

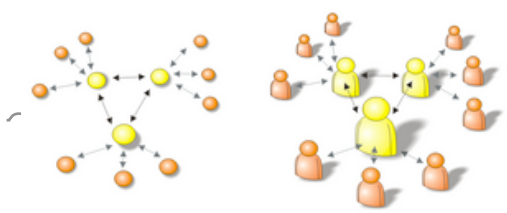
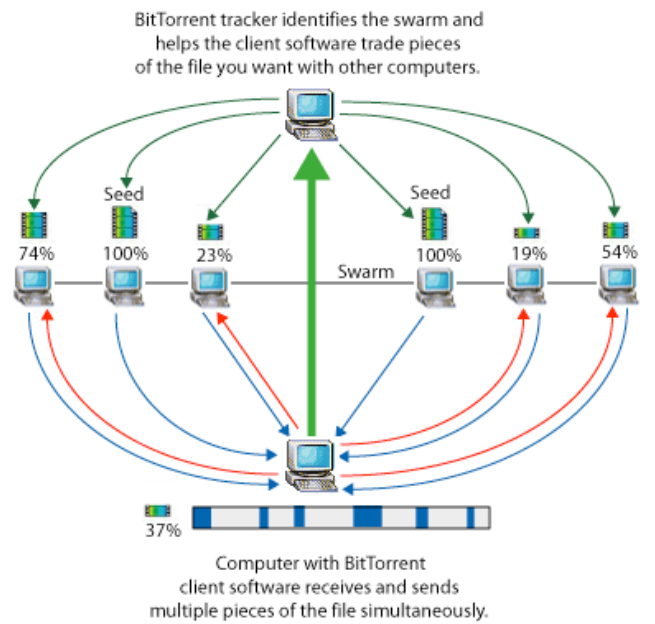
Class 20: Trademark Introduction And Subject Matter

Administrative

Next Time: 634; 648-52
(skip notes): 653-60
No Office Hours today

Last Time

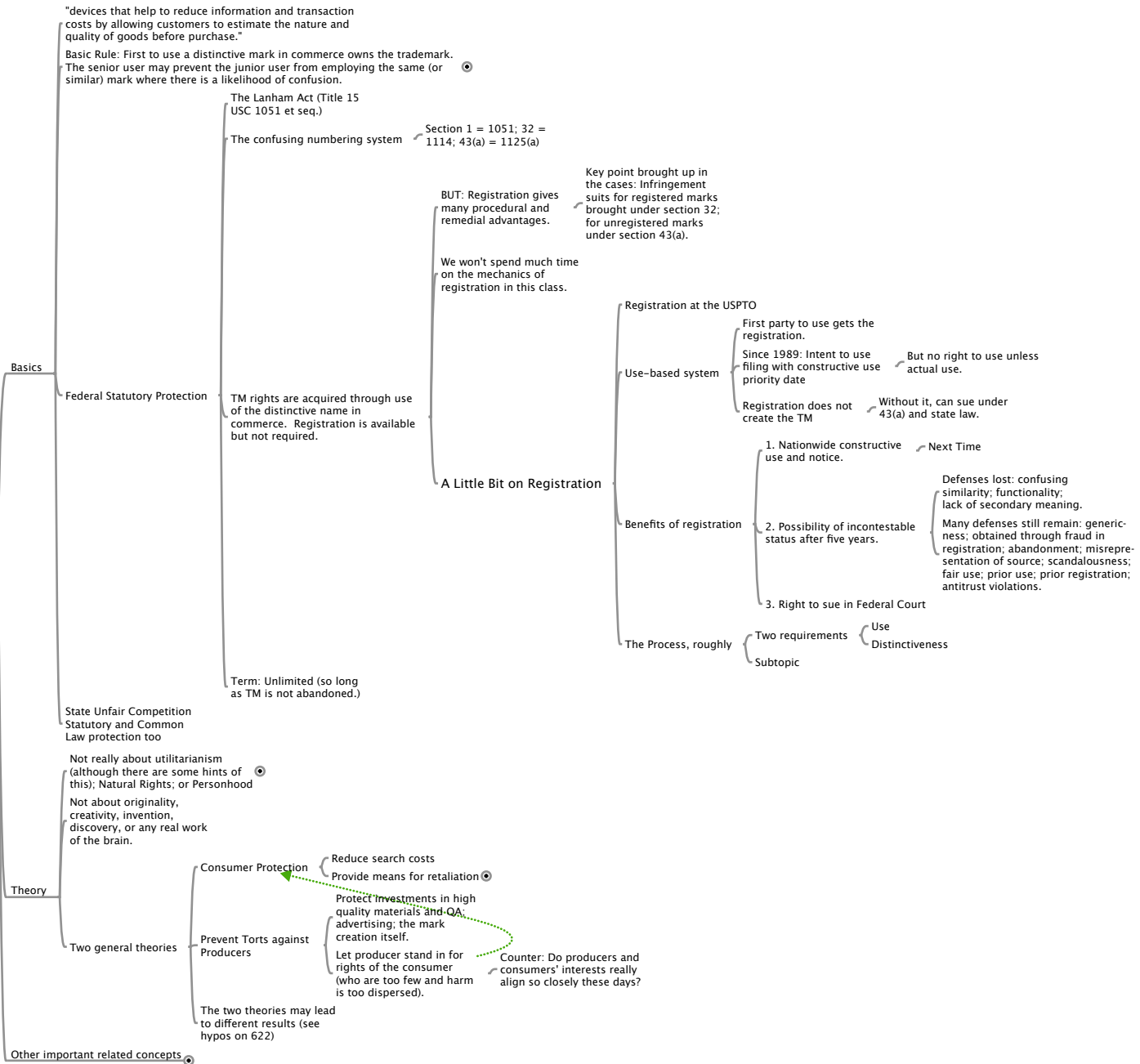
BitTorrent



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Class 20: Trademark Introduction And Subject Matter

Intro and Theory



Class 20: Trademark Introduction And Subject Matter

What can be protected

Trademarks, Trade Names, Service Marks

Words, phrases, logos, symbols





Coca-Cola
 "Life Tastes Good" 
 iPod
 "1,000 songs, impossibly small"


TM: Used to identify GOODS.
 SM: Used to identify SERVICES.
 Trade Names: Identify the Company, not the good.

Color, Fragrance, and Sounds

Examples



- Sound 1 
- Sound 2 
- Sound 3 
- Sound 4 

Trade Dress and Product Configurations

Distinctiveness

Test

Two Classes

Only distinctive marks can be protected.

Rules vary for words, symbols, trade dress, etc.

Inherently Distinctive

For Words: Arbitrary, fanciful, and suggestive.
 No secondary meaning needed.

NOT inherently Distinctive

For words: Descriptive
 Also: Geographic Marks; Personal Name Marks;
 Non-inherently descriptive designs and symbols; Non-inherently distinctive trade dress and packaging; All product and container shapes; colors.
 Secondary Meaning Needed.

Some can NEVER be distinctive

For words: Generic

When this is used / important.

Classification

Specific Mark Types

Secondary Meaning

Test: Is the primary significance of the term in the minds of the consuming public to the product or to the producer?

Policy Rationale

Types of Evidence

Zatarain's
 Basic Facts
 Held (Dist Ct and CA5)