

**TRADEMARK LAW**  
**LAW 327-001**  
Spring 2009

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**Description**

The goal of this course is to provide an overview of a trademark and unfair competition law, including the purposes of trademark law and unfair competition law, the requirements for trademark protection, the protections which trademarks are afforded, including under theories of confusion and dilution, permitted use of trademarks, including fair use and First Amendment issues; false advertising, rights of publicity and remedies for trademark infringement. Time permitting, the course will cover certain recent controversies in international trademark law.

**Schedule**

The class meets on Tuesday and Thursday, from 4 p.m. to 5:15 p.m. in room 224.

**Assessment**

Class grade will be based on an exam. An in-class presentation will be required and will constitute 10% of your grade.

**Casebooks and Websites:**

*Required:* Trademarks and Unfair Competition Law and Policy, by Graeme Dinwoodie and Mark Janis and Statutory Supplement

The professor may supplement these texts with additional reading materials.

**Class Schedule, Topics, and Reading:**

Class 1: Introduction to Trademark and Unfair Competition Law.  
Pages: 1-40

Class 2: Distinctiveness, Descriptiveness and Secondary Meaning  
Pages: 43-63

Class 3: Generic Terms  
Pages: 64-86

Class 4: Distinctiveness of Nonverbal identifiers  
Pages: 86-123

Class 5: The Edge of Trademark Protection  
Pages: 123-146

Class 6: Functionality: An Introduction  
Pages: 147-166

Class 7: Functionality and the Modern Supreme Court  
Pages 166-214

Class 8: Use as Prerequisite  
Pages: 215-275

Class 9: Loss of Rights through Non-use or Uncontrolled uses  
Pages: 275-301

Class 10: Registration – Overview and Scandalous, Disparaging or Deceptive Marks  
Pages: 303-332

Class 11: Registration – Geographic and Name Marks; Incontestability  
Pages: 332-363

Class 12: Geographic Limits on Common Law Rights and Registered Rights  
Pages: 367-388

Class 13: Territorial Nature of US Trademark Rights and Extraterritorial Enforcement  
Pages: 388-442

Class 14: Evolution of the Confusion Standard  
Pages: 443-479

Class 15: Factors Analysis for Likelihood of Confusion  
Pages: 479-520

Class 16: Applying the Multi-Factor Test  
Pages: 520-534

Class 17: Confusion Away from the Point of Sale  
Pages: 534-584

Class 18: Dilution: Background and Federal Trademark Dilution Acts  
Pages: 585-598

Class 19: Forms of Dilution

Pages: 598-611

Class 20: Cybersquatting

Pages: 611-657

Class 21: Fair use

Pages: 663-695

Class 22: First Sale

Pages: 695-720

Class 23 - Parody, speech, First Amendment

Pages: 720-742

Class 24 - False advertising

Pages: 743-770

Class 25 - Personal identity and right of publicity

Pages: 771-797

Class 26 – Protectable aspects of persona; limitations on right of publicity

Pages: 797-827

Class 27 - Remedies, including protection against counterfeiting

Pages: 829-856; 657-662

Class 28 – Assignment and Licensing of Trademarks

Pages: 859-875