



University of Bern, Faculty of Law, Schanzeneckstrasse 1, 3012 Bern

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**UNIVERSITÄT
BERN**

Block Seminar (Spring Semester 2020, KSL 5843, 5 ECTS)

Faculty of Law

Overview of Key Dates

October 1, 2019:	Application Period Begins
February 28, 2020:	Application Period Ends (applications will be considered on a rolling basis; may be fully booked by this date; see details below)
March 11, 2020:	Preliminary Meeting (Introduction and Topics Assigned)
April 30, 2020:	Deadline to Submit Written Seminar Papers
May 14-15, 2020:	Seminar Presentations and Discussions

Visiting Professor Dr. Graham J. Reynolds

(Peter A. Allard School of Law, University of British Columbia in Vancouver)
will offer the following Block Seminar at the University of Bern next spring:

Intellectual Property and Human Rights

May 14-15, 2020

Expansions in intellectual property protection, combined with the development of more robust human rights regimes, have led a number of commenters to question whether, and the extent to which, intellectual property rights conflict with human rights. This block seminar will give students the opportunity to explore the intersection of these two areas.

The seminar will begin by providing an overview of both intellectual property and human rights, defining both areas of inquiry and describing their development and expansion. The seminar will then proceed by asking students to think about various ways through which the relationship between intellectual property and human rights can be conceptualized. Is the relationship between intellectual property and human rights one of conflict? Can these rights be harmonized? Does one set of rights trump the other? As part of these discussions, students will also consider the question: should intellectual property rights be considered human rights?

For the remainder of the seminar, students will consider a number of specific intersections of intellectual property and human rights, including: intellectual property and freedom of expression; intellectual property and the right to a clean environment (and related rights); intellectual property and the right to health; intellectual property and the rights of persons with disabilities; intellectual

property and the right to education; intellectual property and the rights of indigenous peoples; and intellectual property and the right to the preservation of cultural heritage.

Learning Outcomes

In this seminar, students will gain substantive knowledge in the areas of intellectual property, human rights, and the intersection of intellectual property and human rights, as outlined above. Students will also develop their legal research skills. They will learn how to find and navigate primary sources including treaties, legislation, and cases, as well as secondary sources including textbooks, books, and articles. Depending on how students access these materials, they may also develop specific skills related to the use of legal research technologies including online case law databases and databases of secondary sources. Students will also develop their analytical and logical reasoning skills. They will do so first by articulating a research question, and then by answering this question with assistance from the materials gathered as part of their research efforts. Students will also improve their academic writing and presentation skills in English.

Further information and procedure

This two-day block seminar will be held in English and is targeted towards law students at the Master's level or above. Attendance is limited to a maximum of 10 students. Attendees will be selected on a first registered, first accepted basis. The application period begins on **Tuesday, October 1, 2019**, and **ends on Friday, February 28, 2020** (or until the seminar is fully booked; subsequent applications will be waitlisted)¹. If admitted to the seminar, you will receive an email to confirm your participation. Please note that your attendance is required at this point.

To apply for the seminar, please email Cyril Dörfler at cyril.doerfler@iwr.unibe.ch (no earlier than October 1) providing the following information: first and last names, postal address, university email address (@students.unibe.ch), phone number, registration number (Matrikelnummer), level of study (e.g. Master's or LL.M.), number of semesters studied, first and second choice of paper topics with priority (see list below), any prior knowledge of and/or coursework in intellectual property or human rights², and a brief statement of why you are interested in this seminar. The materials should all be submitted in English.

Assignments and additional information will be given at the **mandatory preliminary meeting on Wednesday, March 11, 2020, 4-6 p.m.** Although students' preferences will be taken into consideration, please note there is no guarantee that students will be assigned one of topics they chose.

¹ This will be announced on https://www.iwr.unibe.ch/studium/lehrveranstaltungen/seminare/index_ger.html.

² Proper background is not required but will help the professor to better design the seminar.

Participating students are expected to write an individual **seminar paper** (in English with at least 30,000 and up to a maximum of 50,000 characters³) that must be submitted no later than **Thursday, April 30, 2020**, as well as to present their topic (20 minute presentations) followed by a discussion at the **mandatory seminar days** on **Thursday and Friday, May 14 & 15, 2020**. Active participation in all the discussions is expected, and attendance on both seminar days is required.

List of Paper Topics (Selection)

Conceptualizing the relationship between intellectual property and human rights

- How have the courts in Switzerland (or any European country, including the European Union) interpreted the relationship between intellectual property and human rights? (This paper could focus on one or more areas of intellectual property law, including copyright, trademarks, and patents)
- What would intellectual property laws look like if greater consideration was given to human rights values including dignity, fairness, equality, and respect? (The student choosing to write this paper could focus in particular on one value, and discuss the impact of giving greater consideration to this value in one intellectual property regime).

Intellectual property and freedom of expression

- How could legislation relating to copyright be amended in order to enhance the freedom of expression interests of authors, users, or the public interest more broadly?
- To what extent does the recently-passed EU Copyright Directive 2019/790 raise freedom of expression concerns? In particular, students could write papers that examine Articles 15 and 17 (provisions referred to as imposing a “link tax” and requiring websites to install “upload filters”)

Intellectual property and the rights of indigenous peoples

- In what ways must intellectual property legislation be modified in order to accommodate indigenous forms of knowledge?
- What are some of the ways in which faithful implementation of the United Nations Declaration on the Rights of Indigenous Peoples might require amendments to intellectual property legislation?

³ Please note that students whose papers exceed or fall below this limit will have their grades reduced.

Intellectual property and the right to the preservation of cultural heritage

- To what extent should copyright and trademark legislation be amended in order to provide protection for amateur archivists?
- What ought to be the responsibilities of intellectual property owners?

Intellectual property and the right to a clean environment (and related rights)

- To what extent can collective or certification marks be used to promote the right to a clean environment (and related rights)?
- Discuss some of the ways in which the patent examination process might be modified in order to fast track patent applications relating to inventions that might assist in promoting the right to a clean environment.

Intellectual property and the right to health

- What types of intellectual property incentives might usefully lead to the development of new antibiotics?
- When and to what extent should countries be permitted to employ compulsory licensing in order to ensure access to pharmaceuticals?

Intellectual property and the rights of persons with disabilities

- What has been the impact of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled on access to published works?
- To what extent do the copyright laws of various national jurisdictions provide sufficient protection for the rights of persons with disabilities? (This paper could focus, for instance, on issues including closed captioning or descriptive audio)

Intellectual property and the right to education

- To what extent can libraries other than school or public libraries benefit from exceptions and limitations to copyright infringement available to libraries in national copyright legislation?
- Develop a new open licensing regime modelled on Creative Commons.

Should you have any questions regarding this seminar, please contact Cyril Dörfler at cyril.doerfler@iwr.unibe.ch (no earlier than September 1, 2019).

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