

# Module I

## Innovation and Intellectual Property Protection: Foundations and Challenges

**Root number:** 446638

**ECTS:** 3

**Lecturers:** Thomas Cottier, Martin Girsberger, Matthias Käch, Erik Thevenod Mottet Julie Poupinet, Kamran, Houshang Pour, Kathrin Rügsegger, and Jayashree Watal

**Location:** At the WTI and online via [Zoom](#).

**Dates:** 20-24 June 2022 (with a take-home assessment due on June 25, 2021).

**Audience:**

- Government officials; Embassy staff; people working for international organisations and NGOs, industry and in legal practice
- Master of Advanced Studies of International Law and Economics (MILE) Students
- Joint LL.M. / Diploma of Advanced Studies Trade and Investment Law (TRAIL+) Students - World Trade Institute / Faculty of Law, Unibe
- Certificate of Advanced Studies / Diploma of Advanced Studies in International Law and Economics (CAS ILE & DAS ILE) Students - World Trade Institute, Unibe
- Students from different universities across Switzerland

**Course Description:**

Intellectual property rights play an increasing role in international trade and the process of globalization and regionalization. Global value chains and division of labour strongly depend upon intellectual property protection which in turn also influences trade flows. The module expounds the fundamental principles of IP protection and policy in the multilateral trading system of the WTO and preferential trade agreements. It offers an introduction to different forms of rights, scope of rights, and students are exposed to leading WTO case law. The module particularly focuses in a case study on the implications of patents on public health and pharmaceuticals in the developing world. The module offers an introduction into trademarks and geographical indications and

explains the different modes of registration of intellectual property rights and research tools for patent and trademark landscaping. The introduction is taught by academics, former trade negotiators and experienced practitioners.

### Exams and Grades:

24 hours take home assignment to be released on Friday after class.

### Schedule

Class	Date	Day	Time	Lecturer	Topic
1	20 June	Monday	09:00-12:00	Thomas Cottier	Foundations
			14:00-16:00	Thomas Cottier	Legal Principles of IPRs
2	21 June	Tuesday	09:00-12:00	Thomas Cottier	Main Forms Scope of IPRs
			14:00-16:00	Thomas Cottier	Nature of IPRs & relation to HR
3	22 June	Wednesday	09:00-12:00	Jayashree Watal	Economics of IPRs
			14:00-16:00	Kathrin Rügsegger	Patent Protection & Public Health
4	23 June	Thursday	09:00-12:00	Matthias Käch	IGE Trademark Protection
			14:00-17:00	Erik Thevenod Mottet & Martin Girsberger	Geographical Indications & the Protection of TK
5	24 June	Friday	09:00-12:00	Kamran Houshang Pour & Matthias Käch	IGE Registration of Patents & Trademarks
			14:00-16:00	Kamran Houshang Pour & Julie Poupinet	Patent & Trademark Landscaping
6	25 June	Saturday			Take-home assessment

### Biography of the Lecturers:

#### Thomas Cottier

Prof.em. Prof. Dr. iur, Thomas Cottier, former Managing Director of the World Trade Institute, is Professor Emeritus of European and International Economic Law at the University of Bern, senior research fellow at the WTI and associate professor of law, University of Ottawa. He published widely in the field of international economic law, with a particular focus on constitutional theory and intellectual property. He directed the national research programme on trade law and policy (NCCR International Trade Regulation: From Fragmentation to Coherence) located at the WTI from 2006-2014. He is

an associate editor of several journals. He was a visiting professor at the Graduate Institute, Geneva, the Paris I Sorbonne, University of Barcelona, and regularly teaches at the Europa Institut Saarbrücken, Germany, at Wuhan University, China, at the University of Torino and more recently at the University of Ottawa, Canada. He was a member of the Swiss National Research Council from 1997-2004 and served on the board of the International Plant Genetic Resources Institute (IPGRI) Rome during the same period. He served the Baker & McKenzie law firm as Of Counsel from 1998 to 2005. He held several positions in the Swiss External Economic Affairs Department and was the Deputy-Director General of the Swiss Intellectual Property Office. Prof. Cottier has a long-standing involvement in GATT / WTO activities. He served on the Swiss negotiating team of the Uruguay Round from 1986 to 1993, first as Chief negotiator on dispute settlement and subsidies for Switzerland and subsequently as Chief negotiator on TRIPs. He has served as a member or chair of numerous several GATT and WTO panels and is a member of the pool of ten appeal arbitrators under the MPIA of the WTO. And on a high level panel reviewing the International Health Regulations of the World Health Organization.

### **Jayashree Watal**

Ms. Watal is Adjunct Professor at Georgetown Law and Honorary Professor at the National Law University, Delhi. She was Counsellor in the Intellectual Property Division of the World Trade Organization from February 2001 to July 2019, where she has dealt with negotiations on TRIPS and public health. She has more than twenty two years of experience in government in India, of which ten years was devoted to policy, diplomacy, research and administration on intellectual property rights, including representing India in the TRIPS negotiations. She has researched and published on issues related to intellectual property rights, including a book *Intellectual Property Rights in the WTO and Developing Countries* (Oxford University Press, India and Kluwer Law International, 2001). She was a Visiting Scholar at the Center for International Development at Harvard University (2000) and at the Institute for International Economics, Washington DC (Oct. 1998-August 2000) and at the George Washington University Law School, Washington, D.C. (1997- 2000). She worked in the Government of India, Ministry of Commerce as Director, Trade Policy Division, New Delhi (1995-1998). She has a post-master's degree in trade law (DESS) from the University of Paris-V; M.A. in Economics from Gokhale Institute for Politics and Economics, Pune, India; and a B.A. from Fergusson College, Pune, India.

### **Matthias Käch**

Matthias Käch served as Head of Training at the Swiss Federal Institute of Intellectual Property (IGE) for seven years. He started working for the Trade Mark Division of the IGE twenty-two years ago as trade mark examiner. After receiving a DAS in Intellectual Property Rights at the University of Bern in 2004 he worked as a member of the trade mark opposition section as well. In 2009 he started lecturing as an IP-Trainer regarding all fields of intellectual property with the main emphasis on trade mark law. In 2010 he received a MAS in Brand- and Marketing Management at the University of Applied Science in Luzern. Since 2011 he was Head of Training and offers today lectures as Senior IP-Trainer.

**Kamran Houshang Pour**

Dr. Kamran Houshang Pour is patent expert and IP trainer at Swiss Institute of Intellectual Property (IPI) in Bern. After obtaining a PhD in physics at the EPF Lausanne he worked as product manager at Nortel Networks in Zurich, where he conducted yield improvement projects for the existing products, qualified new products and introduced them into the market. He later cofounded a consulting entity providing technical supports especially for young startups by the quality management as well as by the technical questions. After a master in statistics at the Université de Neuchâtel he returned as Post Doc to EPFL (TRANSP-OR) conducting an externally financed project on modelling customer behaviour. Since 2008, he is working at IPI, where as patent expert he conducts different type of patent searches, such as validity or freedom-to-operate searches, and examines patent applications in his field of knowledge. As IP trainer, he gives lectures on diverse intellectual property subjects at the universities and in the companies.

**Erik Thévenod-Mottet**

Erik Thévenod-Mottet is advisor at the Swiss Institute of Intellectual Property for national and international affairs on geographical indications (GIs) and indications of source, since 2009. He previously worked as a researcher within European scientific projects, as well as in a certification body or for interprofessional organisations, always in relation to GIs.

**Martin Girsberger**

Dr Martin Girsberger is Head of the unit 'Sustainable Development & International Cooperation' at the Swiss Federal Institute of Intellectual Property (IPI), where he has been working since 1998. He is responsible for the intellectual property-related aspects of sustainable development, including biodiversity, environment, and food and agriculture. He has been a member of the Swiss delegations to the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization; the TRIPS Council; and the Convention on Biological Diversity. Additionally, he is responsible for the international cooperation activities of the IPI, which aim at improving the economic situation in countries through reforms in the field of intellectual property. Martin Girsberger holds an Attorney at Law, a Dr. iur. (University of Berne), and an LL.M.-degree (Duke Law School). He is the author of several publications covering the issues of traditional knowledge, Farmers' Rights, access and benefit sharing, and intellectual property.

**Julie Poupinet**

Julie Poupinet is head of an examination team and of the trademark search team at the Swiss Institute of Intellectual Property (IPI) and responsible for the implementation of the Madrid System at IPI as a designated country. In this capacity she represents Switzerland at the Working Group on the legal development of the Madrid System at WIPO. Previously she occupied several positions in the trademark division giving her a broad overview of the practices at IPI.

**Kathrin Rügsegger**

Kathrin works as an advisor on innovation, intellectual property and public health at IPI. She holds a master's degree in International and European Law from the University of Bern and a bachelor's degree in International Relations from the University of Geneva. She grew up bilingually in Zurich with German and English and is fluent in Spanish and French as well. Kathrin is very passionate about the field of international negotiations. Together with Prof. Felix Addor, she is responsible for organizing the Model United Nations Seminar at the University of Bern as well as teaching the students basic skills in negotiations.

**Learning Objectives:**

- To understand the rationale and motivation, sources, basic underlying principles, rights and obligations of different forms of the international intellectual property protection, with particular focus on the TRIPs Agreement and its operation within the WTO and PTAs.
- To appreciate the key economic trade-offs associated with the protection and enforcement of intellectual property rights.
- To understand the interpretation of the TRIPs Agreement and familiarise with main TRIPs-related jurisprudence of the WTO on national treatment in IPRs and interpretation of the TRIPs Agreement in the context of the WTO.
- To understand the role of Preferential Trade Agreements in the field of IPRs.
- To understand the main forms of intellectual property rights (IPRs), in particular the protection of inventions, how to get and how to enforce or invalidate them.
- To understand the role of protection against unfair competition and its potential in the multilateral trading system
- To discuss the main interconnection between intellectual property rights, innovation and global health.
- To deepen knowledge and assess the linkages of trademark protection, unfair competition, technical barriers to trade and health in a WTO case study
- To understand the interface of – and to differentiate between – the legal, economic and policy dimension of international disputes.
- To get to know some of IPI's tasks and services.
- To get to know the different patent application procedures.
- To understand the legal delays with patents.
- To understand the necessity of patent researches

Monday, June 20, 2022

**Lecturer:** Thomas Cottier

**Subject:** Foundations & Legal Principles of IPRs

**Topics:** Introduction to Intellectual Property

- The Legal Concept and Functions of Intellectual Property
- A Brief History of Intellectual Property Protection
- The Genesis of the TRIPS Agreement
  
- Common Features and Basic Principles of the International IPR System
  - National Treatment and Reciprocity
  - Most Favored Nation Treatment
  - Territoriality
  - Promotion of Creativity, Invention and Competition
  - Ubiquity and Exhaustion of Rights
  - Right of Priority
  - Duration of Intellectual Property Rights
    1. TRIPS Agreement Norms on Duration
    2. Berne Convention Norms on Duration

### **Compulsory Reading Material**

- Thomas Cottier, Principles and Main Sources of International Intellectual Property Law, Teaching Materials, September 2020
- Thomas Cottier, The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) in: The World Trade Organization: Legal, Economic and Critical Analysis (Macroy et al eds. 2005)
- Thomas Cottier, Embedding Intellectual Property in International Law, in: P. Roffe, X. Seuba (eds.), Current Alliances in International Intellectual Property Law: The Emergence and Impact of Mega-Regionals, ICTSD/CEIPI 15-45 (2017)
- Thomas Cottier, Intellectual Property and Mega-Regionals Trade Agreements: Progress and Opportunities Missed, in: S Griller, W Obwexer, Erich Vranes (Eds.), Mega-Regional Trade Agreements: CETA, TTIP and TiSA 151- 174 (Oxford University Press 2017)

### Optional Materials

- Frederick M. Abbott, Thomas Cottier, Francis Gurry, International Intellectual Property in an Integrated Economy, Austin Boston: Aspen Publishers Wolter Kluwer, 4th ed. 2019
- Thomas Cottier, Krista Nadakvularen Schefer (eds), Elgar Encyclopaedia of Public International Law, Cheltenham, Northampton 2017, pp. 516-537
- Thomas Cottier, Shaheez Lalani, Michelangelo Temmermann, Use It or Lose It: Assessing the Compatibility of the Paris Convention and TRIPS Agreement with Respect to Local Working Requirements, in: Journal of International Economic Law 17 (2014), No. 2, pp. 437-471
- Thomas Cottier, Gabriela Wermelinger, Implementing and Enforcing Corporate Social Responsibility: The Potential of Unfair Competition Rules in International Law (2014),
- Thomas Cottier, Matthias Oesch, International Trade Regulation: Law and Policy in the WTO, The European Union and Switzerland, Bern London 2005 p. 924-928
- Thomas Cottier, The World Intellectual Property Organization, Max Planck Encyclopedia of Public International Law (update Oxford University Press 2018).
- Agreement on Trade-Related Aspects of Intellectual Property Rights (included in the WTO Legal Texts)
- Paris Convention for the Protection of Industrial Property,
- Berne Convention for the Protection of Literary and Artistic Works
- WIPO, Intellectual Property Handbook: Policy, Law and Use, Geneva: WIPO Publications, 2004.  
Available at: <http://www.wipo.int/about-ip/en/iprm/index.html>
- WIPO, Intellectual Property Handbook: Policy, Law and Use, Geneva: WIPO Publications, 2004. Chapter 5: International Treaties and Conventions on Intellectual Property,  
Available at: <http://www.wipo.int/about-ip/en/iprm/index.html>
- Additional WIPO Intellectual Property Agreements,  
Available at: <https://www.wipo.int/treaties/en/>

Tuesday, June 21, 2022

**Lecturer:** Thomas Cottier

**Subject:** Main Forms Scope of IPRs & the Nature of IPRs & relation to HR

**Topics:**

- Unfair Competition Law and Survey of Different Forms of IP including Unfair Competition Law
  - The Protection of Unfair Competition

- Copyright and Neighbouring Rights
- Trademarks and Geographical Indications
- Patents
- Industrial Designs and Integrated Circuits
- Trade Secrets and Undisclosed Information
  
- The Scope of Intellectual Property Rights
  - Rights
  - B. Exceptions
  - C. Voluntary Licensing
  - D. Compulsory Licensing
  - E. Relationship to Anti-trust and Competition Law

### **Compulsory Reading Material**

- WTO, The TRIPS Agreement and COVID-19, Information Note, October 15, 2020 (handout)
- Thomas Cottier, Copyright and the Human Right to Property: a European and international law approach (2018)
- The Legal Nature of Intellectual Property in International Law (Kritka 2021)

### **Optional Reading Materials**

- See Monday, and:
- Cottier, T., Industrial Property Protection – International Protection, Encyclopaedia of Public International Law, Oxford: Oxford University Press, 2010.
- Cottier, T. and Véron, P. (eds.), Concise International and European IP Law – TRIPS, Paris Convention, European Enforcement and Transfer of Technology, Alphen aan den Rijn: Kluwer Law International, 3<sup>rd</sup> ed 2105.
- Cottier, T., Trade and Intellectual Property Protection in WTO Law: Collected Essays, London: Cameron May, 2005.
- Thomas Cottier, Copyright and the human right to property: a European and international law approach, in: Christophe Geiger, Craig Allan Nord, Xavier Seuba (eds.) Intellectual Property and the Judiciary, 116-143 (Edward Elgar: Cheltenham 2018)
- Thomas Cottier, Exhaustion of Intellectual Property Rights in WTO Law Revisited, in: Axel Metzger, Henning Grosse Ruse-Khan (eds.) Intellectual Property Ordering Beyond Borders, Oxford: Oxford University Press 2022 (forthcoming)



- Thomas Cottier, Inequality and Intellectual Property: Equity, Innovation and Creative Imitation, in: D. Benoliel, F. Gurry, K. Lee & P. Yu, (eds.) Intellectual Property, Innovation, and Global Inequality, Cambridge University Press, Intellectual Property and Information Law series, 2022 (forthcoming).

Wednesday, June 22, 2022

**Morning session 09:00 – 12:00**

**Lecture:** Jayashree Watal

**Subject:** Economics of Intellectual Property Rights

**Topics:**

- The economic trade-offs of Intellectual Property Rights
  - Difference between legal and economic classification of IPRs
  - Economics of Patents, including in the pharmaceutical sector
  - Trademarks
  - Geographical Indications
  - Copyright
- Costs and benefits of IPRs in developing countries
  - Technology transfer
  - Access to Medicines
  - Climate Change

**Compulsory Reading Material**

- WTO: The Economic of TRIPS, a primer available at [https://www.wto.org/english/tratop\\_e/trips\\_e/trips\\_econprimer1\\_e.pdf](https://www.wto.org/english/tratop_e/trips_e/trips_econprimer1_e.pdf)
- WTO: Changing the Face of IP Trade and Policy Making, available at [https://www.wto.org/english/thewto\\_e/20y\\_e/trips\\_brochure2015\\_e.pdf](https://www.wto.org/english/thewto_e/20y_e/trips_brochure2015_e.pdf)
- Maskus, Keith. E: 'Globalisation and the Economics of IPRs', Chapter 3 of *Intellectual Property Rights in the Global Economy*, Peterson Institute for International Economics, 2000, full text available at [https://www.piie.com/publications/chapters\\_preview/99/3iie2822.pdf](https://www.piie.com/publications/chapters_preview/99/3iie2822.pdf)

## Optional Reading Materials

- Maskus, Keith. E: 'Big Stakes in Selling Knowledge', Chapter 1 in *Private Rights and Public Problems: The Global Economics of Intellectual Property in the 21<sup>st</sup> Century*, Peterson Institute for International Economics, 2012, full text available at [https://www.piie.com/publications/chapters\\_preview/5072/01ie5072.pdf](https://www.piie.com/publications/chapters_preview/5072/01ie5072.pdf)
- Maskus, Keith. E: 'IPRs and Global Policy Challenges', Chapter 5 in *Private Rights and Public Problems: The Global Economics of Intellectual Property in the 21<sup>st</sup> Century*, Peterson Institute for International Economics, 2012, full text available at [https://www.piie.com/publications/chapters\\_preview/5072/05ie5072.pdf](https://www.piie.com/publications/chapters_preview/5072/05ie5072.pdf)
- WIPO: *The Economics of Intellectual Property*, Chapter 1, available at [http://www.wipo.int/export/sites/www/freepublications/en/economics/1012/wipo\\_pub\\_1012.pdf](http://www.wipo.int/export/sites/www/freepublications/en/economics/1012/wipo_pub_1012.pdf)
- Penrose, Edith T: *The Economics of the International Patent System*, The Johns Hopkins Press, 1951.

## Afternoon Session 14:00 – 16:00

**Lecturer:** Kathrin Rügsegger

**Subject:** Patent Protection & Public Health

### Topics

- A. The access issue: interplay between patent protection and access to medicines
- B. The international policy debate and initiatives at the multilateral level; way forward
- C. Case Study; discussion

### Background Documents:

*You don't have to read the following documents, but you have to bring them with you to class*

- WTO (1994) TRIPS Agreement, Articles 27-34, 39, 63, 65-66:  
[http://www.wto.org/english/docs\\_e/legal\\_e/27-trips\\_01\\_e.htm](http://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm)
- WTO Website, WTO Ministerial Declaration on the TRIPS Agreement and Public Health, 14 November 2001:  
[https://www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_trips\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.htm)
- WTO Website, WTO GC Decision on Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, 30 August 2003:  
[http://www.wto.org/english/tratop\\_e/trips\\_e/implem\\_para6\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/implem_para6_e.htm)
- WTO Website, WTO General Council's Decision on the Amendment of the TRIPS Agreement, 6 December 2005:

[http://www.wto.org/english/news\\_e/pres05\\_e/pr426\\_e.htm](http://www.wto.org/english/news_e/pres05_e/pr426_e.htm)

### Compulsory Reading Material

- WTO, Fact Sheet: The Paragraph 6 System: Special Export Licenses for Medicines, 2013, pp. 1-6: [https://www.wto.org/english/tratop\\_e/trips\\_e/tripsfacsheet\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/tripsfacsheet_e.htm)
- WTO, News release: WTO IP rules amended to ease poor countries' access to affordable medicines, 23 January 2017: [https://www.wto.org/english/news\\_e/news17\\_e/trip\\_23jan17\\_e.htm](https://www.wto.org/english/news_e/news17_e/trip_23jan17_e.htm)
- WTO, Fact Sheet *TRIPS and pharmaceutical patents*, September 2006, [https://www.wto.org/english/tratop\\_e/trips\\_e/factsheet\\_pharm00\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/factsheet_pharm00_e.htm)
- The Economist, The drugs industry – Battling borderless bugs, 7 January 2012 (2pp.): <http://www.economist.com/node/21542410>
- Abbott, F. M., *The LDC Medicines Extension Question: Contemplating Next Steps* (September 24, 2014). Bridges Africa: Trade and Sustainable Development News and Analysis on Africa, Vol. 3, No. 8, pp. 15-17, 2014; Available at SSRN: <http://ssrn.com/abstract=2503692>
- Krattiger, A., Promoting Access to Medical Innovation, WIPO Magazine, September 2013 (4pp.): [https://www.wipo.int/wipo\\_magazine/en/2013/05/article\\_0002.html](https://www.wipo.int/wipo_magazine/en/2013/05/article_0002.html)
- Saez, C., LDC Pharma IP Waiver Until 2033 Approved By WTO TRIPS Council, Intellectual Property Watch, 6 November 2015 (2pp.): <http://www.ip-watch.org/2015/11/06/ldc-pharma-ip-waiver-until-2033-approved-by-wto-trips-council/>

### Suggested readings:

- [http://documents.epo.org/projects/babylon/eponet.nsf/0/4E8744EB66E8F944C12577D600598EEF/\\$File/espacenet\\_brochure\\_en.pdf](http://documents.epo.org/projects/babylon/eponet.nsf/0/4E8744EB66E8F944C12577D600598EEF/$File/espacenet_brochure_en.pdf)

### Optional Readings (if interested)

- UNAIDS Technical Brief, Doha+10 TRIPS Flexibilities and Access to Antiretroviral Therapy: Lessons from the Past, Opportunities for the Future, 2011: [http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2011/JC2260\\_DOHA+10TRIPS\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2011/JC2260_DOHA+10TRIPS_en.pdf)
- The United Nations Secretary-General's High-Level Panel on Access to Medicines Report Promoting Innovation and Access to Health Technologies, September 14, 2016 by UN Secretary-General and Co-Chairs of the High-Level Panel: <http://www.unsgaccessmeds.org/final-report/>

- WHO/WIPO/WTO, Promoting Access to Medical Technologies and Innovation - Intersections between public health, intellectual property and trade, A joint study by the World Health Organization, World Intellectual Property Organization and World Trade Organization Secretariat, 2012:  
[https://www.wipo.int/edocs/pubdocs/en/global\\_challenges/628/wipo\\_pub\\_628.pdf](https://www.wipo.int/edocs/pubdocs/en/global_challenges/628/wipo_pub_628.pdf)
- WTO Website, TRIPS and Health: Frequently Asked Questions on compulsory licensing of pharmaceuticals and TRIPS:  
[http://www.wto.org/english/tratop\\_e/trips\\_e/public\\_health\\_faq\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/public_health_faq_e.htm)
- WTO Website, Pharmaceutical Patents and the TRIPS Agreement:  
[http://www.wto.org/english/tratop\\_e/trips\\_e/pharma\\_ato186\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/pharma_ato186_e.htm)
- Abbott, F.M., Intellectual Property and Public Health: Meeting the Challenge of Sustainability, Global Health Programme Working Paper No. 7/2011, November 15, 2011, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1965458](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1965458)
- Abbott, Frederick M., The WTO Medicines Decision: World Pharmaceutical Trade and the Protection of Public Health. American Journal of International Law, Vol. 99, pp. 317-58, 2005. Available at SSRN: <http://ssrn.com/abstract=763224>
- Addor, F., Swiss Initiative Seeks To Dispel « Black-And-White » View of Patents, Intellectual Property Watch, 19 December 2006:  
[https://www.ige.ch/fileadmin/user\\_upload/recht/national/e/2006\\_12\\_19\\_IP\\_Wat\\_ch\\_Swiss\\_initiative.pdf](https://www.ige.ch/fileadmin/user_upload/recht/national/e/2006_12_19_IP_Wat_ch_Swiss_initiative.pdf)
- Holman C., Minssen T., Solovy E., Patentability Standards for Follow-On Pharmaceutical Innovation, 1 June 2018:  
<https://www.liebertpub.com/doi/full/10.1089/blr.2018.29073.cmh>
- Swiss Federal Institute of Intellectual Property, Swiss health foreign policy and access to therapeutic products: <https://www.ige.ch/en/intellectual-property/ip-and-society/swiss-health-foreign-policy-and-access-to-therapeutic-products.html>

Thursday, June 23, 2022

**Morning Session 09:00 – 12:00**

**Lecture:** Matthias Käch

**Subject:** Trademark protection

**Topics**

- Absolute grounds of refusal
  - Descriptive terms
  - Misleading signs
  - Signs contrary to public order or morality

- **Relative grounds of refusal**
  - Similar trade marks
  - Similar goods and services
  - Likelihood of confusion
  - Comparison to unfair competition
  - Use of trade marks

### Compulsory Reading Material

- Absolute Grounds of Trademark Refusal:  
[http://www.wipo.int/export/sites/www/sct/en/meetings/pdf/wipo\\_strad\\_inf\\_5.pdf](http://www.wipo.int/export/sites/www/sct/en/meetings/pdf/wipo_strad_inf_5.pdf)

### Optional Readings (if interested)

- WIPO: Making a Mark - An Introduction to Trademarks for Small and Medium-Sized Enterprises. (This practical guide for small and medium-sized enterprises explains how to use them strategically to help build and protect your brand)  
<http://www.wipo.int/publications/en/details.jsp?id=4208&plang=EN>
- WIPO: In Good Company: Managing Intellectual Property Issues in Franchising. (Packed with examples and tips, this practical guide for business people outlines different types of franchise and takes you through the franchising process, identifying the key issues to consider at each stage)  
[www.wipo.int/publications/en/details.jsp?id=271&plang=EN](http://www.wipo.int/publications/en/details.jsp?id=271&plang=EN)

## Afternoon Session 14:00 – 16:00

**Lecturers:** Erik Thevenod Mottet & Martin Girsberger

**Subject:** Geographical Indications & the Protection of TK

### Topics

#### Geographical Indications:

- Nature and protection of GIs
- International debates
- GIs and innovation

**Traditional Knowledge:**

- Notions of “genetic resources,” “traditional knowledge” and “biopiracy.”
- International fora involved.
- Measures available to protect traditional knowledge.

**Reading Materials:**

You need to have with you for the exercise in class:

- Agreement on Trade-Related Aspects of Intellectual Property Rights (included in the WTO Legal Texts), in particular Art. 17 & 22 to 24;
- The Paris Convention for the Protection of Industrial Property, Articles 10, 10bis and 10ter.

**Compulsory Reading**

Geographical Indications:

- [TRIPS: Geographical Indications. Background and the current situation](#)
- [Geographical Indications: an Introduction \(WIPO\)](#)

Traditional Knowledge:

- WIPO, *Background Brief No. 1, [Traditional Knowledge and Intellectual Property](#)*.
- If you require more information on specific terminology, please consult the [Glossary of Key Terms](#) listed below in “Suggested readings”.

**Optional Reading Materials**

Geographical Indications

- [Guide to Geographical Indications. Linking Products and their Origins. International Trade Center, 2009.](#)
- Hughes, Justin, Champagne, Feta, and Bourbon - the Spirited Debate About Geographical Indications. *Hastings Law Journal*, Vol. 58, p. 299, 2006; Cardozo Legal Studies Research Paper No. 168. Available at SSRN: <https://ssrn.com/abstract=936362>
- [Why Geographical Indications for Least Developed Countries? UNCTAD, 2016.](#)
- [WIPO Case Studies on Geographical Indications and Appellations of Origin.](#)

**Traditional Knowledge:**

- WIPO, [Glossary of Key Terms Related to IP and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions](#).
- WIPO, [Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions](#), 2015, WIPO Publication No. 933E.
- Additional optional readings can be found on the WIPO website:
  - “[Publications, Studies and Documents](#),” and
  - “[Frequently Asked Questions](#)”.

Friday, June 24, 2022

**Morning session: 09:00 – 12:00**

**Lecture:** Kamran Houshang Pour & Matthias Käch

**Subject:** IGE Registration of Patents & Trademarks

**Topics**

- The Madrid System
- EUIPO trade mark
- European Patent Application system at EPO
- PCT Application

**Compulsory Reading**

- WIPO: <http://www.wipo.int/pct/en/faqs/faqs.html>
- <http://www.wipo.int/classifications/ipc/en/faq/>
- WIPO: The International Trademark Registration Process  
[www.wipo.int/madrid/en/how\\_madrid\\_works.html](http://www.wipo.int/madrid/en/how_madrid_works.html)
- WIPO: About the Nice Classification:  
[www.wipo.int/classifications/nice/en/preface.html](http://www.wipo.int/classifications/nice/en/preface.html)
- WIPO: <http://www.wipo.int/pct/en/faqs/faqs.html>
- <http://www.wipo.int/classifications/ipc/en/faq/>
- <https://www.epo.org/service-support/faq/own-file.html>

### Optional Reading Materials

- WIPO: Guide to the International Registration of Marks under the Madrid Agreement and the Madrid Protocol (2018). (The guide leads through the various steps of the international registration procedure and explains the essential provisions of the Madrid Agreement, the Madrid Protocol and the Common Regulations)  
[www.wipo.int/publications/en/details.jsp?id=4440&plang=EN](http://www.wipo.int/publications/en/details.jsp?id=4440&plang=EN)
- WIPO: Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks; Regulations; Administrative Instructions; Schedule of Fees.  
[www.wipo.int/publications/en/details.jsp?id=4484&plang=EN](http://www.wipo.int/publications/en/details.jsp?id=4484&plang=EN)
- WIPO: Madrid Yearly Review 2019 – Executive Summary; International Registrations of Marks (This executive brief identifies key trends in the use of the WIPO-administered Madrid System) [www.wipo.int/publications/en/details.jsp?id=4427&plang=EN](http://www.wipo.int/publications/en/details.jsp?id=4427&plang=EN)
- Espacenet Assistant, an e-learning module, <https://www.epo.org/searching-for-patents/technical/espacenet.html#tab1>
- [http://documents.epo.org/projects/babylon/eponet.nsf/0/8C12F50E07515DBEC12581B00050BFDA/\\$File/espacenet-pocket-guide\\_en.pdf](http://documents.epo.org/projects/babylon/eponet.nsf/0/8C12F50E07515DBEC12581B00050BFDA/$File/espacenet-pocket-guide_en.pdf)

### Afternoon session: 14:00 – 16:00

**Lecture:** Julie Poupinet & Kamran Houshang Pour

**Subject:** Patent & Trademark Landscaping

**Topics: Patent Landscaping:**

- Patent Searches
- Statistical Patent Analysis
- Patent Landscaping based on Statistical Analysis

**Trademark landscaping:**

- The importance of searching
- Do-it-yourself search vs. professional search



## Compulsory Reading

### Trademark landscaping

No additional reading required

## Optional Reading Materials

- WIPO Guidelines for Preparing Patent Landscape Reports  
[https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_946.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_946.pdf)