Course Description

Module title: IP and Creative Industries

Lecturer: Angelia Jia Wang, Assistant Professor, School of Law, Durham University, UK

Format of teaching: there are 10 sessions of the module. Each session is 2 hours. There is a combination of lectures and in-class exercises. Students are encouraged to bring their laptop or an electronic device with access to the internet to the classroom.

Course objectives:

1. To provide students with an overall understanding of the IP legal framework at the national, regional and international levels.

2. To map out relevant IP laws governing creative industries, with a focus on the gaming, AI and 3D printing industries.

3. To enable students to critically analyze IP legislation, policies, and cases with an in-depth understanding of the governing law.

4. To organize written answers in English to practical legal problems in a systematic and coherent manner.

Syllabus: This course is for all law students who are interested in creative industries and the protection and management of the intellectual property as intangible assets. It can be taken both online and offline whilst in-person attendance is encouraged. The purpose of the course is to equip students with the necessary skills to navigate and critically analyze the changing legal environment that is shaping IP law and policy. The scope of teaching includes international law and the EU law, and for a comparative purpose, the UK law.

Topics and reading lists:

Topic 1: Intellectual property (IP) law: An introduction (23/03, Thur, 4-6 pm)

1. What is IP, and why is it important?

2. The international IP legal framework

3. IP in different legal systems

4. How are IP rights managed?

Reading list:

- 'What is Intellectual Property?', available at https://www.wipo.int/about-ip/en/

- Ruth L. Okediji, The International Copyright System: Limitations, Exceptions and Public Interest Considerations for Developing Countries, available at https://unctad.org/system/files/official-document/iteipc200610_en.pdf

*Note: there is no lesson on 28/03, Tue, 11-1 pm

Topic 2: IP and creative industries (28/03, Tue, 4-6 pm)

1. The IP-intensive industries

2. The international trade of IP

3. In-class exercise: mapping the areas of IP involved in different creative industries

Reading list:

- André Janssen & Jia Wang, 'Punitive damages under the new Chinese Civil Code – a critical and comparative analysis', (2021) Asia Pacific Law Review, 29:2, 346-365, available at https://www.tandfonline.com/doi/full/10.1080/10192557.2022.2033087

- UNCTAD, 'Creative Industry 4.0: Towards a New Globalized Creative Economy', (2022), available at https://unctad.org/publication/creative-industry-40-towards-new-globalized-creative-economy

Topic 3: IP and video games (1) (29/03, Wed, 2-4 pm)

1. In-class exercise: what are the genres of games? Which do you like to play? Why is it an interesting/attractive game?

2. Copyright law and games

3. In-class exercise: (1) is a video game a 'work' in a copyright law sense? (2) should the game elements (images, texts, gameplay, etc.) be protected by copyright?

Reading list:

- CITMA, 'Copyright and video games', (2023), available at https://www.citma.org.uk/resources/copyright-and-video-games-blog.html

- Gaetano Dimita, Yin Harn Lee, and Michaele MacDonald, Copyright Infringement in the video game industry, WIPO 2022, available at https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=576652

Topic 4: IP and video games (2) (30/03, Thur, 4-6 pm)

1. The game design theories

2. The development of the test for the copyrightability of video games

3. In-class exercise: what is the impact of the new legal test of copyrightability on the industry, international trade, and the IP legal system?

Reading list:

- David Greenspan and Gaetano Dimita, Mastering the Game, 2nd edition, WIPO 2022, available at https://tind.wipo.int/record/45851?ln=en

- Robin Hunicke, Marc LeBlanc, Robert Zubek, 'MDA: A Formal Approach to Game Design and Game Research', available at https://users.cs.northwestern.edu/~hunicke/MDA.pdf

Topic 5: IP and AI-generated content: text (4/04, Tue, 11-1 pm)

1. What is generative AI?

2. In-class exercise: do experiments with AI modules – ChatGPT

3. Case study: copyright for literary works and computer programmes

4. In-class exercise: is copyright protection available for the output generated by ChatGPT?

Reading list:

- McKinsey, 'What is generative AI?' (2023), available at https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-generative-ai

- Poorvika Chandanam, 'The Concept of Idea-Expression Dichotomy under Copyright Law', (2021), available at https://www.theipmatters.com/post/the-concept-of-idea-expression-dichotomy-under-copyright-law

Topic 6: IP and AI-generated content: image & audio (4/04, Tue, 4-6 pm)

1. In-class exercise: experiment with AI modules: Stable Diffusion, DALL-E

2. Case study: copyright for visual arts

3. In-class exercise: is copyright protection available for the output generated by AI? What are the differences between text, image, sound and video output?

Reading list:

- 'AI art tools Stable Diffusion and Midjourney targeted with copyright lawsuit', available at https://www.theverge.com/2023/1/16/23557098/generative-ai-art-copyright-legal-lawsuit-stable-diffusion-midjourney-deviantart

- Lionel Bently, 'Authorship of Popular Music in UK Copyright Law', Information, Communication & Society Volume 12, 2009 - Issue 2: Copyright, and the Production of Music, available at https://www.tandfonline.com/doi/abs/10.1080/13691180802459948

Topic 7: IP and AI-generated content: a reflection (5/04, Wed, 2-4 pm)

1. Challenges from generative AI: legal, ethical, and policy

2. In-class exercise: what are the differences between generative AI and traditional computer programmers?

3. In-class exercise: How to adapt the copyright system to an AI-immersive environment? (1) how to define a 'work'? (2) must the author be a natural person? (3) who should own the work? (4) who should be liable for copyright infringement?

Reading list:

- Moni Wekesa, 'What is Sui Generis System of Intellectual Property Protetcion?' (2006), available at https://atpsnet.org/wp-content/uploads/2017/05/technopolicy_brief_series_13.pdf

- Open AI, 'Developing safe & responsible AI', available at https://openai.com/safety

Topic 8: IP and 3D printing (6/04, Thur, 4-6 pm)

1. What IP rights are available for 3D designs?

2. In-class exercise: where can you find 3D designs if you wish to print an item with your home 3D printer? Can you 5customize it?

3. IP and competition regulation

4. In-class exercise: is it reasonable to allow cumulative IP protection for designs?

Reading list:

- Jia Wang, 'Reconceptualizing the Interface of Copyright and Design Rights for 3D Printing', Journal of Intellectual Property Law & Practice, 2022, Vol. 17, No. 12, 1011, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4356580

- Nicole Neutzling, 'From Consumers to Prosumers: How 3D Printing is Putting Us in the Driver's Seat for Creation and the Ethical Considerations that Accompany this Shift', available at https://openeducationalberta.ca/educationaltechnologyethics/chapter/from-consumers-to-prosumers-how-3d-printing-is-putting-us-in-the-drivers-seat-for-creation-and-the-ethical-considerations-that-accompany-this-shift/

Topic 9: IP for tokenised artwork (11/04, Tue, 11-1pm)

1. What are tokens?

2. The types of blockchain

3. In-class exercise: take a look at the transaction platforms for tokenised artwork, and find out what a gas fee is.

4. Copyright in the artwork

5. The legal nature of NFTs

Reading list:

- Katharina Garbers-von Boehm at al, 'Intellectual Property Rights and Distributed Ledger Technology', (2022), available at https://www.europarl.europa.eu/RegData/etudes/STUD/2022/737709/IPOL_STU(2022)737709_EN.pdf

- Enrico Bonadio at al, 'NFTs and Copyright: Some Burning Issues', available at https://copyrightblog.kluweriplaw.com/2022/07/21/nfts-and-copyright-some-burning-issues/

Topic 10: Do we still need platforms? (11/04, Tue, 4-6pm)

1. In-class exercise: (1) what types of platforms have we looked at throughout our lessons? (2) What are their functions?

2. An utopia of decentralisation and democracy ushered by technologies?

3. A dystopia of the platforms which are still centralised and possibly monopolistic?

Reading list:

- Assimakis Komninos, 'The Digital Markets Act (DMA) goes live', available at https://www.whitecase.com/insight-alert/digital-markets-act-dma-goes-live

- Anna Pingen at al, 'New EU Rules for Online Platforms', available at https://eucrim.eu/news/new-eu-rules-for-online-platforms/

Group presentation: Wed, 12/04, 2-4pm

Course assessment:

For students who attend the class in-person, the assessment is a presentation which is a research project based on group work. Each group comprise about four students and will give a presentation in the last week of teaching. Each presentation should be 20 minutes. The talking should be equally divided between group members. Each presentation will be followed by a 5-minute Q&A session. Everyone is welcome to ask questions. For non-attending students, the assessment is to write an essay of 1000 words on the same topic as the attending students. Submit the PowerPoint slides (attending students) indicating the group members, or the essay (non-attending students) at angelia520@hotmail.com. The deadline is Friday, 7 April, at noon.

The assessment requires students to discuss the following:

The availability of smaller and cheaper digitalised tools helps developing countries to move out of low-volume hand-made crafts while at the same time preserving the originality of their

cultural designs. The commercialisation of creative products and services has become easier and cheaper, allowing businesses to enter new niche markets.

Discuss how technologies change the ecosystem of a creative industry and their impact on the IPs involved in that industry. You may choose the industry of gaming, 3D printing, AI-generated content or the tokenisation of artwork for a discussion. You should discuss the features of the relevant technology, identify the types of IP involved in the chosen industry, and the impact from the technologies at national and international levels.

The assessment criteria are set below.

Assessment Criteria	A to A+ (Excellent)	B to B+ (Good)	C to C+ (Satisfactory)	D to D+ (Marginal)	F (Failure)
Comprehension	Identified all of the relevant legal issues, with accurate and detailed explanation of the relevant legal principles.	Identified almost all of the relevant legal issues, with accurate explanation of the relevant legal principles.	Identified most of the relevant legal issues, with some accurate explanation of the relevant legal principles.	Identified some of the relevant legal issues with a basic explanation of the relevant legal principles.	Not able to identify the legal issues sufficiently, without explanation of the relevant legal principles.
Application	Applied all of the relevant legal authority accurately, able to distinguish and weigh authority in the	Applied almost all of the relevant legal authority accurately, able to distinguish between	Applied most of the relevant legal authority accurately, in the specific context arising in the problem.	Applied some of the relevant legal authority, with some inaccuracy.	Unable to apply the relevant legal authority accurately.

	specific context arising in the problem.	authority in the specific context arising in the problem.			
Communication and Organization	Clear, concise and coherent, demonstrating logical and sequenced flow, and overall comprehensive argumentation skills.	Clear and coherent, demonstrating logical and sequenced flow, and sound argumentation skills.	Clear and mostly coherent, demonstrating mostly logical and sequenced flow.	Some clarity and logical flow, but mostly poor communication and organization.	Unclear, poor flow, poor organization.
Evaluation (if applicable)	Evidence of deep reflection and critical evaluation, suggests creative and workable solutions.	Evidence of reflection and critical evaluation, suggests workable solutions.	Evidence of some critical evaluation, suggests solutions with some justification.	Limited critical evaluation and weak solutions, with little justification.	Unable to provide evaluation or suggest any workable solutions.