

Trademarks, Unfair Competition, and Unfair Trade Practices

Pepperdine University School of Law
Fall 2006

Eric E. Johnson
Adjunct Professor of Law

COURSE GUIDELINES

CONTACT INFORMATION:

E-mail: eej@eejlaw.com
Phone: 310-369-3714 (office)

CLASS WEBSITE: http://www.eejlaw.com/courses/trademarks_fall_06/

SYLLABUS: A syllabus is posted on the class website.

MATERIALS: The one required text for this course is:

Trademark and Unfair Competition Law: Cases and Comments (6th ed.)
Peter B. Maggs, Roger E. Schechter. Published by Thompson West.
ISBN: 0-314-25639-3

There will also be additional materials that are part of the required reading that will be available through the course website.

Beyond the required materials, you are encouraged to use any other materials you find helpful or interesting, including, for instance, commercial outlines. The more you learn about the law, the better.

Commercial outlines, nutshells, and hornbooks can be a great way of gaining a basic understanding of the blackletter law in a subject. That being said, the best time to read such a secondary source is right at the beginning of the semester. That way, you may give yourself a better foundation of knowledge for learning the material presented in the casebook and in class. Reading a commercial outline as exam preparation for this class could be a waste of your time and mental energy. But it's up to you to judge for yourself. I would appreciate your letting me know your experience with any commercial study aids – whether good or bad. I would be happy to recommend good ones to future classes.

ASSIGNED READING: I will take care to craft reading assignments so that they are not unduly burdensome. Because of this, I expect all students to actually do the reading, as doing so will ensure healthy classroom discussion.

How should you tackle the reading? You could, of course, brief the cases, use a highlighter, make margin notes, or do any of a number of other things. And, of course, you should do what works for you. But the most important thing is to read the material with interest. If you do not have time to engage in your usual ritual of making the most

of the reading, at least make sure that you read it with interest. “With interest” means you should be having thoughts going through your head such as, “Mmmm, interesting!” “Ah ha! That makes sense!” or “What is wrong with this judge?!?!?”

One way to approach the reading, suggested by Professor Scott Brewer of Harvard Law School, is to be aware of “the literary drama of the law,” that is, “be alert to the narratives of the hopes, aims, fears, aspirations and frustrations of the litigants ...” Behind every case there is a real story. The more you allow yourself to be absorbed into that story, the more you will get out of the case.

Moreover, put yourself in the position of the judge and force yourself to confront the challenge of trying to interpret the law in a way that is fair, unbiased, and beneficial for society. Using this kind of viewpoint, you are bound to get something extra out of every case you read.

GRADING: Your grades will primarily be based on your exam performance. The exam is discussed below. Each exam, of course, will be “blind graded,” so that I will not know the identity of the student as I am grading his or her exam.

As you may know, professors are permitted to add or subtract a certain number of points from a student’s grade on a non-blind, discretionary basis. I will use these discretionary points to reward students who provide insightful answers to oral questions in class and who make a meaningful and appropriate contribution to class discussion. I will subtract points for students who exhibit poor performance in the classroom, which includes excessive absence, tardiness, and coming to class unprepared.

IN THE CLASSROOM: Do not eat in class. Do not chew gum audibly or with your mouth open. Do nothing that might disrupt class or distract your fellow students. If you use a laptop, do not play computer games, surf the internet, or undertake other activities unrelated to class. Stay engaged.

Come to class each time, on time, and prepared. You will be periodically asked to answer questions based on the assignments or the ongoing classroom dialogue. Be prepared to interact.

Your participation in classroom discussion should be meaningful and appropriate. Raise your hand to have a say in discussion when you have a comment that will contribute to the experience of the class as a whole, or when you have a question, the clarification of which will benefit the entire class. Your classroom participation should be appropriate – not too little, not too much. Everybody knows there are students who raise their hand too often and take up too much of the class’s time. All of us also know that there are people who sit passively and rarely, if ever, contribute to classroom discussion. Take care that you do not fall into either extreme.

If you cannot participate fully for a particular class, for whatever reason (and you don’t have to tell me why), please tell me before class, in person, so that I can avoid calling on you. Reasonable requests of this sort will not adversely affect your grade.

If you will be late or absent, please make sure that you e-mail me at eej@eejlaw.com before class. An occasional absence or late arrival will not adversely affect your grade—just e-mail me beforehand. If you are concerned about your attendance record, please talk to me. If you are late and you did not e-mail me, make sure you come up to me after class so that I can note your attendance. Otherwise, you

may be marked absent. Of course, my policy regarding absences and tardiness is subordinate to the school's.

Be aware that I will be making an audio recording of each class meeting. These recordings are for my use, and, unfortunately, I will not be making them available during the semester for absent students. No one is permitted to make an audio or video recording of class without my express, written permission.

EXAMINATION: The exam will be three hours and will require (1) open-ended essay response to one or more hypothetical fact patterns, (2) short answers to directed questions, and (3) at least one "theory" or "theme" question. For the "open-ended essay response," you may be directed to answer in subparts which require you to organize your answer in a specific way. The "short answer" questions might require anything from a one-word answer to a response of several paragraphs.

The exam will be administered "open book," which means that you may use any written or printed material drafted before the exam's start by you or anyone else.

My challenge as your professor is to write an exam that fairly tests your knowledge and mastery of all the material presented in the course. That is, the exam should reward those students who have done the reading with interest, participated actively and appropriately in class, and truly mastered all the subject matter presented. The exam should not reward those who, by chance, happened to study the "right" material, those who guessed correctly what material the professor found most interesting, or those who have a particular aptitude for the type of question asked. I will write the exam with these goals and concerns in mind.

Expect the exam to be fast-paced. Even though the exam will be open-book, you should prepare with the expectation that you will have little time to look things up.

I may provide a more specific description of the examination at a later time.

FEEDBACK: If you have feedback for me – suggestions, ideas, commendations, or criticisms, please do not hesitate to tell me in person or by e-mail. If sending something to me anonymously would make you feel more comfortable, then I invite you to do just that.

Good luck with the semester. I hope you enjoy the course.