

## Practical Business Law

**4 credits**

MGT-455

Summer semester 2020

### Denis Cherpillod

Doctor of law, attorney-at-law

Reymond & Associés

Avenue de la Gare 1

PO Box 7255

1002 Lausanne

Tel : 021 348 11 11

chepillod@jmrlegal.ch

www.jmrlegal.ch

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<u>Schedule:</u>	Summer semester, Mondays between 13:15 and 16:00
<u>Location:</u>	ODY016
<u>Course website/moodle:</u>	<a href="http://moodle.epfl.ch">http://moodle.epfl.ch</a> (search MGT-455)
<u>Office hours:</u>	8h30 to 17h, Monday to Friday (phone and e-mail: see above)

### COURSE OVERVIEW

*Objectives.* The objective of this course is to understand the fundamental concepts of business law from a practical standpoint, including contracts and company law, intellectual property, competition law and data protection. Attention is drawn to material issues in several contexts, with a focus on the parties' needs and the ways to best address them.

*Content.* This course will cover the legal foundation of business transactions with focus on practical handling of legal issues frequently arising in a business context. This course includes:

- an introduction to contracts (formation, completion and termination)

- a study of common business agreements (purchase and sale agreements, manufacturing, services, cooperation, non-disclosure, non-compete),
- an overview of intellectual property (patents, copyrights & trademarks),
- an overview of competition law and data protection,
- technology development and transfer agreements (licenses, franchises, R&D, joint ventures),
- an overview of company law, with special emphasis on the most common form of companies,
- an overview of the issues that are specific to start-up companies, including relationships amongst shareholders and financing by investors,
- a role game (limited participation) enabling students to negotiate a business transaction and handle a litigation case.

Specific skills will be taught, such as drafting typical contractual clauses and some negotiation techniques and pitfalls. Finally, this course draws the students' attention to certain issues relating to taxation and dispute resolution.

#### DIDACTIC APPROACH AND CLASS ATTENDANCE

Lecture with cases or examples prepared at home and discussed in class. Students' participation is strongly encouraged.

Preparation before class will be required (on average 1-2 hours for each class). Preparation will take the form of exercises (negotiate a simple deal, prepare a short contract, analyze certain typical contracts or other documents) or quizzes.

Prior legal knowledge is not required.

#### LEARNING OUTCOMES

Students will learn how to:

- Identify major issues in situations with legal implications
- Assess / evaluate advantages and disadvantages of various legal solutions
- Distinguish different types of contracts and companies and their respective features
- Structure, understand, negotiate and draft the business terms of the major types of contracts used in business transactions, such as engineering agreements, technology transfer agreements and corporate transactions
- Explain the functioning of a company (including its financing and the relationships between shareholders)
- Construct a basic legal reasoning
- Assess / Evaluate the legal risks associated with a transaction
- Identify when legal advice should be sought

## MATERIALS

Slides of each presentation, as well as additional documentation and preparation materials, will be available in advance of each class on the course Moodle website.

## FORM OF EXAMINATION & GRADING

85% of the grade will be based on final written examination during summer session (open book, i.e. with access to any written material the student deems appropriate; use of laptops or other electronic devices and access to the internet in any form is not allowed during the exam); 15% of the grade will be based on exercises during the semester (including participation in the role game).

## COURSE SCHEDULE: A QUICK OVERVIEW OF THE SESSIONS

Session	Date	Topics	Submissions
1.	17.02.2020	Introduction to the legal system and to contracts	
2.	24.02.2020	Contracting process and contractual drafting	
3.	02.03.2020	Contracts (1)	
4.	09.03.2020	Contracts (2)	
5.	16.03.2020	Contracts (3)	
6.	23.03.2020	Company law (1)	
7.	30.03.2020	Company law (2)	
8.	06.04.2020	Company law (3)	
	13.04.2020	No class – Spring break	
9.	20.04.2020	Start-ups (1)	
10.	27.04.2020	Start-ups (2)	
11.	04.05.2020	Intellectual property	
12.	11.05.2020	Competition law and data protection	
13.	18.05.2020	Distribution, license and technology transfer	
14.	25.05.2020	Role game/final questions	

## DETAILED COURSE OUTLINE

### **Week 1 17.02.2020 Introduction to the legal system and to contracts**

- Introduction to the course and principles
- Introduction on the legal system, international context, court enforcement
- Legal sources

- Theory of rights and obligations
- Contract formation (freedom of contract, consent, form)

**Week 2 24.02.2020 Contracting process and contractual drafting**

- Contracting process
- Termination of contracts
- Contractual drafting
- Typical contractual clauses (warranties, indemnification, confidentiality, choice of law, choice of jurisdiction, form requirements, annexes)
- Tax considerations

**Weeks 3 to 5 02.03, 09.03 and 16.03.2020 Contracts**

- Presentation of the main provisions and effects and practical analysis of following agreements:
  - Letter of intent / Term sheet
  - Confidentiality agreement
  - Employment agreement
  - Real estate lease and equipment leasing agreements
  - Credit and guarantee agreements
  - Mandate/Consulting agreements
  - Purchase and sales agreement
  - Manufacturing agreement/Work contract
  - Cooperation/joint venture agreement
  - Overview of other types of contracts (licence, franchise, brokerage, R&D)

**Weeks 6 to 8 23.03, 30.03 and 06.04.2020 Company law**

- Principles of company law (forms of companies, commercial register, international context, internal v. external relationships)
- Overview of partnership law (simple partnership, general partnership, limited partnership)
- Corporations (creation, capital requirements, structure and governance)
- Limited liability companies

**Weeks 9 and 10 20.04 and 27.04.2020 Start-ups**

- Start-up process and context
- Study of main clauses of most common agreements in a start-up context
  - Employment agreements (bonuses, golden parachutes, IP, non-compete)
  - Stock option plans (strike price, vesting, possible schemes)
  - Shareholders' agreements (transfer restrictions, incl. pre-emptive rights, tag-along, drag-along, call and put options, valuation, investment, anti-dilution provisions; control, incl. board composition, veto rights; dispute resolution mechanisms; other provisions)
  - Study of a shareholders' agreement
  - Investment agreements
    - Founders' concerns and interests
    - VC's concerns and interests

- Milestones
- Representations and warranties
- Form of investment (preferred shares, convertible debentures)
- Study of an investment agreement
- Exit strategies
  - Trade sale (asset and share purchase agreements; pricing terms, including earn-out, retainer, staggered pricing, escrow agreement)
  - IPOs

**Week 11 04.05.2020 Intellectual property**

- Trademarks
- Design
- Patent
- Copyright

**Week 12 11.05.2020 Competition law and data protection**

- Introduction to competition law
  - Restrictive agreements
  - Abuse of dominant position
  - Merger control
- Overview of data protection law

**Week 13 18.05.2020 Distribution, licence and technology transfer**

- Distribution and franchise agreements
- Transfer of right to produce
  - License
  - Assignment of IP
- Study of a license agreement

**Week 14 25.05.2020 Role game, final questions**

- Oral presentation of the role game
- Wrap-up, final questions