

Trademark Law: An Open-Source Casebook
Barton Beebe
Changes from Version 1.0 to Version 1.1

Part I: Establishing Trademark Rights

- Part I.A.1.a.i: Slightly reworded the discussion of the *Abercrombie* classification of surnames
- Part I.B: Revised the introductory paragraphs to reflect the lack of consensus on whether a mark that is unregistrable under § 2 is also unprotectable under § 43(a)
- Part I.1.c.2: Added an additional image preceding *Louboutin*.
- Part I.C & Part I.D: Added a footnote to Part I.C and a paragraph to Part I.D to reflect the fact that a showing of use is not required for foreign applicants under § 44.
- Part E.3.1: Deleted Paris Convention discussion from *Grupo Gigante* to try to shorten the opinion excerpt

Part II: Trademark Infringement

- Part II.B.3: Deleted three paragraphs from *Smith v. Wal-Mart Stores, Inc.* to try to shorten the opinion excerpt.
- Part II.B.8: Added image for *Dastar* case
- Part II.C.1: Added additional Charbucks Blend image preceding *Starbucks Corp. v. Wolfe's Borough Coffee, Inc.*
- Part II.D.2.b: Added note on Trademark Clearinghouse
- Part II.D.2.b: Deleted "Note that the complainant must have a registered mark to avail itself of the URS. Otherwise, it must use the UDRP."

Part III: Defenses and Related Limitations

- Part III.B.1: Deleted from Fernandez concurrence in *Tabari* his criticism of Judge Kozinski's "gratuitous slap" at plaintiff's counsel (on the theory that it's extraneous and takes too long to describe this to the student)
- Part III.C.2: Added pre-opinion question on whether producers of racing video games must/should get authorization before using images of real-world automobiles and racing circuits
- Part III.C.3: Added excerpt from *Mattel, Inc. v. Walking Mountain Productions*, 353 F.3d 792 (9th Cir. 2003)
- Part III.E: Deleted final paragraphs on injunctive relief from *Champion Spark Plug*

Part IV: False Advertising

No significant changes.

Part V: Right of Publicity

- Part V.B: Corrected footnote in Judge Goodwin's majority opinion in *White v. Samsung Electronics America, Inc.*, 971 F.2d 1395 (9th Cir. 1992)
- Part V.B: Added note on settlement in *In re NCAA Student-Athlete Name & Likeness Licensing Litigation* and related cases
- Part V.B: Added notes on right of publicity and social media

Part VI: Remedies

- Part VI:A Deleted *North American Medical Corp. v. Axiom Worldwide, Inc.* and replaced it with *Herb Reed Enterprises, LLC v. Florida Entertainment Management, Inc.*, 763 F.3d 1239 (9th Cir. 2013)