ADVERTISING LAW

Room 302
Mon. and Wed. 4:40-6:05

Lori Krafte
Fall 2015

Required Readings:

There will be no text book. Materials will be distributed throughout the semester via the Westlaw TWEN site.

First Week Reading Assignments: please see TWEN.

Attendance:

Class attendance is required. If you are unable to attend a class session, please let me know in advance if possible.

Final Grades:

Your course grade will be determined by your performance on (i) a take-home final examination, due to Charlene Carpenter by noon on Thursday, December 17, 2015 (50%), and (ii) a 15 page paper on a relevant topic of your choosing, to be determined in consultation with me and submitted on or before our last class session (50%). Exceptional class participation may raise your course grade.

Office Hours:

I do not hold regular office hours, but I would be happy to schedule a time to meet with you. Please feel free to email me at lkrafte@whe-law.com, or to call my law office at 241-2324.

Course Outline:

I. Introduction: Overview of the Areas of Law Governing Advertising (class 1)

   A. First Amendment
   B. Intellectual Property Law: trademarks, copyrights, right of publicity
   C. Defamation/Libel
   D. Contract

II. Advertising and Freedom of Speech (classes 2-7)

   A. Commercial Speech Doctrine: standards and tests
   B. Compelled Speech
   C. Defamation/CDA
   D. Disparagement/Trade Libel
III. Intellectual Property and Related Rights (classes 8-12)
   A. Introduction to IP Law: brief history and purpose
   B. Copyrights
      1. copyrightability of advertisements
      2. ownership
      3. infringement
      4. fair use defense
   C. Trademarks
      1. infringement
      2. comparative advertising
      3. product placement
   D. Right of publicity
   E. Parody defense
   F. Idea protection

IV. False Advertising and Related Issues (classes 13-19)
   A. Lanham Act
   B. FTC
      1. overview of jurisdiction and procedure
      2. standards for determining unfair/deceptive acts or practices
   C. Claims substantiation
   D. puffing
   E. Endorsements and testimonials

V. Industry Self-Regulation (class 20)
   A. NAD (National Advertising Division of BBB)
   B. CARU (Children’s Advertising Review Unit)
   C. Trade group self-regulation

VI. Special Issues (classes 21-26)
   A. Children’s advertising (including COPPA)
   B. Cause marketing
   C. FCC sponsorship identification rules
   D. Green advertising
   E. Contract issues
   F. Privacy issues
   G. CAN-SPAM
   H. Product placement
   I. Contests, lotteries, and sweepstakes