

Trademarks (LAW 2948) – Fall Semester 2014

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Room 104C

Syllabus

Welcome to the Trademarks course! This syllabus is designed to give you guidance as to the content of the course and its policies. You are welcome to ask questions about it at any point during the semester.

If you would like to meet with me individually, please send me an email at the address listed above.

The learning objectives for this course are to gain an understanding of the substantive area of trademark law, of the policies behind the law, and of the interplay between the statutory provisions and common law that deal with trademarks. This will include analysis of the tensions inherent in intellectual property law and of the conflicts between the different actors in that space. Another objective is to develop stronger oral and writing skills that relate to both the content and style of arguments.

I. Course Text

Graeme B. Dinwoodie & Mark D. Janis, *Trademarks and Unfair Competition: Law and Policy* (4th ed. 2014).

All readings designated with “DJ” refer to the textbook. I may ask you to access other materials or websites at times, in which case I will send you instructions then.

If we depart from rigid adherence to this syllabus -- you **should stay at least one full assignment ahead of wherever we may be**. On the other hand, please **do not read too far ahead**. You will get far more out of the class discussion if the cases are fresh in your mind when we take them up in class. There is no profit in reading material a week in advance if you only have a vague memory of it when we finally get to it in class.

II. TWEN

I have created a TWEN page that will serve as a forum for this class. There you will find a copy of the current syllabus and access to other materials.

III. Assignments and Grading

Your grades will be determined through a holistic assessment of three response papers and your class participation. You need to write **one paper of 6-7 pages in length by the end of September, a second by the end of October, and a third by the day before the last day of class in November**. Within those boundaries, you can choose to which readings to respond, and I ask that you email me each paper **by 11:59pm the day before we discuss the related reading**. The goal of this policy is to get you to develop your own thoughts on a topic rather than reiterate what was said in class. I will provide you with comments for each paper, and you should be aware that the earlier in the semester you write each paper, the earlier you will hear back from me (and the more time you will have to consider my feedback before writing the next paper).

As a matter of fairness to everyone in the class, **paper deadlines and requirements will be enforced strictly**. If a paper is late, I will not accept it unless I had previously agreed in writing to an extension or if there is a dire, documented emergency. The latter will generally be a serious medical emergency or a personal matter that rises to the level of the recent death of a close family member. As far as paper length is concerned, **I will stop reading after exactly 7 pages**.

It is your responsibility to back up your computer data, and **failure to do so shall not constitute an excuse for late work**. If you do not currently have an online back-up system in place, please contact me and I am happy to advise you on the matter. External hard drives can fail, too, so I recommend against relying on them as your only source of backup.

IV. Attendance and Class Participation

This class works best with widespread student participation. I hope much of that participation will come voluntarily, but I will call on students to ensure broad participation if the need arises. I do this for two reasons.

First, many of the issues we will talk about this semester are “live” issues – ones that are the subject of significant current debate in courts, legislatures, and academic publications. We may not be able to resolve these issues in class, but all of us will understand them much better after in-class debate. Second, the ability to think and speak on your feet is an essential skill in virtually all forms of legal practice. You are much better off learning that skill in law school than when you are in practice. You should therefore treat our classroom time as an opportunity to practice your advocacy skills. **If you are not prepared to speak on a particular day, I ask that you email me no later than an hour before class or tell me in person before the class begins.**

As mentioned, participation is an integral part of your grade. I may lower your grade for repeated unexcused absences from class or for failure to inform me if you are not prepared for class.

Disruptive behavior in this course will not be tolerated. Disruptive behavior in this context includes but is not limited to disrespectful actions and words in the classroom (including toward fellow students), unauthorized use of electronics (i.e., any use not specifically initiated and directed by the instructor – see more details under “V. Computer Policies”), repeated unexcused late arrival to class, and any other unprofessional behavior that interferes with the learning process.

I do not allow recordings of the courses. I will regularly post the PowerPoint slides on TWEN, with the express understanding that they are only for your personal use and that **you are not permitted to redistribute them.**

I reserve the right to remove from the course altogether a student who misses more than 2 sessions for any reason or a student who disrupts the course. Please let me know in advance if you know that you will not be there on a given day or if you are facing emergency circumstances of any sort that will require your absence from class.

V. Computer Policies

Electronic devices are banned from this course. This means **no laptops**, no cell phones, etc. The only exceptions are if you have a disability that is documented with the school or if an urgent personal matter requires temporary use of an electronic device (e.g., a partner is about to give birth), in which case you should contact me *before* class and we will make arrangements. Electronic devices often serve as a distraction to students, and the latest research generally shows their lack of an educational benefit.

VI. Current Events

If you see something that might be of interest to the class, please feel free to mention it in class or send me a link to a relevant article.

VII. Assignments

Attached to this syllabus are the first assignments for the class. They remain subject to change.

ASSIGNMENTS SHEET I

- I. Intro to Trademark and Unfair Competition Law
 - 1. Reading 1: DJ 3-41
- II. Creation of Trademark Rights
 - 2. Reading 2: DJ 45-90
 - 3. Reading 3: DJ 90-98; 106-139
- III. Creation of Trademark Rights (cont.) & Functionality
 - 4. Reading 4: DJ 140-50; 159-92

Classes of note:

November 26 (Wed): Last day of class