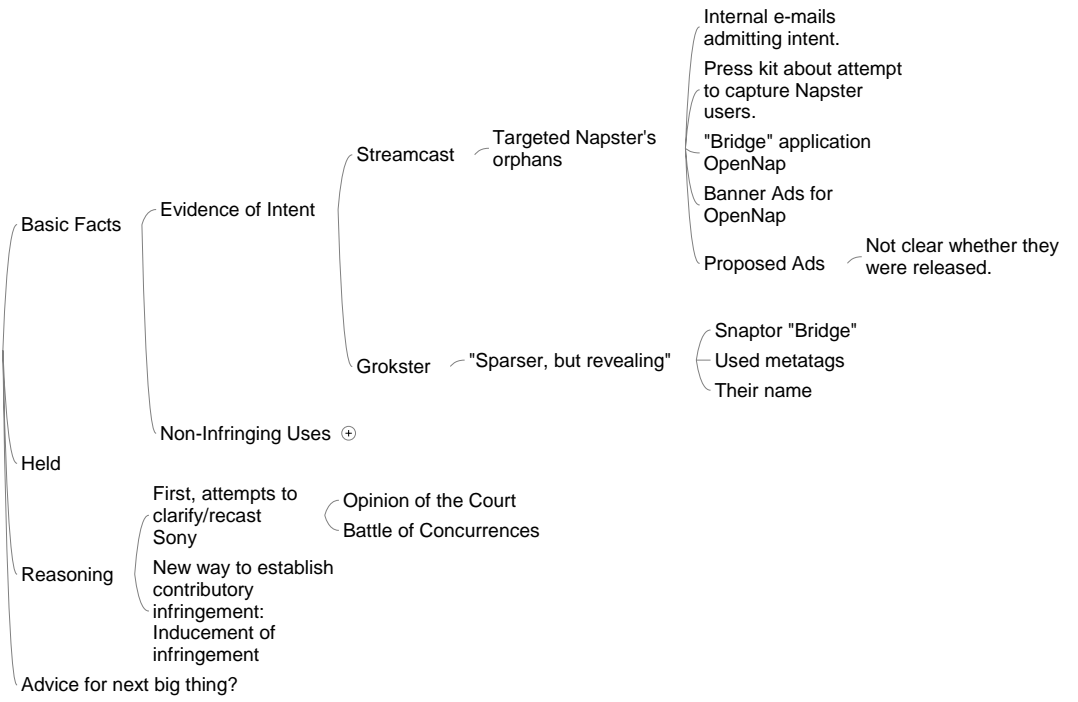
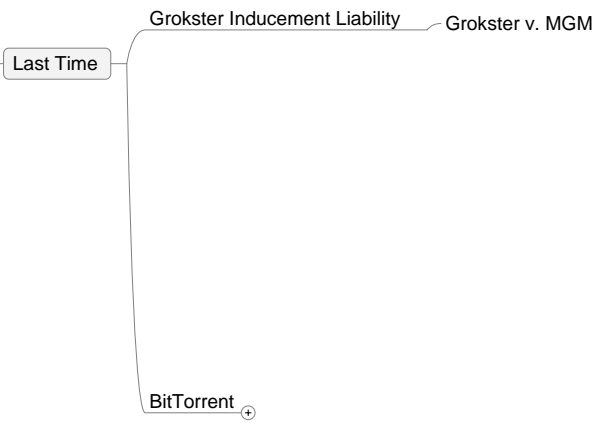
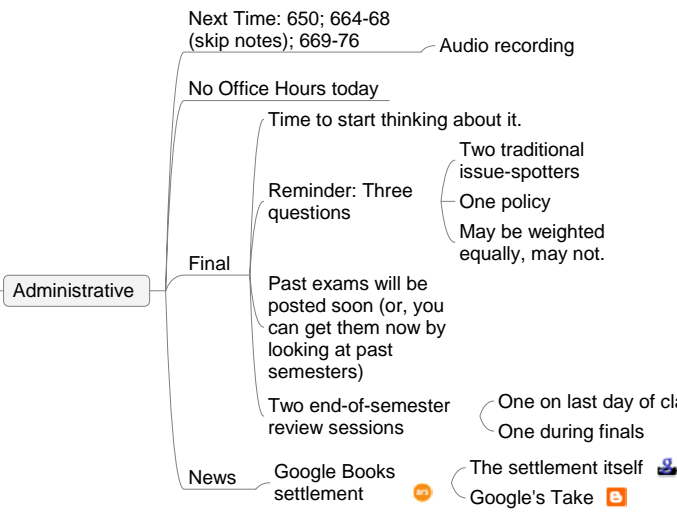


**Class 19: Trademark Introduction And Subject Matter**



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Intro and Theory

Basics

"devices that help to reduce information and transaction costs by allowing customers to estimate the nature and quality of goods before purchase."

Basic Rule: First to use a distinctive mark in commerce owns the trademark. The senior user may prevent the junior user from employing the same (or similar) mark where there is a likelihood of confusion.

"Use" is all that's needed. More like TS than Pat.

Also, lack of use can lead to abandonment. Unlike patents, which need not be used.

Federal Statutory Protection

The Lanham Act (Title 15 USC 1051 et seq.)

The confusing numbering system

Section 1 = 1051; 32 = 1114; 43(a) = 1125(a)

TM rights are acquired through use of the distinctive name in commerce. Registration is available but not required.

BUT: Registration gives many procedural and remedial advantages. We won't spend much time on the mechanics of registration in this class.

Term: Unlimited (so long as TM is not abandoned.)

State Unfair Competition Statutory and Common Law protection too

Theory

Other important related concepts

What can be protected

Trademarks, Trade Names, Service Marks

Words, phrases, logos, symbols

Coca-Cola

"Life Tastes Good"

Wikipedia has a list.



iPod

"1,000 songs, impossibly small"



TM: Used to identify GOODS.

SM: Used to identify SERVICES.

Trade Names: Identify the Company, not the good.

Not registrable under Federal TM Law. But still protection against confusingly similar company names.

Color, Fragrance, and Sounds

Examples



Sound 1



Sound 2



Sound 3



Sound 4



Trade Dress and Product Configurations

Next Time