



CRI 820
Global Licensing and Distribution Agreements
Fall 2016

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Where: ILC 102
(International Living/Learning Centre, 240 Jarvis St., Toronto ON, M5B 2L1)

When: Mondays, from 3 pm to 6 pm
(September 5, 12, 19, 26; October 3, 17, 24, 31; November 7, 14, 21, 28; December 5)

Web Site: Course shell through my.ryerson.ca

Calendar Description: It is essential for content creators to have the ability to market and exploit their intellectual property to others, both in Canada and internationally. Intellectual property is increasingly the primary subject matter of commercial transactions, as domestic and foreign licensing, distribution, and technology transactions allow intellectual property owners to commercialize their assets. In this practical course, legal issues and key contractual matters will be examined in both a Canadian and international context, and domestic rights and remedies will be compared with those found in legal systems around the world. Various contracts involving the exploitation of creative content will be examined, including license agreements, distribution agreements, asset and share purchases, and joint ventures.

Course Objectives: Upon completion of this course, students will be able to evaluate what considerations are at play in entering into licensing and distribution agreements for content, think strategically about how to optimize those considerations, and participate in their negotiation with their eyes wide open. This is not a law course, and its students will not learn to draft licensing or distribution agreements. But they will have learned, both second-hands and through a hands-on exercise, about how intellectual property is financed and monetized as a business matter, both domestically and globally.

Required Materials: All required reading materials are available online. This means you won't have to spend any money on a textbook. But it also means that you will be working more with primary materials, and less with a cohesive narrative that tries to tie it all together. The classroom, and interactive lectures (see teaching methods), is where we will begin to do that. Please come prepared.

Teaching Methods: The course will proceed by way of interactive lecture, questions, and classroom discussions. Contact with industry professionals (through an interview assignment), and laboratory learning (through a negotiation exercise), are important features of the course. Readings have been selected to help prepare you for class, provide hands-on experience with documentation used in the industry, participate more fully in discussions, and earn more participation marks. If you do not understand what I am saying, I expect you to interrupt me—politely, at an appropriate juncture, and after having given it a chance to sink in—and ask. If you have questions about the course content, or about current events that relate to the course, I encourage you to raise them in class: some of your fellow students may be wondering or interested, too.

Assignments and Evaluation: Grades will be posted to Brightspace within two weeks: in the interim, you must retain a personal copy of all work turned in, as well as all rough materials, references, sources, and working notes. Late assignments will be docked 5 percent per weekday.

Assignment	Length	Due	Weight
Participation. “Showing up is 80 percent of life,” as Woody Allen apparently said: but it’s eight percent of this course—attendance will be taken. Active participation, especially of readings, gets the other two points.	11 classes (i.e. all but the first)	all term	10%
Index card assignment. Obtain an index card. On one side, write your name, and affix a photo. On the other, explain concisely: a) what you’d like to get out of this class; b) what you hope to be doing five years after graduation; and c) a cultural artefact you like: song, TV series, fashion designer, whatever.	index card	Sept. 19	10%
Industry interview. How are digital platforms re-patterning distribution in some of the creative industries in which you participate? Identify an industry figure with a unique perspective on that process, develop an intelligent line of questioning, reach out to them (drawing on any assistance you require – including your instructor’s), and conduct an interview. Then transcribe and edit to cut the chaff and focus on the good stuff, and submit it as a document. We’ll look to publish these online, so your subject will also need to sign a release indicating that they are okay with your doing this. We will work together in class to identify the elements of the release.	2500 words, plus release	Oct. 17	25%
Negotiation exercise. By October 3, you’ll be assigned to one of five roles: producer (<i>with a particular video content library</i>); one of three distributors (<i>a Canadian vertically-integrated communications company, an American television group, and a Californian global over-the-top service</i>); or an integrated federal government team (<i>policy, funding, and regulation</i>). Your goal: work with your role-mates, and negotiate with your counterparts, to achieve business success. November 21 is allocated to formal negotiations, in the classroom “marketplace”. But, by then, you only have till the following class (28), when you tell us where you landed—so get going early, book your meetings, and get your deals straight.		Oct. 3 (roles) Nov. 21 (market)	
Cheat sheet. To prepare, you’ll want to boil down your negotiating goals and strategies to take you there; anticipate what the other sides will be looking for; and think through how to react. But be concise: you don’t want to be flipping through documents while the negotiation waits. You’re part of a negotiating team—coordinate, but find a role for each member. This is an individual mark, but it’ll be enhanced by an integrated team approach that’s apparent from member’s cheat sheets.	one sheet	Nov. 14	10%
Term sheet and presentation. Once the dust has settled, you’ll hand the industry panel a term sheet outlining your deal (s—if any), and present what happened: your strategy, what you were aiming at, where you landed, why, and what other strategies you’d still have up your sleeve (if any). This is your only group mark. It’ll reflect both what you achieved in negotiations, and the insight with which you explain what happened and why.	short doc & 20-minute team presentation	Nov. 28	20%
Carry-forward advice. Your final assignment, due at the end of the exam period, is to analyze the negotiation exercise through a digital lens—what would this look like in a few years—by providing “carry-forward” advice. The carry-forward document’s role is to ground three kinds of advice in your analysis and this experience: <i>industry advice</i> , to those whose job is the role you played; <i>professional advice</i> , to someone looking to enter the industry next year; and <i>federal policy advice</i> : how should federal institutions change what they’re doing, if at all?	2500 words	Dec. 17	25%

Course schedule and readings: The following sets out weekly topics, themes to be discussed, and readings that you are expected to undertake—and will be the basis for much of your learning. Classes related to the negotiation exercise (“NX”), for which there are no assigned readings, are shaded.

Monday	Topic	Due
Sep12 (01.)	Introduction <i>Activities:</i> introductions and course outline: classes, assignments, questions. <i>Themes:</i> intellectual property rights (CPT and contractual disposition); control-based models (windowing and enforcement), non-control-based models (compulsory licences, creative commons, promotional content and UGC), and hybrids (Content ID and asking forgiveness); financing sources.	-
Sep19 (02.)	Video Content: Audiovisual Markets I <i>Activities:</i> Discuss interview assignment; work out form of release. <i>Themes:</i> Distribution and licensing agreement building blocks and checklists: process-oriented thinking. Producers, windows, and distribution partners revisited. <i>Please read:</i> <ul style="list-style-type: none"> - CMF convergent stream: Development Program Guidelines [17 pp], Television Component Checklist [2 pp] and recoupment policy [pp 6-1 through 6-6 only]. - CMPA – Astral-Bell-Rogers-Shaw 2011 terms of trade. [20 pp] 	index cards (10%)
Sep26 (03.)	Video Channels & Streams: Audiovisual Markets II <i>Themes:</i> Seeing video distribution from the other side: broadcasting regulation and foreign inbound investment; horizontal consolidation and television genres; local signals, distant signals, and specialty and pay television. <i>Please read:</i> <ul style="list-style-type: none"> - CTV Inc. on behalf of The Sports Network Inc. (TSN), Le Réseau des Sports (RDS) Inc. (RDS), and 2953285 Canada Inc. operating as The Discovery Channel, Decision CRTC 2000-786, 24 March 2000, paragraphs 34-43. - Statements of Royalties to Be Collected for the Retransmission of Distant Television and Radio Signals, in Canada, for the Years 2009 to 2013, Copyright Board, Forms 3 and 4 only [pp. 26-27 and 31]. - Rogers Media Inc., on behalf of Vice Network Canada Inc., CRTC Application 2015-1338-3—Joint Venture Term Sheet (Doc5), Unanimous Shareholders Agreement (Doc6), and Asset Purchase Agreement (Doc12) [all from within ZIP file] 	-
Oct3 (04.)	Songs: Audiovisual Markets III <i>Themes:</i> Fifteen years after Napster went offline, whither digital distribution? Did video get something right that music got wrong? Where did music distribution get to in the meantime? <i>Please read:</i> <ul style="list-style-type: none"> - Magnatune, Annotated Online Music Distribution Agreement [9 pp] - Heather McDonald, “What is the difference between licensing and distribution?” <i>The Balance</i>, 24 May 2016. [link] - Micah Singleton, “This was Sony Music’s contract with Spotify”, <i>The Verge</i>, 19 May 2015. [link and agreement] 	-

Monday	Topic	Due
	<ul style="list-style-type: none"> - Music Canada, Tariff 8 Q&A; Michael Geist, "The battle over Tariff 8"; Barry Sookman, "Michael Geist's attack" <p><i>And if you're very interested:</i> William Genereux, "9 key points about music streaming", 6 October 2014. [18 pp]</p>	
Oct10	Study Week.	-
Oct17 (05.)	Negotiation Exercise: Role Speakers The Negotiation Exercise requires you to take up one of five roles. During these three classes, you will hear from guest speakers who work in industry. Listen to them carefully. Observe how they interact. In the Negotiation Exercise you may take on their roles.	interviews & releases (25%)
Oct24 (06.)		-
Oct31 (07.)		-
Nov07 (08.)	Books and E-Books <i>Themes:</i> How digitization puts cracks in nationally-organized global book licensing and distribution—and how competition concerns played in. <i>Please read:</i> <ul style="list-style-type: none"> - Margaret Kane, "Canadian group throws book at Amazon", Cnet.com, 6 August 2002. [link] - <i>Commissioner of Competition v. Hachette et al.</i>, Consent Agreement, CT-2014-001, 7 February 2014 (Competition Tribunal). [12 pp] - <i>Apple Inc.</i>, petitioner, <i>v. U.S. et al.</i>, No. 15-565 (2d Cir. 2015)—Brief of the United States in opposition to Apple's petition for a writ of certiorari. [37 pp] 	-
Nov14 (09.)	Apps, Software, Hardware, Technology: Vertical Tying and Reverse Razorblades <i>Themes:</i> On-deck and off-deck apps. Content licensing models when the content's purpose is to market an underlying technology. Technology licensing and how it differs from content licensing (and how it doesn't). <i>Please read:</i> <ul style="list-style-type: none"> - World Intellectual Property Organization, <i>Successful Technology Licensing</i> (WIPO, 2015). [70 pp] - Google-HTC Mobile Application Distribution Agreement, 2010. [13 pp] 	NX cheat sheet (10%)
Nov21 (10.)	Negotiation Exercise: Do the Deal	NX "market": negotiate
Nov28 (11.)	Negotiation Exercise: Present to Panel	NX term sheets & presentations (20%)
Dec5 (12.)	Review of Key Concepts <i>Themes:</i> This review class will revisit themes that cut across the different industry sectors we have seen. Items will include: rights registrations; exclusivity and windowing (including term, territory, and platform) re-visited, along with sub-distribution and cross-collateralization; MFN clauses; moral rights, work for hire, and the right to approve licensed goods; common reps and warranties. <i>Please read:</i> Readings you didn't have a chance to get to. You'd be surprised how much they'll inform your Negotiation Exercise analysis piece.	-
Dec17	Final day of examination period.	NX carry-forward (25%)

Course Policies: Please take note of the following.

- *Electronics in the classroom:* You're expected to conduct yourself professionally and with courtesy. Turn off cell phones during all classes. Avoid the use of laptops for notetaking. They have a tendency to cause students to act as transcribers instead of thoughtful note-takers, because they let you avoid having to summarize on the fly.
- *Changes to the course:* Material changes to course assignments, due dates, or grading will be notified in advance and discussed in class. If you think there should be such changes, identify what and why—either in class, or offline with the instructor, based on your comfort level.
- *Guest speakers:* Guest speakers will attend our class. They are taking time away from families, friends, or jobs to do so. Please treat them with respect. And please refrain from contacting them outside class unless invited to do so.
- *Group work:* A negotiation exercise is a significant element to this practical course. It is designed so that most related marks are individual, and that you have a chance to individually influence them. However, there is a group assignment, and even the individual assignments will be impacted by your group's success in working together—just like in the creative industries. All members should therefore expect, and demand, that you work collaboratively and contribute equally to the research and preparation. Exchange contact points, respond to one another promptly, and put yourselves in one another's shoes.
- *Special circumstances:* Medical or compassionate accommodations, or any other considerations sought, should be requested by **September 26**—or, if that is impossible, then as soon as possible. If you miss a class or require an extension because you are sick, talk with Paula Rayson, Student Coordinator (raysonp@ryerson.ca, RCC-305, 416-979-5000 x3278). If there is a situation that may adversely impact your performance, inform the instructor promptly as soon as you are aware of it.

Ryerson Policies: This course is conducted in accordance with all relevant University academic policies and procedures. You are expected to familiarize themselves with them, adhere to them and, if you think some aspect of the course is failing to adhere to them, notify the instructor immediately. Refer, in particular, to the *Creative Industries Student Handbook* (ryersoncreative.ca) for specific information about:

- Policy #60: Student Code of Academic Conduct
- Policy #61: Student Code of Non-Academic Conduct
- Policy #134: Undergraduate Academic Consideration and Appeals
- Policy #157: Ryerson's E-mail Accounts for Official Communication
- Policy #159: Academic Accommodation of Students with Disabilities