

University of La Verne – Trademark Law

Spring Syllabus 2019

Class Time and Place: Fridays 10 am-12 pm, Room 203

1. Required Text & Supplemental Materials

Jane C. Ginsburg, Jessica Litman, Mary L. Kevlin, TRADEMARK AND UNFAIR COMPETITION LAW: CASES AND MATERIALS (6th Edition 2017)

From time to time, supplemental materials may be appropriate to augment the material provided in the required textbook. Any supplemental materials will be posted on TWEN, sent by e-mail, or provided during class.

2. Course Content and Goals

This course will focus on trademarks, domain names, unfair competition, and related intellectual property (“IP”) matters. Ultimately, you will be able to articulate differences between different kinds of IP with a specific focus on trademark, and apply it to client issues that you may encounter. You will learn how to help your future clients develop a strategy as it relates to building their trademark portfolio as an asset. In other words, the course will examine the fundamental doctrines that support trademark law and protection, and the legal tools used in interpreting the scope of the rights, and their enforcement.

3. Sessions and Assignments

I will announce the next week’s readings at the end of each class session. This class meets every Friday except March 8th, for fourteen weeks, with Good Friday being made up on April 24, 2019. I expect the following to be a rough breakdown of the topics covered during this time:

- Introduction, Policy, and Concepts of Trademarks and Competition (Week 1)
- Trademark Prosecution, Ownership, Registration, and Loss of Rights (Weeks 2-5)
- Trademark Infringement, Lanham Act, and Defenses (Weeks 6-10)
- Dilution, False Advertising, and Domain Names (Week 11-13)
- Remedies, Review (Week 14)

This syllabus and assignments given over the semester are not set in stone. I reserve the right to spend more or less time on a topic as needed, adjust the reading burden, and/or add supplementary materials that I think will benefit your understanding of Trademark Law.

There will likely be two assignments during the semester. Assignments will account for 20% of your final grade.

They will be graded on a 4 point scale:

Oustanding, A	4.0
Excellent, A-	3.7-3.9
Very Good, B+	3.3-3.6
Good, B	3.0-3.2
Fairly Good, B-	2.7-2.9
Adequate, C+	2.3-2.6
Minimally Adequate, C	2.0-2.2
Inadequate, C-	1.7-1.9
Poor, D+	1.3-1.6

I will give plenty of notice associated with assignments and will provide a deadline that will include a date and a time. You will need to e-mail me your assignment. If you miss a deadline in court, you get sued for professional negligence, you get admonished by judges, your reputation is tarnished amongst colleagues, and you can be reported to the State Bar. This is a good time to learn that it is never acceptable to miss a deadline. Keep in mind the six Ps: Proper Prior Planning Prevents Piss Poor Performance. This means that if the internet is down on campus then that is not an excuse. If you wait until the last minute to e-mail the assignment and technology issues occur, this is your problem, not mine.

Force Majeure. You are not liable for failing to perform if such failure is as a result of Acts of God including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electricity or telephone/internet service.

With that said, should an Act of God occur, I will provide an appropriate extension to the whole class. Should you just fail to do your job, the following will occur:

- You must provide a detailed description of what you would have to do at the PTO if you had missed a deadline with them.
- For the first 24 hours after the deadline has passed, I will grade your paper as though you turned it in on time and then you will be docked one entire grade level. So, for example, if you receive a 3.9, then your final grade will be a 2.9 on that late assignment.
- Any paper received more than 24 hours after the deadline will receive a 0. No exceptions.

I will not review preliminary drafts. Please be patient with me if it takes a while to return your graded assignments.

4. Examination and Basis of Grading

Unless I inform you otherwise, your course grade will be calculated as follows:

Attendance/Participation/Professionalism	10%
Assignments	20%
Final Exam	70%

Exams will be graded according to ULV policies.

5. Classroom Expectations

- You should be respectful and courteous of others. This is good training for your career as there will be many times that you will not agree with opposing counsel. Professional courtesy is an important skill and you should become proficient at it.
- Please be on time. It is fine if you eat and drink in class. However, if you are late for class whilst carrying bags of warm take-out food, be prepared to share. Tardiness reflects on professionalism which ultimately reflects on your grade.
- I expect you to attend class and I am required to take attendance. Please keep in mind that one class is one week in the term and so you could miss a great deal of information should you not attend. Regardless of excuse, absences in excess of 25% of this class will result in the automatic exclusion of the student from that class. Excessive absences may result in an F for the class.
- Read your assignments and be prepared to discuss them with enthusiasm. Bring your materials to class with you. You should expect to be called upon but you can expect that being called upon will result in a discussion and will not be threatening in any way. I appreciate intelligent discussion as typically there is no “right” answer or “wrong” answer but discussion requires preparation and some verbalization of *an* answer.
- Please feel free to interrupt me if you have questions or comments. If you are confused, others may need clarification as well.

6. Lecture Notes

You need to take notes. You can use a laptop or tablet for notes if that is what you like doing. If I have power point slides, I may post them after class or e-mail them but the power points will be a guide and so you need to listen and take notes if you want to do a good job on your assignments and on your final exam. Photography, video, and/or audio recording of my lectures by students is not permitted unless you (a) get my written consent *or* (b) find a Federal Copyright law that allows you to make a straight faced argument that you should be able to record my lecture.

7. Office Hours

As I am an adjunct professor, I do not have an office at ULV. With that said, if you e-mail in advance of class, I would be happy to arrange a time to meet up somewhere on campus before class to discuss any issues or problems or your love of IP in general. Alternatively, we can make an appointment to meet at some other time or place if necessary. My hunch is that most issues or questions you may have can be solved by e-mail. So, my e-mail address and cell phone number are as follows and e-mail (not text) is my preferred method of communication:

Tina Loza, tina@lozaip.com, Telephone No. 949-923-1226.

Disability Accommodations

Students with disabilities should refer to the policies described at the University of La Verne Disabled Student Services Handbook which can be found on the website of the University of La Verne Disabled Student Services website (<https://sites.laverne.edu/>) or at their office. Temporary accommodations are offered on a case by case basis. All required documentation must be submitted by the student before any formal accommodations and should be made directly to the Director of Student Affairs.

Any student eligible for and requesting academic accommodations due to a documented disability (or a suspected disability) is asked to contact the College of Law Director of Student Affairs and Americans with Disability Act Compliance Officer, Akita Mungaray by email at amungaray@laverne.edu or by phone at (909) 460-2017. Her office is located on the first floor of the College of Law, Office # 107. You can also contact Cynthia Denne at the University of La Verne Disabled Student Services office at (909) 448-4441. The office is located at the La Verne campus Health Center. In order to be considered for accommodations, disabilities must be documented and the proper medical evaluations must be submitted. The office is here to help you succeed in law school. Visit it online at <https://sites.laverne.edu/disabled-student-services/>.

ABA Standard 310

This course is designed to satisfy the requirements of ABA Standard 310. Standard 310 requires that for each hour of in-class time, students spend two hours preparing for class (reading or completing class assignments or assessments).

First Assignment:

For the Semester, familiarize yourself with:

- Trademarks at the PTO: <https://www.uspto.gov/trademark>
- Trademark Searching:
<http://tmsearch.uspto.gov/bin/gate.exe?f=tess&state=4806:8arja9.1.1>
- TMEP: <https://tmepl.uspto.gov/RDMS/TMEP/current>
- The Lanham Act: <https://www.law.cornell.edu/uscode/text/15/chapter-22>
- McCarthy on Trademarks
- The TTABlog: <http://thettablog.blogspot.com/>

For Class on January 11th, Please Read and Be Prepared to Discuss:

- Ginsburg, Read Pages 3-58
- Locate all Marks registered to the University of La Verne at TESS (<http://tmsearch.uspto.gov/bin/gate.exe?f=tess&state=4806:vgl3hd.1.1>): What is missing?
- This Semester – Supreme Court Trademark Case:
https://www.washingtonpost.com/politics/courts_law/supreme-court-to-decide-if-trademark-protection-can-be-denied-to-scandalous-brands/2019/01/04/83c18948-1061-11e9-8938-5898adc28fa2_story.html?utm_term=.7bec4b27e272

Watch: <https://www.cbp.gov/FakeGoodsRealDangers>