be of some economic value. It therefore often serves as a catch-all for intellectual goods that may or may not be protectable under other types of intellectual property regimes. As part of their studies in this concentration, students will learn the various tenets of trade secrecy law as well as its foundations in contract and tort law.

The right of publicity is of increasing economic importance in the age of celebrity and serves a unique purpose in preventing others from commercially exploiting and unjustly profiting from the celebrity of another. Study in this area will include the right's historical evolution, its statutory and common-law sources, and its relationship to other aspects of intellectual property,

as well as issues of litigation, licensing and business applications, endorsement deals, celebrity branding, and advertising campaigns involving the right of publicity.

Patent law provides inventors with the exclusive rights to their inventions for limited periods of time, in exchange for full disclosure of their inventions. Patents serve to stimulate and accelerate innovation in the technical arts, including pharmaceuticals electronics, machinery, methods of manufacturing, and computer software. Students will learn the laws applicable to prosecuting of U.S. and foreign applications for patents, negotiating transactions based on those patents, and enforcing those patents through litigation, among other skills. Student instruction will cover a variety of doctrinal issues, including the many changes made by the recently enacted America Invents Act and the wide range of international trade issues relevant to patent law. Topics include the statutory conditions for patentability, patent scope, enforcement, and licensing. Additional topics include ownership and administration of patent rights in the business setting.

While no technical background is required for the study of any area of IP law, patent prosecution practice—preparing and prosecuting patent applications before the US Patent and Trademark Office (USPTO)—is a special field within intellectual property that requires a scientific or technical background. Students whose undergraduate majors were in the sciences or engineering should strongly consider this specialized patent practice, which involves sitting for the patent bar exam. A complete list of the majors that qualify students to take the patent bar exam is available online from the USPTO. Patent litigation practice, on the other hand, does not require any specific scientific or technical background, though technical knowledge is useful. No scientific background is required to study or practice the other areas within intellectual property. Students interested in any field of intellectual property can, of course, benefit from studying patent law.

In sum, a Certificate in Intellectual Property Law will provide the following benefits:

- Identify an essential baseline education leading to successful practice in the complex and competitive field of IP law
- Send a signal of the Law School's experience and reputation in the field of IP law
- Provide a competitive advantage as to both inputs and outputs
  - Offering a Certificate program to our JD applicant pool would provide a competitive advantage for the Law School.
  - Provide a clear signal and identification of excellence and specialization to potential employers.
- Aid in the structuring and sequencing a large number of courses and maximize the students' educational experience as they navigate the field of IP law.

## II. List the major topics and curriculum of the Certificate.

A Certificate in Intellectual Property Law will be awarded to a JD candidate who completes approved Intellectual Property Law courses *totaling at least 15 credit hours in IP Law and closely-related subjects* (see Tables 1-4, below<sup>2</sup>) while maintaining a minimum grade point average as specified below.

To qualify for a Certificate in Intellectual Property Law, a JD candidate must satisfy all general requirements for the JD degree, and also:

1. Complete at least three core courses (see Table 1, below).
2. Complete elective courses from the approved list (if necessary) to amass enough credit hours. (see Table 2, below)
3. Complete a major research paper on intellectual property approved by a member of the Law School's IP faculty.
4. Maintain a cumulative 3.2 GPA in the Intellectual Property Law courses applied toward the Certificate.<sup>3</sup>

### *Intellectual Property Law Certificate Courses*

<b>Table 1: Core Courses</b>
Intellectual Property Law (not required only if a student completes separate courses in Patent, Trademark, <b>and</b> Copyright Law)
Copyright Law <b>or</b> Patent Law <b>or</b> Trademark Law
A third course from above, <b>or</b> Patent Prosecution <b>or</b> Patent Litigation <b>or</b> IP Transactions and Licensing <b>or</b> Right of Publicity <b>or</b> Internet Law.

<b>Table 2: Elective Courses</b>
Administrative Law Antitrust Law Art, Museum, and Publishing Law Biotechnology Law Copyright Law Drug Innovation and Competition Law

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<sup>2</sup> Given the dynamic nature of IP law, it is likely that the Law School will approve additional IP courses. If the Director of the Center for Intellectual Property and Innovation wants these courses to be added to the Tables listed above, approval shall be sought from the Law School Academic Affairs Committee and if so approved shall be published on the Law School's web site.

<sup>3</sup> In the case of a student who takes more than the minimum number of qualifying courses the student's best grades in those courses will be used to calculate his or her IP law GPA.

Entertainment Law
Food and Drug Law
Intellectual Property of Pharmaceutical Products and Medical Devices
Intellectual Property Transactions and Licensing
International Intellectual Property Law
Intellectual Property Law Litigation
Intellectual Property Valuation
Internet Law
International and Comparative Pharmaceutical and Medical Device Law
Seminar in Law and Technology
New Genetics: Ethical, Legal and Policy Issues
Patent Law
Patent Litigation
Patent Prosecution
Right of Publicity
Sports Law: Individual, Amateur and Olympic Sports
Sports and Entertainment Law
Trademark Law
Unfair Trade Practices

### **III. What are the admission requirements?**

Any JD candidate enrolled and in good standing at the Law School who has completed their 1L courses is eligible to seek the Certificate. A candidate seeking the Certificate must file a “Notice of Intent to seek Certificate in Intellectual Property Law,” using a form approved by the Law School. This form must be completed and filed during or before a student’s penultimate semester prior to graduation. In order to complete the IP Law Certificate, students must meet minimum GPA requirements, and thus students who file a notice of intent will be counseled to give attention to their GPA in order to assure that they have a reasonable prospect of completing the Certificate while meeting minimum GPA.

### **IV. List the major student outcomes (or set of performance based standards) for the proposed Certificate.**

- a. Obtain knowledge and understanding of the state, national and global IP sectors.
- b. Develop an appreciation and understanding of the important legal issues facing the state, national and global IP sectors.
- c. Develop an appreciation and understanding of the important policy issues facing the state, national and global IP sectors.

**V. Explain how student-learning outcomes will be assessed (student portfolios, graduate follow up, employer survey, standardized test, etc.) and describe the structure/process for reviewing assessment findings for the purpose of ensuring continuous improvement of the Certificate.**

For the most part, students will take conventional law school courses involving assessment by examination, classwork, written assignments, or papers. Research and writing courses will involve formal advising and supervision of the writing requirement. All students seeking to complete the Concentration requirements must complete a major research paper on an intellectual property law topic. Students may meet the Certificate's writing requirement in one of three ways: 1) completion of a law review note that is approved by an IP core faculty member on an intellectual property law topic for one of the law school's student-run journals; 2) completion of a paper approved by an IP core faculty member written for any of the approved elective courses listed above; 3) completion of a paper for any class or independent study if the student obtains the prior written approval of the Director of the IP Center. Each student will have a member of the IP law faculty assigned as a Certificate Advisor and these faculty members will provide individual counseling to guide student curriculum choices, promote deeper understanding of course themes, and counsel decisions about the students writing project.

**VI. Describe student population to be served.**

Intellectual property is a critical segment of our twenty-first century economy, and as a result student employment opportunities are likely to remain robust. The Certificate in Intellectual Property Law will be attractive to JD students who are planning careers as IP lawyers or policymakers. Opportunities for employment exist at the local, regional and national levels, and in for-profit, not for-profit, and governmental institutions, firms or agencies. The complexity of IP law and policy and the breadth of its practice create a cohort of strong JD students who will enroll in the Certificate of Intellectual Property Law for intellectual, organizational, signaling, and credentialing reasons.

**VII. How does this Certificate complement the campus or departmental mission?**

The Certificate is consistent with and reinforces the goals of the law school and the primary mission of the Center for Intellectual Property and Innovation; to provide a cutting edge IP law program for school of law students that will maximize their employment opportunities. It is also compatible with the focus on Life Sciences that is so important to the IUPUI campus.

The law school is in a unique position to offer students and professionals a comprehensive program focused on IP law. Indianapolis is the home of Eli Lilly, one of the largest drug companies in the world, and other biotechnology firms that need patent attorneys. CMG Worldwide, which is one of the largest management firms for celebrity intellectual property rights, is also located here and is run by one of the Law School's graduates. The City also contains a vibrant artistic and creative community that needs legal advice on IP.

Students who possess a broad range of IP law related knowledge and training and are so credentialed will be attractive to the sophisticated employers who deal with IP law and policy, such as companies, state and federal agencies, and of course, local, regional and national law firms. Meanwhile, the Certificate and its emerging certified students will reinforce the reputation of the University, law school and the Center for Intellectual Property and Innovation as leaders in IP law and policy.

**VIII. Describe any relationship to existing programs on the campus or within the university.**

The Intellectual Property Law Certificate will complement the Doctor of Jurisprudence (JD) degree offered at the Law School. In addition, it will both complement and be of particular interest to students enrolling in the JD/MBA and the JD/MLS (Master of Library Science) programs. Beyond signaling institutional commitment and expertise in intellectual property law to external constituencies such as law firms and government agencies, the Certificate should play a similar role with regard to internal, University constituencies and increase the level of cooperation, course-cross listing, and other cooperation between the law schools and other IP-related schools and research institutes across the IU campuses.

**IX. List and indicate the resources required to implement the proposed program. Indicate sources (e.g., reallocations or any new resources such as personnel, library holdings, equipment, etc.).**

The Intellectual Property Law Certificate will be offered and sustained with existing resources. The Center for Intellectual Property and Innovation through both its full-time faculty and adjunct faculty already provides an excellent IP curriculum. The staff at the Law School and at the Center will be fully able to deal with the administrative aspects of the Certificate.

**X. Describe any innovative features of the program (e.g., involvement with local or regional agencies, or offices, cooperative efforts with other institutions, etc.).**

On two occasions, the Center hosted international delegations of IP lawyers visiting locations throughout the U.S. as a part of the State Department's International Visitor Leadership Program. Each delegation consisted of numerous foreign IP attorneys and officials, and each delegation met with IP Center faculty to learn about the activities of the Center. On each occasion, the Center worked with the International Center of Indianapolis.

Working with the Research Development & Commercialization Facilitator, Office of the Vice Chancellor for Research (the facilitator of technology transfer/commercialization activity on campus), the IP Center has also identified a number of opportunities for our IP students in the area of research commercialization and in programs under Innovation-to-Enterprise Central (ITEC), a student-centered, multidisciplinary, active-learning initiative to provide opportunities for students to learn about research commercialization and develop entrepreneurial skills.

Other joint initiatives involving the Center include: (1) a cooperative effort with AmiCOUR IP Group, LLC (an IP consulting group), in which the IP Center arranged for an opportunity for four of our IP students to work on an *amicus curiae* brief in the U.S. Supreme Court in the important *Microsoft v. i4i* patent law case; (2) consultation with The School of Library and Information Science in an effort to revitalize the Copyright Management Center at IUPUI; (3) discussions with The Kelley School of Business to develop a research project regarding engaging international partners in the commercialization process, and associated IP issues; and (4) events for IP students and IP practitioners with the IP Section of the Indiana State Bar Association and the IP Section of the Indianapolis Bar Association.



