Overview

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| **Activity** | **Due Date** | **Format** | **Grading Percent** |
| Intellectual Property and Technology | Day 3(1st Post) | Discussion | 4 |
| The Global Marketplace | Day 3(1st Post) | Discussion | 4 |
| Final Paper | Day 7 | Final Paper | 28 |

Learning Outcomes

This week students will:

1. Describe legal concerns regarding intellectual property.
2. Explain legal concerns raised by technology and the internet.
3. Describe issues faced by businesses in the global marketplace.

Introduction

The final week is focused on the future of business law including international law, environmental law, and the internet. By the end of this week students should be able to describe the importance of intellectual property law, explain legal concerns raised by technology and the internet, and describe issues faced by businesses in the global marketplace. Students will apply class concepts to life experiences in the Final Paper assignment.

[Go to top of page](https://ashford.instructure.com/courses/98601/pages/week-5-overview?module_item_id=4994955)

## Required Resources

### **Text**

Rogers, S. (2012). [*Essentials of business law*](https://ashford.instructure.com/courses/98601/external_tools/retrieve?display=borderless&url=https%3A%2F%2Fcontent.uagc.edu%2Flti%3Fbookcode%3DAUBUS311.12.3). Bridgepoint Education.

* Chapter 14: Cyberlaw
* Chapter 15: International and Environmental Law

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|  | **Weekly Lecture** |

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Week Five Lecture

**Environmental Law, Intellectual Property Law, and International Law**

**Environmental Law**

As the human population has grown, people have crowded into towns and cities, and air and water have grown much dirtier. Technology, which has helped people live longer, travel faster, and communicate almost instantaneously, has also led to environmental disasters. In the United States, the common law has been largely unable to control environmental damage. For that reason, most environmental law consists of local, state, and federal legislation.

The National Environmental Policy Act (NEPA) of 1969 gave the federal government an arm for protecting the environment. Its scope extends to the proposal of major public works projects and requires environmental assessments (EAs) and environmental impact statements (EISs) where there is a substantial effect on the environment (Alm, 1988).

One of the products of the NEPA was the creation of the Council on Environmental Quality (CEQ), an entity housed within the Executive Office of the President of the United States (The White House, n.d.). According to Michael Boots, the CEQ’s principal member, the CEQ exists to “promote the health and well-being of our country -- for both current and future generations...” (Boots, n.d.). Within this purpose, though not granted express authority, the CEQ has continued to issue regulations governing the preparation EISs that have been recognized by federal courts.

The NEPA recognizes a broad spectrum of environmental protections including, via the CEQ, water pollution, toxic substance control, and drinking water safety (Alm, 1988). The resulting guidelines led to the implementation of the environmental impact statements (EIS). EISs are required when an environmental assessment determines the impact to be substantial. The power of these statements was unknown at the time, though in recent years they have been interpreted to include both direct and indirect effects on the environment. Such interpretation caused the dismissal of a proposal of a John F. Kennedy library at Harvard University due to the potential impact on increased congestion and air pollution (Alm, 1988).

A familiar federal regulation is the Clean Air Act. Initially, the states had primary responsibility for controlling air pollution, and the federal government merely supervised the states’ efforts and offered technical and financial assistance. But state efforts proved inadequate, and Congress enacted the Clean Air Act Amendments of 1970, greatly expanding the federal role. Major revisions to the Clean Air Act were enacted in 1977 and 1990.

The Clean Air Act includes a provision requiring the study of its impact on job losses. Here is a brief article discussing the EPA’s duty and discretion regarding the impact of the Clean Air Act on the Murray Energy Corporation: [Federal Court "Shall" Hear Challenge on EPA's Failure to Assess Job-Loss Impact of Its Rules (Links to an external site.)](http://www.forbes.com/sites/wlf/2014/09/19/federal-court-shall-hear-challenge-on-epas-failure-to-assess-job-loss-impact-of-its-rules/).

Individuals may bring private tort actions to recover damages for harm to the environment. Plaintiffs have generally relied on the theories of nuisance, trespass, and strict liability.

* *Private Nuisance*: Private nuisance involves an interference with a person’s use and enjoyment of his or her land. A public nuisance is an activity that somehow interferes with the health, safety, or comfort of the public.
* *Trespass*: Trespass requires an interference with the plaintiff’s possession of the land. Thus, sending smoke or gas onto another’s property may constitute a private nuisance but does not constitute a trespass.
* *Strict Liability*: Strict Liability is liability without fault if a person engages in an abnormally dangerous activity. To establish strict liability, the plaintiff must show that the defendant is carrying on an unduly dangerous activity in an inappropriate location and that the plaintiff has suffered damage because of this activity. Only a limited number of strict liability actions have been brought against polluters.

**Intellectual Property Law**

Intellectual property is an economically significant type of intangible personal property that includes trade secrets, trade symbols, trade names, copyrights, and patents.  Protection of these property interests from infringement, or unauthorized use, is essential to the conduct of business. We will discuss the law protecting trade secrets, trade symbols, trade names, copyrights, and patents.

* *Trade Secrets*: A business may choose not to obtain a patent on a trade secret, because patent protection is available for only a limited time, whereas a trade secret may remain a secret as long as the company can protect it. A trade secret is commercially valuable, secret information that is guarded against disclosure and is not general knowledge.  It may include a formula, pattern, compilation, program, device, method, technique, or process.
* *Trade Symbols*: “Palming off,” the fraudulent marketing of one person’s goods as those of another, was one of the earliest forms of unfair competition and is still common today. Section 43(a) of the Federal Trademark Act (known as the Lanham Act) prohibits this practice. This section also prohibits false descriptions or representations of a person’s own goods and services. Trade symbols include trademarks, service marks, certification marks, and collective marks.
* *Trade Names*: A trade name is any name used to identify a business, vocation, or occupation. Although descriptive and generic words, as well as personal and generic names, are not proper trademarks, they may become protected as trade names upon acquiring a special significance in the trade which is referred to as “secondary meaning.” Trade names may not be federally registered under the Lanham Act, but they are protected. Remedies include injunction and damages.
* *Copyrights*: Copyright is a form of protection provided by the Federal Copyright Act to authors of original works, which include literary works, musical works, dramatic works, pantomimes, choreographic works, pictorial, graphic and sculptural works, motion pictures, architectural works, and sound recordings. The act extends the protection to “original works of authorship in any tangible medium of expression, now known or later developed.” Since 1980, protection has extended to computer programs. The United States is now a party to the Berne Convention on copyrighted works.
* *Patents*: A patent is the exclusive right to make, use, or sell an invention to the absolute exclusion of others. Upon expiration, the invention enters the “public domain.”

In light of high-profile copyright and trademark cases like those of Gucci vs. Guess and Christian Louboutin vs. Yves Saint Laurent, please read [Here's How You Can Protect Your Brand From Copycats (Links to an external site.)](http://www.forbes.com/sites/bluecarreon/2012/04/24/heres-how-you-can-protect-your-brand-from-copycats/).

**International Law**

Today’s economy is a global one, and failure to compete—either at home or abroad—may mean failure overall in today’s world of business. Conducting international business, however, brings a complicated set of rules since business laws vary from nation to nation. A basic understanding of international business law is essential.

International law deals with the conduct and relations between nation-states and between international organizations, as well as some of their relations with individuals; it generally cannot be enforced, because international courts do not have compulsory jurisdiction.

International law can be a slippery slope even for the most successful corporations, as Phillip Morris continues to learn through an unending series of international lawsuits; read [An Uruguayan Lawsuit With International Implications for Philip Morris (Links to an external site.)](http://www.forbes.com/sites/greatspeculations/2014/09/22/an-uruguayan-lawsuit-with-international-implications-for-philip-morris/) to learn more.

***Forbes School of Business Faculty***

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