

University Carlos III of Madrid
MASTER UNIVERSITY IN COMMUNICATION AND ADVERTISING
Course 2017-2018

Subject:

Right of publicity and Intellectual Property (Copyright and Industrial Property Law)

Semi-Semester: First

Teachers:

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- Sara Martin Salamanca (desp .: 15.2.75, tel .: 9561, e-mail: sara.martin@uc3m.es)
- Mónica Lastiri Santiago (desp .: 15.2.77; tel .: 9313; e-mail: monica.lastiri@uc3m.es)

OBJECTIVES:

The objectives of the subject are, in general, to make the student (non-jurist) familiar with the basic legal concepts of the law of advertising and the law of intellectual property related to the world of advertising creations. Thus, in the first place, it will be able to distinguish between permitted or permitted advertising and unlawful or prohibited advertising, acts of deception such as the basic type of illicit advertising, verification of inducement to error by means of the average consumer, The permissiveness conditions or budgets of comparative advertising, as well as judicial and extrajudicial instruments against illicit advertising. Secondly, the concept of intellectual property in the broad sense as well as in the strict sense (copyright), and within the latter the concept of originality as the determining legal criterion of intellectual creations that can be protected, and especially the scope of Protection of copyrighted creations. Thirdly, within the so-called industrial properties, the concept of protected design as aesthetic and / or utilitarian creations, its legal requirements, its proximity to copyright and the scope of its legal guardianship. Fourthly, the legal concept of a trademark, its function and high market value and the requirements for its recognition and protection, the so-called likelihood of confusion as the main practical problem of trademarks, renowned trademarks and well-known trademarks With its privileges and the protection of trademarks. Finally, in the fifth place, the student will become aware of the special problem of intellectual creations in the Internet environment, where in addition to the properties previously seen appears the domain name as a proper name of the network.

EVALUATION CRITERIA:

- Participation in class: 20%
- Individual or group work: 30%
- Examen final: 50%

QUALIFICATION METHOD:

Grades will be made generally in light of the explanations of class and of the materials facilitated or recommended by the teacher. As for class participation for positive consideration should be well thought out and reasoned. And as far as the works will qualify fundamentally for the content according to the first criterion, but as long as the presentation is correct and adequate. The final exam will consist of a test with twenty questions and four possible answers.

BIBLIOGRAPHY:

Right of publicity

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Copyright and advertising creation

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Hinojar, B., *The criminal tutelage of industrial design*, Tiant lo Blanch: Valencia, 2006.-
Ruiz Muñoz, M., "Industrial design and copyright in Europe In some harmonized national laws), *Acts of industrial law and copyright*, T. 27 (2006-2007), 2007, p. 381-424.-Vivas Tesón, I. "The protection of industrial design by copyright", 30, *Revista Aranzadi de Derecho patrimonial*, 2013, p. 407 ss.Derecho de marcas: creations of distinctive business signs-Fernández-Novoa, C., *Trademark Law Treaty*, 2nd ed., Marcial Pons: Madrid, 2004.-Fernández-Novoa / Otero Lastres / Botana Agra, *Manual de Industrial property*, 2nd ed., Marcial Pons: Madrid, 2014.-Lobato García, M., *Commentary to Law 17/2001, Marches*, Civitas: Madrid, 2002.-Pérez de la Cruz, A., *Right of Industrial property, intellectual and competition*, Marcial Pons: Madrid, 2008.-
Ruiz Muñoz, M., "On industrial property and exclusion of the responsibility of intermediaries on the Internet: links and search engines (About the French judicial dispute Louis Vuitton Malletier v. Google)", *Journal of Electronic Recruitment*, 99, 2008, p. 61 ss.-Stalman, A., Brandoffon. *The Branding of the Future*, Management 2000: Barcelona, 2014.-VVAA, *Comments to the Trademark Law*, dir. Bercovitz / García Cruces, 2nd ed., Aranzadi: Cizur Menor, 2010. *Intellectual creations on the internet: use and abuse*-De Miguel Asensio, PA, *Private Internet Law*, 3rd ed., Civitas: Cizur Menor, 2012.-García Vidal, A., *Internet trademark law*, Tirant lo blanch: 2008.-
Lastiri Santiago, M., *The commercialization of the domain name*, Marcial Pons: Madrid, 2013.-Ramos Herranz, I., *Trademarks versus domain names*, Iustel: Madrid, 2004. *Specialized reports: -ADI: Industrial Law and Copyright Law*, Marcial Pons / University of Santiago de Compostela-Pe.i.: *Intellectual Property Magazine*RDM: *Revista de Derecho Mercantil*TURNER OF TUTORIAS: El alumno You can contact the teacher at any time by email and ask any questions you may have. And they will be solved either by that same way, or by an interview with the teacher. In any case, once the calendar of the course has been fixed, specific days and times will be indicated for the celebration of individual or collective tutorials. **GENERAL PLAN AND SCHEDULE OF THE ASIGNATURA**Plan General: I - Unfair Competition Law: Advertising Law II - Right Of copyright and advertising creation III - Industrial design law: utilitarian and aesthetic creations IV - Trademark law: creations of corporate distinctive signs V - Intellectual creations on the internet: use and abuse Schedule: First part: Two sessionsOrder: 11:30 a.m. - 13:30 a.m. . Campus Puerta de ToledoI. Right of unfair competition: Right of publicityProf^a.Dr^a .: M^a. José Morillas JarilloCollege of Commercial Law (U. Carlos III of Madrid) 1. Concept of advertising 2. Law of advertising: Spanish and European law 3: Advertising contracting 4. Illegal advertising: a) Meaning and scope b) Limits to Advertising activity: fundamental rights c) Basic assumption: misleading advertising d) Other types of illicit advertising 5. Comparative advertising: permissiveness and limits 6. Special advertising cases a) Advertising by sector b) Advertising and the media 7 Advertising control a) Administrative control b) Protection of advertising creation: remission c) Repression of illicit advertising d) Legal actions: cessation and rectification e) The Jury of Self-Control of AdvertisingSecond part: 30 - 1:30 p.m. Campus Puerta de ToledoII. Copyright and advertising creationProf^a. Dr^a .: Sara Martín SalamancaProfessor of Civil Law (U. Carlos III of Madrid) 1. Introduction: Intellectual Property and Copyright 2. Regulatory regime 3.

Copyright And associated or related rights: structure 4. Protection criteria 5. Protectable works and typology 6. Temporary limitation of protection 7. Content of copyright 8. Limits to copyright 9. Defense of copyright 10. Protection Of advertising creations by copyright 11. Scheme for the contracting of advertising in the framework of copyright

Third part: Two sessions
WORK: From 9:00 a.m. - 11:00 p.m. and from 11:30 p.m. - 1:30 p.m. Campus Puerta de Toledo

III. Industrial design law: utilitarian and aesthetic creations
Prof^a. Dr^a. Isabel Candelario Macías Professor of Commercial Law (U. Carlos III of Madrid)

1. Legal framework of Spanish industrial design, Community and international designs
2. Legal definition of industrial design
3. Industrial design requirements
 - a) Novelty
 - b) Uniqueness
 - i) different general impression
 - ii) informed user
 - iii) degree of freedom of the author
4. Registration procedure: concession and opposition
5. Rights conferred on the holder: content and duration. Extinction. Unregistered industrial design
7. Routes of legal protection of an industrial design: protection with effects in Spain and protection abroad
8. The relationship between design and other legal protection mechanisms: copyright, trademarks (three-dimensional), patents (utility models) and unfair competition law
9. Practical experiences and new design protection strategies

Fourth part: Two sessions
HEALTH: 11:30 a.m. - 1:30 p.m. Campus Puerta de Toledo

IV. Trademark law: creations of distinctive business marks
Prof. Dr. Miguel Ruiz Muñoz Accredited Professor of Commercial Law (U. Carlos III of Madrid)

1. Introduction: Trademark law and the value of trademarks in the market
2. Concept and functions of trademark
 - a) Idea of sign and sample catalog
 - b) Distinctive strength of the sign
 - c) The graphic representation: instrumental character
 - d) Rejection of intangible signs: signs olfativo
 - e) Specialty principle: brand-product relationship (Limit of trademark right)
 - f) Sound signs: Chromatic: a color by itself
3. Birth and procedure for granting the right trademark
4. Registration prohibitions: absolute and relative
5. The risk of confusion (and association)
6. Well-known and renowned marks
7. Rights of the owner the brand. Limits.
8. Defense of the brand: national and international

Fifth part: Two sessions
HOWTO: From 9:00 AM to 11:00 AM and from 11:30 AM to 1:30 PM. Campus Puerta de Toledo

V. Intellectual creations on the internet: use and abuse. **Dr^a. Mónica Lastiri Santiago** Professor Assistant Doctor of Commercial Law (U. Carlos III of Madrid)

1. Intellectual property in a broad sense and technological change
 - a) The technological changes of the information society
 - b) General manifestations of intellectual creations on the Internet
 - i) The Digitalization of contents: artistic creations
 - ii) The use of industrial creations in the Red
 - c) The general response of the law to the Internet phenomenon
2. Specific legal problems: distinctive signs I
 - a) Access to the Network: domain names
 - i) Meaning
 - ii) Categories: the new generation of domain names
 - b) Domain name registration
 - c) Why is the domain name important?
 - D) Legal problem of the domain name
 - i) The legal protection of the distinctive signs against the domain names. Madonna case, Coca-Cola case, etc.
 - ii) Legal protection of domain names: Case sex.com
3. Concrete legal problems: distinctive signs II and digital content
 - a) Challenges of trademark law in virtual worlds: case Second Life
 - b) Keywords advertisin: case Interflora, Google
 - c) Use of trademarks through new Internet channels: Youtube, blogs and networks Social networks (Facebook). Case millenials. Legal

problems.d) Legal protection of the page webe) Problems of the contents: download of graphic and sound elements (contents). Case of peer to peer networks. 4. Concrete legal problems: Patentsa) What can be patentable on the Internet? The patentability of software. Case Apple and Samsungb) Patentability of business methods applicable to electronic commerce (c) Patent disclosure through the Internet: industrial secrets