

730-335 Trade Marks and Related Rights

Credit Points:	12.50
Level:	4 (Undergraduate)
Dates & Locations:	2009, This subject commences in the following study period/s: Semester 1, - Taught on campus.
Time Commitment:	Contact Hours: One 2-hour lecture per week Total Time Commitment: 100-126 hours.
Prerequisites:	Legal Method and Reasoning; Principles of Public Law; Torts; Legal Theory; Obligations; Contracts; Property or in each case their equivalents.
Corequisites:	None
Recommended Background Knowledge:	None
Non Allowed Subjects:	None
Core Participation Requirements:	<p><p>For the purposes of considering request for Reasonable Adjustments under the Disability Standards for Education (Cwth 2005), and Student Support and Engagement Policy, academic requirements for this subject are articulated in the Subject Overview, Learning Outcomes, Assessment and Generic Skills sections of this entry.</p> <p>It is University policy to take all reasonable steps to minimise the impact of disability upon academic study, and reasonable adjustments will be made to enhance a student's participation in the University's programs. Students who feel their disability may impact on meeting the requirements of this subject are encouraged to discuss this matter with a Faculty Student Adviser and Student Equity and Disability Support: http://services.unimelb.edu.au/disability</p></p>
Coordinator:	Ms Janice Luck
Subject Overview:	<p>This subject is concerned with intellectual property law - legal rights attaching to intangible subject matter -as it relates to marketing and the rights of traders to protect their goodwill and reputation. The course examines the laws which regulate the use of trade marks, names, logos, and other trade indicia used to promote goods and services. The course will situate these laws in a framework of economic and social policy. The course will include consideration of:</p> <ul style="list-style-type: none"> # Trade marks registered under the <i>Trade Marks Act</i> 1995 (Cth): a study of the principles of law relating to the <i>Trade Marks Act</i> 1995, including the methods for obtaining, maintaining, exploiting and protecting registered trade marks. # Passing off and related actions: this part of the course involves a study of other the legal mechanisms for protecting trade insignia and commercial reputation. These means include the common law action for passing off, and those provisions of the <i>Trade Practices Act</i> 1974 (Cth) (and equivalent State legislation) which proscribe misleading and deceptive conduct; and # Other special cases: other systems for protecting commercial reputation and get-up: such as the Geographical Indications system, and the UDRP (relating to domain names).
Objectives:	<p>A student who has successfully completed this subject should:</p> <ul style="list-style-type: none"> • Understand the nature and rationales of the Australian trade marks system and related areas of consumer protection law; • understand the principles of law for obtaining, maintaining, protecting and exploiting a registered trade mark under the Trade Marks Act 1995, and be able to apply these principles in particular scenarios; • understand the principles of law by which unregistered trade marks are protected in Australia, and be able to apply these principles to new scenarios; • be able to evaluate critically and analyse the principles of law which protect trade marks and commercial reputation, and the interaction of that law with other important principles such as free and fair competition between traders, and freedom of expression; • be able to evaluate proposals to extend or alter the law relating to trade mark and commercial reputation.

Assessment:	Mid-Semester assignment 2,500 words (50%) and a final open-book examination 2-hours (50%)
Prescribed Texts:	Printed Materials to be issued by Melbourne Law School Davidson M., Monotti A., & Wiseman L., Australian Intellectual Property Law (2007, Cambridge University Press)
Breadth Options:	This subject is not available as a breadth subject.
Fees Information:	Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees
Generic Skills:	<p>On completion of the subject, students should have developed the following generic skills:</p> <ul style="list-style-type: none"> • attitudes towards knowledge that include valuing truth, openness to new ideas and ethics associated with knowledge creation and usage • the capacity for close reading and analysis of a range of sources • the capacity for critical and independent thought and reflection • the capacity to solve problems, including through the collection and evaluation of information • the capacity to communicate, both orally and in writing • the capacity to plan and manage time • the capacity to participate as a member of a team • intercultural sensitivity and understanding <p>In addition, on completion of the subject, students should have developed the following skills specific to the discipline of law:</p> <ul style="list-style-type: none"> # Analyse the nature of trade mark and related rights systems, and assess whether those systems achieve the goals of the relevant legal regimes; # Analyse judgments, statutes and secondary materials relating to trade marks and related rights, and in particular to: <ul style="list-style-type: none"> # extract important features from judgments and statutes; # reconcile apparent conflicts and inconsistencies; # evaluate the development of legal principle' and # apply principles arising from the case law to new scenarios. # Write legal opinions on particular scenarios in which trade marks and related rights are implicated, including: <ul style="list-style-type: none"> # Identifying relevant legal issues; # Arriving at reasoned conclusions as to rights and obligations of the parties; and # Comment on the desirability of the outcomes of applying the law.