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**Fall 2009 Syllabus**  
University of North Carolina School of Law  
Law 265.1 (90048)

## **INTELLECTUAL PROPERTY LAW**

### **Description**

Although the law of intellectual property has historically been deeply intertwined with commerce, trade, technology, culture, and the human condition, recent innovation and cultural change have dramatically elevated its significance in the economy and in the legal profession. Modern intellectual property law includes such diverse topics as trademarks, trade secrets, patents and copyrights. This course provides an introduction to these substantive areas and to the legal reasoning skills involved in intellectual property counseling and litigation.

### **Casebook, Supplement, and Additional Materials**

The casebook is ROBERT P. MERGES ET AL., *INTELLECTUAL PROPERTY IN THE NEW TECHNOLOGICAL AGE* (Revised 4th ed. 2007), published by Aspen Publishers. You should also obtain the 2009 statutory supplement. Other sources of the statutory materials are acceptable. We will be studying some subset of the following statutes:

- Lanham Trademark Act, 15 U.S.C. §§ 1051-1141n
- Restatement (Third) of Unfair Competition, §§ 1-49
- Uniform Trade Secrets Act With 1985 Amendments
- Economic Espionage Act of 1996, 18 U.S.C. §§ 1831-39
- 1976 Copyright Act, 17 U.S.C. §§ 101-805; 1001-10; 1101; 1201-05; 1301-32
- Patent Act, 35 U.S.C. §§ 1-376

### **Course Format; Reading**

Lectures and discussion will consume the bulk of our class time. Assigned readings for this class will *average* about 45 pages per week. Plan accordingly and read ahead whenever possible, especially before the Tuesday classes. It is far easier to tackle 45 pages over seven days than over a 48-hour period.

### **Class Participation, Scribe Assignments and Grading**

The class will be divided into four rotating “on-call” groups, each of which will be assigned a number of cases (generally two). You may volunteer during any class session, and are strongly encouraged to do so. If you are on call but unprepared and wish to be spared being called on in class, you may email or speak to me before class and I will do my best to remember not to call on you.

During class, you may not use your computer in a way likely to distract other students from appropriate classroom activities.

There will be a three-hour final examination, which will be graded in accordance with the law school curve. Your participation grade will be A+, which will count for between 0% and 20% of your final grade, based on the overall quality of your assigned and unassigned participation.

## Office Hours

Room 5079, 962-4116. Tuesdays, Wednesdays and Thursdays, 11-12; other times if my door is open; and by appointment. At other times, email is preferred. Do not rely on voicemail for time-sensitive matters.

## Secretary

Debbie Edge, Faculty Support Center, Room 5125.

## Order of Topics

The principal cases are listed for your convenience; however, you are responsible for all of the material on the pages listed, whether or not it is covered in class. ***Minor revisions to this syllabus are likely; they will be announced in class and posted on the class Web site.***

<i>Unit</i>	<i>Group</i>	<i>Principal Cases</i>	<i>Additional Topics</i>
1			Overview, 24-30; Trademark Theory and Economics 633-40; Begin tour of Lanham Act, 15 U.S.C. § 1127
2			Continue tour of Lanham Act, §§ 1051(a-b), 1057(c), 1052, 1058, 1072, 1064, 1065
3	1	Qualitex, Zatarains	Conclude tour of Lanham Act, §§ 1115, 1114, 1116, 1117, 1125(a)
4	2	Two Pesos, Wal-Mart, Zazu	Geographic Limitations, 686-87
5	3	Laureyssens, Harjo	Priority, 688-91; Secondary Meaning in the Making, 692-94; Trademark Office Procedures, 695-98; Problem 5-4, 698-99
6	4	Nantucket, Park 'N' Fly, AMF	
7	1	Nabisco, Shields	Dilution, 754; Domain Names and Cybersquatting, 759
8	2	PETA, Murphy Door Bed	The UDRP, 771-777
9	3	TraFFix Devices, Mattel	
10	4	Metallurgical Industries	Introduction to Trade Secret Law, 33-39
11	1	Rockwell, duPont	
12	2	Smith, Kadant, Chicago Lock	Comment 1, 78
13	3	Wexler, Pepsico	"Inevitable Disclosure" of Trade Secrets, 94-96
14	4	Chakrabarty, Parke-Davis	Introduction to Patent Law, 117-27

15	1	State Street Bank, Bilski (check Web site)	Patenting “Abstract Ideas,” 139-40; Patenting Business Methods, 141-42
16	2	Brenner, Juicy Whip	Different Types of Utility, 154-57; Utility Guidelines, 152-54
17	3	The Incandescent Lamp Patent, Gentry Gallery	Best Mode Requirement, 182-83
18	4	Rosaire, Hall	Inherency, 190-92
19	1	Egbert, Elizabeth	
20	2	Griffith, Graham, KSR	Recent Changes to Patent Law, 211-12
21	3	Vaeck, Dembiczak	Nonobviousness and Biotechnology, 246-47; Secondary Considerations, 248-50
22	4	Phillips, Larami, Festo	Claim Interpretation, 250-52
23			Copyright Act Walkthrough, 383-94, 405-12
24	1	Feist, Baker, Morrissey	
25	2	Arnstein, Nichols, Steinberg	Traditional Rights of Copyright Owners, 474-76
26	3	Anderson, Harper & Row	The Distribution Right, 510-13; Public Performance and Display Rights, 514-18
27	4	Fonovisa, Campbell	Moral Rights, 519-20