

ADVANCED TRADEMARK LAW 2010:

Removing the Confusion from Likelihood of Confusion

An In-Depth Focus on
Arguably the Most Important
Trademark Issue to Brand
Owners and Their Trademark
Counsel

This seminar will examine
the many faces of trademark
confusion, with special focus
on Initial Interest Confusion,
Reverse Confusion, and
Post-Sale Confusion
Theories.

*Insights from local and national
trademark law experts including
guest speakers:*

Ronald D. Coleman

Goetz Fitzpatrick LLP,
New York City, New York

Author of the Likelihood of Confusion blog
at www.likelihoodofconfusion.com

Mr. Coleman speaks on initial interest
and post-sale confusion.

and

Nancy Friedman

Chief Wordworker
Wordworking
Oakland, California

Author of the Fritinancy blog at
www.nancyfriedman.typepad.com

Ms. Friedman speaks on likelihood of
confusion from the client's perspective
and marketing and branding myths.



Thursday, March 4, 2010
Minnesota CLE Conference Center
Seventh Street and Nicollet Mall
Third Floor City Center, Minneapolis

Video replay details inside.

FACULTY

Stephen R. Baird

Course Chair

Winthrop & Weinstine, P.A.; Minneapolis

Ronald D. Coleman

Goetz Fitzpatrick LLP; New York City, New York

Lora Mitchell Friedemann

Fredrikson & Byron; Minneapolis

Nancy Friedman

Wordworking; Oakland, California

Peter J. Gleekel

Winthrop & Weinstine, P.A.; Minneapolis

Paul W. Mussell

Wells Fargo; Minneapolis

Michael T. Olsen

Winthrop & Weinstine, P.A.; Minneapolis

Ivan Ross

President, Ross Research; Minneapolis

Anthony R. Zeuli

Merchant & Gould; Minneapolis

SCHEDULE

8:30 – 9:00 a.m.

REGISTRATION &
CONTINENTAL BREAKFAST

9:00 – 9:45 a.m.

At the Beginning, and in the End, It's All about Likelihood of Confusion

Likelihood of confusion is a critical issue repeatedly faced by every brand owner and their trademark counsel throughout the life cycle of a trademark. Explore and learn about many of the missed nuances when attempting to apply the elusive likelihood of confusion legal standard. Test your knowledge on the subject by using the audience participation voting technology.

– *Stephen R. Baird*

9:45 – 10:30 a.m.

Likelihood of Confusion from the Client's Perspective

Assessing a client's risk tolerance and managing their expectations is critical when providing opinions and advice about likelihood of confusion issues. This is true whether the issue is encountered at the very early stage of name development and selection, when enforcing trademark rights, or when responding to trademark demands from third parties. Learn valuable insights and practical tips from an experienced in-house trademark counsel and from a nationally-known name developer and branding consultant.

– *Nancy Friedman & Paul W. Mussell*
– *Stephen R. Baird, moderator*

10:30 – 10:45 a.m. BREAK

10:45 – 11:30 a.m.

A Focus on Actual Confusion: The Best Evidence of Likely Confusion?

We know that actual confusion is only an element in the multi-factor likelihood of confusion test, and it is not a requirement to prove likely confusion, but we also are told that it is the best evidence of likely confusion. Is that right? Is that how the courts really rule? What kinds of actual confusion evidence are persuasive and when is actual confusion evidence unpersuasive and considered de minimis? How does the absence of actual confusion affect likelihood of confusion determinations? Learn valuable insights and perspectives on these and other questions.

– *Michael T. Olsen*

11:30 – 12:15 p.m.

A Focus on Preliminary Injunctions and Proving Likelihood of Confusion

Preliminary injunctions are especially important in trademark infringement cases. Successful motions cause defendants to think hard about permanently moving to another name since they can't use the name while preparing for trial, maybe a year or more away, and unsuccessful motions cause plaintiffs to rethink the strength of their case. Learn important strategies from an experienced trademark litigator on proving and disproving likelihood of confusion at the preliminary injunction stage of a case.

– *Lora Mitchell Friedemann*

Lunch & Lunch Presentation

All attendees are invited to attend the lunch presentation.

12:15 – 1:15 p.m.
LUNCH

Lunch provided at live seminar only.



Marketing Types, Trademark Types & Their Favorite Myths

It's no secret that marketers and lawyers don't always see eye to eye. When the collaboration is good, great things can happen. When it is not, opportunities are surely lost. Eavesdrop on a casual, but probing conversation between Steve and Nancy about how each sees the worlds of trademarks, naming, branding, and marketing.

– *Stephen R. Baird & Nancy Friedman*

1:15 – 2:15 p.m.

A Focus on Initial Interest Confusion, Post-Sale Confusion and Related Strategies

Trademark infringement can result from conduct that doesn't necessarily create a likelihood of confusion at the point of sale. What about confusion that likely occurs only before or after a sale? Learn from a likelihood of confusion guru, and author of the award-winning Likelihood of Confusion® blog, about the current state of the law on initial interest confusion, post-sale confusion, and related legal theories and strategies.

– *Ronald D. Coleman*

2:15 – 3:00 p.m.

A Focus on Reverse Trademark Confusion and Related Strategies

Does David have a fair chance asserting trademark infringement claims against Goliath? When he does, it is typically in the context of a reverse trademark confusion case. Learn from an experienced trademark litigator on how to avoid the pitfalls of pursuing or defending against reverse trademark infringement claims.

– *Anthony R. Zeuli*

3:00 – 3:15 p.m. BREAK

3:15 – 4:30 p.m.

A Focus on Likelihood of Confusion Survey Evidence

Learn and understand how to address the issues involved in creating, leveraging, navigating, and excluding trademark likelihood of confusion survey evidence from two experienced trial attorneys and a veteran trademark survey expert. This session will use as a teaching example the actual complaint filed in the highly publicized and recently settled trademark case brought by David (local burger joint Lion's Tap) against Goliath (McDonalds). This dynamic group will explore possible issues had the case not settled and survey evidence was introduced. Audience participation and voting will enhance the learning experience during this high level discussion.

– *Ivan Ross & Ronald D. Coleman*
– *Peter J. Gleekel, moderator*

Course Manual

All attendees will receive a handy reference manual containing course materials. If you cannot attend the course, you can still obtain these valuable written materials. Use the form in this brochure to place your order today.

COURSE INFORMATION

LIVE PRESENTATION

Minneapolis Thursday, March 4, 2010

Minnesota CLE
Conference Center
Seventh Street & Nicollet Mall
Third Floor City Center

Box lunch included.

VIDEO REPLAYS

Schedule times for video replay may differ slightly from the live presentation due to abbreviated break periods. Check-in and start times are the same. Lunch will not be provided at the video replay.

Minneapolis Wednesday, March 10, 2010

Minnesota CLE
Conference Center
Seventh Street & Nicollet Mall
Third Floor City Center

Lunch not included.

CREDITS

Minnesota CLE is applying to the Minnesota State Board of CLE for **6.0 standard CLE credits.**

ACCOMMODATION

If you have a disability and need an accommodation in order to attend, please contact us as soon as possible at 2550 University Avenue West, Suite 160-S, Saint Paul, MN 55114 or call us at 651-227-8266 or 800-759-8840.

CANCELLATION / NO-SHOW POLICY

Paid registrants who cancel their registration at least 72 hours before the program will receive a full credit on their account; if fewer than 72 hours, a \$25 administrative fee will be deducted. Paid registrants who fail to attend will receive the written materials. Passholders may purchase the course materials at 50% of the full retail price.

QUESTIONS?

Please call Minnesota CLE at **651-227-8266** or **800-759-8840** or visit us on the web at **www.minncle.org**.

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VIDEO PRESENTATION – 3/10/10 (lunch not included)

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The 2010 Midwest
Intellectual Property Institute

September 23 & 24, 2010
Minnesota CLE Conference Center

Details coming soon!