

# LAWS50075 Law of Commercial Reputation and Brands

<b>Credit Points:</b>	12.5																					
<b>Level:</b>	5 (Graduate/Postgraduate)																					
<b>Dates &amp; Locations:</b>	2016, Parkville This subject commences in the following study period/s: Semester 1, Parkville - Taught on campus. This subject has a quota of 60 students. Please refer to the Melbourne Law JD website for further information about subject quotas																					
<b>Time Commitment:</b>	Contact Hours: 36 hours Total Time Commitment: 144 hours																					
<b>Prerequisites:</b>	<p>Successful completion of all the below subjects:</p> <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50023 Legal Method and Reasoning</td> <td>February</td> <td>12.50</td> </tr> <tr> <td>LAWS50025 Torts</td> <td>November, Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50026 Obligations</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50029 Contracts</td> <td>Semester 2</td> <td>12.50</td> </tr> </tbody> </table> <p>This subject requires students to have completed, or have a concurrent enrolment in, the below subject:</p> <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50030 Property</td> <td>Semester 1</td> <td>12.5</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS50023 Legal Method and Reasoning	February	12.50	LAWS50025 Torts	November, Semester 2	12.50	LAWS50026 Obligations	Semester 1	12.50	LAWS50029 Contracts	Semester 2	12.50	Subject	Study Period Commencement:	Credit Points:	LAWS50030 Property	Semester 1	12.5
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<b>Corequisites:</b>	None																					
<b>Recommended Background Knowledge:</b>	None																					
<b>Non Allowed Subjects:</b>	<p>Students who have completed any of the below subjects are not permitted to take LAWS50075 Law of Commercial Reputation and Brands:</p> <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS70046 Trade Marks and Unfair Competition</td> <td>April, September</td> <td>12.50</td> </tr> <tr> <td>LAWS70243 Trade Mark Practice</td> <td>June</td> <td>12.50</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS70046 Trade Marks and Unfair Competition	April, September	12.50	LAWS70243 Trade Mark Practice	June	12.50												
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<b>Core Participation Requirements:</b>	<p>The Melbourne Law School welcomes applications from students with disabilities. It is University and Law School policy to take all reasonable steps to enable the participation of students with disabilities, and reasonable adjustments will be made to enhance a student's participation in the School's programs. The inherent academic requirements for the study in the Melbourne Law School are: The ability to attend classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students must possess behavioural and social attributes that enable them to participate in a complex learning environment. Students are required to take responsibility for their own participation and learning. They also contribute to the learning of other students in collaborative learning</p>																					

	environments, demonstrating interpersonal skills and an understanding of the needs of other students. Assessment may include the outcomes of tasks completed in collaboration with other students. Students who feel their disability will inhibit them from meeting these inherent academic requirements are encouraged to contact Student Equity and Disability Support.
<b>Coordinator:</b>	Mr Jason Bosland
<b>Contact:</b>	Email: <a href="mailto:law-aso@unimelb.edu.au">law-aso@unimelb.edu.au</a> ( <a href="mailto:law-aso@unimelb.edu.au">mailto:law-aso@unimelb.edu.au</a> ) Phone: +61 3 8344 4475 Website: <a href="http://www.law.unimelb.edu.au/jd">www.law.unimelb.edu.au/jd</a> ( <a href="http://www.law.unimelb.edu.au/jd">http://www.law.unimelb.edu.au/jd</a> )
<b>Subject Overview:</b>	This subject is about the legal protection of trade marks and elements of branding and reputation. It addresses three overlapping components. The first involves a detailed treatment of Australian law – in particular the operation of the registered trade marks regime under the <i>Trade Marks Act 1995</i> (Cth) as well as the protection of trade marks and other commercial insignia under the common law tort of passing off and under the misleading and deceptive conduct provisions of trade practices legislation. The second component involves the interrogation of the growing body of academic literature that seeks to answer important theoretical and practical questions about trade mark protection from a range of historical, economic, critical and cultural perspectives. In this part of the course, students will be expected to critically evaluate questions regarding, for example, the scope of trade mark protection, the types of insignia that it should cover and what uses should be permitted by third parties in commercial and artistic settings. In addition to these questions, the subject will also look at topics such as the international trend towards expanded trade mark protection and how trade mark law has responded or should respond to new technologies and associated marketing practices. The third component of the course will look at the legal regimes in comparative jurisdictions – in particular, the United States and the European Union. This comparative element of the subject is important. Given that brand marketing is increasingly conducted on an international scale, lawyers are required to have an understanding of the legal protection of trade marks across multiple jurisdictions.
<b>Learning Outcomes:</b>	Students who successfully complete this subject will: <ul style="list-style-type: none"> <li># Have a detailed, technical, advanced and specialised understanding of the operation of the trade marks regime under the Trade Marks Act 1995 (Cth);</li> <li># Have a detailed, technical, advanced and specialised understanding of the tort of passing off and the misleading and deceptive conduct provisions of trade practices legislation;</li> <li># Have integrated knowledge of the practical operation of trade mark law at a level appropriate for professional practice;</li> <li># Appreciate that the law in this field operates in broader legal, business, cultural and political contexts;</li> <li># Have an advanced ability to independently understand, research and critically analyse the various historical, economic and cultural theories and perspectives relevant to the law of trade marks, reputation and commercial branding;</li> <li># Have an advanced ability to independently understand, research and critically analyse legal and scholarly developments that contribute to professional practice in the area of trade mark law;</li> <li># Have a detailed, technical, advanced and specialised knowledge of the protection of trade marks, reputation and commercial branding in comparable jurisdictions;</li> <li># Have the ability to communicate their analysis of the law and its application in appropriate scholarly and professional formats, and to a variety of audiences.</li> </ul>
<b>Assessment:</b>	Class participation, including leading and participating in discussion and problem solving and one piece of written work (500 words) designed to stimulate class discussion on an assigned topic (10%); AND Either an independent research essay on a topic developed by the student and approved by the subject coordinator (6,000 words) (90%) OR a three hour examination (90%). The due date of the above assessment will be available to students via the LMS.
<b>Prescribed Texts:</b>	Specialist printed materials will also be made available from the Melbourne Law School; Trade Marks Act 1995 (Cth), available at <a href="http://www.comlaw.gov.au">www.comlaw.gov.au</a>
<b>Breadth Options:</b>	This subject is not available as a breadth subject.
<b>Fees Information:</b>	Subject EFTSL, Level, Discipline & Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a>

<b>Generic Skills:</b>	<p>Students who successfully complete this subject will have developed their skills in the following areas:</p> <ul style="list-style-type: none"><li># Specialist understanding, interpretation, critical reflection and comparison of trade mark law in Australian and overseas jurisdictions;</li><li># Specialist understanding, critical reflection and comparison of the various historical, economic and cultural theories and perspectives relevant to the law of trade marks, reputation and commercial branding;</li><li># Independently analysing, comparing and reflecting critically upon legal developments in the area of trade mark law;</li><li># Specialist ability to apply relevant trade mark statutory texts and common law principles to complex fact scenarios and practical problems; and</li><li># Developing a research question relevant to this complex field, creatively carrying out research involving diverse international sources, and preparing a substantial piece of legal writing displaying sophisticated investigation, analysis, synthesis and application of theoretical understanding.</li></ul>
<b>Related Course(s):</b>	Juris Doctor