

FACULTY OF LAW

**INDUSTRIAL PROPERTY
2nd LEVEL MASTER DEGREE**

Academic Year 2006/2007

I Edition



DIRECTION AND SCIENTIFIC COMMITTEE

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Scientific Committee: Prof. Giovanni Giacobbe, Prof. Laura Schiuma, Prof. Raffaele Lener, Prof. Lamberto Liuzzo, Valeria Conidi

PROFESSIONAL PROFILE

Experts in industrial property able to give consultancy regarding patents and legal assistance in specialised legal offices, national and international organisations (World Organisation for Intellectual Property, European Patents Office, Office for Domestic Market Harmonisation), Consultancy companies, central and non-central organs of the Civil Service and private enterprises.

PROGRAMME

The master studies in detail the subjects of the development and management of industrial property: brands, patents, models and designs, know-how, unfair competition and antitrust law in the framework of the national, international and European legislation.

ENTRY REQUIREMENTS

Degree from the new system, degree from the old system, or a degree from a foreign university recognised as being equivalent.

APPLICANTS

Graduates social-economic, juridical and technical-scientific subjects of the old and new systems and graduates in engineering from the new and old systems from Italian and foreign universities.

STRUCTURE

- Maximum number of students: 30
- Minimum number of students: 20
- Total number of hours: 300 (divided into theoretical lectures and practical exercises)
- Final exam: written and oral
- Final exam (presentation of a written paper and oral examination)
- Possibility of internship

LECTURERS

University lecturers, industrial property consultants, lawyers specialised in intellectual property.

SYLLABUS

MODULE 1

INTRODUCTION TO INDUSTRIAL PROPERTY

1. Rudiments of industrial property

2. Role of industrial property in the economic system

3. National, international and community legislation (acts, treaties, directives, and conventions), the new Industrial Property Code (Leg. Decree 10 February 2005 No. 30). EU Directive 2004/48. International sources and principles: territoriality, reciprocity

4. National, Community and international organisations: Italian patent and brand office, World Intellectual Property Organization, Office for Domestic Market Harmonisation, European patents Office, Competition and Market Watchdog

MODULE 2

DISTINGUISHING SIGNS

1. The brand

1.1. Notion, function and legislation.

1.2. Validity requirements: distinguishing ability (expressive brands, geographical names, registered designation of origin and provenance, reinstatement, vulgarisation and standardisation; novelty (pre-use, known brand, very well-known brand, famous brand; validation); lawfulness (limits deriving from the law, public order and decent behaviour); signs in common use; deceptive signs; coats of arms, flags and other emblems.

1.3. Signs liable to constituting valid brand: simple brands, complex brands; denominative brands, figurative brands; numbers, letters; sonorous brands; coloured brands; brands with a shape (relationship with the subject of designs and models).

1.4. The Constitution of Right: subjects legitimated to register a brand; registration in bad faith; registration by those with no right; deposit and registration procedure; the brand consultant; the examination procedure by the Italian Patents and Brands Office (Refusal of registration, publication, opposition procedure); duration; renewal; the non-registered brand.

1.5. Use of brand and circulation of right: right to exclusiveness; innominate use; limits to use; coexistence agreements, contract of cession; contract of licence; franchising and merchandising contract.

1.6. Nullity, lapse, and renunciation: case in point.

1.7. Violation and protection: action of infringement: legitimation, jurisdiction, competence and sanctions (specialised sections: Leg. Decree 27 June 2003 No. 168); analysis of jurisprudential cases; expiry of right to brand.

1.8. The community brand: analysis of EU regulation No. 40/94 and EU regulation No. 2868/95.

1.9 The international brand: analysis of the Madrid Agreement of 14 April 1891 and the Madrid Protocol of 27 June 1989.

2. The firm, the sign and the domain names

2.1. Firm: function, requirements; purchase and termination; protection; Transfer; name of firm.

2.2. Sign (function, validity requirements, purchase of right, cession and termination) and emblem.

2.3. Domain Name: types; juridical qualification; protection of intellectual property on Internet; conflicts between brand and Domain Name (analysis of jurisprudential cases); Italian Registration Authority and Naming Authority (reform projects); naming rules; resolution of the dispute; Contestation, arbitration and reassignment procedure; responsibility of the Internet Service Provider in the Leg. Decree of 9 aprile 2003 No. 70.

MODULE 3

INTELLECTUAL CREATIONS

1. Inventions

1.1. Historical origins, notion, function and legislation.

1.2. Requirements for patentability: subject of the patent; Industriality; novelty (state of the technique, pre-divulgation, claiming of priority); inventive activity (technical consultancy; evidence and non-evidence); lawfulness; sufficient description.

1.3. The right of patent for industrial invention: Realisation of the invention and *ius excludendi alios*; Principle of termination (national, community); the acts concluded in private and for non commercial purposes; the acts concluded experimentally; the galenic-teaching exception.

1.4. The right to patent: duration of the protection; moral right and patrimonial right; the subjects (author and assignees; the taking out of a patent of those having no right; the group invention; the invention of the employee; research contracts and the work order invention); retroactive effectiveness of the patent application made accessible to the public; the complementary certificates of protection; the lawful uses of the invention of others.

1.5. The patenting procedure: drawing up and filling out of the application for a patent; the patenting consultants; examination of patent application; the claims; the description; the uniqueness of the invention; procedure for the modification or limitation of the contents of the application for a patent.

1.6. Circulation of the patent right and the right to patent: cession; license (compulsory license); expropriation.

1.7. Nullity, lapse, expiry and renunciation: case in point.

1.8. Violation and protection: the interpretation of the patent; patent infringement (not complete, by equivalents, indirect): jurisdiction, competence (specialised sections Leg. Decree of 27 June 2003 No. 168) and sanctions; the Objective Technical Opinion - AIPPI.

1.9. New sectors of patenting: chemical patents; biotechnological patents; the new varieties of plants; the topographies of semiconductors; informatics patents.

1.10. The European patent: analysis of the Convention of Munich and the regulations for enforcement of 5 October 1973.

1.11. The international patent: analysis of the Patent Cooperation Treaty of 19 June 1970.

1.12. The Community patent: analysis of the Convention of Luxemburg (15 December 1975, 15 December 1989), and the recent debates and legislations proposals.

2. Utility models, designs and industrial models

2.1. Notion, function and legislation.

2.2. Protection requirements: novelty, individual character; lawfulness; industriality (analysis of Leg. Decree 95/2001 and Leg. Decree 164/2001).

2.3. The protection of spare parts.

2.4. Utility models: relationships between the patent protection of inventions and slavish imitation.

2.5. Designs and models: relationships between copyright patent protection (of a creative type having artistic value), marks of convention and slavish imitation.

2.6. Community designs and models: analysis of regulation 6/2002/EC of 12 December 2001 (Protection requirements; Duration; Non-registered designs and models; Registration procedure; invalidity), of regulation 2245/2002/EC and regulation 2246/2002/EC.

MODULE 4

UNFAIR COMPETITION, ANTITRUST LAW AND ADVERTISING LAW

1. Unfair competition

1.1. The origins: the repression of unfair competition practice: from Article 10-bis of the Union Convention of Paris of 20 March 1883, to Article 1511 of the Civil Code of 1865, to the present Article 2598 of the Civil Code of 1942.

1.2. Subjects.

1.3. Nominated cases in point and general clause.

1.3.1. Competition to create confusion: adoption of names or distinguishing signs that can be mistaken with those of others; slavish imitation; other means of creating confusion.

1.3.2. Denigration and appropriation of merit.

1.3.3. General clause: misleading communication; price manoeuvres; underselling; violation of public law regulations; cancellation of employees; unlawful removal of company secrets; complicity in breach of covenant of others; competition by an ex-employee; parasitical competition; boycott.

2. Antitrust Law

2.1. Historical origins, Function, Limits and subjects of the Antitrust law.

2.2. Community and national Antitrust law: relationships and analysis of the legislation; organs for the control of competition.

2.3. Standardised cases in point:

2.3.1. Restrictive meanings of competition (posters).

2.3.2. Abuse of dominant position.

2.3.3. Combination operations.

3. Advertising

3.1. Sources: constitutional regulations (Articles 41 and 21 of the Constitution), national laws (article 2598 civil code; Leg. Decree of 25 January 1992 No. 74), Community Directives (Directive 84/450/EC; Directive 97/55/EC); Code of self-discipline in advertising.

3.2. Misleading advertising: Analysis of Leg. Decree of 25 January 1992 No. 74.

3.3. Comparative advertising: Analysis of Leg. Decree of 25 January 1992 No. 74 as integrated by Leg. Decree of 25 February 2000 No. 67.

ADDRESS

LUMSA – Facoltà di Giurisprudenza
Via Pompeo Magno, 22 - 00192 Roma

DURATION

November 2006 - June/July 2007

TIMETABLE OF LECTURES

Friday afternoon – Saturday morning

ENROLMENT

Last day for enrolment: 31 October 2006

Admission to the Master, up to the maximum number of places available, will depend on the assessment of the documents received, according to the order of arrival of the applications at the Master's Office

Candidates will be informed of their admission/non-admission to the Master by e-mail

The go-ahead for the Master and the beginning of lectures will be published on the LUMSA site

The application for enrolment, together with documentary evidence of qualifications must be sent to the following address:

LUMSA - Segreteria Master e Corsi di Perfezionamento
Via Pompeo Magno, 22 – 00192 Roma

Applications received without the requested documentary evidence of qualifications enclosed will not be taken into consideration.

The application for enrolment can be found at www.lumsa.it or at the Masters and Specialisation Courses Office

Enrolment for the Master is incompatible with other degree courses, Masters, Specialisation Courses, Specialisation Schools and Ph. D. Courses

ENROLMENT FEES AND PAYMENT

Cost: € 3.500.00 payable in five instalments
I instalment: € 700.00 at the time of enrolment
reimbursable in the case of failure to start/non-admission to Master
II instalment: € 700.00 (by 31.12.07)
III instalment: € 700.00 (by 28.02.07)
IV instalment: € 700.00 (by 30.04.07)
V instalment: € 700.00 (by 30.06.07)
Payments can only be made by bank transfer to:

LUMSA - UniCredit PB

Reference: 7485 – ROMA Parioli

Account No. 60005491 ABI 03223 CAB 03202 CIN J

specifying in the description of payment your name, surname and title of Master.

Copies of the bank receipt of the bank transfers must be taken to the Master and Courses Office.

Once enrolled for the Master, no refund of the instalments already paid is due in the case of renunciation. (The payment of the enrolment fees by instalments is only a concession for students: therefore, any renunciation does not exempt students from the whole amount of the enrolment fee).

AWARDS

- **60 University Credits**
- Title of 2nd level Master in “Industrial Property” (attendance not below 80% of the total number of lectures and final exams)

PROFESSIONAL TRAINING

Possibility of traineeships for those students whose final papers are considered particularly outstanding.

INFORMATION

LUMSA - Masters and Specialisation Courses Office

Via Pompeo Magno, 22 -00192 Roma

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