

Trademarks and Unfair Competition
Professor Jake Linford
Spring 2012

Topics Covered and Class Assignments

Here are the first four reading assignments. Details about subsequent assignments will be forthcoming. Note that all assignments will be *tentative*, and may be changed by prior announcement in class or through the Blackboard system. At times we may slow down on particular topics or add in problems and cases to give us extra practice in an area. However, even if we don't finish discussing all material from a given day's reading, you should move on to the next day's reading, unless I tell you otherwise. Each assignment will include readings from the casebook, and the statutory provisions from the appendix at the back of the book. Make sure to read the statutory language and seek to understand it. You should come to class ready to apply the relevant statutory provisions to the discussion, cases, and hypothetical questions.

Introduction

We start with an overview of basic principles of trademark protection, its Constitutional basis, and the competing rationales for trademark protection: protecting the producer's private interest v. protecting the public and maintaining a competitive marketplace.

CLASS 1: PRINCIPLES OF TRADEMARK AND UNFAIR COMPETITION LAW

15 U.S.C. § 1127, "commerce", "use in commerce"

HWW 1-13: Historical Development; Private Interest

HWW 16-19: The Public Interest

FEDERAL TRADEMARK LEGISLATION

HWW 22-30: Basis of Federal Protection

Creation and Maintenance of Trade Identity Rights

We then turn to the question of how trademark rights are created and secured, what it takes to secure the different "types" of trademarks, and some types of trademarks for which protection is restricted or denied.

CLASS 2: CREATING TRADEMARK RIGHTS

15 U.S.C. § 1052(d); 1127 (Definitions)

HWW 30-40: Adoption and Use

HWW 40-51: Priority

CLASS 3: DISTINCTIVE AND DESCRIPTIVE TERMS

15 U.S.C. § 1052

HWW 51-68: Distinctive and Descriptive Terms

HWW 143-50: Generic Terms

CLASS 4: PERSONS, PLACES AND COLORS

15 U.S.C. § 1054

HWW 68-73, 77-81: Geographical Terms

HWW 81-86: Personal Names

HWW 94-102: Colors