

授業科目名	INTELLECTUAL PROPERTY AND PRIVATE INTERNATIONAL LAW Subject Name: Conflict of Laws (A) (A.L.)
授業科目群	advanced
標準学年	2・3年次
必修・選択の区別	選択
開講学期	Spring 2017 Quarter 3
開講曜日・時限	Course: Elective for YLP/IEBL/JDS/BiP; 2 Tuesday & 3 Wednesday
単位数	2単位
担当教員名	Toshiyuki Kono
授業の目的	The aim of this course is to investigate the existing legal framework concerning the adjudication of multi state IP disputes. The following questions will be discussed: Which court can decide a dispute over IP rights? Which law should be applied? When can a foreign judgment concerning IP rights be recognised? During the course, the most recent court decisions and legislative developments in common law countries, EU and Asian countries will be discussed. Existing legal problems related to the cross border enforcement of IP rights will be analysed from the angle of institutional capacities and efficiency considerations.
履修条件	not applicable
到達目標	カリキュラムマップ、到達目標科目対応表及び学修ロードマップを参照のこと。
授業の概要	The emergence and development of global business activities and the inception of the Internet brings about many problems related to cross border enforcement of IP rights. These issues have attracted much attention from lawyers within the fields of both private international law and IP law. During the last few decades courts in different countries faced disputes concerning cross border enforcement of IP rights. However, in most cases courts took strict territorial approach to IP rights. As a result, holders of IP rights must seek the protection of IP rights on a country by country basis despite the fact that the IP market is global. In practice, the adjudication of IP disputes is very costly and inefficient. Therefore, a number of proposals have been suggested in order to facilitate the enforcement of IP rights.
授業計画	<ul style="list-style-type: none"> <li>•Introduction</li> </ul> <p>International Jurisdiction</p> <ul style="list-style-type: none"> <li>• General grounds of jurisdiction</li> <li>• Subject-matter/exclusive jurisdiction; justiciability</li> <li>• Jurisdiction over IP infringement claims</li> <li>• Jurisdiction to grant provisional and protective measures</li> <li>• Jurisdiction over IP contracts and choice of court agreements</li> <li>• Parallel proceedings and consolidation of claims against multiple defendants</li> </ul> <p>Applicable Law</p> <ul style="list-style-type: none"> <li>• Territoriality, Lex Protectionis and Applicable Law to Initial Ownership</li> <li>• Applicable Law to Infringement of IPRs; liability of secondary infringers</li> <li>• Applicable law to Contracts for the Exploitation of IPRs</li> </ul> <ul style="list-style-type: none"> <li>• Recognition and enforcement</li> <li>• Arbitration of IP disputes</li> <li>• Custom measures, goods in transit, parallel import</li> </ul> <ul style="list-style-type: none"> <li>• Final Exam</li> </ul>
授業の進め方	Lectures and Q&A are the basic teaching style. Positive participation is very much appreciated.

教科書及び参考図書等	<ul style="list-style-type: none"> <li>• The CLIP Principles and Commentary (Oxford, Oxford University Press, 2013);</li> <li>• Kono, Intellectual Property and Private International Law (Hart, 2012)</li> <li>• Ubertazzi, Exclusive Jurisdiction in Intellectual Property Law (Tübingen, Mohr Siebeck, 2012)</li> <li>• Fawcett/Torremans, Intellectual Property and Private International Law, (OUP, 2nd ed., 2011)</li> <li>• Basedow/Kono/Metzger (eds.), Intellectual Property in the Global Arena: Jurisdiction, Applicable Law, and the Recognition of Judgments in Europe, Japan and the US, (Tübingen, Mohr Siebeck, 2010).</li> <li>• Leible/Ohly (eds.), Intellectual Property and Private International Law, (Mohr Siebeck, 2009)</li> <li>• Nuyts (ed.), International Intellectual Property and Information Technology, (Kluwer, 2008)</li> <li>• Drexl/Kur (eds), Intellectual Property and Private International Law: Heading for Future, (Hart, 2005)</li> <li>• Basedow/Drexl/Kur/Metzger (eds), Intellectual Property in the Conflict of Laws, (Mohr Siebeck, 2005)</li> <li>• Bariati (ed), Litigating Intellectual Property Rights Disputes Cross-border: EU Regulations, ALI Principles, CLIP Project, (Milan, CEDAM, 2010)</li> <li>• The American Law Institute, Intellectual Property: Principles Governing Jurisdiction, Choice of Law and Judgments in Transnational Disputes (Chestnut, ALI Publishers, 2008)</li> <li>• Dinwoodie, 'Developing a Private International Intellectual Property Law: The Demise of Territoriality?' (2009) 51 William and Mary Law Review 713-800</li> <li>• Dreyfuss, 'Resolving Patent Disputes in a Global Economy' in Moufang/Takenaka (eds.), Patent Law: A Handbook of Contemporary Research (Edward Elgar, 2009) at 610 et seq.</li> <li>• Franzosi, 'World-wide Patent Litigation and the Italian Torpedo' (1997) 19 EIPR 382</li> <li>• Franzosi, 'Torpedoes are here to stay' (2002) 3(2) IIC 154</li> </ul> <p>(Further reading materials will be provided in the class)</p>
試験・成績評価等	Assessment will be based on the class participation (30%) and a written exam (70%). Written exam will consist of a case study and several open questions.
事前学習	It is advised to read relevant articles.
課題レポート等	one report will be assigned.
オフィスアワー	by appointment
その他	<p>English Proficiency</p> <p>*Note that for students not currently enrolled on an international program, this course requires sufficient English proficiency equivalent to about 92 pts. (Internet based) in TOEFL.</p>