

Loyola Law School
TRADEMARK LAW
Spring 2015

Overview, basic information, syllabus, and
assignments for first two weeks of class

Professor Justin Hughes
213.736.8108
Justin@justinhughes.net
Justin.hughes@lls.edu

BASIC INFORMATION and SYLLABUS – VERSION 2

- Class room: Hall of the 80's
- Class hours: Mondays and Wednesday, 6:00-7:30pm
- Cancelled classes: Wednesday, 25 March, and Wednesday, 8 April
- Make-up classes: TBD; possibly 9 March, 23 April, or 24 April
- Materials: GINSBURG, LITMAN, AND KEVLIN, TRADEMARK AND UNFAIR COMPETITION LAW (5th edition, 2013) and additional supplemental materials, as provided by instructor, on TWEN. In casebook, do not read authors' "PROBLEMS" and "NOTES AND QUESTIONS" in assigned pages unless specifically directed in this syllabus.
- Office hours: Burns 314, Mondays and Wednesdays, 3-5pm *but appointments by email are welcome and preferable*

Evaluation and Class Format:

Grading in the course will be based on a final examination (we will discuss whether in-class or take home). In addition, class participation will be used to adjust grades upward or downward. Students are expected to be prepared each class to participate based on class readings. Internet use during class is strictly FORBIDDEN.

Students found to be using the internet during class will have their final grade lowered significantly.

SYLLABUS
version 02 – 30 March 2015

I. THE DOMINANT FRAMEWORK

<i>Casebook</i>	pages	57-66	[to <i>Peaceable Planet</i>]
		70-85	[<i>Qualitex</i> until <i>Abercrombie</i>]
		41-48	[excerpts from Brown, Landes & Posner articles]
		29-31	[<i>Hanover</i> case]
		38-40	[<i>Champion Spark Plug</i> case]

II. ALTERNATIVE FRAMEWORKS

<i>Casebook</i>	pages	31-35	[<i>Stork Club</i> case]
		7-8	[through <i>International News Service</i> case]
		53-56	["Breakfast with Batman"]
<i>TWEN reading</i>			<i>Ringling Bros v. Celozzi-Ettelson</i> case

III. Trademarks in the bigger world of IP

<i>Casebook</i>	pages	22-29	["B. Trademarks" to <i>Hanover</i>]
		115-119	["collective and certification marks."]

Acquisition of Rights

IV. DISTINCTIVENESS IN A TRADEMARK

<i>Casebook</i>		85-89	
<i>TWEN readings</i>		Pages 87-103 of 4th Edition	[<i>American Waltham Watch v. U.S. Watch</i> , <i>International Kennel Club of Chicago</i> , Restatement (Third), and <i>Rock & Roll Hall of Fame and Museum v. Gentile</i>]

V. ACQUISITION OF TRADEMARK RIGHTS THROUGH USE

<i>TWEN reading</i>			<i>Proctor & Gamble v. Johnson & Johnson</i>
<i>Casebook</i>	pages	136 – 137	[C. "Use in Commerce"]
	pages	140-143	[<i>Larry Harmon Pictures</i> to "Questions"]
<i>TWEN reading</i>			<i>Maryland Stadium Authority v. Becker</i>
<i>Casebook</i>	pages	152 – 160	[<i>Blue Bell Inc. and Tavern on the Green</i>]
	pages	161 - 175	["Concurrent Use" to "Questions"]

VI. THE REGISTRATION PROCESS AND "INTENT TO USE"

<i>Casebook</i>	pages	177 - 197	["A. The Bases and Process" through <i>Laramie Corp.</i>]
-----------------	-------	-----------	--

VII. BARS TO REGISTRATION

<i>Casebook</i>	pages	203-212	[to end of "Sex Rod" case]
<i>TWEN reading</i>			<i>In re Squaw Valley Development Company</i>

Casebook	pages	219-223	[<i>Bayer Aktiengesellschaft</i> through “Note: the Differences Between Deceptive Terms” and “Deceptively Misdescriptive’ Terms]
	pages	229-232	[“2. Sections 2(b) and 2(c) . . .” through <i>In re Hoefflin</i>]
		248 - 252	[“4. Section 2(e)(2). . .” through <i>In re Joint Company . .</i>]
		260- 278	[“Note: Geographically Suggestive” Marks; Section 2(e)(4) - surnames; Section 2(e)(5) - functionality; skip questions in all sections]
		232	[statutory provision only, Lanham § 2(d)]
		242 - 244	[<i>Nutrasweet v. K&S Foods, Inc.</i>]
TWEN reading			<i>Marshall Field & Co. v. Mrs. Fields Cookies</i> (TTAB, 1992)

Confusion-based Infringement

VIII. INFRINGEMENT AND THE LIKELIHOOD OF CONFUSION

Casebook	pages	349	[just statutory provision, 15 USC § 32(1)]
		366 – 398	[“B Likelihood of Confusion” to Questions]
		402 – 417	[<i>Mobil Oil</i> through <i>Network Automation, Inc.</i>]
		422 – 435	[<i>Mastercrafters Clock</i> through <i>Dreamwerks v. SKG Studio</i>]
		468 -474	[<i>Two Pesos, Inc. v. Taco Cabana</i>]
		444 - 450	[contributory and vicarious liability; <i>Inwood.</i>]
		452 - 456	[<i>Tiffany v. eBay</i>]

IX. SPEECH DEFENSES, INCLUDING PARODY

Casebook	pages	592 - 597	[“Nominative Fair Use” - <i>New Kids on the Block</i>]
		600 - 605	[WCVB-TV case through <i>Toyota v. Tabar</i>]
		654 – 660	[<i>Mattel</i> (“Barbie”) cases]

X. DILUTION LAW

Casebook	pages	688 – 693	[Federal dilution, through <i>National Pork Board</i>]
		732-736	[<i>Hershey v. Art Van</i>]

XI. GENERICNESS

Casebook	pages	279-294	[through <i>E.I. DuPont v. Yoshida International</i>]
----------	-------	---------	--

XII. ABANDONMENT/FAILURE TO CONTROL

Casebook	pages	315-323	[“B. Abandonment” through <i>Crash Dummy Movie v. Mattel</i>]
		333 – 338	[<i>Clark & Freeman, Eva’s Bridal Ltd.</i>]

End of syllabus, VERSION 02

#####

THIS IS AVAILABLE ON THE TWEN SYSTEM

d-14TMsyllabus VERSION 2 /page 3