TRADEMARKS COURSE SYLLABUS (SPRING 2015)

Purpose of the Course: The purpose of this course is to provide students with theoretical, substantive and practical knowledge about trademark law. By the end of the course, you should be able to identify trademark issues and have a solid understanding of U.S. trademark law and practice.

Course Materials: During the semester we will be using the following course materials amongst others: published trademark law decisions, the Lanham Act, Federal Register, and various articles and handouts.

Classes: This class is scheduled to meet for two hours per week, on Tuesdays at 6:10 p.m.

Attendance and Preparation: Students are expected to attend classes regularly and to prepare for classes conscientiously. A “sign in” sheet will be circulated each class. If you miss class frequently or are unprepared several times, your grade may be lowered. Alternatively, I may ask the Registrar to withdraw you from the course. If an absence is unavoidable for a compelling reason or if you have missed a class due to illness or emergency, please send me an e-mail explaining and substantiating a requested excusal.

Lateness: Students are expected to be on time to class. However, it is better to come to class late than not at all. You may walk in late if you have a good reason, as long as you do not abuse this privilege. Your grade may be lowered if you are habitually tardy with no acceptable explanation.

“TWEN” (The West Education Network): I may set up a course page for this class on TWEN. TWEN gives me a quick way to reach all of you with any announcements, syllabus changes, handout materials, interesting links, etc. I may also post assignments on the class assignment page on the law school’s website.

Final Grade for the Course: Final grade for the course will be as follows: 10% class preparation and participation and 90% for an in class exam.

Final Exam: The final exam shall be closed book, in class and will consist of short answers, multiple choice questions and essay type questions. I will provide more information about the final exam later in the semester.
**Computer Policy:** Computers are to be used during class for taking notes and no other purpose. They are not to be used to “surf the net” or sending e-mails or instant messages. Violations of this rule may lead to you being prohibited from using a laptop during class.

**Communications:** The best way to communicate with me is by e-mail. I will get back to you within 24 hours, if at all practicable. While I do not maintain regular office hours, if you need to speak with me in person you can set up an appointment either before or after class with me or through my assistant Ms. Marcela Fernandez.
GENERAL TOPICS/READING LIST

I

OVERVIEW OF INTELLECTUAL PROPERTY

Overlap of trademarks, copyrights and patents.

Lecture and handouts.

II

WHAT IS A TRADEMARK?

Handout.


III

TRADE DRESS, COLOR MARKS AND SOUND MARKS


IV

SECONDARY MEANING

Lecture.
V

ACQUISITION OF TRADEMARK RIGHTS

Common law rights, Federal and State statutory rights.

Lecture.

VI

PRIORITY

Priority as Between Registered Users and Registered and Unregistered Users:


Priority Between Intent to Use Application Filer and Actual User of Similar or Identical Marks.


VII

U.S. TRADEMARK APPLICATIONS, REGISTRATIONS

Different Types of Applications (Use Based/Intent to Use):


Different Types of Marks (Trademarks, Service Marks, Collective Membership Marks, Certification Marks).

Principal Register vs. Supplemental Register:


Lecture on differences, advantages and disadvantages of Principal Register and Supplemental Register.

Marks Entitled to Registration:


Functionality:


Handouts.

Incontestability:


Madrid Protocol.

Doctrine of Foreign Equivalents

Tatuaje Cigars, Inc. v. Nicaragua Tobacco Imports, Inc., Opposition No. 91/185,180 (TTAB 2007)

VII

LOSS OF TRADEMARK RIGHTS.

Abandonment/Cancellation.

Constructive Abandonment, Lanham Act rebuttable presumption.

Assignment in Gross or Naked Licensing.

Fraud.


Lack of Bonafide Intent to Use


**IX**

**TRADEMARK TRIAL AND APPEAL BOARD.**

Federal Register, Vol. 72, No. 147 – Rules and Regulations.

 Opposition and Cancellation Proceedings.


**X**

**INFRINGEMENT/UNFAIR COMPETITION.**


Domain names.

**XI**

**DILUTION**

Handout.

**XII**

**REMEDIES**