1) **Trademark Law**
   a) The general rule regarding distinctiveness is clear: an identifying mark is distinctive and capable of being protected if it either (1) is inherently distinctive or (2) has acquired distinctiveness through secondary meaning.


c) **Standing:**
   i) Jays Foods case – must prove injury
   ii) Individuals can’t sue

d) **Federal Trademark Dilution Act**
   i) Damages may be awarded if willfulness is found
   ii) Two different types of dilution – blurring (add factors) genericide, and tarnishment (Coca-Cola & Cocaine)
   iii) Circuit split on whether actual vs likelihood of confusion – *Victoria’s Secret vs. Victoria’s Little Secret* –
   iv) **Nabisco 2nd Circuit** – no need to prove actual confusion? Distinctiveness is different from famous

   i) Liability if:
      (1) Bad faith intent to profit from the mark including a personal name
      (2) Registers, traffics in, or uses a domain name that
         (i) If distinctive at the time of registration of the domain name, is identical or confusingly similar;
         (ii) If a famous mark, is identical or confusingly similar
         (iii) If protected by section 706 of title 18 or section 22506 of title 36, U.S.C.
   ii) To determine bad faith, a court may consider factors like:
      (1) Trademark or other IP rights of the person in the domain name
      (2) Extent to which the mark consists of the name of person or name associated with the person
      (3) Person’s prior use of the domain name in commercial use
      (4) Person’s bona fide noncommercial use or fair use of the mark in a site accessible under the domain name
      (5) Person’s intent to divert customers from the owner’s site to another site that could harm the goodwill
      (6) The person’s offer to sell, transfer, or otherwise assign the domain name for financial gain without having used or intent to use the domain name, or prior pattern of conduct in doing so;
      (7) Person’s provision of material and misleading false contact information in the application
      (8) Extent to which the mark incorporated in the person’s domain name is or is not distinctive or famous
iii) Bad faith intent shall not be determined where the court finds that the person believed and had reasonable grounds to believe that the use of the domain name was a fair use or otherwise lawful.

iv) The court may order forfeiture, transfer, or cancellation of the domain name. Damages may be awarded under the FTDA (if willfulness, damages, profits, costs) or the ACPA.

v) Key questions to ask to see if a situation falls under the ACPA:
   1. Is the mark distinctive or famous?
   2. Is the domain name identical or confusingly similar?
   3. Was there bad faith intent to profit from the famous mark?

vi) In Rem Jurisdiction is permitted under § 43(d)(2)(A). *Harrod's v. Sixty Internet Domain Names* – Federal Trademark infringement is unavailable for an In Rem action, Trademark Dilution is unavailable for an in rem action, and Federal Unfair Competition, 15 U.S.C. 1112(a) is unavailable for an in rem action, but ACPA IS available for in rem actions.

f) Distinctiveness
   i) *Two Pesos*

g) Secondary Meaning
   i) Secondary meaning has been achieved when a mark has become distinctive, that is, has become associated with a single source by the public.
   ii) Secondary meaning test: "87 A.L.R. Fed. 15;"
   iii) Actual Confusion is an indicia of secondary meaning
   iv) Circuit Split: The *New York Rule* – certain types of unfair practices may call for judicial remedies even though traditional secondary meaning and likelihood of confusion are not proven
   v) 2nd Circuit adaptation of the New York rule: the Second Circuit has made its own interpretation of the scope of the "New York Rule":
      • The first comer may prevail if he proves secondary meaning plus likelihood of confusion on the one hand or that the second comer has indulged in one of the proscribed practices which equity will enjoin, on the other.... Plaintiff, while correctly asserting that proof of secondary meaning is not always a prerequisite to securing relief, must fit its case into one of the remaining categories:
         a) Palming Off – A manufacturer’s intentional attempts to induce consumers looking for the trademark owner’s products
         b) Actual Deception – Actual Confusion
   vi) Secondary meaning is a question of fact.
   vii) **Evidence of Secondary Meaning:**
       1. Direct:
          a) Customer Testimony
          b) Customer survey
       2. Circumstantial
          a) Amount and manner of advertising
          b) Amount of sales
(c) Exclusivity and length of use
(d) Proof of intentional copying
(e) Established place in the market
(3) Some circuits find that surveys are direct evidence (7th, 8th, 9th), other circuits say that a lack of surveys do not preclude a finding of acquired distinctiveness (Federal Circuit, 2nd Circuit)
(4) Proof of 5 years use
(5) Registration on the Principle Register is prima facie evidence of the validity of the mark, and the registrant’s exclusive right to use the mark.
(6) Registration of same mark on related goods
(7) Amount of sales –
   viii) Acquired distinctiveness = secondary meaning
   ix) Burden of Proof: The burden of proof of secondary meaning is with the party trying to establish legal protection of the mark, i.e. the plaintiff in an infringement suit and the applicant for registration.
   x) Standard: Preponderance of the evidence – a significant number of consumers identify the mark as a trademark
   xi) Incontestability – a mark becomes incontestable after 5 years use after registration and filing of §8 and §15 forms, even if it is descriptive [rejection of Park ‘n Fly which held that incontestability does not preclude defense of descriptiveness]
   xii) Park ‘n Fly - If you bring a descriptiveness argument after it’s incontestable, it fails. You can still make a descriptiveness argument until the point it becomes incontestable
   xiii) Secondary meaning = distinctiveness

h) Goodwill: Good will may be defined as the favorable consideration shown by the purchasing public to goods known to emanate from a particular source.

i) Likelihood of Confusion
   i) Circuit split as to the test used:
      (1) The Second Circuit has said that summary judgment on the likelihood of confusion issue is appropriate where the undisputed evidence would "lead only to one conclusion" under the Polaroid test." Where five of the eight Polaroid factors weighed in favor of plaintiff and three in favor of defendant, the court held that it was error for the district court to dismiss the case on summary judgment.
      (2) The Third Circuit uses the ten-factor test of the 1983 Lapp case. The Lapp factors are "only a guide," and all of the factors need not be specifically articulated verbatim. The Third Circuit at one time said that it would take a shortcut around the multi-factor test to compare only the marks themselves when the goods are directly competitive. But in 2000 the court changed to use the Lapp multi-factor test in all cases. Interpace Corp. v. Lapp, Inc., 721 F.2d 460 (3d Cir. 1983)
(3) The test in the Fourth Circuit is a seven-factor test, but not all factors are always relevant or of equal emphasis in each case. Pizzeria Uno Corp. v. Temple, 747 F.2d 1522, 224 U.S.P.Q. 185 (4th Cir. 1984) But the Fourth Circuit also sometimes uses the eight-factor Second Circuit Polaroid test and sometimes uses an eleven-factor test.

(4) **Likelihood of Confusion factors:**
- strength of the mark
- similarity of the mark
- similarity of the products
- proximity
- intent
- actual confusion

The knockout punch

(5) **4-prong test for deciding whether to grant or deny preliminary injunctive relief:**
1. Whether there is a substantial probability movant will succeed at trial;
2. whether the moving party will suffer irreparable injury absent the injunction;
3. the harm to other interested parties if the relief is granted;
4. the effect on the public interest

j) **Infringement and Likelihood of Confusion**
i) Non-competing goods:
   1. Strength of the mark
      a) More secondary meaning can strengthen mark
      b) Continuum of description is too arbitrary (Sleekcraft)
   2. Proximity of the goods/similarity of the goods
   3. Similarity of the marks
      a) Sight, sound, meaning w/ emphasis on sight
      b) Willing to look beyond mark in surrounding area?
   4. Actual confusion
   5. Marketing Channels

ii) Type of goods & purchaser care
iii) Intent counts if bad
iv) Likelihood of expansion

k) **Defenses to infringement**
i) No likelihood of confusion
ii) Fair Use if descriptive or surname
iii) Acquiescence
iv) Parody
   1. Must be used in artistic expression
   2. Generally if consumer not confused

v) **Functionality**
(1) The functionality of a product is not protectable and the plaintiff must prove that the whole design is nonfunctional – functionality is determined in light of utility -  

**Morton-Norwich**

(2) If the functions of a design may be performed equally by other designs, it is not functional –  

**Morton-Norwich** – as good as or better than, as cheap as, or cheaper than

(3) **In re DC Comics** – maj – drawings of superheroes may be registered and are not purely functional

(4) **Crescent Tool** – A defendant has the right to copy non-functional features of a design as long as the features are not associated with a single source

l) The primary goal of trademark law is to prevent the public from being deceived.

i) Economic viewpoint:

(1) "trademark law... can best be explained on the hypothesis that the law is trying to promote economic efficiency."

(2) Trademarks perform at least two important market functions:

(a) they encourage the production of quality products;
(b) they reduce the customer's costs of shopping and making purchasing decisions

m) A trademark is a symbol of goodwill. "Good will" has been defined as "the advantage obtained by use of a trademark." A trademark has no independent significance apart from the good will it symbolizes.

i) Judge Hand:

(1) [A] trademark is not property in the ordinary sense, but only a word or symbol indicating the origin of a commercial product. The owner of the mark acquires the right to prevent the goods to which the mark is applied from being confused with those of others and to prevent his own trade from being diverted to competitors through their use of misleading marks. There are no rights in a trademark beyond these.

n) Lanham Act 15 USC §1064

o) **Priority** - 15 U.S.C.A. § 1115(a)

i) A trademark registration on the primary register is prima facie evidence of the registrant’s ownership of the mark and is a presumption of priority

ii) Oral testimony, if sufficiently probative, may suffice as proof of priority

iii) A mark is used when it is displayed or known by consumers in the ordinary course of business in a manner that associates the mark with the owner’s goods or services.

p) **Affixation** – A trademark is affixed to the goods when it is:

i) Placed in any manner on the goods;
ii) Placed in any manner on the containers for goods;
iii) Placed in any manner on the displays associated with the goods or containers;
iv) Placed in any manner on the tags or labels affixed to the goods or
containers; or
v) If the nature of the goods makes any of the above methods of placement impracticable, then on documents associated with the goods or their sale.

q)

r) Surnames
i) Test for being “merely a surname”
   (1) Rareness of the name
   (2) Does the applicant or anyone associated with the applicant use the term as a name?
   (3) Does the term have a recognized meaning other than a surname
   (4) Does the term have the "structure and pronunciation" of a surname or "the look and sound" of a surname? [subjective, estimating customer's confusion]

ii) Initial burden of proof is on the PTO examiner to prove a prima facie case that the word is primarily merely a surname.

iv) Telephone Book test – the examiner looks in the phone book to determine if an unusually large name of listings have the surname. The examiner combines that evidence with the above factors to determine if the word is primarily merely a surname.

v) If a composite mark contains a surname, the entire is considered in determining if the mark (the sum of its parts) is considered to be primarily a surname.

vi) Taylor Wine v. Bully Hill – Neither may use their name as a trademark, but the Δ may use his name in conjunction with advertisement, or if he clearly shows a disclaimer showing no connection the Taylor Wine Company.

vii) Fair Use Defense – If person acquires name and the goodwill with the name, he can use the fair use defense

s) Types of Trademarks/Subject Matter
i) Color
   (1) Color is registrable as a trademark – Qualitex (Sup.Ct.) The Qualitex court held that a single color of a product is capable of being registered and protected as a trademark but only if it has acquired secondary meaning
   (2) The color must have acquired secondary meaning. In Wal-Mart, the Supreme Court looked back to its previous decision and stated that in Qualitex, it had held that no single color can ever be inherently distinctive. Single color always requires proof of secondary meaning.

ii) Internet Domain Names
   (1) The PTO will apply the same tests for distinctiveness, surnames, geographic indications, etc. to registration of domain names as trademarks
iii) Geographic locations – Such marks are not considered inherently distinctive. Terms that are descriptive of the geographic location or origin of goods and services are regarded by the law as not being "inherently distinctive" marks. A "geographically descriptive term" is any noun or adjective that designates geographical location and would tend to be regarded by buyers as descriptive of the geographic location of origin of the goods or services.

1) For a different reason, such celestial marks as MILKY WAY candy bars, MOON- burgers, and SATURN luggage would be classified as arbitrary or fanciful marks, on the assumption that no reasonable buyer would think that the goods in fact came from the place named.

2) If the use of the location is descriptive, as in Bank of America, the location will be deemed to be descriptive and is registrable. Such use does, however, require secondary meaning.

3) Arbitrary use – If use of the location is arbitrary, such as English Leather, the mark does not require secondary meaning.

4) Defenses: Fair Use
   a) Even if one seller has secondary meaning in the use of the location, anyone in that location has the right to use the location name. The description of origin must be used in a descriptive, non-trademark way and must not cause customer confusion.

iv) Sound

v) Voice – Bette Midler case – Ford and advertising company did not have the right to use a sound-alike voice in their ads – Midler had good will associated with her voice.

vi) Clothing

vii) Vanity Phone Numbers – Holiday Inns 6th Circuit – Although a hotel chain owned the rights to its vanity phone number 1-800-HOLIDAY, it did not own the rights to frequently misdialed numbers, like 1800-HOLIDAY.

viii) Dial-O-Mattress -

ix) Note: As in the Panavision case, make it a dilution case to avoid the causation issue. 6th Circuit usually reflects the Holiday Inn case, so either avoid the 6th Circuit or use a dilution argument.-

x) Domain Names –
   1) Panavision – 9th Circuit. Panavision held trademarks for its company name and products. It attempted to register panavision.com when it discovered that the defendant had registered the name. Court found that the Δ exploited and make commercial use of the value of the mark, thus causing dilution. Distinguishes Holiday Inns because he actually used the plaintiff’s trademark and that a domain name is different from a phone number which isn’t associated with a name or phrase.

   2) Sporty’s Farm – Brought under the FTDA, but the ACPA was passed before the appeal.
(3) Brookfield v. West Coast Entertainment - 

(4) MoFo – A Mr. Wick registered www.morrison.foerster.com and similar marks. Web sites that appeared under the domain names were disparaging and he intended to divert customers to his sites, and also owned the domain name www.nameisforsale.com. Wick was enjoined and damage was minimal, so no award of damages was ordered.

(5) UDRP – Uniform Domain Name Dispute Resolution Policy – Adopted by ICANN to settle domain name disputes.

(a) Hewlett-Packard – Complainant must prove:

(i) That the domain name is identical or confusingly similar to a mark in which the complainant has rights;

(ii) That the respondent has no rights or legitimate interests in the domain name, and;

(iii) That the domain name has been registered and is being used in bad faith.

- The respondent in this case meets all of the above and registered the mark to prevent HP from registering it and has done this before. The mark was transferred to HP
- Dissent – Respondent has many domain names and there is no evidence he intended to sell them. He sometimes offers free vanity domain e-mail addresses. He claims to have registered it for business purposes.

(b) Springsteen v. Burgar - to prove that the domain name owner has no rights or legitimate interests, the court looks at:

(i) Whether the domain name owner has shown demonstrable preparations to use the domain name in connection with a bona fide offering of goods or services

(ii) Whether the domain name holder has been commonly known by the domain name, even if he has no trademark rights

(iii) Whether the domain name holder is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain or to misleadingly divert customers or tarnish the trademark at issue

t) Trade Dress***

i) Trade dress is the total look of a product and its packaging and includes the total image and impression of the product.

ii) Two Pesos rule - trade dress that is inherently distinctive is protectable under Lanham Act § 43(a) without a showing that it has acquired secondary meaning. The trade dress was distinctive.

iii) Two Pesos - In order to form the basis for an action under the Lanham Act, a trade dress must satisfy three criteria: 1) it must be distinctive; 2) it must be nonfunctional; and 3) there must be a likelihood that it will be confused with the accused product.
iv) **Crescent Tool** – Trade dress of a product is protectable as long as the trade dress is not functional. Secondary meaning is not required for protection.

v) **Wal-Mart** – Reverses Two Pesos? No, Because it is about product packaging, not product design (or reverse).

vi) Product Design – Scalia would call ok Trade dress

vii) Product Packaging (Design) - Two Pesos, so still good law. See Wal-Mart – Scalia distinguishes between these.

viii) Test – would a reasonable consumer be confused?

ix) **Design patents** – utility matters, 1 year grace period to file after you publish.

x) **Design Patents/Utility patents** – *Traffix* – there is a presumption of functionality, and you must rebut it.

u) Office Practice


i) Goods intended for sale in foreign countries, but are imported into a country where the trademark signifies a domestic source. They compete with domestic products and are sold by a distributor.

ii) **Bourgois** – Face powder purchased for a lower price in France and repackaged and sold in the U.S. are enjoined.

iii) **Lever Brothers** – Soap and dish detergents slightly different in England and U.S. were imported and sold in the U.S.

iv) **Exhaustion** - the best argument for exhaustion is selling the goods in the same market. Charging different prices for more reasons than price is a better reason to divide up the market.

v) **Osawa** – Photography case – Quality control was a key point, warranty maintenance.

vi) **Prestonetts** –

w) **Dilution** – 15 U.S.C. § 1127

i) Dilution is the lessening of the capacity of a famous mark to identify and distinguish goods or services regardless of the presence or absence of

(1) Competition between the owner of the famous mark and other parties, or

(2) Likelihood of confusion, mistake or deception

ii) **Panavision** – 9th Circuit. Panavision held trademarks for its company name and products. It attempted to register panavision.com when it discovered that the defendant had registered the name. Court found that the Δ exploited and make commercial use of the value of the mark, thus causing dilution. Distinguishes *Holiday Inns* because he actually used the plaintiff’s trademark and that a domain name is different from a phone number which isn’t associated with a name or phrase.

iii) **Sporty’s Farm** – Brought under the FTDA, but the ACPA was passed before the appeal.

iv) **Always argue dilution**
x) **Contributory Infringement**
   ii) The test for contributory infringement is whether the defendant knew or should have known about the infringement
   iii) **Polo Ralph Lauren** – Landlord of retailers was found contributorily negligent for not monitoring the retailer and their goods. Willful blindness
   iv) **Hard Rock** – managers of a flea market may be contributorily negligent for not monitoring the vendors and their counterfeit goods and remanded to find if they knew or should have known/willful blindness is not the correct standard.
   v)

y) **Defenses:**
   i) Genericness
      (1) **Murphy Door Bed** -
   ii) Functionality
      (1) Functionality is an issue of fact
      (2) On appeal, functionality can only be reversed upon a finding that it was clearly erroneous
      (3) Burden of Proof – The person who asserts trade dress protection has the burden of proving that the matter sought to be protected is not functional
      (4) Defense: the defendant in an infringement suit has the burden of proof to show functionality in an incontestable mark
   (5) Circuit split:
      (a) 1st Circuit – traditional BOP
      (b) 3rd, 6th, 8th, 9th – BOP is on the plaintiff to prove non-functionality
      (c) 11th, flip flop
      (d) Federal Circuit – Once prima facie case of functionality is proved by defendant, burden shifts to the plaintiff to prove non-functionality
      (e) Supreme Court, 7th & 9th Circuit – functionality is a defense
      (f) 9th Circuit – registration creates a presumption of validity, so the defendant must show otherwise, including functionality
   (6) When the thing claimed as trade dress or a **trademark** consists of a combination of individual design features, then it is the functionality of the overall combination that controls. Thus, an overall design combination of individually functional items is protectable
   (7) After incontestability, you cannot use a defense of descriptiveness.
   iii) **Abandonment**
      (1) Abandonment is cessation of use of a mark with intent not to resume use – 3 years
Once a mark is held abandoned, it may be used by anyone. Abandonment is a question of fact. Standard of proof - clear & convincing evidence. A mark must be used continuously in commerce. A mark may also become abandoned through genericide.

Dawn Donut -

iv) Nominative and Parody Uses

i) Injunction – must show likelihood of confusion
   (1) Standard of review to reverse finding of likelihood of confusion – clearly erroneous, however, sufficiency of evidence to prove loc is reviewed de novo.
ii) Conopco case – Retailer’s lotion labeling was so prominent as to preclude likelihood of confusion
iii) Equitable relief:
   (1) Corrective Advertising
iv) Monetary relief – must show actual confusion (8th Circuit)
   (1) Standard of review to reverse/question of fact – clearly erroneous

aa) Infringement and Unfair Competition
i) Prestonettes – full disclosure protects the reseller from defects in the used goods.
ii) Champion Spark Plug Co. – sold reconditioned used spark plugs. The mark Champion was on the plugs and packaging, but the word “renewed” was in very small print. The Supreme Court found that because there was no fraud or palming off, that no award of damages was proper and injunction was enough of a remedy because there was little chance of damage to the plaintiff and there is little likelihood of confusion.

bb) False Advertising and Disparagement at Common Law
i) The differences between common law false advertising and federal view, etc.

cc) False Advertising Under Statutes

dd) False Advertising and Consumer Help

ee) Licensing and Franchising
i) Naked license – a license where the licensor has failed to maintain adequate quality control over the goods or services. May result in abandonment

ii)

ff) Assignment
i) A mark must be assigned along with its good will (explicitly)
ii) The mark must also be assigned with whatever the assignee needs to carry on the business of the assignor. This includes assets like machinery, secret recipe, formula, and customer lists.
iii) Intent-to-use marks cannot be assigned except to a successor to the business
iv) Contents of the assignment:
(1) Goodwill
(2) Geographic area of the rights assigned
(3) Right to sue and recover damages for past infringement (if desired)
(4) Any material necessary to establish the validity of the assignment
(5) It is not mandatory to record assignment with the PTO, but it is suggested because it will:
   (a) Show title in the assignee and will be presumed valid;
   (b) The recorded assignment will be valid against a subsequent bona fide purchaser;
   (c) The assignee will be able to take all the necessary action to maintain the assignment

v) Trademarks may be assigned as a part of a bankruptcy

vi) 2) Trade Secret
   a) General
   - The source of trade secret law comes from state law, the U
   - Three essential elements:
     - Subject matter must qualify for trade secret protection, must be the type of knowledge or information trade secret protection was meant to protect and must be a secret
     - Must prove the Δ acquired the information wrongfully/misappropriation
     - Must prove \[ ∏ \] took reasonable steps under the circumstances to keep the secret secret. Reasonableness standard – a reasonable jury could find the requisite secrecy
   - Uniform Trade Secrets Act
     - Liability if:
       - The secret was acquired through improper means including; theft, bribery, misrepresentation, breach, espionage
       - Breach of duty
       - Company attempts to prevent acquisition
   b) Protection
   i) Protection is limited to only protect against those engaging in improper behavior
   ii) Protection lasts until the secret is out
   c) Remedies
   i) UTSA – Injunction until the secret is out
   ii) UTSA – Allows payment of actual damages plus unjust enrichment
   iii) UTSA – Allows reasonable royalties received from use of the trade secret
   iv) UTSA – Allows exemplary damages if proven willful and malicious for amount up to 2 times damages
   v) Attorneys fees if egregious
   d) TRIPs – Trade-Related Aspects of IP
   i) Members protected against unauthorized acquisition & dishonest use if the information if it is:
(1) A secret not generally known or not readily accessible
(2) It has commercial value because it is a secret
(3) The owner took reasonable steps to keep it a secret

e) Misappropriation
f) Employment

g) Employment

3) Unfair Competition – State law and § 43(a) of the Lanham Act
   • Infringement of trademarks and service marks;
   • Dilution of good will in trademarks;
   • Use of confusingly similar corporate, business and professional names;
   • Use of confusingly similar titles of literary works on other literary property, and on commercial goods;
   • The appropriation of distinctive literary and entertainer characterizations;
   • Simulation of a container or product configuration and of trade dress and packaging;
   • Infringement of the right of publicity;
   • Misappropriation of valuable business values;
   • "Bait and switch" selling tactics;
   • Below-cost selling;
   • False representations and false advertising;
   • "Palming off" goods by unauthorized substitution of one brand for the brand ordered;
   • Theft of trade secrets;
   • Filing a groundless lawsuit or administrative challenge as an aggressive competitive weapon; However, filing an intellectual property lawsuit in good faith is not unfair competition and is probably an exercise of First Amendment rights guaranteed under the Constitution.
   • Sending cease and desist letters charging infringement of "patent rights" before any patent has been granted; but it is not unfair competition for a patent applicant to advise a prospective customer of the status of his pending patent application and of the applicant's belief that competing goods will infringe the patent if and when it is granted;
   • Sending cease and desist letters to customers of a competitor charging patent infringement without having a reasonable basis for a belief that there was infringement; but federal law bars the imposition of unfair competition liability for publicizing a patent in the marketplace unless the plaintiff can show that the patent owner acted in "bad faith." Federal patent law permits communication to possible infringers concerning patent rights if the patent owner has a good faith belief in the accuracy of the communication. But before a patentee may be held liable under Lanham Act § 43(a) or state law for falsely representing to customers of an alleged infringer that its patent was being infringed and was incapable of being designed around, a showing of bad faith is essential to deprive the patent owner of its right to make statements about infringement of its patent;
   • Sending bad faith cease and desist letters to plaintiff's customers, charging copyright infringement;
• An unreasonable rejection of goods shipped under contract; and ordering services without intending to pay for them;
• Physically obstructing entrance to a competitor's place of business and harassing its customers.

a) Reverse Confusion
b) Right to Privacy
   i) Vanna White
   ii) Bette Midler