

NAME SUBJECT: THE BUSINESSMAN AND ITS LEGAL STATUS, RIGHT OF COMPETENCE AND GENERAL THEORY OF SECURITIES (Commercial Law I)

GRADE: RIGHT COURSE: THIRD QUARTER: 1st

#### CHRONOGRAM OF THE SUBJECT

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MA-NA SE-

SIÓN DESCRIPTION OF THE CONTENTS OF THE GROUP SESSION

(Mark X) Display

Space required different classroom (classroom, audiovisual, etc.) STUDENT WORK DURING THE WEEK

GREAT-

FROM

PE-

WHAT-

DESCRIPTION HOURS HOURS WORKING HOURS Week

Maximum

7 H

1 1 PRESENTATION OF THE SUBJECT (14.9.2010)

MASTER LESSON:

UNIT 1: FOUNDATION, CONCEPT AND SOURCES OF MERCANTIL LAW

1. Historical evolution of commercial law
2. Concept and content of commercial law
3. The sources of commercial law
4. The economic constitution: freedom of enterprise
5. Mercantile jurisdiction

X Presentation of contents, structure of the signature, objectives pursued and method to be followed. And evaluation system.

Tasks to be developed: Previous reading of the lesson according to the general bibliography and later confrontation with the notes of class and material provided by the teacher. Doubts can be raised in class.

Skills, abilities and skills to be acquired: With this lesson, the student should be aware of the location of commercial law within the Spanish and European legal system, especially its relationship with and proximity to civil law. 1.5 4

1 2 GROUP WORK: Commentary on jurisprudence. STS on the application of trade uses. Or a comment on any provision that violates or may violate the principle of freedom of enterprise (16.9.2010).

X Students, in groups of no more than five, should seek and study the judgments, legal provisions and bibliography on the case, for later class discussion and sharing of conclusions.

1.5

2 3 MAGISTRAL LESSON (21.9.2010):

SUBJECT 2: THE BUSINESSMAN AND ITS LEGAL STATUS

1. Concept of entrepreneur and classes of entrepreneurs
2. The trader or individual entrepreneur according to the Code of Commerce
3. Prohibitions and incompatibilities for the exercise of commercial activity
4. The exercise of mercantile activity per married person
5. The legal status of the commercial entrepreneur

X Tasks to be developed: Previous lesson reading according to the general bibliography and later confrontation with class notes and material provided by the teacher. Doubts can be raised in class.

Competences, skills and abilities to acquire: The student must be able to identify the figure of the entrepreneur versus the consumer, who can be entrepreneurs and how can be achieved that quality in the market. The legal consequences of the status of entrepreneur and the legal consequences of the exercise of business for married persons. 1.5 4

2 4 PRACTICE: Resolution of a factual assumption about the married entrepreneur. The case will be based on some judicial decision (23.9.2010).

X Each student must individually resolve the assumption of fact by legally arguing their decisions in writing. 1.5

3 5 MASTER'S LESSON (28.9.2010):

ITEM 2: THE BUSINESSMAN AND ITS LEGAL STATUS (CONTINUED)

6. The responsibility of the employer: against consumers and against non-consumers
7. The limitation of the responsibility of the employer
8. Representation in commercial law: the auxiliaries and collaborators of the entrepreneur

X Tasks to be developed: Pre-reading of the lesson according to the general bibliography and later confrontation with the notes of class and material provided by the teacher. Doubts can be raised in class.

Skills, abilities and skills to be acquired: In the previous lesson, a first approximation to the figure of the entrepreneur, is now to deepen the level of responsibility assumed by his intervention in the market, especially highlighting the difference of treatment in Their relations with other entrepreneurs or professionals, on the one hand, and with consumers, on the other. 1.5

3 6 GROUP WORK: Comments on court rulings (TS or AAPP) on manufacturer's liability for defective products. Possible indication of any particular judgment (30.9.2010).

X Students must first search the session for several sentences on the subject, preferably from the last years. Later, in class, there will be a discussion and pooling of conclusions, with special focus on some particular point. 1.5

4 7 LESSON LEARNING (5.10.2010):

### ITEM 3 LEGAL REGIME OF ACCOUNTING AND THE MERCANTIL REGISTRY

#### 1. Role, protected interests and nature of accounting regulation

Le2. Evolution of Spanish and European accounting law3. The keeping of accounting books4. The annual accounts: accounting principles, advertising and review5. The audit of accounts6. Introduction to the Commercial Registry: registry system and basic principles of registry advertising7. MRI organization and registration procedure8. Inscriptible subjects: registration and publication9. Material advertising: effects against third parties X Tasks to be developed: Previous lesson reading according to the general bibliography and later confrontation with class notes and material provided by the teacher. Doubts can be raised in class. Competences, skills and abilities to acquire: The student must understand the meaning and function of business accounting and business registration. As regards accounting, the basic aspects of its legal regime, and with respect to the commercial register, the organization of the same and the legal effects of registered and non-registered acts. 1,5 4 8 WORKSHOP ON ACCOUNTING LAW AND / OR MERCANTIL REGISTRATION (7.10.2010): Material approximation to accounting documents and commercial register information. X Students divided into groups should search for accounting models and / or commercial register information to be presented in class. Tasks to be carried out by the students: exhibition of the models and timely explanation of them according to the accounting law. And as for the registration information explanation about access to it, its difficulties, its usefulness and its content. 1.5 5 9 SELF-EVALUATION QUESTIONNAIRE (14.10.2010) X The student should make a recapitulation of the subject studied and the knowledge, skills and skills acquired in the practical sessions. 1,5 5 10 MAGISTRAL LESSON (19.10.2010): ITEM 4: THE COMPANY AND THE BUSINESSES ABOUT IT1. Approach to the concept of company: company and merchant establishment2. The company as a legal business object: general issues3. The sale of company4. Business leasing5. The usufruct of business6. The Mortgage of Company. The transmission mortis causa of the company X Tasks to be developed: Previous reading of the lesson according to the general bibliography and later confrontation with the notes of class and material provided by the teacher. Doubts can be raised in class. Competencies, skills and skills to acquire: The distinction between the economic and legal perspective. The different forms of transmission of the company and the business on it. 1,5 6 11 GROUP WORK: Approach and resolution of a factual assumption on the sale of a company (21.10.2010). X Students, in groups of no more than five, should raise a problematic case about the sale of a company. And they must solve the issues or problems raised. 1,5 6 12 MAGISTRAL LESSON (26.10.2010): TOPIC 5: COMPETITION LAW I: FREE COMPETITION1. The principle of freedom of competition, its obstacles and its guardianship: freedom of business2. Competition and market: relevant market and market power3. European competition law: evolution and influence in Spanish law4. Spanish law: prohibited conduct 5. Conduct not prohibited or allowed6. Control of economic concentrations7. Public aid to businesses8. Bodies for the defense of competition9. Procedure and sanctions against prohibited conduct X Tasks to be developed: Previous lesson reading according to the general bibliography and later confrontation with class notes and material provided by the teacher. Doubts may be raised in class. Competencies, skills and abilities to acquire: The student will be able to assess the situations of competition in the current markets, possible violations of free competition and applicable sanctions. 1.5 7 13 GROUP WORK: Commentary on some or some of the resolutions of the TDC, CNC or the ECJ, on new or

interesting issues in the area of free competition (28.10.2010). X Students, in groups of no more than five, must first search the session for relevant resolutions and study them. In the class will be debated on the content of the same and will try a pooling. 1,5 7 14

**MAGISTRAL LESSON (2.11.2010) ITEM 6: RIGHT OF COMPETITION II: UNFAIR COMPETITION AND PUBLICITY**

**RIGHT 1.** The new law of unfair competition: the reform of the LCD of 1991 and the LGP of 1988 by Law 29/20092. The double structure of the new legal regime of unfair competition: unfair acts with consumers and unfair acts between employers or professionals 3. The general clauses of unfair competition4. Unfair acts against other entrepreneurs or professionals X

Tasks to be developed: Previous lesson reading according to the general bibliography and later confrontation with the class notes and material provided By the teacher. Doubts may be raised in class. Competences, skills and abilities to acquire: The student will be able to distinguish between the protection of free competition and the legal treatment of unfair competition, as well as the meaning of their differential legal treatment. And especially, in unfair competition, the differentiated treatment between businessmen or professionals and between them and consumers. 1,5 8 15

**WORKSHOP ON UNFAIR COMPETITION WITH CONSUMERS:** Reading and joint study of the reformed LCD on unfair practices with consumers (4.11.2010). X Students divided into groups, no more than five, must interpret the corresponding precepts of the reformed LCD. In order to do so, they must prior to the session properly documented. All materials may be used in class (judgments, legal texts, doctrine).

**THEME 6: RIGHT OF COMPETITION II: UNFAIR COMPETITION AND LAW OF ADVERTISING (CONTINUED) 5.** Unfair acts against consumers6. Commercial advertising: between freedom of expression and freedom of enterprise7. Legal assumptions of illicit publicity: the contrary to the dignity of the person, deceitful, disloyal, aggressive, subliminal, and contrary to certain specific norms8. Judicial actions against acts of unfair competition X

Tasks to be developed: Previous lesson reading according to the general bibliography and later confrontation with class notes and material provided by the teacher. Doubts may be raised in class. Competences, skills and abilities to acquire: The student will acquire sufficient capacity to distinguish when faced with illicit advertising, either by misleading, demeaning or contrary to human dignity. And it will be in a position to advise on the best legal tools against acts of unfair competition. 1.5 9 17

**GROUP WORK:** Comment on some judgments on misleading advertising, misleading and the average consumer (11.11.2010). X 1,5 9 18

**LESSONS LEARNED (16.11.2010) ITEM 7: INDUSTRIAL PROPERTY LAW I: PATENTS, UTILITY MODELS AND INDUSTRIAL DESIGNS**

**1.** Introduction: Intellectual Property Law and Industrial Property Law2. Patent law: Concept and requirements of patentability3. Content of the right on the patent: the claims4. Violation of patent law: the doctrine of equivalents5. Duties of the holder: obligation to operate and compulsory license6. Special patents: semiconductor products, biotechnological inventions and plant varieties7. The utility model: concept and legal regime8. Industrial design law: concept and requirements9. Industrial design and fashion creations: special issues10. Registered industrial design11. Unregistered industrial design X

Tasks to be developed: Preliminary reading of the lesson according to the general bibliography and later confrontation with the notes of class and material provided by the teacher. Doubts can be raised in class. Competences, skills and abilities

to acquire: The student will be able to distinguish intellectual property in general and industrial in particular. It will also acquire sufficient basic knowledge to understand the importance of these immaterial properties in the business world and its high market value, particularly with regard to patents and industrial designs. 10 19 **GROUP WORK:** Collective doctrinal and jurisprudential study on the requirements of industrial design: novelty and singularity (18.11.2010). X Students divided into groups, no more than five, must be documented (law, doctrine and jurisprudence) duly to analyze the requirements of industrial design. With special attention to the figure of the informed user and the degree of freedom of the author. 1,5 10 20 **MAGISTRAL LESSON (23.11.2010) ITEM 8: INDUSTRIAL PROPERTY LAW II: DISTINCTIVE SIGNS**1. Introduction to trademark law: concept of trademark and sample catalog2. Birth of the trademark right3. Registration prohibitions: absolute and relative4. The risk of confusion (and association) 5. The notorious and renowned brands6. The ius prohibendi: the exhaustion of trademark law7. Obligation to use the mark8. Nullity of the mark: the prescription for tolerance9. Approximation of international trademark law10. Other distinctive signs X Tasks to be developed: Previous reading of the lesson according to the general bibliography and later confrontation with the notes of class and material provided by the teacher. Doubts can be raised in class. Competencies, skills and skills to be acquired: Within the industrial property studies, the student will acquire fundamental knowledge about the brands. Sun functionality, its protection and The obligations of the holders thereof. 1.5 11 21 **PRACTICE:** Resolution of a factual assumption on the likelihood of confusion in trademark law. The case will be based on some judicial decision, preferably of the TJCE or TS (25.11.2010). X Each student must individually resolve the assumption of fact by legally arguing their decisions in writing. 1,5 11 22 **MASTER'S LESSON (30.11.2010) ITEM 9: GENERAL THEORY OF SECURITIES SECURITIES**1. Introduction: historical evolution, functionality, crisis, concept and function of the general theory of securities2. Incorporation of the rights to the securities: causal obligations and charitable obligations3. Properties of securities: legitimation for possession, literality and autonomy4. Basis of the obligation included in the security value5. Classification of securities6. Documents without title character value7. Electronification of the valid titles X Tasks to be developed: Previous reading of the lesson according to the general bibliography and later confrontation with the notes of class and material provided by the professor. Doubts may be raised in class. Competencies, skills and abilities to acquire: The student will be able to distinguish the securities that usually circulate in the market. Know their functions, their limitations and the basic aspects of their legal regime. Each student will make a final practical case that shows their level of knowledge and their ability in the identification and treatment of some of the subjects studied during the four-month period. 1,5 12 24 **WORKSHOP ON SECURITIES:** Compilation and material verification of the different classes of securities (9.12.2010) X Students must compile for themselves a copy of a titre to present in class. In this one will verify and verify its content and the fulfillment of the legal requirements. 1,5 **SUBTOTAL 36 + 58,3 = 94,315 LESSON MAGISTRAL (14.12.2010) (Recoveries) TOPIC 10: INTRODUCTION TO COMPETITION LAW**1. Introduction: concept, reporting principles and purpose2. The budget of the contest:

subjective, objective and formal<sup>3</sup>. The bodies of the competition: the Judge, the insolvency administration and the creditors' meeting<sup>4</sup>. The effects of the contest: on the debtor, creditors, credits and contracts<sup>5</sup>. The masses of the contest: active and passive<sup>6</sup>. The solution of the agreement<sup>7</sup>. The liquidation of the contest<sup>8</sup>. The qualification of the contest and its effects<sup>9</sup>. The conclusion and reopening of the contest X Tasks to be developed: Previous reading of the lesson according to the general bibliography and later confrontation with the notes of class and material provided by the teacher. Doubts can be raised in class. Skills, skills and abilities to acquire: In the area of business crises the student will learn to distinguish the different types of crisis, especially the insolvency situations leading to the competition of creditors and from there to Agreement or the liquidation of the company. The different stages of the procedure, the guarantees in favor of the creditors and the consequences of the competition for the debtor and for the administrators. 16-18 Recoveries, tutorials, job submission, etc. Students may agree with their teacher individual or collective tutorials to solve doubts and raise questions, reflections or suggestions derived from the study of the subject 3  
TOTAL 125