

UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet: Intelektualna lastnina v kontekstu konkurenčnega prava
Course title: Intellectual Property in the Context of Competition Law

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester
Študijski program 3. stopnje Pravo		2.	Zimsli ali letni
Study programme of 3 degree - Law			Autumn or Spring

Vrsta predmeta / Course type

Izbirni / optional

Univerzitetna koda predmeta / University course code:

D026

Predavanja Lectures	Seminar Seminar	Vaje Tutorial	Klinične vaje work	Druge oblike študija	Samost. delo Individ. work	ECTS
20	10				240	9

Nosilec predmeta / Lecturer:

Dr. Martina Repas

Jeziki /

Predavanja / Lectures: Slovenski / Slovene

Languages:

Vaje / Tutorial:

Pogoji za vključitev v delo oz. za opravljanje študijskih obveznosti:

Poznavanje osnov prava EU.

Prerequisites:

Basic knowledge of EU law.

Vsebina:

Content (Syllabus outline):

<ul style="list-style-type: none"> - Temeljne značilnosti intelektualne lastnine - Temeljne značilnosti konkurenčnega prava (nacionalno in konkurenčno pravo EU) - Intelektualna lastnina v kontekstu sporazumov o prepovedi omejevanja konkurence (analiza 101. člena PDEU; izjeme od prepovedi; skupinske izjeme) - Skupinske izjeme za sporazume o prenosu tehnologije - Intelektualna lastnina v kontekstu skupinskih izjem za druge vrste sporazumov - Intelektualna lastnina v kontekstu prepovedi zlorabe prevladujočega položaja (analiza 102. člena PDEU; prevladujoč položaj; vrste zlorab prevladujočega položaja; zlorabe, ki se nanašajo na pravice intelektualne lastnine) - Intelektualna lastnina na področju koncentracij med podjetji - Analiza odločb Sodišča EU. 	<ul style="list-style-type: none"> - Basic features of intellectual property law - Basic features of competition law (national competition law and EU competition law) - Intellectual property in the context of restrictive agreements (Art. 101 TFEU analysis; exemption from prohibition; block exemptions) - Block exemption for technology transfer agreements - Intellectual property in the context of block exemption for other types of agreements - Intellectual property in the context of abuse of dominant position (Art. 102 TFEU analysis; dominant position; types of abuses of dominant position position; abuses relating to intellectual property rights) - Intellectual property in the field of concentrations between undertakings. - Analysis of the decisions of the CJEU.
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Temeljni literatura in viri / Readings:

<ul style="list-style-type: none"> - Ahlborn C, Evans D & Padilla A J, The Logic & Limits of the »Exceptional Circumstances test« in Magill and IMS Health, <i>Fordham International Law Journal</i>, 28(4), 2004, strani 1109–1156. - Anderman S & Schmidt H, <i>EU Competition Law and Intellectual Property Rights</i> (Oxford University press 2011). - Aplin T & Davis J, <i>Intellectual Property Law (Text, Cases, and Materials)</i> (Oxford University Press 2017). - Bently L & Sherman B, <i>Intellectual Property Law</i> (Oxford University Press 2018). - Fagerlund N & Rasmusen S B, AstraZeneca: the first abuse case in the pharmaceutical sector, <i>Antitrust</i>, 3, 2005, strani 54–56. - Faull J & Nikpay A, <i>The EU Law of Competition</i> (Oxford University Press 2014). - Ghosh S, Intellectual Property Rights: The View from Competition Policy, <i>Northwestern University Law Review Colloquy</i>, Vol. 103, 2009, strani 344–351. - Hemphill C S, Intellectual Property and Competition Law, <i>Oxford Handbook of Intellectual Property law</i>, 2017. - Jones A & Sufirin B, <i>EU Competition Law (Text, Cases, and Materials)</i> (Oxford University Press 2016). - Lamping M, Refusal to License as an Abuse of market Dominance – From Commercial Solvents to Microsoft, V: Hilty R M & Liu K C: <i>Compulsory Licensing: Practical Experiences and Ways Forward</i> (Springer 2015). - Lianos I, Competition law and Intellectual Property Rights: Is the property Rights' Approach Right?, <i>Cambridge Yearbook of European Legal Studies</i>, Vol. 8, 2006, strani 153–186. - Raju KD, Interface between Competition law and Intellectual Property Rights: A Comparative Study of the US, EU and India, <i>Intellectual Property Rights</i>, 2(3), 2014, str. 115. - Repas M, <i>Pravo blagovnih in storitvenih znamk</i> (GV Založba 2007). - Rousseva E, <i>Rethinking Exclusionary Abuses in EU Competition Law</i> (Hart Publishing 2010).

- Tritton G, *Intellectual Property in Europe* (Sweet & Maxwell 2018).
- Tušek I, EU Competition Law Policy Versus Intellectual Property Rights: A Study of the Microsoft Case, *CYELP* 6, 2010, strani 103–126.
- Whish R & Bailey D, *Competitio Law* (Oxford University Press 2015).

Študenti bodo o novejši literaturi obveščeni na predavanjih.

Cilji in kompetence:

Cilj tega predmeta je, da študenti pridobijo najbolj poglobljeno znanje o interakciji med pravom intelektualne lastnine in konkurenčnim pravom ter sodobnih izzivih in problemih te interakcije kot tudi sposobnost razumevanja tega na najvišji zahtevnostni stopnji.

Objectives and competences:

The objective of this subject is to acquire in-depth knowledge of the interaction between intellectual property law and competition law including the contemporary legal challenges and problems of it and to develop the ability to fully understand this topic on a highest level of education.

Predvideni študijski rezultati:

Znanje in razumevanje:

Po zaključku študija predmeta bo študent sposoben

- na znanstveni ravni izkazati razumevanje sodobnih problemov in izzivov interakcije prava intelektualne lastnine in konkurenčnega prava;
- kritično ovrednotiti različna stališča in odločbe Sodišča EU v zvezi s tem;
- diskutirati in se pisno izražati o tovrstnih pravnih problemih na znanstveni ravni.

Prenesljive / ključne spretnosti in drugi atributi:

Ustno in pisno izražanje na znanstvenem nivoju o najzahtevnejših pravnih problemih.

Intended learning outcomes:

Knowledge and understanding:

After the accomplishment of this subject the student will be able to:

- demonstrate an understanding of the contemporary problems and challenges of intellectual property and competition law interaction;
- critically evaluate different opinions and decisions of the CJEU relating to this interaction;
- discuss and write about the problems and challenges of this interaction in the scientific level.

Transferable/Key Skills and other attributes:

Scientifically speaking, oral and written demonstration of the most pretentious legal issues.

Metode poučevanja in učenja:

- predavanja
- seminarji,
- seminarske vaje,
- samostojno delo,
- analiza odločb Sodišča EU

Learning and teaching methods:

- Lectures,
- seminars,
- tutorial,
- individual work,
- analysis of the decisions of the CJEU.

Delež (v %) /

Načini ocenjevanja:

Weight (in %)

Assessment:

Način (pisni izpit, ustno izpraševanje, naloge, projekt) <ul style="list-style-type: none"> • ustni izpit • seminarska naloga na znanstveni ravni 	50 % 50 %	Type (examination, oral, coursework, project): <ul style="list-style-type: none"> • oral exam • scientific written paper
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Reference nosilca / Lecturer's references:

REPAS, Martina, KERESTEŠ, Tomaž. The certification mark as a new EU-wide industrial property right. *IIC : International review of industrial property and copyright law*, ISSN 0018-9855, Mar. 2018, vol. 49, iss. 3, str. 299-317, doi: [10.1007/s40319-018-0671-9](https://doi.org/10.1007/s40319-018-0671-9). [COBISS.SI-ID [5565739](#)]

REPAS, Martina. Public entities as undertakings under competition rules. *Lex localis : revija za lokalno samoupravo*, ISSN 1581-5374. [Tiskana izd.], julij 2010, letn. 8, št. 3, str. 227-243. [COBISS.SI-ID [4114731](#)],

REPAS, Martina. *Die Angleichung der Wettbewerbsregeln in den neuen und zukünftigen Mitgliedstaaten an das Unionsrecht : Slowenien*, (Schriftenreihe des Europa-Kolleg Hamburg). Baden-Baden: Nomos, 2013. 218 str. ISBN 978-3-8329-6366-8. [COBISS.SI-ID [4592171](#)]

REPAS, Martina. *Konkurenčno pravo v teoriji in praksi : omejevalna ravnanja in nadzor koncentracij*. Ljubljana: Uradni list Republike Slovenije, 2010. 503 str., graf. prikazi. ISBN 978-961-204-451-0. [COBISS.SI-ID [249998848](#)]

REPAS, Martina. *Pravo blagovnih in storitvenih znamk*. 1. natis. Ljubljana: GV založba, 2007. 409 str. ISBN 978-961-247-013-5. [COBISS.SI-ID [232503296](#)]

REPAS, Martina. Prodaja blagovne znamke - med svobodnim in omejenim prenosom. *Podjetje in delo : revija za gospodarsko, delovno in socialno pravo*, ISSN 0353-6521. [Tiskana izd.], 2015, 41, [št.] 5, str. 753-769. [COBISS.SI-ID [4953131](#)]

REPAS, Martina, KERESTEŠ, Tomaž. Neue Dimensionen der privaten Durchsetzung der EU-Wettbewerbsregeln : Preisschirmeffekte. *WiRO : Wirtschaft und Recht in Osteuropa*, ISSN 0941-6293, 2015, jhrg. 24, 3, str. 74-77. [COBISS.SI-ID [4850731](#)]