

TRADEMARK LAW[®]

SPRING 2010

DAN HUNTER[™]

Welcome to TRADEMARK LAW.

This class is about the connection between law, brands, popular culture, marketing, capitalism, and the world of commercial symbols that you navigate every day. I happen to think that it's probably the single most interesting/valuable class that you take in law school: not only will it set you up to operate as an effective intellectual property lawyer (and get a job out of it, I hope), it will help you to understand early Twenty-First Century America. Really. Although I will probably screw it up, the fundamentals of this course are so interesting that if I manage to convey 1% of the fascination then this will be a fun class.

In this brief document I outline the details you need to know about the class along with the topics and readings for each time we meet.

CONTACT DETAILS

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Office hours: TBD. Feel free to email me to arrange a time to meet. Alternatively I can be found in one of the bars of Tribeca most evenings, until remarkably late. I'll post a roster online explaining which bar I'll be in on any given night, but if you can't find this then try (in this order) *Nancy Whiskey*, *Petite Abeille*, *Tribeca Tavern*, *Anotherroom*, *Smith & Mills*, *The Harrison*, *Reade Street Pub*, and *Edwards*. On paydays, try the *Brandy Library*. If it's after midnight, just go to the *Patriot*.

COURSE REQUIREMENTS

I take attendance when the Administration tells me to which seems to be remarkably often, I mean often enough that I would remark on it and I'll take this into account

¹ As some people who have taken my classes will know, I'm very bad at answering my phone so I'd suggest you avoid this mode of communication.

in your final grade. And of course there is the participation bump that NYLS has for students who are compelling conversationalists (think of it as a bonus for being a *bon vivant*). But otherwise, it will be a 100% open book final exam, at a time and date that the Registrar will decide on, in His Infinite Wisdom. (He's like that. Controlling. Picky. Difficult. Awful. Curse your eyes, Oral Hope.)

CLASS

Meets: Mondays, W120, 2:00pm - 3:40pm

Please arrive promptly to class prepared to discuss the day's assigned readings. I will probably assign readings but even if I don't I do value an interactive class. I get to listen to the voices in my head all day and night, and while we're all-too-briefly together I'd rather listen to your voice than mine. For your own sake, I encourage you to outline your readings. Student who outline course materials generally learn more, perform better on final exams, and have a useful document to aid them in professional practice. So, you know, it's all good.

READINGS

The course casebook will be DINWOODIE & JANIS, TRADEMARKS AND UNFAIR COMPETITION, (2d Ed. 2007) and the CASEBOOK STATUTORY SUPPLEMENT.

Other readings, as necessary, will be handed out and posted to the class web site. These are mostly newer cases that have slopped across the transom since the casebook came out.

CLASS WEB PAGE/COMMUNICATIONS

There will be a class web page on the Blackboard system. Class materials not in the casebook or supplement will be posted to the website. There may also be a further interactive component to the class's online presence, depending on how I feel. Details will be announced well in advance.

SCHEDULE

NB: This schedule is aspirational. I reserve the right to change it at will, on a dime, without notice, as a man's prerogative, in a way that is arbitrary, capricious, and not unlike dictators of Failed States. No liability for mistakes. Errors and omissions excepted. No correspondence will be entered into. Caution, the contents are extremely hot. Offer not valid in Wisconsin, California or Bergen County (on Sundays).

PART I: INTRODUCTION

CLASS 1: *Foundations and Purposes*
Casebook 1-40

PART II: CREATION OF RIGHTS

CLASS 2: *Distinctiveness*
Casebook 43-86

CLASS 3: *Distinctiveness (continued)*
Casebook 86-123

CLASS 4: *Functionality*
Casebook 147-166

CLASS 5: *Functionality (continued)*
Casebook 166-191

CLASS 6: *Use (Basics)*
Casebook 215-236

CLASS 7: *Constructive and Surrogate Use*
Casebook 237-274

CLASS 8: *Abandonment*
Casebook 275-301

CLASS 9: *Registration*
Casebook 303-331

PART II: ENFORCEMENT OF RIGHTS

CLASS 10: *Confusion (introduced)*
Casebook 443-479

CLASS 11: *Likelihood of Confusion*
Casebook 479-520

CLASS 12: *Dilution*
Casebook 585-611

PART III: PERMISSIBLE USES

CLASS 13: *Fair Use*
Casebook 663-695

PART IV: CONCLUSION

CLASS 14: *Review*