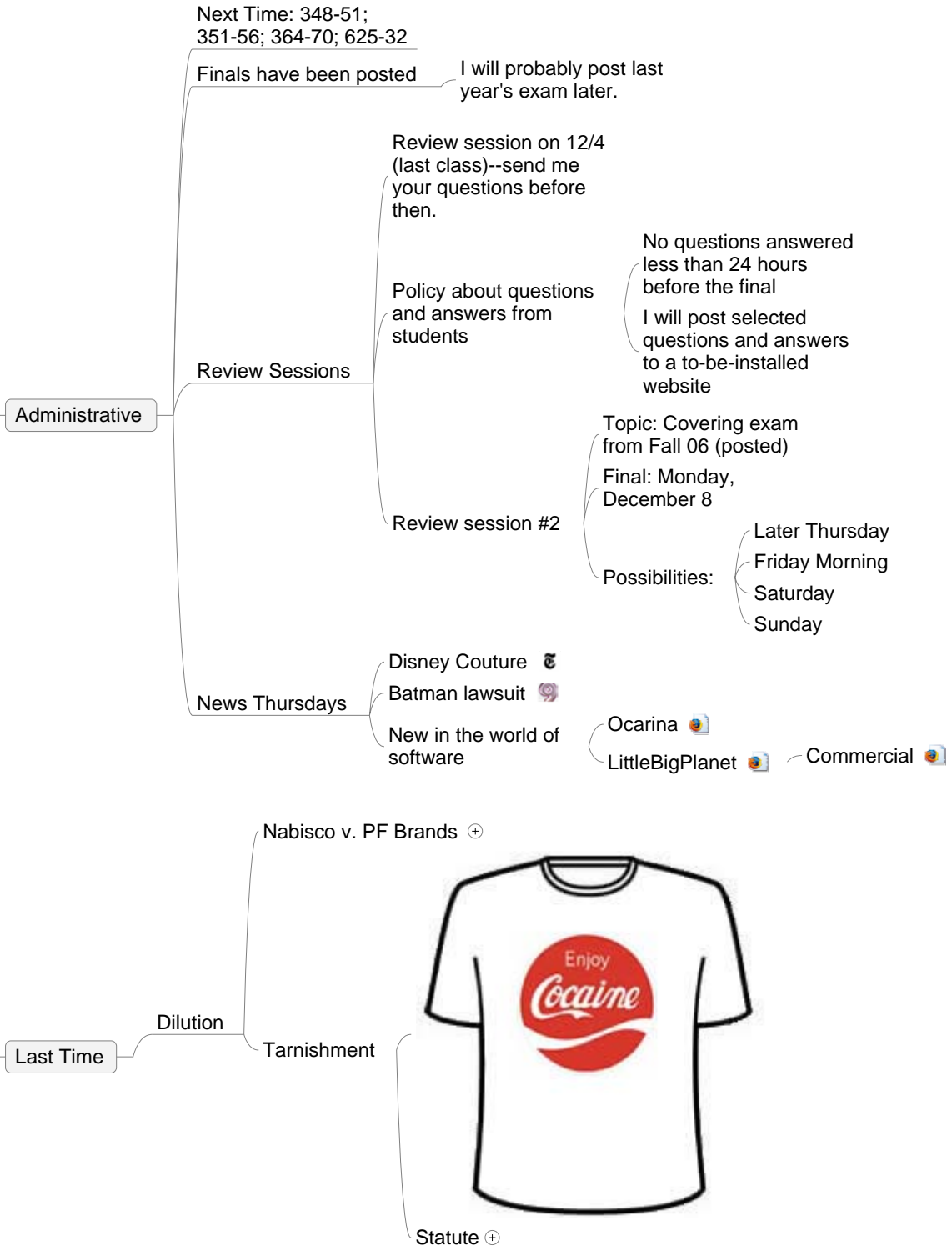


Class 23: Functional TM And Useful Articles



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Last Time

Franchising and Merchandise
Two examples of TM protection that do not fit the underlying policy well

Franchising - McDonalds

- Franchisor and Franchisee enter into detailed contract.
- Franchisee agrees - Follow Franchisor's rules
 - Ingredients
 - Cleanliness
 - Employee conduct
 - Take part in promotions
- Franchisor provides - License to use Trademark and Trade Dress



Merchandising - CU Buffaloes

Licenses use of Buffalo logo onto products sold on campus and elsewhere



What is the disconnect?

Parody / Nominative Use

Mattel Basics

- Basic Facts
- Trademark Infringement?
- Dilution?
- First Amendment generally
- Nominative Use
- Analyze both of these under "Trademark use" doctrine

Aqua releases "Barbie Girl" in 1997 - Top 40 Hit. Acoustic Version

Mattel sues District Court: Parody; Nominative Fair Use; Not likely to confuse or dilute.