

ADVERTISING LAW

Room 104
Tues. and Thurs. 3:05-4:30

Lori Krafte
Fall 2010

Required Readings:

There will be no text book. Materials will be distributed throughout the semester via the Westlaw TWEN site.

Attendance:

Class attendance is required. If you are unable to attend a class session, please let me know in advance if possible.

Final Grades:

Your course grade will be determined by your performance on (i) a take-home final examination, due to Charlene Carpenter by noon on Friday, December 17, 2010 (50%), and (ii) a 15 page paper on a relevant topic of your choosing, to be determined in consultation with me and submitted on or before our last class session (50%). Exceptional class participation may raise your course grade.

Office Hours:

I do not hold regular office hours, but I would be happy to schedule a time to meet with you. Please feel free to email me at lkrafte@whepatent.com, or to call my law office at 241-2324.

Course Outline:

- I. Introduction: Overview of the Areas of Law Governing Advertising
 - A. First Amendment
 - B. Intellectual Property Law: trademarks, copyrights, right of publicity
 - C. Defamation/Libel
 - D. Contract
- II. Advertising and Freedom of Speech
 - A. Commercial Speech Doctrine: standards and tests
 - B. Compelled Speech
 - C. Political Speech: access to the media
 - D. Defamation
 - E. Disparagement/Trade Libel

III. Intellectual Property and Related Rights

- A. Introduction to IP Law: brief history and purpose
- B. Copyrights
 - 1. copyrightability of advertisements
 - 2. ownership
 - 3. infringement
 - 4. fair use defense
- C. Trademarks
 - 1. infringement
 - 2. comparative advertising
 - 3. product placement
- D. Parody defense
- E. Right of publicity

IV. False Advertising

- A. Lanham Act
- B. FTC
 - 1. overview of jurisdiction and procedure
 - 2. standards for determining unfair acts or practices
- C. Claims substantiation
- D. Puffing
- E. Deceptive pictorial representations
- F. Endorsements and testimonials

V. Contract Issues

- A. Brief review of contract law basics
- B. Advertisements as contracts
- C. State law protection of ideas

VI. Industry Self-Regulation

- A. NAD (National Advertising Division of BBB)
- B. CARU (Children's Advertising Review Unit)

VII. Special Issues

- A. Advertising and the internet (including spam laws)
- B. Privacy issues
- C. Children's advertising (including COPPA)
- D. Contests, lotteries, and sweepstakes
- E. Green advertising
- F. Cause marketing