

## IP TEACHING SYLLABI IN ASIA: SHOULD MORE BE DONE?

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**Abstract:** Intellectual Property (IP) is fast becoming an important course not only in law schools but also in engineering, science and other disciplines. This paper explores the growth of IP teaching in Asia, generally, and in Malaysia, specifically. Using simple internet searches, the paper surveys the IP curricula of certain universities in the region. As not all information can be obtained from the Internet, the paper is not able to make any in-depth comparison between the syllabi or make an informed decision as to whether or in what form those courses exist. From the little information obtained through the internet survey, we can distinctly classify the IP courses into several categories: foundation courses, international IP law programme, specialised master's IP programmes, professional courses and peripheral courses. The paper concludes that with technological developments and expansion of IP in international trade, IP courses and IP professors would have to adapt and change to make them relevant to the needs of the stakeholders i.e. businesses and community at large.

**Keywords:** Intellectual property teaching, university courses, syllabi, Asian universities

### 1. INTRODUCTION TO IP TEACHING IN MALAYSIA

IP as a distinct subject came about only in the 1980s in the UK. Most of the IP academics in Malaysia received their early exposure in IP law from academic institutions in the UK. Professors of IP law like William Cornish from the University of Cambridge, Gerald Dworkin and Adrian Stirling from Queen Mary College were instrumental in the training and shaping of the ideas of IP academics in Malaysia. This has led to the introduction of IP as a course for undergraduate law students in University of Malaya (1984), University Teknologi MARA (1984), University Kebangsaan Malaysia (1989) and the International Islamic University Malaysia (1997).

At the initial stage, the teaching of IP was centralised in law schools. The curricula were based on the ones taught in the UK. At that time, the Malaysian IP law was based on UK law, so there was no issue with transplanting UK courses into Malaysia. The basic textbook used at that time was Cornish's book, *Intellectual Property: Patents, Copyrights, Trade Marks and Allied Rights* (1981 and 1989 editions). As Malaysian law developed, the curriculum was also revised to meet the changes in the law. As the UK joined the European Union, the differences between Malaysian and UK law became more apparent. Still, as the basic structure of

Malaysian law was based in the UK, and as Malaysia is essentially a common law country, the dependence on UK law and case laws continued. Local academics also started to produce their own textbooks, beginning with Khaw Lake Tee's book *Copyright Law in Malaysia* in 1994.<sup>1</sup> It took nearly another seven years for other books to come including Tay Pek San's *Trade Mark Law and Practice in Malaysia* in 2001<sup>2</sup>, my own series of case books on patent,<sup>3</sup> trademarks<sup>4</sup> and copyright,<sup>5</sup> Juriah Jalil's books on *Industrial Designs*<sup>6</sup> and *Confidential Information Law*.<sup>7</sup> In 2007 Tay Pek San produced her textbook entitled *Intellectual Property Law in Malaysia*.<sup>8</sup> As more academics were being trained in IP, and as local law schools started producing PhD scholars in IP, the number of IP teachers and scholars in Malaysia increased. There are now more than 15 academics with PhDs in different areas of IP at law schools in Malaysia. The increase is not as much as expected, looking at how for over two decades IP has been accepted as one of the popular electives in most law programmes in Malaysia.

Australia is another jurisdiction that has managed to leave an influential imprint on IP academics, not only in Malaysia but also Indonesia due to its proximity to the region. Needless to say, within the last two decades, the number of talented IP academics has grown in Asia and this has contributed to the expansion of IP courses within the region.

In this paper, I will attempt to explore the syllabi of IP courses in Asia. As I could only resort to an internet survey, not much can be obtained on the various IP courses taught in leading law schools in Asia in order to make an informed and more in-depth analysis. As most universities treat internal course outlines as confidential, I am therefore not able to examine these materials, or ascertain whether or in what form those courses existed. As such, not much comparison can be made between all these syllabi.

This paper is based upon my observations of materials gathered from the Internet. As I am more familiar with Malaysia, I will start my observation with that of the IP courses in Malaysia, before I attempt to give a glimpse of what is being taught in other law schools in Asia.

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<sup>1</sup>Khaw Lake Tee, *Copyright Law in Malaysia* (Butterworths Asia 1994).

<sup>2</sup>Tay Pek San, *Trade Mark Law and Practice in Malaysia* (Butterworths 2001).

<sup>3</sup>Ida Madieha bt. Abdul Ghani Azmi, *Patent Law in Malaysia: Cases and Commentary* (1st edition, Sweet & Maxwell Asia 2003) and (2nd ed, Sweet & Maxwell 2015).

<sup>4</sup>Ida Madieha bt. Abdul Ghani Azmi, *Trade Marks Law in Malaysia: Cases and Commentary* (Sweet & Maxwell Asia 2004).

<sup>5</sup>Ida Madieha bt. Abdul Ghani Azmi, *Copyright Law in Malaysia: Cases and Commentary* (1st ed., Sweet & Maxwell Asia 2004) and (2nd ed, Sweet & Maxwell Asia 2012.).

<sup>6</sup>Juriah Jalil, *Industrial designs law in Malaysia: Cases and Commentary* (Sweet & Maxwell Asia 2004).

<sup>7</sup>Juriah Jalil, *Confidential Information Law in Malaysia: Cases and Commentary* (Sweet & Maxwell Asia 2003).

<sup>8</sup>Tay Pek San, *Intellectual Property Law in Malaysia* (Sweet & Maxwell Asia 2007).

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## 2. FOUNDATION COURSES

Most undergraduate IP law courses in Malaysia are centred around the foundation of IP laws. The idea was to expose law students to the basic legal theory surrounding the five major forms of intellectual property - copyright, patents, trademarks, trade secrets and industrial designs. Being a foundational course, the central preoccupation is to train students on essential aspects of the protection of IP law in Malaysia. IP being essentially the creations of statutes, the focal point of the courses stems on issues such as how these rights subsist, the requirements for the registration of the rights, the exclusive rights conferred to the owner and the remedies available to the right owner as laid down in the statutes.

Malaysia, being of common law heritage, not surprisingly relied heavily on the traditional case law method as an aid in the interpretation of the statutory provisions. When UK cases were studied, they were usually taught in order to show their similarities and differences from Malaysian laws. At the beginning, the UK cases occupy the central focus. As Malaysia develops a larger body of case law, particularly after the establishment of the IP courts in 2007, more and more Malaysian cases, rather than UK cases, are being used illustrate certain points.

Even so, as the law progresses much faster than judicial decisions, foreign cases are often resorted to in order to assist in the interpretation of statutory provisions. Over the years, IP laws have been revised to accommodate changes as a result of treaty obligations as well as technological developments. The transposition of Treaty obligations, such as TRIPS, Patent Cooperation Treaty, WPPT and WCT entails that foreign jurisprudence from other jurisdictions would continue to be a source of reference to aid the understanding of the treaty provisions. For example, in *Media Corp News Pte Ltd & 3 Ors v Mediabanc (Johore Bharu) Sdn. Bhd & 4 ors*,<sup>9</sup> the scope of copyright over broadcast and the applicability of the Rome Convention, the Berne Convention and the TRIPS Agreement on broadcasting rights was discussed. The emergence of biotechnology, the Internet and other forms of digital communication technologies results in foreign cases playing a greater role in the understanding and interpretation of important concepts. For example in Malaysia, in the first case involving a computer programme, *Creative Purpose Sdn Bhd & Anor v Integrated Trans Corp Sdn Bhd & Ors*<sup>10</sup> the presiding judge placed reliance on UK cases in determining the difference between source code and object code and finally came to a conclusion on the boundary of copyright protection on a software which was secured via a dongle.<sup>11</sup> As Malaysia, and I am sure the same is

true with other Asian countries, struggles to catch up with other developed countries, it will continue to treat these countries as their point of reference. To that extent, the study of IP is substantially comparative by nature.

Table 1: Some law institutions offering undergraduate IP courses in Asia

Singapore Management University	Indian Institute of Management Calcutta
National University of Singapore	The Northcap University
Sebelas Maret University	Diponegoro University
National School of India University	Thammasat University
National Taiwan University	The University of Hong Kong

Table 1 demonstrates that IP as a subject has become part of the mainstream domain knowledge in law programmes in Malaysia, Singapore, Thailand, India, Hong Kong and Indonesia. In most universities, IP is offered as an elective subject. As IP practice becomes more prominent, more students opt to study IP. This is reassuring as there is a need to create sufficient critical mass for the practice of IP to prosper.

Being an elective subject, not all law graduates have the opportunity to study IP at undergraduate level. This explains the necessity to have a foundation in IP at the master's level. At this level, IP could be clustered with other commercial law courses such as company law or insolvency law to qualify students for LLM in Commercial Law. In Universitas Gadjah Mada of Indonesia for example, IP is one of the required courses for a Master in Business Law. In my own university, International Islamic University Malaysia, IP is an elective for both the Master in Comparative Laws, LLM in Business Law and LLM in Islamic Law of Banking and Finance.

## 3. INTERNATIONAL IP LAW

There is not a single law discipline where developments at the international level are as important as in IP. In London, in the early 1990s when I was doing my PhD, the study of IP was further divided into several courses. International IP Law was one of the courses which was highly sought after and was taught at the master's level. Other courses include technology transfer, licensing, international trade mark law and policy and plant variety protection. Supported by competent IP professors such as Alison Firth, Noel Byrne, Gerald Dworkin, Michael Blakeney, Jeremy Phillips and David Llewelyn, Queen Mary at that time was poised to be the centre of IP teaching in the UK.

<sup>9</sup>[2010] 4 AMR 1.

<sup>10</sup>[1997] 2 AMR 2076.

<sup>11</sup>*Ibcos Computer Ltd & Anor v Barclays Highland Finance Ltd & Ors* [1994] FSR 275 and *Autodesk Inc & Anor v Dyason & Ors* [1992] RPC 575.

The Paris<sup>12</sup> Convention, the Berne Convention<sup>13</sup> and the TRIPS Agreement,<sup>14</sup> being the cornerstones of the international IP law, usually constitute topics covered at a more advanced course, normally at the master's level. A basic exposure to other relevant international treaties such as the Rome Convention,<sup>15</sup> Madrid Agreement,<sup>16</sup> the Lisbon Agreement,<sup>17</sup> the Patent Cooperation Treaty<sup>18</sup> and European Patent Convention<sup>19</sup> is equally imperative.

As posited by McManis, the teaching of international IP law involves two main pedagogies i.e. (1) engaging in a close reading and analysis of basic legal texts; and (2) utilizing these texts to identify and analyse specific emerging issues of international IP law.<sup>20</sup> The challenge is that these treatises are pretty detailed and lengthy. An in-depth teaching of the treaty interpretation would require a semester course but in so doing would make the course rather dry. Teaching treaty provisions even before the treaty takes effect can make a lot of difference. I remember studying the TRIPS Agreement under Dworkin as the Agreement was being negotiated, drafted and concluded. Sterling's rendition of the Berne Convention and the Rome Convention came complete with institutional memory of the inside story of the negotiation round and was a real eye opener for students. When foreign law is being taught at this level, often it is to show how and why transplantation takes place. Students should be given case studies to train them on the policy option between literal transposition of the international treaties and purposive transposition of the binding commitments under international law. Hypothetical problems should also be set and framed to test the students' understanding of how countries could navigate the policy space in order to implement the binding commitments suitable to their domestic needs. As Peter Yu puts it, as these agreements give rise to complex policy issues, it is important that the training of IP goes beyond the treaty text into policy and trade issues.<sup>21</sup>

It is important at this level that there be some attempt to dwell on the economic rationales, political ideology and the various lobby groups as well as positions pushed, so that students should be able to rationalise the compromise that was achieved by the treaty. Treaty interpretation is never an easy task as there are always differing ways of understanding treaty language.

In Malaysia for example, it is expected that the international perspective be subsumed in their master's courses, for example in University Malaya's Copyright Law and the Law of Trademarks. In the Copyright Law course, international developments in copyright and their impact on law is examined.

#### 4. SPECIALISED MASTER OR LL.M IN IP

Institutions with increased resources may offer specialised master (LL.M) in IP programmes. These programmes may involve the clustering of IP courses at both foundational and advanced or comparative/international level.

At the master's level or more advanced level of IP teaching, the three additional forms of intellectual property are covered - geographical indications, plant variety protection, and layout designs of integrated circuits. It even extends to the intersections between IP and IT, IP and competition law and IP and Biotechnology or Biomedical Law.

Universities that offer this kind of programme have more institutional strength with respect to financial and human resources e.g. Singapore and Hong Kong. For example, at the National University of Singapore, the following courses are available not only for undergraduate students but also for postgraduate students: Artificial Intelligence, Information Science and Law, Biomedical Law and Ethics, Biotechnology Law, Competition Law and Policy, Copyright in the Internet Age, Entertainment Law: Pop Iconography and Celebrity, Global Exploitation of IP, Imitation, Innovation and Intellectual Property, Intellectual Property Rights and Competition Policy, and IP and Human Rights. The University of Hong Kong, which offers courses on IP, also offers Innovation and Development; IP Protection in China; Law, Politics and Culture; and Copyright and Creativity. At the National University of Singapore and University of Hong Kong, a variety of IP courses are available for both undergraduates and master's students alike. This gives the opportunity for undergraduates and master's students to mix and intermingle and hence enrich the class discussion. It also guarantees that there are enough students to viably run the course

With the expansion of IP courses, one popular method is to analyse IP from different perspectives. For some types of IP where there is not yet an internationally accepted norm, it is popular to teach IP in a particular context. For example, a discussion on traditional knowledge (TK) and traditional cultural expressions (TCE) is taught within the context of human rights; and non-national systems such as the UDRP Policy for the resolution of domain name

<sup>12</sup> Paris Convention for the Protection of Industrial Property, adopted in 1883.

<sup>13</sup> Berne Convention for the Protection of Literary and Artistic Works, adopted in 1886.

<sup>14</sup> The Agreement on Trade Related Aspects of Intellectual Property Rights.

<sup>15</sup> The Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, concluded in 1961.

<sup>16</sup> Madrid Agreement Concerning the International Registration of Marks, concluded in 1891.

<sup>17</sup> Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (as amended on September 28, 1979)

<sup>18</sup> Concluded June 19, 1970.

<sup>19</sup> Convention on the Grant of European Patents of 5 October 1973.

<sup>20</sup> Charles McManis, 'Teaching Current Trends and Future Developments in Intellectual Property' (Spring 2008), *St Louis University Law Journal* Vol. 52 Issue 3, 855-876.

<sup>21</sup> Peter K. Yu, 'Intellectual Property Training and Education for Development' (2012) *Am. U. Int'l L. Rev.* [28:1], 311-354. 314.

disputes in a course on arbitration. Discussing patents within the broader innovation eco-system is another practical way of teaching IP. A popular method of teaching these courses is via seminar, whereby professors assign a list of reading materials for students to read and critically analyse. Kwall argues that the legal literature approach enables the student not only to appreciate the internal dynamics of academic discourse but also to appreciate the multi-dimensional approach of the subject.<sup>22</sup> When dealing with areas where the law is still evolving such as TK and TCE, one could explore the contentious issues such as access to genetic resources and compensation or permission from the TK practitioners. The teaching of IP provides the opportunity for students to explore the political schisms within the field.<sup>23</sup>

The conclusion of the TRIPS Agreement and its transposition to Member countries has brought another dimension to the teaching of IP. Since then a body of jurisprudence from the decisions of the WTO Dispute Settlement Body has formed a corpus of knowledge that could form part and parcel of the teaching of TRIPS Agreement. Students could be given different scenarios where the various provisions of the TRIPS Agreement could either be applied or distinguished.

The table below illustrates some of the specialised Master's Courses in IP in selected universities in Asia.

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<sup>22</sup>Roberta Rosenthal Kwall, 'Teaching an Intellectual Property Seminar through the Legal Literature' (Spring 2008) St. Louis University Law Journal, Vol. 52 Issue 3 813-822.

<sup>23</sup> Ann Bartow, 'When Bias is Bipartisan: Teaching About the Democratic Process in an Intellectual Property Law Republic' (Spring 2008) St. Louis University Law Journal Vol. 52 Issue 3:15-734,719.

**Table 2: Some Specialised Master's courses in IP in Asia**

Name of Institution	Name of Program	Content of programme
National University of Singapore	LLM (Intellectual Property & Technology Law)	Artificial Intelligence, Information Science & Law Biomedical Law & Ethics Biotechnology Law Competition Law and Policy Copyright in the Internet Age Entertainment Law: Pop Iconography & Celebrity Foundations of IP Law Global Exploitation of IP Imitation, Innovation and Intellectual Property Intellectual Property Rights and Competition Policy International Trademark law and Policy IP and Human Rights IT Law I IT Law II Law of Intellectual Property
IP Academy & National University of Singapore	Master of Science in IP Management	Intellectual Property Law The Law of Trade Marks and Unfair Competition The Law of Copyright and Design The Law of Patents and Trade Secrets Management of Technology IP Management Management of Industrial R & D Creativity and Innovation Strategic & New Product Development New Product Management Management of Technological Innovation Corporate Entrepreneurship Managing and Organizing Open Innovation Venture Funding Frugal Innovation Research in Tech & Innovation Management
University of Hong Kong	LLM in IT and IPL	Hong Kong IP Law Privacy and data protection IP and IT Communications Law PRC IT Law IP, innovation and development Intro to IT law

		<p>Online Dispute Resolution</p> <p>Topics in TM law</p> <p>IP protection in China, law, politics and culture</p> <p>Patent Law</p> <p>Copyright and Creativity</p> <p>Advanced IP Law</p>
Universiti Teknologi MARA	LLM (Intellectual Property Law)	<p>Malaysian Copyright and Design Right</p> <p>Malaysian Patent and Trademark Laws</p> <p>Comparative Copyright Law</p> <p>Comparative Trade mark and Unfair Competition Laws</p> <p>Comparative Design Laws</p>
Universiti Kebangsaan Malaysia	Master of Intellectual Property	<p>Patent Law</p> <p>Copyright Law</p> <p>Patent Practice and Procedure (I)</p> <p>Patent Practice and Procedure (II)</p> <p>Patent Practice and Procedure (III)</p> <p>Trade Mark Law</p> <p>Intellectual Property and information Technology</p> <p>Licensing, Management and Valuation of Intellectual Property</p> <p>Industrial Design Law and Practice</p> <p>International Intellectual Property law</p>
Universitas Indonesia/ IP Academy	Master in IP	<p>Copyright,</p> <p>Patent and Trade Secrets, Trade Marks,</p> <p>Industrial Design and Layout Design of Integrated Circuits, Plant Variety Protection, Traditional Knowledge, Valuation of Intellectual Property,</p> <p>Competition Law and Intellectual Property Rights and Litigation.</p>

The clustering of courses depends to a substantial extent on the objective of the programme. The Master of IP Program (MIP) offered by the University Kebangsaan Malaysia for example, is designed to produce patent agents in lieu of the shortage of local patent agents that can draft their own claims. Previously, the drafting of claims was outsourced to foreign patent firms. This explains why the programme has three courses on patent law and practice that includes a considerable in-depth training on patent drafting of claims and specification. The programme also has a course on licensing, management and valuation of IP. The MIP programme is open to graduates from science, technology and engineering backgrounds.

## 5. PRACTICAL/PROFESSIONAL COURSES

Beside the academic programmes, IP can also be taught in practical and professional courses meant for working professionals as part of continuous learning programmes.<sup>1</sup>The widening gap between theory and practice necessitates those practising IP to supplement their knowledge with practical skills to enable them to practice IP more efficiently. The duration of the programmes varies according to the needs of the audience. Specialised IP academies and institutes

<sup>1</sup> Deka Monisha, 'Pre-Professional Intellectual Property Education' (2005) IDEA: The Intellectual Property Law Review Vol. 46 Issue 1:143-164.

sprouted in Asian countries, and IP Academy Singapore stands out with the most systematic programmes offered. The Master of Science programme in the Singapore IP Academy is a collaboration with the National University of Singapore, which explains the breath of courses available.

The Indonesian IP Academy has also launched a master's degree in Intellectual Property with courses like Copyright, Patent and Trade Secrets, Trade Marks, Industrial Design and Layout Design of Integrated Circuits, Plant Variety Protection, Traditional Knowledge, Valuation of Intellectual Property, Competition Law and Intellectual Property Rights and Litigation. The programme is run in collaboration with Universitas Indonesia.

Many corporations have now set up IP units either within their legal or corporate strategy division. Continuous education is now needed for this breed of IP managers.<sup>2</sup> With the growing demand on universities for filing and commercialisation of IP as part of their research portfolio, most universities have also set up IP units or technology transfer offices.<sup>3</sup> One could design programmes that provide these IP professionals with the appropriate knowledge and skill sets to improve their organization's IP management.<sup>4</sup> Domain knowledge required of these IP professionals would have to be more business related, so as to enable these IP professionals to understand the commercial setting of IP in business. One example of such programme is the Hong Kong Polytechnic University's Executive Diploma in IP Management. The programme consists of five core courses: IP Fundamentals, Legal Framework and IP Practices, Innovation and Management of IP, IP Commercialisation and Emerging Technologies and Corporate IP Strategy. The core focus of the programme is to train the participants to identify valuable IP assets and how to monetise these assets through the adoption of suitable corporate strategies. For high tech companies, IP could form the backbone of the company's business. The participants need to understand how IP integrates with knowledge, innovation management, research and development for

them to be able to start or manage a high-tech company.<sup>5</sup>

Small and Medium Enterprises (SMEs) comprise the highest percentage of entrepreneurship in most countries, including Malaysia. These entrepreneurs require the correct knowledge and skill sets to develop their business acumen. Of commendable effort is the training programme developed by SMECORP Malaysia to train CEOs and senior management of SMEs in human resources and financial management. One of the modules, 'Law and Ethics', provides a brief exposure to contractual, tortious, cyber and intellectual property law. The idea is to train the CEOs on how to build their business ethically through brand development and IP filing, as well as how to refrain from misappropriating other's intellectual assets.<sup>6</sup>

The Malaysian IP Academy, which has more than two decades of training experience for, have run short courses on the mechanics of patent drafting, patent searching and how to overcome examiner's objection. The IP Academy has also been given the mandate by the Malaysian government to run an IP valuation training programme to support the governmental initiative to set up an IP marketplace. The comprehensive programme which is designed in collaboration with the World Trade Institute, in Berne, Switzerland, was successfully run for a few occasions with several certified valuers having graduated from the course.

Members of the legal and judicial service constitute another major audience for IP teaching. Resolving IP disputes is never a simple matter. With the setting up of special IP courts, IP cases are expected to be disposed of in a more efficient manner. The recurring complaint is that whilst senior IP practitioners represent the case before the bench, the presiding judges, however, may not necessarily have formal training in IP. In Malaysia, the training of members of the legal and judicial service falls within the purview of *Institut Latihan Kehakimandan Perundangan* (ILKAP), a training centre which started operating on December 23, 1993. The training courses include the basics of IP, the enforcement of IP and other more intermediate and advanced issues or topical issues such as IP in Islam, IP under international IP treaties and IP on the Internet.<sup>7</sup>

## 6. PERIPHERAL COURSES

Peripheral courses are designed to demonstrate the interface between IP law and other law courses or non-

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<sup>2</sup> For the type of curricula and learning objectives required for teaching IP from transactional perspectives, see Sean M. O'Connor, 'Teaching IP from and Entrepreneurial Counseling and Transactional Perspective' (2008) Saint Louis University Law Journal Vol 52:877.

<sup>3</sup> See Ana Maria Nunes Gimenez, Maria Beatz Machado Bonacelli, Ana Maria Carneiro, 'The Challenges of Teaching and Training in Intellectual Property' Journal of Technology Management and Innovation (2012) Vol 7 No.4 <<https://jotmi.org/index.php/GT/article/view/cas44>> accessed 17 May 2017.

<sup>4</sup> For some of the challenges faced by universities in the training of graduates capable of utilizing the IP system to the fullest, read Helen Gubby, 'Universities Need to Teach Business Students About Patents: A Suggested Approach', (2015) European Journal of Law and Technology Vol. 6 No. 3 <<http://ejlt.org/article/view/421/580>> accessed 17 May 2017.

<sup>5</sup> <[polyu.edu.hk/iaee/files/Executive-Diploma-in-Intellectual-Property.pdf](http://polyu.edu.hk/iaee/files/Executive-Diploma-in-Intellectual-Property.pdf)> accessed 17 May 2017.

<sup>6</sup> <[smecorp.gov.my/index.php/en/programmemes/2015-12-21-09-5314/sme-university-programmeme](http://smecorp.gov.my/index.php/en/programmemes/2015-12-21-09-5314/sme-university-programmeme)> accessed 16 May 2017.

<sup>7</sup> <[www.ilkap.gov.my](http://www.ilkap.gov.my)> accessed 16 May 2017.

law disciplines.<sup>8</sup>The understanding of IP and its relevance in science, technology and business necessitates the training in aspects of IP for non-law students. For these kind of students, what is required is a simple survey course of related law courses relevant to the workplace. A unique example is the inclusion of IP within the legal system as has been done by the Indian Institute of Management Calcutta, where IP is a component of the Indian Legal System course.<sup>9</sup> This course exposes the students to law disciplines relevant to management, such as the law of contract, company law, insurance law, constitutional and administrative law, consumer protection law and economic legislation.

It is also common for students in economics, accounting and business studies to be exposed to corporate and commercial law relevant to their profession. For example, in my own university, students of the Master in Business Administration are required to complete business law courses which include fundamental principles of contract law, torts, sales of goods, international trade, hire purchase, insurance, agency, partnership, negotiable instruments as well as intellectual property law and cyber law.

**Table 3: Some examples of IP related courses for non-law students**

Name of Institution	Faculty/Name of programme	Name of programme/course
Multimedia University, Malaysia	Faculty of Management Faculty of Creative Multimedia	Intellectual property law (elective)
International Islamic University Malaysia	Department of Economics and Management Sciences Department of Communication	Business Law
Asia University, Malaysia	Master of Knowledge Management Master of ICT Management	Intellectual Property and Commercialization
Management & Science University, Malaysia	Bachelor in International Business	International Business

I have also taught the patents course for master's students in engineering in my own university for a year. For non-law students, the case law method of teaching is not suitable. What is sufficient is to train them to be able to identify protectable ideas and differentiate between the various subject matters of IP. However, with the current emphasis on patents as one of the Key Performance Indicators (KPIs) in research, research students should be exposed to IP in greater detail, probably through the inclusion of a discussion of IP in a course on the ethics of doing research.<sup>10</sup>

## 7. CHALLENGES AND WAY FORWARD

As Peter Yu surmises in his paper, there are three fundamental questions in the designing of an IP programme - why, how and what. Once the why questions are answered then the how and what become obvious.<sup>11</sup>

<sup>8</sup> See WIPO, *Teaching Intellectual Property (IP) in Countries in Transition* <[www.wipo.org](http://www.wipo.org)> accessed 16 May 2017.

<sup>9</sup> <[www.iimcal.ac.in](http://www.iimcal.ac.in)> accessed 16 May 2017.

<sup>10</sup> For some perspective on the challenges of teaching IP for engineering students, see Ruth Soetendorp, 'Intellectual Property Education- In the Law School and Beyond' (2006) <<http://eprints.bournemouth.ac.uk/3195/1/478.pdf>> accessed 16 May 2017.

<sup>11</sup> Peter K. Yu, 'Teaching International Intellectual Property Law' (2008) Saint Louis University Law Journal Vol 52: 923.



If the objective is to produce law students with the basic knowledge on IP, then the foundation course would be sufficient. On the other hand, if the objective is to train students with the required skill to be a patent agent then skills such as patent drafting and negotiation of licensing would be important. There may also be a need for some form of practical training or clinical legal education for experiential learning to take place.

To bridge the gap between theory and practice, guest lectures from practitioners and field visits can be arranged to give the students a sense of what is happening on the ground. Pure theoretical knowledge is no longer sufficient to meet the requisite skill sets for IP practitioners.

With the proliferation of bilateral and regional trade agreements that contain IP binding commitments, the need for inter-country collaboration in IP teaching becomes direr. Within the ASEAN region, attempts to reach harmonisation of IP practices are only possible if more and more people are trained to understand IP practice outside their borders.

Of worthy mention is the Singapore Management University's Intellectual Property Law and Policy: International and Asian Perspectives' course. In this course, the students are exposed to not only the fundamental principles of law, but also the impact of international IP conventions and treaties. The discussion is conducted largely on a comparative perspective, where all the various policy issues which underpin much of the IP debate make up the core discussion. In another course, Intellectual Property and International Trade, all the key international agreements and provisions on IP, as well as the different national policies which have been adopted to date in several jurisdictions or free trade areas, are covered. The course covers the jurisdictions of the European Union, the US, China, Japan and the ASEAN region. As the discussion includes and links all the various treaties, legislation and FTAs, the IP professor is expected to have a comprehensive and up to date knowledge on the legal developments and major events taking place in these jurisdictions.

As huge a task as it is, it is not impossible. For a start, the IP professors must communicate with each other and exchange ideas and share resources. I have seen many IP professors' networks that are instrumental in the dissemination of relevant teaching materials. Mobility programmes such as fellowships could assist in the enhancement and sharing of knowledge among IP professors as well as exposure to other jurisdiction's legal system. Perhaps WIPO could establish such mobility programmes to increase literacy on Asian diverse IP legal systems.

As the concept of IP continues to expand its reach to new technological developments, the old style of

teaching pure legal theories is no longer sufficient.<sup>12</sup> Students must be exposed to the challenges of commercialization and strategies in innovation and product development. Teaching IP is no longer the sole domain of IP legal experts and is no longer confined only to the filing of IP applications. IP professors must be willing to team up with 'innovation gurus' or business experts where IP's role is facilitating the process of bringing valuable new products into the market. In this regard, the Singapore Management University's Master's of Science in Innovation and Doctorate of Science in Innovation are worthy of mention. In the course 'Intellectual Property and Value Extraction', the different ways in which value can be extracted from the ownership of IPRs are explored. The course also deals with IP management and valuation as management best practice, and methods to identify and exploit enterprise IP value.

The Doctorate in Innovation meanwhile focuses on different types of commercializing technology innovations. The methods to monetize technology may differ in a corporate setting in comparison to a university research setting. So is commercializing B2B/B2G and B2C/C2C innovations. These kinds of courses would require different types of resource materials. Books on IP Management and IP Strategy would be more relevant than a legal textbook in IP law.

The Singapore IP Academy in collaboration with the National University of Singapore has a similar Master of Science in IP Management. As table 2 above illustrates, the variety of courses on IP management is quite commendable, including Management of Industrial Research & Development, Creativity and Innovation, Strategic and New Product Development, New Product Management, Management of Technological Innovation, Corporate Entrepreneurship, Management of Technological Innovation, Corporate Entrepreneurship, Managing and Organizing Open Innovation, Venture Funding, Frugal Innovation and Research in Tech & Innovation Management. This trend of teaching IP in a more practical manner and not detached from the innovation eco-system seems to be the next stage of teaching IP.

It is impossible to expect IP professors to acquire all the related domain knowledge in management, innovation or the latest advances in ICT and biotechnology, but they should be willing to team up with economists, business gurus, entrepreneurs, scientists and IP experts in order to create more value and diversity in the teaching of IP. Unless we are open to collaboration, IP legal professors and the IP courses that they teach would be more and more out of touch with the reality of IP practice.

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<sup>12</sup> Tana Pistorius, 'Teaching Intellectual Property Law in English-speaking Africa: Current Status and Future Prospects and Trends' (1997) *De Jure* Vol. 30 Issue 2:227-238.

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