

## **LL4438V / LL5438V / LL6438V Intellectual Property Arbitration**

This course introduces students to the exciting world of intellectual property arbitration. Traditionally thought of and taught as distinct areas of law, the overlap between IP rights and recourse to arbitration for the protection of those rights has grown significantly in recent years. This pioneering course is not currently offered in any other leading law school in the world. It is designed for students with little to no knowledge of IP law. It is also designed for students with an interest in arbitration, regardless of the level of their pre-existing knowledge of arbitration.

At the end of the course, students should be able to:

1. Demonstrate a firm understanding of the basic and advanced tenets of IP, of arbitration as a dispute settlement mechanism, and of the reasons behind the emergence of intellectual property arbitration.
2. Demonstrate a firm understanding of the different varieties of IP disputes that can be submitted to arbitration.
3. Correctly identify and interpret the different laws that are relevant to an IP arbitration.
4. Critique arbitral decisions on actual IP disputes and attempt resolution of hypothetical IP disputes.

Note: Classes are on Tuesdays from 3-6pm.

Classes are taught by Adjunct Professor Mark Lim, Associate Professor Jean Ho, and Adjunct Assistant Professor Gabriel Ong.

### **PART I: THE FOUNDATIONS OF INTELLECTUAL PROPERTY ARBITRATION**

#### **Week 1 (13 Jan 2026): A primer on intellectual property (Part 1) – Adj As/P Gabriel Ong** (Adj Prof Mark Lim and A/P Jean Ho will be present at the beginning of the seminar)

What is intellectual property (IP)? And in what ways would the possible answers to the foregoing question vary from jurisdiction to jurisdiction given the overarching principle that IP rights are territorial? What kind of impact might these, and other related considerations, have on dispute resolution in general and arbitration specifically? In these seminars, students will be introduced to the law of IP and various related rights (e.g. confidentiality obligations) from a bird's eye view perspective.

While the starting point will naturally be Singapore law, where relevant and appropriate, comparisons will be drawn to the legal position abroad (and possible areas of conflict) in respect of key issues of interest. Although time constraints do not permit deep-diving into the myriad trenches that span this complex and interesting area of law, students will be exposed to the main policy themes, legal issues, and commercial considerations that are likely to arise in connection with the rest of this course.

#### **Week 2 (20 Jan 2026): A primer on intellectual property (Part 2) – Adj As/P Gabriel Ong**

See above.

#### **Week 3 (27 Jan 2026): A primer on arbitration (Part 1) – A/P Jean Ho**

Students will learn the basic and advanced features of arbitration as a consensual form of dispute settlement. Arbitration is normally predicated on the existence of an arbitration clause found in a contract which records the consent of the contracting parties to submit future disputes to arbitration.

The different ways in which consent to arbitrate can be recorded, the different parties to an arbitration, the doctrines of separability (clause survives the death of the main contract), competence-competence (tribunal is competent to determine its jurisdictional competence), tribunal constitution, arbitral procedure, applicable laws, and award issue and enforcement will be covered. Special attention will be given to the notion of arbitrability (i.e. what matters can be arbitrated) since the traditional disconnect between IP and arbitration stems from national laws which have, until fairly recently, classified IP issues as non-arbitrable.

**Week 4 (3 Feb 2026): A primer on arbitration (Part 2) – A/P Jean Ho**

See above.

**Week 5 (10 Feb 2026): The emergence of intellectual property arbitration – Adj Prof Mark Lim, A/P Jean Ho, and Adj As/P Gabriel Ong**

Recent years have seen the rise and continued dominance of “big tech” companies. By and large, the highest valued companies today have their value in intangible assets. It is against this backdrop that this seminar explains how IP arbitration gradually gained a foothold in the domestic and international arbitration landscape. As fewer arbitrations concern solely IP issues, consideration of IP infringement or protection during an arbitration often takes place alongside consideration of other issues like breach of contract or license revocation. Students will learn about the different types of commercial dealings which raise IP issues, and the reasons for the increased frequency of arbitrations involving IP issues.

**Week 6 (17 Feb 2026): No Class (Chinese New Year)**

**RECESS WEEK (21 Feb to 1 March 2026): No Class on 24 Feb 2026**

**PART II: IP ARBITRATION BETWEEN COMMERCIAL ENTITIES**

**Week 7 (3 March 2026): IP issues that may arise in civil disputes & multinational litigation (4-hour class) – Adj Prof Mark Lim and Adj As/P Gabriel Ong**

At first glance, what began as a relatively straightforward contractual licensing dispute may eventually morph into a multi-jurisdictional battle with either side wielding IP portfolios as weapons of war. How did this happen? And where does one go from here? We build upon the foundations laid in earlier weeks and explore the various types of IP disputes that may arise in the context of arbitration, even if they may not have been contemplated as the subject of arbitration in the first place. From there, we turn to pertinent issues that arise in multinational IP litigation and how the resolution of such issues correlates to the growth and character of IP arbitration. Consider this:

A multinational company (MNC) may be headquartered in one place, have its IP holding company incorporated on the other side of the globe, and its manufacturing facilities located and owned by subsidiaries in a third location. To bind all these things together from the IP standpoint, the MNC will need to have in place the appropriate IP agreements covering a whole battery of rights ranging from copyright assignments, trade mark licenses, and assignments or licenses for patents and inventions both present and future. Its competitors are likely to have similarly international set-ups. What happens when infringement or contractual disputes arise against such a backdrop – having regard to the fact that IP rights are territorial and may be adjudicated on not just by courts but also administrative bodies or tribunals? What happens when parties get embroiled in litigation before different courts and

tribunals in relation to a patent or trade mark litigation in multiple jurisdictions at once? And how are such disputes handled in practice e.g. in terms of expert witnesses, foreign counsel, different outcomes in different jurisdictions, etc.?

#### **Week 8 (10 March 2026): Fashion law IP disputes – Guest: Professor David Tan, with all tutors**

Although some of the most well-known IP disputes between private entities, such as luxury brand trademark infringements, were litigated in court, there is growing appetite among private entities for arbitration as an alternative means to settle their IP disputes. This seminar will be conducted by Professor David Tan. Readings and detailed instructions will be provided in due course.

#### **Week 9 (17 Mar 2026): IP & Tech disputes relating to cross-border software licenses in the videogame industry – Guests: from WongPartnership, with all tutors**

This seminar will be conducted by guest speakers Chan Hock Keng (Co-Head of Commercial & Corporate Disputes Practice and Partner in the International Arbitration Practice, WongPartnership) & Jill Ann Koh (Partner, Commercial & Corporate Disputes Practice, WongPartnership). Readings and detailed instructions will be provided in due course.

### **PART III: IP ARBITRATION WITH REGULATORY AUTHORITIES**

#### **Week 10 (24 Mar 2026): IP arbitration involving States (4-hour class) – A/P Jean Ho**

IP arbitration involving regulatory authorities differ from disputes between private entities in two significant ways. First, there is usually a strong public interest element, such as public health or national security, which is absent from purely private disputes. Second, IP arbitrations where States are named as respondents can be brought under an applicable investment treaty; investment treaty arbitration is not available when the respondent is not a State. This seminar focuses on the different dimensions of the public interest in IP disputes with States and introduces students to the mechanics of arbitrating with States under investment treaties, using Economic Protection Agreements concluded by Japan which have an atypically strong emphasis on IP rights as illustrations.

#### **Week 11 (31 Mar 2026): The Philip Morris tobacco trademark wars – A/P Jean Ho**

The decision of tobacco giant Philip Morris to sue Australia and Uruguay before two international arbitral tribunals for passing plain tobacco packaging legislation in the name of public health made global news headlines. While the core challenge that Phillip Morris was mounting was trademark infringement, this critical IP issue has largely been eclipsed by Philip Morris' invocation of investment treaty protection against Australia and Uruguay. Studies on the *Philip Morris* awards have thus focused on the tribunals' interpretation and application of substantive protection standards in the applicable treaties. This seminar re-imagines the neglected core IP challenge in the *Philip Morris* factual contexts and arbitral awards, and considers the propriety of addressing the clash between IP protection and public health regulation through arbitration.

### **PART IV: CLOSING THOUGHTS**

#### **Week 12 (7 Apr 2026): A conversation with Ciarb and SIAC – All tutors**

The final seminar takes the form of a brief presentation, followed by a conversation between the course convenors and guest speakers Jonathan Choo (Vice Chair, Ciarb Singapore & Managing Director, Vantage Chambers LLC) and Snigdha Bhatta (Deputy Counsel, SIAC). The broad theme of the

discussion will be the growing importance of IP and technology arbitration as a field of study, practice, and policy-making.