

# SISU Syllabus - Marketing and Trademark Law

## 2025-2026 Spring Semester

**Course Title:** Marketing and Trademark Law

**Class Hours:** 2 periods per week, 13 week in total

**Class Period:** 13:30-15:00, Wednesday

**Language of Instruction:** English

**Instructor:** Lecturer, Dr. Haihong Liu, her research area is comparative law, IP Law.

**Contact:** [haihongliu@shisu.edu.cn](mailto:haihongliu@shisu.edu.cn)

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### Course Description and Objectives:

**I. Description:** This course is designed to provide international students with a comprehensive understanding of the interplay between marketing and trademark law in China. By exploring the legal framework governing trademarks, students will learn how to leverage trademark law to protect and enhance brand value, and how market competition by using trademark is regulated and shaping the trademark law. The course will cover key concepts such as distinctiveness, genericization, non-functionality, goodwill, trademark licensing, and likelihood of confusing, dilution, key legal rules of trademark acquisition, exploitation and infringement. Discussion and study of real-world cases will be conducted to illustrate the practical application of legal principles.

### II. Objectives:

- **Understand the Relationship Between Trademark Law and Marketing:** Explore how trademark law has been shaped by market competition, how trademark law supports marketing strategies and regulates competition by using commercial sign, particularly in the context of brand identity and consumer perception.
- **Grasp Key Concepts in Trademark Law:** Learn about distinctiveness, genericization, non-functionality, goodwill, commercial expression, trademark licensing, and infringement, and how these concepts impact marketing decisions.
- **Analyze Real-World Cases:** Examine landmark Chinese trademark cases to understand the practical implications of legal principles in a business context.
- **Develop Critical Thinking Skills:** Apply legal concepts to marketing scenarios and understand the differences in trademark laws in different jurisdictions.

**III. Prerequisite:** general knowledge about intellectual property or marketing is preferable; English proficiency in listening and reading comprehension

### IV. Outline of Course Contents:

#### Topic One: Differentiation and distinctiveness

Teaching hours: 3 lectures

Main contents:

- How is differentiation significant for marketing

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- what is a trademark with comparison with other commercial signs;
- semiotic analysis of a trademark
- what is a good trademark from business perspective and legal perspective
- different types of trademarks
- the origin of trademark law
- the rational basis of trademark law

Reference cases:

Case 1: Xinhua Dictionary

Case 2: Jie Bai Na Trademark invalidation

Case 3: Jin Jun Mei Trademark opposition

### **Topic Two: Symbolization of industrial design and non-functionality**

Teaching hours: 2 lectures

Main contents:

- can product design (packaging, product shape per se) be trademark?
- What is functionality? What is technically functional? What is aesthetically functional?
- Why does trademark law exclude functional shapes of product as trademark?
- How to determine whether a product shape is functional? What is de facto function? What is de jure function

Reference cases:

Case 4: red-sole trademark rejection

Case 5: Zippo trademark invalidation

Case 6: Square-shaped soy sauce bottle trademark opposition

### **Topic Three: commercial expression and legitimacy of trademark symbols**

Teaching hours: 2 lectures

Main Contents:

- Which symbols are prohibited from being used as trademark? Why?
- Symbols involving name of a place
- Offensive symbols which might cause improper impact on public interests

Reference cases:

Case 7: MLGB trademark invalidation

Case 8: 微信 trademark opposition

Case 9: Ha'erbin Xiao Mai Wang trademark rejection

### **Topic Four: trademark squatting and trademark hoarding**

Teaching hours: 2 lecture

Main Contents:

- Why is there trademark squatting?
- Is registration of popular terms an effective competition strategy?

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- How to combat bad-faith registration?

Reference cases:

Case 10: Iphone & Facebook trademark squatting

Case 11: Jordan trademark invalidation

### **Topic Five: Market Competition and Exploitation of Trademark Right**

Teaching hours: 1 Lectures

Main contents:

- How to exploit trademark right?
- What are the advantages and risks of trademark licensing?
- What are the risks in trademark assignment?

Reference cases:

Case 12: Wang Lao Ji trademark licensing dispute

Case 13: Ipad trademark assignment dispute

Case 14: Red-bull trademark assignment/licensing dispute

### **Topic six: Trademark infringement**

Teaching hours: 3 Lectures

Main contents:

- How to determine the trademark infringement? What are the defenses for trademark infringement?
- Are unregistered mark Protected?
- How have the functions of trademark been evolving? And how such evolution affect the trademark protection?
- How is branding shaping the trademark law?
- What is the dilution of well-known marks
- What are the challenges of trademark protection in Mega-universe?

Reference cases:

Case 15: Trademark infringement cases involving OEM Manufacturing

- Case 16: New Balance unfair competition dispute

- Case 17: Catier Ring infringement

### **V. Reference Textbooks:**

Giovanni Pisacane, Daniele Zibetti: Intellectual Property Law in China, ISBN 978-981-15-4557-3 ISBN 978-981-15-4558-0 (eBook) <https://doi.org/10.1007/978-981-15-4558-0>

**VI. Grading Policy:** The final score includes class attendance (40%) and participation (in-class discussion, presentation of case, final paper 60%)