

# IP Law

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Trademarks II:  
Infringement and Dilution

## Lanham Act § 32

15 U.S.C. § 1114 — Remedies; infringement; innocent infringement by printers and publishers

- (1) Any person who shall, without the consent of the registrant—
- (a) use in commerce any **reproduction, counterfeit, copy, or colorable imitation** of a **registered mark** in connection with the **sale, offering for sale, distribution, or advertising of any goods or services** on or in connection with which such use is **likely to cause confusion, or to cause mistake, or to deceive** \* \* \*

shall be **liable in a civil action** by the registrant for the remedies hereinafter provided. \* \* \*

## **Lanham Act § 43**

### **15 U.S.C. § 1125 — False designations of origin, false descriptions, and dilution forbidden**

#### **(a) Civil action**

(1) Any person who, on or **in connection with any goods or services**, or any container for goods, **uses in commerce any word, term, name, symbol, or device, or any combination thereof**, or **any false designation of origin, false or misleading description of fact, or false or misleading representation of fact**, which—

(A) **is likely to cause confusion**, or to cause **mistake**, or to **deceive** as to the **affiliation, connection, or association** of such person with another person, or as to the **origin, sponsorship, or approval** of his or her goods, services, or commercial activities by another person, or

(B) in commercial advertising or promotion, **misrepresents** the **nature, characteristics, qualities, or geographic origin** of his or her or another person's goods, services, or commercial activities,

shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act. \* \* \*

## **Lanham Act § 43**

### **15 U.S.C. § 1125 — False designations of origin, false descriptions, and dilution forbidden**

#### **(c) Dilution by blurring; dilution by tarnishment**

##### **(1) Injunctive relief**

Subject to the principles of equity, the owner of a **famous mark** that is **distinctive, inherently or through acquired distinctiveness**, shall be entitled to an injunction against another person who, at any time after the owner's mark has become famous, commences use of a mark or trade name in commerce that is **likely to cause dilution by blurring or dilution by tarnishment** of the famous mark, regardless of the presence or absence of actual or likely confusion, of competition, or of actual economic injury. \* \* \*

## Lanham Act § 43

### 15 U.S.C. § 1125 — False designations of origin, false descriptions, and dilution forbidden

\* \* \*

(B) For purposes of paragraph (1), “**dilution by blurring**” is **association arising from the similarity** between a mark or trade name and a famous mark **that impairs the distinctiveness of the famous mark**. In determining whether a mark or trade name is likely to cause dilution by blurring, the court may consider all relevant factors, \* \* \*

(C) For purposes of paragraph (1), “**dilution by tarnishment**” is **association arising from the similarity** between a mark or trade name and a famous mark **that harms the reputation of the famous mark**. \* \* \*





**VS**





**(pre-AIA) 35 U.S.C. § 102 — Conditions for patentability; novelty and loss of right to patent**

A person shall be entitled to a patent unless —

(a) the invention was **known** or **used** by others **in this country**, or **patented** or **described in a printed publication** in this or a foreign country, **before the invention thereof** by the applicant for patent, or

(b) the invention was **patented** or **described in a printed publication** in this or a foreign country or in **public use** or **on sale in this country**, **more than one year prior to the date of the application** for patent in the United States, or

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