



PROFESSIONAL LLM in

# intellectual property law

Reflecting on your specialty  
reflects well on you.

**Outside Toronto?**

This program is available  
via distance learning.

[www.osgoodepd.ca](http://www.osgoodepd.ca)

**DIRECTORS**

**Carys J. Craig**  
Associate Professor  
Osgoode Hall Law School

**Martin P.J. Kratz Q.C.**  
Partner, Trademark Agent  
Head of Intellectual Property  
Bennett Jones LLP



A WORLD LEADER IN LAW SCHOOL LIFELONG LEARNING

## DIRECTORS



**Carys J. Craig**  
Associate Professor  
Osgoode Hall Law School

*"Osgoode's Intellectual Property LLM was the perfect combination of theory and practice. The program gave me the opportunity to examine intellectual property law on a deeper level while gaining practical skills and knowledge I use everyday in my practice."*



**Martin P.J. Kratz Q.C.**  
Partner, Trademark Agent  
Head of Intellectual Property  
Bennett Jones LLP

Heather Yamoah  
BA, LLB, LLM (Intellectual Property)  
Associate Legal Counsel, PwC  
Toronto, Ontario

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## FACULTY INCLUDES

**Donald M. Cameron**, Partner  
Bereskin & Parr LLP

**Giuseppina D'Agostino**, Associate  
Professor, Osgoode Hall Law School  
Founder and Director of IP Osgoode

**Ronald E. Dimock**, Partner  
Dimock Stratton LLP

**Patrick D. Flaherty**, Partner  
Torys LLP

**L.E. Trent Horne**, Partner, Trademark  
Agent, Bennett Jones LLP

**Ikechi Mgbeoji**, Associate Professor  
Osgoode Hall Law School

**Stuart Svonkin**, Partner  
Torys LLP



## DEGREE REQUIREMENTS

The degree requirements will be satisfied upon the completion of 36 credits. The 36 credits can be obtained by either coursework or a blend of coursework and a Major Research Paper. Please visit [www.osgoodepd.ca](http://www.osgoodepd.ca) for required and elective course information.

## PROGRAM FORMAT

Courses will be offered in a combination of weekly and intensive formats. Videoconferencing is available for most courses, although occasional attendance in person in Toronto is required (refer to the website for specific details on each course). Note: Faculty, curriculum, course descriptions and degree requirements are subject to change without notice.



Osgoode Professional Development has been approved as an Accredited Provider of Professionalism Content by the LSUC. All OsgoodePD LLM courses are eligible for substantive CPD hours and those containing professionalism hours are noted on the website. Please email [cpd@osgoode.yorku.ca](mailto:cpd@osgoode.yorku.ca) for specific information and for CPD/MCLE hours with other regulatory bodies.

This two-year, part-time Professional LLM in Intellectual Property Law gives students the opportunity to strengthen their analytical and problem-solving skills, to deepen their understanding of the policies and principles that underlie intellectual property laws, and to broaden their knowledge of the social, economic, and technological considerations presented by emerging legal issues in this rapidly changing field.

## COURSE DESCRIPTIONS

### Required Courses

#### Introduction to Intellectual Property: Theoretical Frameworks [3 credits]

This course offers students an advanced-level introduction to intellectual property law. In addition to familiarizing students with the fundamentals of IP law, and the various rights and subject matters that comprise this broad legal category, the course will explore the theoretical premises, principles, and policies that underpin IP systems. The objectives of the course are: to develop students' understanding of the theoretical framework for IP protection; to further their awareness of the practical and political significance of various theories in the development of IP law; and to encourage them to critically evaluate the normative bases of IP rights.

#### Copyright Law [6 credits]

This course is a study of the limited statutory monopoly granted to the authors of musical, literary, dramatic and artistic works under the Canadian copyright regime. From art and entertainment to education and information, copyright law affects almost every aspect of our lives. Through analysis of the *Copyright Act* and cases, students will be introduced to substantive copyright law while critically assessing the copyright system in terms of its justifications and its public policy objectives. The course will examine the requirements for copyright protection, the kinds of works that qualify for protection (including computer software), and the scope of the rights granted to the copyright owner. Among the subjects to be explored are: the nature of the owner's "right" in her work; the role of the public interest and the public domain; the meaning of authorship and originality; the dichotomy between protected expression and unprotected ideas; and the freedom of users to deal fairly with copyrighted works.

By the end of the course, students will be familiar with the fundamentals of copyright doctrine as well as the theoretical and political controversies that surround copyright in the modern age.

#### Patent Law [6 credits]

Technology is the key to modern business. Patent law protects such technology but patents are no longer sought only for inventive mechanical, electrical and chemical products and processes. Patents are now being sought for biological and genetically engineered products and processes and for computer programs. As a result, interesting policy questions have arisen about the proper scope of patent protection. Students will examine these policy questions and take an in-depth look at the various concepts of patent law. They will also delve into ownership of inventions, scope and construction of patents, patentability, validity, enforcement and infringement. Comparisons with other patent systems are made and alternatives to the patent system are also considered.

#### Trade-mark Law [3 credits]

Trade-marks are all around us. To many trade-mark owners, they represent millions, if not billions, of dollars in goodwill. How is that goodwill created in the first place, and what role does the law play in its creation and maintenance? Do Canadian courts do an adequate job of protecting goodwill against counterfeiters, infringers and "free-riders" who attempt to ride their coattails, especially in the area of "famous marks"? Is our *Trade-marks Act* equipped to stop trade-mark "pirates" at the border? Is it equipped to protect the interests of exclusive licensees and distributors who create a local market for branded products against parallel importers of "grey market" goods? Students will have the opportunity to consider these and other thorny questions as they explore policy, doctrine, and jurisprudence in the field of trade-marks and unfair competition law.

### Elective Courses

#### Protection of Intangible Business Interests [3 credits]

Not all intangible business interests can be protected using traditional, statutory trade-mark law, copyright law and patent law. Due to the inherent limitations of these laws, both courts and legislatures have developed alternative approaches to protecting certain kinds of intangible business interests that otherwise would not be protected. For example, information is valuable on its own. How can it be protected? The law of trade secrets and breach of confidence has been developed largely by the courts, as have such actions as unlawful interference with economic relations, inducing breach of contract, conspiracy to injure, trade libel and other torts that seek to redress unfair competition and the misappropriation of intangible assets. These mechanisms and their theoretical underpinnings will be examined.

#### Intellectual Property Challenges in the 21st Century [3 credits]

In this course, students will analyze issues that are currently challenging courts, policy-makers and socio-economic and cultural practices in Canada and internationally. Issues to be examined may include peer-to-peer file sharing, fair dealing and fair use, digital rights management (DRMs), data protection, freelance authorship and publishing, branding, geographical indications, commercialization of IP and university spin-outs, IP and traditional knowledge, IP and biotechnology, and IP and development. The goal is to consider various policy alternatives to respond to these challenges and develop a refined understanding of the implications of each alternative.

#### International Aspects of Intellectual Property [3 credits]

Much of domestic intellectual property law flows from obligations undertaken under international treaties. These

treaties have come increasingly to influence the structure and enforcement of domestic law. This course examines the impact on domestic law of the main intellectual property treaties, including: the Berne, Universal and Rome conventions on copyright and neighbouring rights; the Paris convention on patents, trade-marks and designs; the intellectual property and enforcement chapters of NAFTA and the World Trade Organization Agreement of 1994. The movement to amend and expand some of these treaties, and generally to harmonize intellectual property internationally is also considered.

### **Intellectual Property Litigation [3 credits]**

Most intellectual property cases are litigated in the Federal Court of Canada, which has its own unique rules and procedure. Amendments to the Federal Courts Rules, particularly in respect of expert evidence and summary trials, offer litigants a number of options in pursuing their claims, each with advantages and disadvantages. This course will consider both the practical differences between different types of proceedings, and the policy rationale underlying the Rules. Topics may include: Federal Court vs. Superior Court jurisdiction; Patented Medicines (Notice of Compliance) proceedings and their impact on Federal Court procedure; when the court will grant injunctions in patent, copyright and trade-mark cases; summary judgment and summary trial - how the court attempts to balance the need to weed out weak cases, and at the same time preserve a party's right to have its day in court; expert evidence; challenges in counterfeit goods cases; domain name disputes; and judicial review.

### **Remedies for Infringement of Intellectual Property Rights [3 credits]**

Intellectual property rights have no real commercial value unless they can be asserted against others. To what extent should the owner of these rights be entitled to interfere with normal commercial practices in a modern global economy?

The remedies available directly influence the value of the intellectual property right. Courts have granted intellectual property rights holders broad search and seizure powers and restraining rights through Anton Piller Orders and John Doe Injunctions. This course examines the full extent of the remedies available to intellectual property holders, including injunctions, damages, accounting of profits, punitive damages, and delivery up, and how these remedies can be enforced internationally, particularly with respect to "piracy" and "grey marketing".

### **Intellectual Property Transactions [3 credits]**

The value of intellectual property is not only in its use by the owner itself but also in the ability to exploit that property with others. Intellectual property is at the core of many commercial transactions. International licensing and technology transfers have become a highly important means of commercialization or exploitation for intellectual property owners. This course considers licensing and other contractual arrangements for conveying and sharing intellectual property rights including special issues in respect of open source licenses. It examines issues of valuation of intellectual property, intellectual property in insolvency as well as due diligence in business acquisition transactions. Special issues of acquiring intellectual property rights from government laboratories or Universities are examined as are issues involved in the termination of license relationships. The legal considerations and key contractual issues are viewed in an international and domestic context.

### **Major Research Paper [6 credits]**

A Major Research Paper (MRP) of approximately 70 pages may be completed on any topic related to intellectual property law, provided appropriate supervision is available. The MRP should go beyond merely describing legal developments to include independent critical analysis of its subject matter. The final paper is marked on a pass/fail basis.


## **TUITION AND FEES**

The 2014/2015 tuition, which includes both years of the Professional LLM program, is \$21,888.45 for domestic students and \$31,783.50 for international students, plus supplementary fees. Tuition and supplementary fees are payable in six installments for the part-time option or three installments for the full-time option. A \$15 administrative fee is levied by the Faculty of Graduate Studies each term. Tuition and supplementary fees are set by the York University Board of Governors and are subject to change at any time. Please visit the tuition section on our website for a breakdown of fees and complete details.

Fees include the required course materials. Where assigned, textbooks are provided in hard copy and all other course materials and readings are provided in electronic format only. An additional charge will apply to any shipping of materials outside of Canada. Videoconference participants are required to purchase the necessary hardware and software. Light meals are provided for students attending classes in person in Toronto.

### **FOR MORE INFORMATION**

 [admissions-opd@osgoode.yorku.ca](mailto:admissions-opd@osgoode.yorku.ca)

 416.673.4670 or toll free within  
Canada at 1.888.923.3394