



Trademarks and Unfair Competition

Uli Widmaier, David C. Hilliard, Joseph Nye Welch II

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This widely used casebook, cited by the Supreme Court in its *Moseley v. V Secret Catalogue* decision on trademark dilution, is authored by three of the nation's preeminent trademark practitioners and teachers. Constitutional issues - pertaining to the Commerce Clause, the Patent and Copyright Clause, the Supremacy Clause, and the First Amendment - are reshaping modern trademark law, have been outcome-determinative in many high-profile cases, and are fueling extremely influential debates in academic literature. Thus, the Seventh Edition of **Trademarks and Unfair Competition** has a newly enhanced focus on examining trademark law's place in the constitutional scheme. An entirely new chapter is devoted to the question of trademark law's interaction with the First Amendment. Throughout the casebook, great attention is paid to the constitutional and practical relationship of trademark law with other areas of intellectual property law.

The casebook provides an in-depth presentation and analysis of the principal questions and problems in trademark law today, and a synthesis of the current and developing law. The organization provides students with a foundation in the historical and normative principles that have been governed and continue to govern trademark law's evolution, before progressively exposing them to more sophisticated and specific problems. Each section begins with an introductory overview followed by tightly edited cases and a summary of the issues, with analysis through notes and other secondary textual materials. Features of this new edition include:

- A new chapter on Freedom of Speech and the Law of Trademarks and Unfair Competition;
- The sea change in federal dilution law caused by the Trademark Dilution Reversion Act of 2006 and the cases interpreting it;
- An in-depth analysis of the new and controversial issues centered on search engines, sponsored advertising, keywords, trademark use and initial interest confusion, and the trademark and constitutional principles that underpin this contentious debate in the courts and among scholars;
- The continuing evolution of the law of fair use and nominative fair use after the Supreme Courts decision in *KP Permanent Make-Up v. Lasting Impression I*, and the normative impact of free speech considerations; and
- The interaction of trade dress, design patent, copyright, and their respective constitutional foundations, as discussed in the Supreme Courts *Twentieth Century Fox v. Dastar* and *Samara v. Wal-Mart* and *TraFFix Devices v. Marketing Displays* decisions and by the lower courts in their aftermath.

The Documentary Supplement for **Trademarks and Unfair Competition** contains the following updated material:

- Rules of Practice of the U.S. Patent and Trademark Office;
- ICANN Uniform Domain Name Dispute Resolution Policy;
- NAD / CARU / NARB Procedures;
- Sample (Illinois) Right of Publicity Statute;
- Trademark Law Treaty and Regulations;
- Protocol Relating to the Madrid Agreement;
- Paris Convention for the Protection of Industrial Property; and
- Agreement on Trade-Related Aspects of Intellectual Property.

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