

ELECTIVE COURSE INFORMATION Fall 2013

COURSE NAME: Business Torts & Unfair Competition

COURSE NUMBER: Law 8797

PROFESSOR: Jasmine Abdel-khalik

ESSENTIAL PREREQUISITES: N/A

DESIRABLE PREREQUISITES: N/A

COURSE BOOKS AND MATERIALS:

There will be two sources of class material. Unlike past years, we will not have a separate statutory supplement – it will be folded into the supplemental case materials.

- (1) Supplemental Cases/Material – prepared by the professor, this material will fill out any subject matters missing from the textbook and will update with any important case law development as well as include statutory information.
- (2) Textbook – we will be using *Trademarks, Unfair Competition, and Business Torts* by Beebe et al.

METHOD OF GRADING & APPRAISAL OF STUDENT FOR GRADE: There are three components to your grade. The first is a take home assignment (short in writing, long in thinking), which will comprise 15% of your overall grade. There will be a final, which will amount to 75% of your overall grade. Finally, every student's grade will be subject to adjustment due to participation (see syllabus for more details).

SUMMARY DESCRIPTION OF COURSE: This course will focus on the common law and statutory remedies for certain trade practices that have been classified as unfair or deceptive. To be more specific, the course will focus on claims commonly raised by one company against another company on the premise of unfair competition.

As a result of its broad purpose, however, defining the scope of unfair competition is an unenviable and, in some ways, impossible task. As Missouri courts have noted, “[u]nfair competition is a species of commercial hitch-hiking which the law finds offensive, and, therefore, prohibits. The law of unfair competition is but a reaffirmation of the rules of fair play.”¹ However, we will be addressing claims that arise in four general areas:

(1) Trademarks: a ***significant*** portion of the class will focus on defining how to acquire and then enforce trademark rights, the form of intellectual property that encapsulates a business’ goodwill.

(2) Other intangible values: misappropriation of other intangible business rights, including trade secrets and the right of publicity.

(3) Traditional commercial tort claims: review of “traditional” tort causes of actions in commercial litigation between businesses, including intentional interference with contracts and various forms of misrepresentation. These tort theories are often raised either in conjunction with or in the alternative to a breach of contract action. We will also, therefore, discuss when these causes of action may be prohibited under the economic loss doctrine.

(4) (Other) Speech Unfair Competition: aspects of unfair competition that relate to commercial entities discussing other businesses, such as false advertising.

COURSE OUTCOMES: The goals of this course include:

- Understanding the types of behavior regulated by common law unfair competition claims;
- Understanding the considerations in selecting and the importance of trademark protection for commercial entities;
- Working with a system, trademark, that functions in two parallel and often overlapping systems (common law and code).

RELEVANCY OF COURSE FOR CAREER PURPOSES: This course serves as a foundational trademark law class and is essential for any student considering a trademark practice. In addition and because trademarks are now an essential asset for nearly all businesses, this course is relevant for students who anticipate a practice in commercial litigation, corporate practice, or general intellectual property.

¹ Cushman v. Mutton Hollow Land Dev., 782 S.W.2d 150, 157 (Mo. Ct. App. 1990), *citing*, Shrou v. Tines, 260 S.W.2d 782, 788 (Mo. Ct. App. 1953).