

THIS BOOKLET CONTAINS THE
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Gilson on Trademarks™

Publication 00726 Release 61

April 2007

HIGHLIGHTS

“Gilson on Trademarks”

- Note that the treatise has a new name.

New Treatment of Likelihood of Confusion

- This release contains a complete revision Chapter 5, covering likelihood of confusion.

Trademark Dilution Revision Act

- Chapter 5A has been completely updated to reflect the new dilution law.

“Gilson on Trademarks.” The treatise has been renamed to honor Jerry Gilson’s extensive work on the treatise from 1974 to 2005. His daughter, Anne Gilson LaLonde, has worked on the book since 1998 and has succeeded Jerry as its author, though he continues to give sage advice.

Chapter 5 — Likelihood of Confusion. The Chapter 5 sections on likelihood of confusion have been completely rewritten and updated, and the entire chapter has been reorganized and renumbered. Each

confusion factor now has its very own section (from § 5.03 to § 5.13) and there is a new section on judge-made “types” of confusion (§ 5.14), including initial interest confusion, reverse confusion and non-purchaser confusion. The section on parody and free speech is now § 5.15, counterfeiting is § 5.19 and gray market goods is § 5.20.

Chapter 5A — New Dilution Law. The Trademark Dilution Revision Act became effective October 6, 2006, and Chapter 5A (and the rest of the treatise) has been entirely updated to reflect the new law. The TDRA, drafted by a select committee of International Trademark Association members, is the first change to federal dilution law since the Federal Trademark Dilution Act of 1995.

Use of Another Party’s Trademark. Section 11.08[4][k] now contains a lengthy treatment of use of another party’s trademark to refer to that party’s products and when such use is permissible. After a discussion of the Ninth Circuit’s “nominative fair use” test, the section explores use of another’s mark, including use by com-

panies with complementary products and services, such as manufacturers of replacement parts, repair shops and resellers of unchanged or altered goods. The section also discusses industry regulation of comparative advertising under the aegis of the National Advertising Review Council.

Corrective Advertising Expenses. Section 7.02[7] contains a new treatment of remedies for false designation of origin and false advertising, including a discussion of the remedy of awarding corrective advertising expenses.

ID Manual Update. The Patent and Trademark Office Acceptable Identification of Goods and Services Manual has been updated and is part of the release, in paperback form.

Treatise and Forms Available Online. Trademark Protection and Practice is available online at www.lexis.com. For subscription information, please call customer service at 800-223-1940. The Trademark Protection & Practice Forms are also available as automated forms using HotDocs™ software. For information call 800-500-3627 or for a free demo call 801-354-8047.

Related Products

Trademarks and Unfair Competition Deskbook, 3d Edition. New edition available April 2007! This guide is a unique and easy-to-use reference tool offering an up-to-date synthesis of current and developing trademark and unfair competition law in one concise volume.

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Mealey's Litigation Report: Trademarks. The Report offers specialized, in-depth coverage of trademark litigation, including infringement, the Lanham Act, Internet issues, trade dress, trade secrets, unfair competition, insurance coverage, and more. Published monthly. For more information or to request a complimentary sample of Mealey's Litigation Report: Trademarks, please contact the Customer Relations Department at 1-800-632-5397.

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Gilson on Trademarks™

Publication 726 Release 61

April 2007

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- 2. This Release Number 61 contains only White Revision pages.
- 3. Circulate the "Publication Update" among those individuals interested in the contents of this release.

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