**TRADEMARK LAW**

**Spring 2019**

**Law #6576**

**Holland Hall 359**

**MTuW 9:00-9:50**

Associate Dean Jane O’Connell

Holland 186A

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Office Hours: Th 9:00-9:50

**Course Overview**

This course will provide an introduction to the principles, doctrines, and policies of U.S. trademark law, which confers rights in symbols that identify the sources of goods or services. The focus of the course is on the law of the United States rather than on issues of foreign and international law.

There are no prerequisites for this course, and no technical background is necessary.

**Readings & Materials**

The course text will be BARTON BEEBE, TRADEMARK LAW: AN OPEN-SOURCE CASEBOOK. The text is available online at tmcasebook.org, but I highly recommend that you print a copy to bring to our class meetings.

You will also need a copy of the federal trademark statute, the Lanham Act of 1946 (as amended). While the Lanham Act is available from numerous sources, JAMES BOYLE & JENNIFER JENKINS, INTELLECTUAL PROPERTY: LAW & THE INFORMATION SOCIETY, SELECTED STATUTES & TREATIES (2016) includes the Lanham Act and is available online at tmcasebook.org.

You may access supplemental materials and view other course related information on the course Canvas page.

**Learning Outcomes**

After completing this course, students should be able to:

1. Explain the requirements for creating a valid trademark
2. Classify marks based on their level of distinctiveness
3. Identify trade dress and its requirements
4. Describe confusion and infringement
5. Identify the differences between confusion and dilution
6. Explain the role of parody as a defense to infringement

**Classes**

Classes will be held from 9:00 am to 9:50 am on Mondays, Tuesdays and Wednesdays in Holland Hall 359. The final exam is scheduled for Thursday, May 2 at 1:00 p.m.

**Office Hours**

My office hours are 9:00-9:50 a.m. on Thursdays. While you should feel free to stop by without an appointment during office hours, I highly recommend that you make an appointment to reserve the amount of time that you need, and eliminate wait time. If you are unable to meet with me during my regularly scheduled office hours, please send me an e-mail and I’ll be happy to arrange another mutually convenient time.

**Class Discussion**

I prefer to rely on volunteers for class discussion. In order to ensure a wide variety of participation, however, I may, as needed, engage in cold calling.

**Class Preparation and Attendance**

Preparation for class is mandatory. Before each class, you must complete the assigned reading and view any videos or other materials assigned, and be prepared to provide thoughtful answers to questions that I pose during class. Throughout the semester, there will be online quizzes and discussion starters that you are expected to complete prior to class. Completion of these quizzes and discussion starters will count towards your participation grade in this course.

Note that ABA Standard 310 requires that students devote 2 hours of out-ofclass preparation for every “classroom hour” of in-class instruction. Therefore, for this 3 credit course, I expect that you will spend at least 6 hours of preparation outside of class each week. This should include very careful and thorough reading and preparation of assignments prior to each class, as well as review of your notes and class materials after each class session.

I expect you to attend class regularly and to be prepared to participate meaningfully in class discussion. Class participation and attendance, including completion of online quizzes and discussion starters, will count for 20% of final grades. In addition, students with serious attendance problems will not be eligible to take the final exam.

Attendance is mandatory and you are expected to be on time. It is your responsibility to locate and initial the sign-in sheet for each class session. By signing your initials, you affirm that you are physically present in class during that class period. It will be considered a violation of the course rules and the Honor Code to falsely indicate that you were present in class, or to assist a classmate in such misrepresentation.

If you have six (6) or more absences, you will be barred from taking the final exam, and will automatically *fail* this course. Four (4) to five (5) absences may result in a reduction of your grade as described above in the section describing grade adjustments for course participation.

**Grading**

The course will be graded as follows:

Participation 20%

Including online quizzes and discussion starters

Written assignment #1 5%

Written assignment #2 5%

Written assignment #3 10%

Final exam 60%.

The precise format of the exam will be determined and announced later in the semester.

After course grades have been posted, you may review your exam beginning after the first week of the following semester and during a specified period. All exam reviews will be conducted in my office, and you may arrange an appointment by e-mail.

The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

|  |  |
| --- | --- |
| Letter Grade | Point Equivalent |
| A (Excellent) | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C (Satisfactory) | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D (Poor) | 1.0 |
| D- | 0.67 |
| E (Failure) | 0.0  |

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9> .

**Academic honesty**

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at http://www.dso.ufl.edu/students.php.

Students are bound by the UF Law Honor Code, which can be found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>.

**Accommodations for Students with Disabilities:**

Students requesting accommodation should first register with the UF Disability Resource Center (352-392-8565, www.dso.ufl.edu/drc/) by providing appropriate documentation. Once registered, students will receive an accommodation letter, which should be presented to the UF Law Office of Student Affairs when requesting accommodation. This procedure should be followed as early as possible in the semester. Law students with disabilities can also contact the Levin College of Law Office of Student Affairs for assistance on these matters in 164 Holland Hall, 273-0620, www.law.ufl.edu/students/.

**Recording Devices and Cell Phones**

Use of any recording devices (including audio and/or video) is not permitted in the classroom without my express permission. Cellular telephones should not be used during class, and ringers must be silenced.

**Student Course Evaluations**

Students can provide feedback on the quality of instruction in this course by completing online evaluations at https://evaluations.ufl.edu. Evaluations are typically open during the last two or three weeks of the semester, but students will receive notice of the specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

**Assignments**

Below are the tentative assignments for the class. I reserve the right to modify the assignments from time to time, and to utilize additional handouts and materials. There may also be additional guest speakers. All assignments are from BARTON BEEBE, TRADEMARK LAW: AN OPEN-SOURCE CASEBOOK unless otherwise noted.