





ATRIP 37th Annual Congress

5-8 August 2018

HELSINKI, FINLAND

Fairness, Morality and Ordre Public in Intellectual Property

ORGANIZERS

Hanken School of Economics

IPR University Center

ATRIP International Association for the Advancement of Teaching and Research in Intellectual Property

WITH GENEROUS SUPPORT FROM

IPR University Center Association

Liikesivistysrahasto / Foundation for Economic Education

Tieteellisten Seurain Valtuuskunta / Federation of Finnish Learned Societies

WIPO World Intellectual Property Organization

FICPI International Federation of Intellectual Property Attorneys

Rector of Hanken School of Economics

University of Helsinki

<u>VENUE</u>

Hanken School of Economics Arkadiankatu 22 FI-00100 Helsinki

CONTACT INFORMATION

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WIFI

Wifi network: Hanken User Id: ATRIP20181 Password: Helsinki2018

SUNDAY 5 AUGUST

12.15am - 3.25pm ATRIP Executive Committee Meeting

Board room

2.30pm - 7.30pm Registration

Fove

3.30pm - 5.00pm Early Career Workshop

Assembly Hall

Morality in International IP Lawmaking

Katharina Behrend (UK)

Fair's Fair? The Role of 'Fairness' in Shaping Copyright Law's Library Privilege from a Library Perspective

V.E. Breemen (Netherlands)

Incentives and Regulation for New Health Technologies

Dhanay Cadillo Chandler (Finland)

Towards a European "Fair Use" Grounded in Freedom of Expression

Elena Izyumenko (France) (with Prof. Ch. Geiger)

Interpretation and Application of Rights and Exceptions in EU Copyright Law: a Fair Balance?

Daniël Jongsma (Finland)

Excessive Pharmaceutical Prices as an Anticompetitive Practice under TRIPS

Behrang Kianzad (Denmark)

Data Localisation Barriers to International Digital Trade

Nikita Melashchenko (New Zealand)

Practicability and Significance of Human Dignity in International Patent Law: a Comparison of European and U.S. Patent Law

Stefan Papastefanou (Germany)

Consumption of Digital Works – a Legal Analysis of EU Copyright Law within the Framework of Lawful Acquisition and Exploitation of Protected Content

Kacper Szkalej (Sweden)

The Necessity of "Basic Structure Doctrine"

Pratyush Nath Upreti (France)

(Re)Quest of a New Why? Re-Visiting the Policy Debate and the Rationale for IP law

Anna Aurora Wennäkoski (Finland)

Is Protection Against Free Riders and Market Abuse 'Fair' in Trade Mark Law Practice? A Human Rights Perspective

Genevieve Wilkinson (Australia)

"General Clause" of Fair Use in the Third Amendment of the Copyright Law of China

Lei Yi (Germany)

5.00pm - 7.30pm Opening Reception

Fover

MONDAY 6 AUGUST

7.30am Registration opens

8.30am Welcome

Assembly Hall

- Karen Spens, Rector of Hanken School of Economics
- Mr. Sherif Saadallah, Executive Director, World Intellectual Property Organization (WIPO) Academy

Opening Speakers

Chair: Daniel Gervais, Vanderbilt University (ATRIP President)

- Annette Kur, Max Planck Institute for Innovation and Competition (past ATRIP president (2007-2009))
- Nari Lee, Hanken School of Economics



9.15 - 10.40am

Session 1 - Measuring and Defining Fairness, Morality and Ordre Public in IP Law

Assembly Hall

Chair: Graeme Dinwoodie, Chicago-Kent College of Law, USA (Past ATRIP President (2011-2013))

Developing a Tool for Defining and Measuring Fairness and Morality in Intellectual Property Rights

Marsha Simone Cadogan, Centre for International Governance Innovation CIGI, Canada

International Public Order & Intellectual Property

Nicolas Binctin, Université de Poitiers, France

The Three -Step Test and Fairness in IP Law: Where Are We Ten Years after the Declaration?

Jonathan Griffiths, Queen Mary School of Law, UK

Measuring International Standards of Fairness, Morality and Ordre Public in Terms of Development Objectives

Susan Isiko Štrba, University of the Witwaterstrand, South Africa

A Global Norm for Fairness and Morality in IP Law: an Unattainable Goal?

Yahong Li, University of Hong Kong, Hong Kong

10.40 - 11.00am Morning Break

11.00am - 12.30pm

Session 2 - Fairness, Morality and Ordre Public: What Does it Mean for Authors?

Assembly Hall

Chair: Sam Ricketson, University of Melbourne, Australia

Fairness and Authors' Reversion Rights

Paul J. Heald, University of Illinois College of Law, USA

Graffiti, Street Art, and the Purpose of Copyright Law

Pascale Chapdelaine, University of Windsor, Canada

Fairness Towards Authors: Does It Necessarily Mean Caring for the Weak?

Omri Alter, Hebrew University of Jerusalem, Israel

Mirror, Mirror on the Wall: Fairness in Visual Arts

Anette Alén-Savikko, University of Helsinki, Finland (speaker/presenter) & Rosa Maria Ballardini, University of Lapland, Finland (co-author of the final research paper)

Bad Bargains by Authors and Performers: What's Fair, and Who Cares?

Mary LaFrance, University of Nevada, USA

Fairness vs. Welfare in the Discussion of Copyright Laws and Policies: Royalties for the Resale of Artworks

Antoni Rubí-Puig, Universitat Pompeu Fabra, Spain

12.30 - 1.30pm Lunch

1.30 - 3.05pm

Session 3A (parallel) - Gender, Identity and IP in a Networked Environment

Assembly Hall

Chair: Barbara Lauriat, King's College London, UK

Pornography, Privacy, Copyright Law and Consent

Ann Bartow, University of New Hampshire, USA

Internet Censorship: Copyright and Ordre Public

Hong Xue, Beijing Normal University, China

Can IP Law Protect People from Harassment?

Edward Lee, Chicago-Kent College of Law, USA

Surname as Trademark - "Selling" Your Identity in the Fashion Area

Joanna Buchalska, Kozminski University, Poland

Session 3B (parallel) - Fairness, Morality and Ordre Public: What Does it Mean for Groundbreaking Technologies?

Maxer

Chair: Jens Schovsbo, University of Copenhagen, Denmark (ATRIP President-elect)

Use and Abuse of Databases Rights in the Data Era: Looking for a Consistent Approach

Valeria Falce & Valerio Torti, Università Europea di Roma, Italy

Inventions Generated by Artificial Intelligence: Patent Protection & Moral Connotations

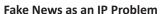
Luz Sánchez, UCAM University, Spain

The 'Notion of Fairness' in Intellectual Property Law and the Digitization of Data

Helen Yu. Sciences Po Paris, France

The Future of Blockchain Technology and Collective Management Organizations: Copyright Enforcement Solved?

Dinusha Mendis, Bournemouth University, UK



Dana Beldiman, Bucerius Law School, Germany and UC Hastings Law School, USA & Arpan Banerjee, Jindal Global Law School, India and University of New South Wales, Australia

Dynamic Patent Economic Value beyond Challenging of Emerging Technologies: 3D Printing

Chung-Lun Shen, National Chengchi University, Taiwan

Session 3C (parallel) - Fairness, Morality and Ordre Public in IP: National and Regional Approaches

Room 210

Chair: Christian LeStanc, Université de Montpellier, France

Flexibility and Legal Certainty in EU Copyright Law: Towards an EU-Tailored Fair Use Standard

Tito Rendas, Universidade Católica Portuguesa, Portugal

Study on the Application of the General Clause of Anti-Unfair Competition Law in China

Qian Tao, China University of Political Science and Law, China

Fairness, Morality and Ordre Public in Intellectual Property: Harmony and Dissonance (The Russian Experience)

Ivan A. Zenin, Lomonosov Moscow State University, Russia

Fairness on the Home Front: 'Anzac' as Trade Mark, 1915 -

Catherine Bond, UNSW Sydney, Australia

3.05 - 3.25pm Afternoon Break

3.25 - 4.30pm

Session 4 - Fairness, Morality and Ordre Public: What Does it Mean for Indigenous Peoples?

Assembly Hall

Chair: Peter Yu, Texas A&M University, USA

Fairness, Justice and Databases for Indigenous Knowledge and Culture

Natalie Stoianoff, University of Technology, Sydney, Australia

Human Rights Principles as Normative Tools for the Assessment of Fairness in the Context of Indigenous Peoples' Heritage

Josephine (Kelly) Breemen, Tilburg University & University of Amsterdam, The Netherlands

Intangible Cultural Heritage Data Flows and Intellectual Property Regulation: Mitigating Fairness and Morality

C. Joelle Nwabueze, University of South Africa, South Africa

Intellectual Property, Traditional Knowledge and Fairness: Rethinking Recognition and Rewards Arising from Intellectual Endeavor of Indigenous Communities

Bassem Awad and Oluwatobiloba Moody, Centre for International Governance Innovation (CIGI), Canada

5.00 - 6.00pm

Tour of Museums, University of Helsinki

University of Helsinki, Yliopistonkatu 3, Helsinki

6.00 - 8.00pm

Reception

University of Helsinki, Main Building, Fabianinkatu 33, Helsinki

TUESDAY 7 AUGUST

8.45 - 10.30am

Session 5 - Economic and Non-Economic Shades of Fairness and Morality

Chair: Justin Hughes, Loyola Law School, Los Angeles, USA

Fairness, Markets, and Intellectual Property

Shubha Ghosh, Syracuse University College of Law, USA

Incentive-based Justification for 'Fairness': Antitrust vs. Intellectual Property

Juha Vesala, University of Helsinki, Finland



Fair vs. Optimal Use of Intellectual Property: an Economic Perspective

Yasser Gadallah, Helwan University, Egypt

The Well-Being Approach to IP – a More 'Moral' Approach?

Estelle Derclaye and Tim Taylor, University of Nottingham, UK

Fifty Shades of Fairness: a Return to General Principles to Draw and Rationalize the Borders of Copyright

Caterina Sganga, Central European University, Hungary

GIs, Colonised Countries and Trade Agreements: (Un)Fair Use versus Economic Interests

Suelen Carls, University of Marília, Brazil

Are Non-Discrimination Principles Fair?

Henning Grosse Ruse-Khan, University of Cambridge, UK

10.30 - 10.50am Morning Break

10.50am - 12.40pm

Session 6 - Fairness, Morality and Ordre Public: What Does it Mean for Access to Copyright Works?

Assembly Hall

Chair: Christophe Geiger, CEIPI, University of Strasbourg, France

Access to Textbooks in Schools in Developing Countries, Copyright, and the Right to Education

Klaus D. Beiter, North-West University, South Africa

Reflecting the Dynamism of 'Fairness' in Copyright Law: a Users' Rights Perspective

Poorna Mysoor, University of Oxford, UK

Transforming Copyright: Fair Use in the Digital World

Glynn Lunney, Texas A&M University, USA

Reconstructing Fairness in Copyright Exemptions

Maurizio Borghi, Bournemouth University, UK

The Fairness of Digital Second-Hand Marketplaces and the Future of the Doctrine of Exhaustion

Péter Mezei, University of Szeged, Hungary

Copyright Law Reform and Censorship in Iran: Whose Morality?

Lida Ayoubi, Auckland University of Technology, New Zealand

12.40 - 1.40pm Lunch

1.40 - 3.20pm

Session 7A (parallel) - Fairness, Morality and Ordre Public: What Does it Mean for Employees in Global Production Chains?

Assembly Hall

Chair: Anna Tischner, Jagielloński University, Poland

Intellectual Property Ownership and Corporate Social Responsibility

Janice Denoncourt, Nottingham Trent University, UK

Fairness and the Right to Employee Inventions

Niklas Bruun, IPR University Center, Finland

Using Fairness to Determine Post-Employment Duties with Respect to Trade Secrets

Magdalena Kolasa, formerly Ludwig Maximilians University Munich and Max Planck Institute for Innovation and Competition, Germany

The Offence to Religious Beliefs: Comparing Protection Systems, Copyright Law vs. Industrial Law

Maria Letizia Bixio, European University of Rome, Italy

Fairness in Certified Global Food Chains

Katja Lindroos, University of Eastern Finland, Finland

Session 7B (parallel) – Fairness, Morality and Ordre Public: What Does it Mean for Confidential Information?

Maxer

Chair: Niva Elkin-Koren, University of Haifa, Israel

Strategic and Defensive Patenting

Emanuela Arezzo, University of Teramo, School of Law, Italy

Unfair Commercial Use of Regulatory Pharmaceutical Data

Żaneta Pacud, Polish Academy of Sciences, Poland

Honest Commercial Practices in Unfair Competition and Confidential Information Law

Zoi Michalopoulou, Bucerius Law School, Germany

Trade Secrets vs. Freedom of Expression and Whistleblowing

Ulla-Maija Mylly, University of Turku, Finland, and Sharon K. Sandeen, Mitchell Hamline School of Law, USA



Session 7C (parallel) - Fairness and Morality: The Role of Negotiation or Remedial Measures

Room 210

Chair: Gustavo Ghidini, LUISS University, Rome, Italy (Past ATRIP President (2005-2007))

Royalty Rebates and Competition: the Qualcomm Ruling and the Intel Decision

Andy C. M. Chen, Yuan Christian University, Taiwan

Remedies and Fairness in Intellectual Property Law

Orit Fischman-Afori, College of Management Academic Studies, Israel

The Meaning of "Fair and Reasonable" in the Context of FRAND Commitments

Rafał Sikorski, Adam Mickiewicz University, Poland

Fair and Equitable Treatment of Foreign Investments and Intellectual Property Rights

Emmanuel Oke, University of Edinburgh, UK

Fair and Equitable Benefit Sharing in the Indo-Pacific

Evana Wright, University of Technology Sydney, Australia

A Restitution Model for Intellectual Property Remedies

John M. Golden, The University of Texas at Austin, USA & Karen E. Sandrik, Willamette University College of Law, USA

3.20 - 3.40pm Afternoon Break

3.40 - 5.25pm

Session 8 - Fairness, Morality and Ordre Public: What Does it Mean in Trademark Law?

Assembly Hall

Chair: Martin Senftleben, Vrije Universiteit Amsterdam, The Netherlands

Dissonance within Harmonization of the EU IP Rules of Ordre Public and Morality – Lessons from Design and Trademark Law Lavinia Brancusi, Cardinal Stefan Wyszyński University, Poland

Eavina Brancasi, caramar stejan vvyszynski omversity, rolana

Fairness and Overlapping Intellectual Property Rights: Is It All about Requirements?

Milton Lucídio Leão Barcellos, Antonio Meneghetti Law School, Brazil

An Inter-Disciplinary Analysis of THE SLANTS Case

Vicki T. Huang, Deakin University, Australia

Ordre Public in Chinese Trademark Law: Recent Cases

Xiuqin Lin, Xiamen University, China

The Unfairness of Overlapping Rights: The Case Against Trademark and Copyright Protection Overlaps

Irene Calboli, Texas A&M University, USA

Post-sale Confusion, Parasitic Competition and the Boundaries of Imitation Freedom of the External Appearance of a Product

Marek Salamonowicz, University of Warmia and Mazury in Olsztyn, Poland

7.30pm Gala Dinner at Restaurant Sipuli

Restaurant Sipuli, Kanavaranta 7, 00160 Helsinki

Bus transportation for Gala guests at 7.00pm from Radisson Blu Royal Hotel, Runeberginkatu 2, Helsinki.

Leaving from restaurant Sipuli at 11.30pm.

WEDNESDAY 8 AUGUST

8.45 - 10.45am

Session 9 - Fairness, Morality and Ordre Public: What Does it Mean in Patent Law?

Assembly Hall

Chair: Taina Pihlajarinne, University of Helsinki, Finland

Moral Exclusions on Patents: in Search of Foundations

Aurora Plomer, University of Bristol Law School, UK

Patent Policy in the Age of Nationalism

Sapna Kumar, University of Houston Law Center, USA

Ordre Public and Morality Exclusions from Patentability in a Developing Muslim Country: Pakistan

Saad Nusrullah, Punjab University Law College, Pakistan

Patents, Morality and Biosciences Innovation

Ana Nordberg, Lund University, Sweden

Wither Fairness: Pricing Issues In The Pharmaceutical Industry

Vidya Kumari, Hyderabad University, India

Fairness, Patents and Plausibility

Pamela Lönnqvist, University of Helsinki, Finland

Compulsory Licensing of Patented Pharmaceuticals Using the Marrakesh Model

Jerome H. Reichman, Duke University, USA

Towards a fair Intellectual Property Framework for Open Science

Juan Fernando Cordoba Marentes, Universidad de La Sabana, Colombia

10.45 - 11.05am Morning Break

11.05 - 11.50am

Session 10 - Panel Discussion: Education and Methodology

Assembly Hall

Chair: Niklas Bruun, IPR University Center, Finland

Panelists:

- Sherif Saadallah, World Intellecutal property Organizaton (WIPO) Academy
- Orit Fischman-Afori, College of Management Academic Studies, Israel
- Graeme Dinwoodie, Chicago-Kent College of Law, USA
- Jeremy de Beer, University of Ottawa, Canada

11.50am - 12.10pm

ATRIP Essay Competition

Assembly Hall

Chair: Jan Rosén, Stockholm University, Sweden (past ATRIP President (2009-2011))

12.15 - 12.55pm

ATRIP General Assembly

Assembly Hall

Daniel Gervais (President) Raquel Xalabarder (Treasurer)

1.00pm Closing Lunch

2.00pm Cruise to Suomenlinna

Departure at Kauppatori, Market Square

Arrival at 18.00 from Suomenlinna to Kauppatori

PARTICIPANTS

10.



1. Adelman Martin	George Washington University Law School
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2.	Alén-Savikko Anette	University of Helsinki
3.	Alter Omri	Hebrew University

Antikainen Mikko
Hanken School of Economics
Arezzo Emanuela
University of Teramo

6. Awad Bassem Centre for International Governance Innovation

Ayoubi Lida AUT Law School
Ballardini Rosa Maria University of Lapland

9. Banerjee Arpan Jindal Global Law School/University of New South Wales

Barczewski Maciej University of Gdansk

11. Bartow Ann University of New Hampshire School of Law

12. Beiter Klaus D. North-West University 13. Beldiman Dana **Bucerius Law School** 14. **Binctin Nicolas** Université de Poitiers 15. Bixio Maria Letizia European University of Rome 16. **Bond Catherine** University of New South Wales 17. Borghi Maurizio Bournemouth University

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43. Ghosh Shubha Syracuse University

44. Golden John The University of Texas School of Law

45. Granmar Claes Stockholm University

46. Griffiths Jonathan Queen Mary University of London
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49. Hakoranta Eeva Nokia

Hang Nguyen
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Heald Paul
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52. Heiska Eira IPR University Center53. Homar Philipp Danube University Krems

54. Hosio Jaakko Finnish Patent and Registration Office

55. Huang Vicki Deakin Law School56. Hughes Justin Loyola Law School

57. Isiko Strba Susan University of the Witwaterstrand

58. Izyumenko Elena CEIPI

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65. Kivistö Martti Teosto, Finnish Composers' Copyright Society

66. Kolasa Magdalena LMU

67. Kumar Sapna University of Houston Law Center

68. Kumari Vidya Osmania University

69. Kur Annette Max Planc Institute for Innovation and Competition 70. LaFrance Mary UNLV 71. Lauriat Barbara King's College 72. Le Stanc Christian Universite de Montpellier FNDE Leão Barcellos Milton Lucídio 73. Leão Intellectual Property 74. Chicago-Kent College of Law Lee Edward 75. Lee Byoung Kyu Myongji University 76. Lee Nari Hanken School of Economics 77. Li Phoebe University of Sussex 78. Li Yahong The University of Hong Kong 79. Lin Xiugin Xiamen University 80. Lindroos Katia Univeristy of Eastern Finland/ Law School 81. Lungu Ackim Kenneth Kaunda Metropolitan University 82. Lunney Glynn Texas A&M University 83. Lönnqvist Pamela University of Helsinki 84. Madrenas Carme Universitat de Barcelona 85. Melashchenko Nikita Victoria University of Wellington 86. Mendis Dinusha **Bournemouth University** 87. Mezei Péter University of Szeged 88. Michalopoulou Zoi **Bucerius Law School** 89. Mikkola Ella Bird & Bird 90. Mizaras Vytautas Vilnius University 91. Moody Oluwatobiloba CIGI 92. Mylly Ulla-Maija University of Turku 93. MvIIv Tuomas University of Turku 94. Mysoor Poorna University of Oxford 95. Nadde-Phlix Souheir Lebanese American University 96. Nordberg Ana **Lund University** 97. Norrgård Marcus University of Helsinki 98. Nusrullah Saad Punjab University Law College 99. Nwabueze Joelle University of South Africa 100. Ożegalska-Trybalska Justyna Intellectual Property Law Chair of Jagiellonian University 101. **Oesch Rainer** Helsinki University 102. Oke Emmanuel University of Edinburgh 103. Oker-Blom Max Hanken School of Economics 104. Oshikamo Ryoko Osterrieth Christian Hoyng Rokh Monegier 105. Pacud Zaneta Polish Academy of Science 106. Papastefanou Stefan **Bucerius Law School** 107. Pieroni Louisa Hanken School of Economics 108. 109. Pihlajarinne Taina University of Helsinki Pitkänen Olli **IPR University Center** 110. 111. Plomer Aurora University of Bristol 112. Quintais João Pedro University of Amsterdam Reichman Jerome **Duke Law School** 114. Rendas Tito Católica Research Centre for the Future of Law 115. Ricketson Staniforth (Sam) Melbourne Law School, University of Melbourne 116. Rosen Jan Stockholm University Rubi-Puig Anton Universitat Pompeu Fabra 117. Saadallah Sherif World Intellectual Property Organization 118 Salamonowicz Marek University of Warmia and Mazury in Olsztyn 119. 120. Sánchez García Luz **UCAM University** Mitchell Hamline School of Law 121. Sandeen Sharon 122. Sbarbaro Eleonora **LUISS University** 123. Schovsbo Jens University of Copenhagen 124. Schröder Vilhelm Roschier Senftleben Martin Vrije Universiteit Amsterdam, Faculty of Law 125. 126. Sganga Caterina Central European University 127. Shen Chung-Lun National Chengchi University 128. Sikorski Rafal Adam Mickiewicz University 129. Skladany Martin Penn State Dickinson Law 130. Spedicato Giorgio University of Bologna 131. Stoianoff Natalie University of Technology Sydney IMC, Uppsala University 132. Szkalej Kacper 133. Tamai Katsuva University of Tokyo 134. Tao Qian China University of Political Science and Law 135. Tarantino Bob Osgoode Hall Law School 136. Taylor Timothy University of Leeds 137. Tiihonen Tuomas Hanken School of Economics 138. Tischner Anna Jagiellonian University 139. Torti Valerio Università Europea di Roma

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142.	Uzer Cengelci Göken	Hanken School of Economics
143.	Wager Hannu	WTO
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151.	Wright Evana	University of Technology Sydney
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153.	Xalabarder Raquel	Fundacio per a la Universitat Oberta de Catalunya
154.	Xue Hong	Beijing Normal University
155.	Yu Helen	Sciences Po Paris
156.	Yu Peter	Texas A&M University School of Law
157.	Yu Xiang	Huazhong University of Science and Technology
158.	Zenin Ivan	Lomonosov Moscow State University
159.	Özkan Zehra	Ankara University



IPR SUMMER SCHOOL 2019



Save the date 3 - 7 June 2019!

IPR University Center will arrange its popular 6th edition of 2019 IPR Summer School from 3-7 June, 2019. The Summer School features a range of different academic events with thought provoking lectures and dynamic discussions on IP law and digital technology, such as artificial intelligence, gene editing as well as regulation of new actors in IP value chains. Ideally targeting students, researchers and practitioners, the summer school presents a unique possibility for the participants to enhance their knowledge on international and European IP law topics, while enjoying bright summer days and white nights in Finland. Successful participant would be awarded 5 ECTs study points.

More detailed information is available on IPR University Center website **iprsummerschool.com**Do not hesitate to contact **auri.vainio@hanken.fi** for additional information on the programme.

HANKEN SCHOOL OF ECONOMICS IPL PROGRAM



Hanken is the leading Intellectual Property Law academic institution in Finland. Among other academic network, Hanken is hosting the IPR University Center. Founded in 2002, IPR University Center coordinates educations and research in intellectual property laws in the member universities.

Intellectual Property Law (IPL) is a specialization for English master degree programme at Hanken. IPL specialization provides a unique opportunity to combine legal and business studies and equipping students with solid expertise in both areas. The students learn from the experts from the industry, as well as internationally renowned visiting professors and guest lecturers. The studies offer an international environment of high academic standard, with a wide range of career opportunities.

Application opens in November:

https://www.hanken.fi/en/studies/apply/masters-degree-programme/intellectual-property-law