

**IM 450-01**  
**Intellectual Property Law and New Media**  
**Fall 2022**  
**Day 3**  
**September 1, 2022**

**Overview of Legal Process in IP Cases**

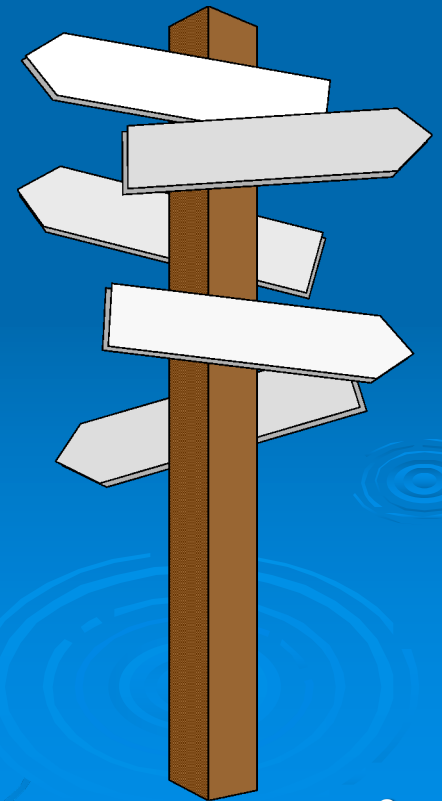
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From notes largely by  
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# Today's Agenda

- Anatomy of an IP case
- The Courts and the Law
- Links to finding cases
- Parts of the case file
- Who's on first?



# Anatomy of a Case

Hilton v. Hallmark Card

➤ Owner of IP



➤ Infringer of IP



# The Offending Card





# Anatomy of a Case

- Hilton sues (2008) Hallmark for the use of her image and trademark-protected slogan, “That’s Hot.”
  - Hallmark challenges the complaint on free speech grounds under the First Amendment.
  - The trial court grants part and denies part of Hallmark’s request

# Anatomy of a Case: Hilton v Hallmark

An appeal takes place to the Ninth Circuit.

The appellate court agrees with the part of the ruling that enables Hilton to sue Hallmark for trademark infringement. (this is an ISSUE)

The appellate opinion becomes part of the common law and is binding not only on the parties but on all other litigants who face similar ISSUES.

The case goes to trial (on the FACTS rather than the issues) in Dec. of 2010, but the parties settle two days later.

So the reasoning and outcomes on the ISSUES (set by the appellate court) becomes common/case law/precedent, even though the facts of the case are never heard or decided in a court of law.

# Facts v. Issues

**As illustrated in the Hilton case, cases involve legal issues and the facts of the case.**

- **For example, the court determined that the 1<sup>st</sup> Amendment issue (Hallmark's use as protected/free speech) did not hold in this instance and did not prevent Hilton from taking the case to trial.**
  - **If that issue was decided in Hallmark's favor, there would be no chance for a trial.**
- **Cases also feature the factual specifics of the incidents.**
  - **Often, facts are more/most at risk in preliminaries and at trial court; issues are more at risk on appeal (although a trial court CAN decide to not hear the facts of a case because a given legal issue suggests/demands that the case isn't worthy)**

# Facts v. Issues

- This feature can be frustrating to “lay” observers like us as we’d almost always like the courts to decide the merits of a case based on the facts. Courts, on the other hand, very often set the facts aside and decide the case based on “technical” legal issues.
- Further, the higher one goes, the more lay people want the courts to decide about the facts and the more likely the court is to rule, instead, only on the issues.
  - In *Eldred*, we wanted the Supreme Court to say that the Copyright Extension Act was the right or wrong thing to do for copyright law— but that’s the job of the legislative or executive branch
  - Instead, the Supreme Court ruled that the Congress has the right to extend the terms of Copyright law.

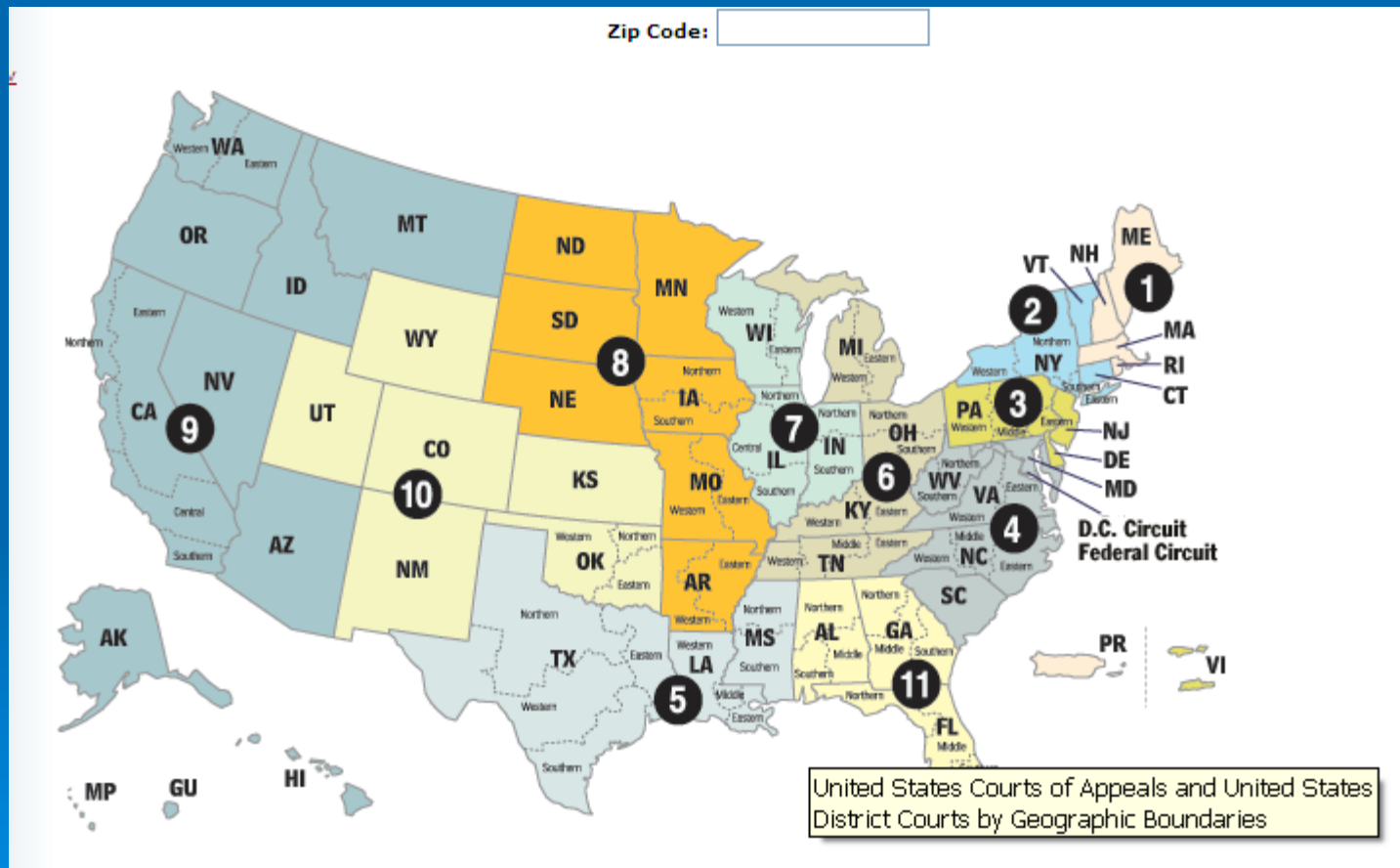
# Layers of Federal Courts

United States Supreme Court  
Citation e.g. *Jones v. Smith*, 250 U.S. 345 (1982)

United States Circuit Courts of Appeal  
Citation e.g. *Jones v. Smith*, 327 F.3d 215 (7<sup>th</sup> Cir. 1999)

United States District Courts  
Citation e.g. *Jones v. Smith*, 415 F. Supp. 1123 (N.D. Ill. 2001)

# Federal Appellate Districts



# Layers of State Courts (Illinois)



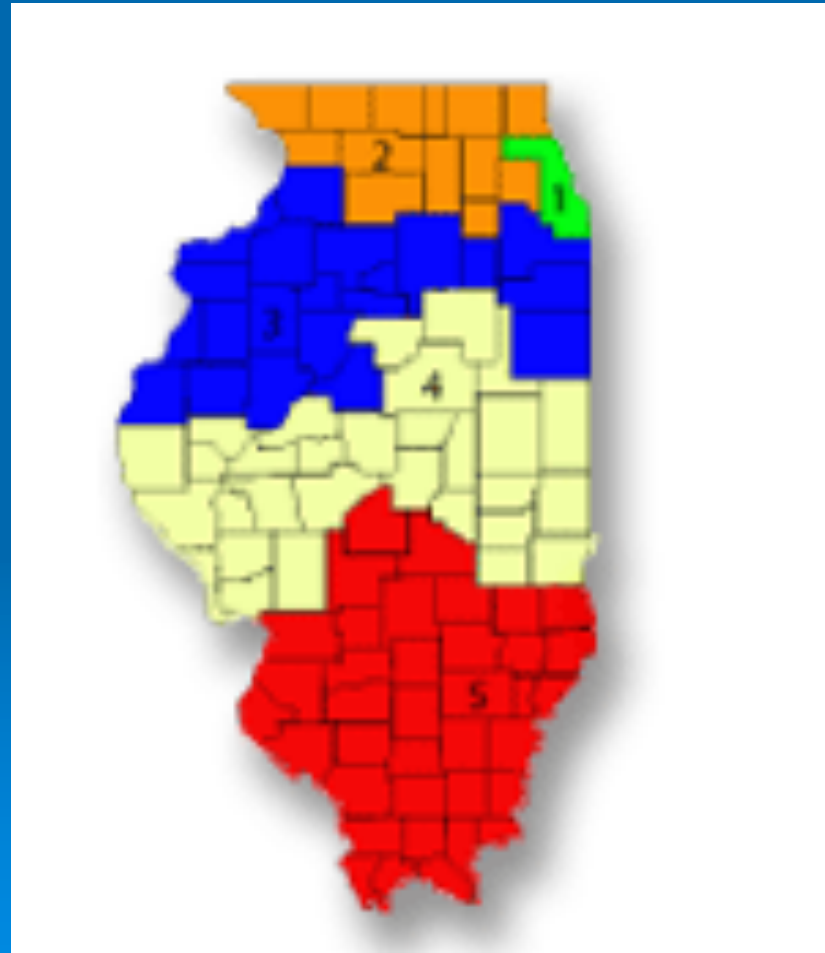
Illinois Supreme Court

Illinois Appellate Court

Illinois Circuit Court



# State Court Appellate Districts, Illinois



# How to Find the Law on the Web

## ➤ US Code

- <http://www4.law.cornell.edu/uscode/>

## ➤ Pointers to State Laws

- <http://www4.law.cornell.edu/states/listing.html>

# Where to find case files/opinions

- U.S. Supreme Court Opinions
  - <http://www.supremecourtus.gov/>
- Links to online resources in IP law
  - <https://freeforafee.bradley.edu/links-to-online-resources/>
- Case files, etc.:
  - [Courtlistener.com](http://Courtlistener.com)
  - [Justia.com](http://Justia.com)

# Warnings when finding case files & opinions on the web

- It often takes a very careful (and experienced eye) to tell which part of a given case you have recovered.
  - Sometimes you get the trial case.
  - Sometimes you get the appeal.
  - There can be multiple trials and/or appeals
  - Other times you'll find a particular part, say, a motion or a friend-of-the-court filing.
- THE SEARCH CITATION OFTEN LOOKS THE SAME FOR ALL OF THESE.

# Who's on first?

## For civil actions

- Plaintiff
  - a party who complains or sues in a civil action
- Defendant
  - a party who is being sued by a plaintiff

# Who's on first?

## For criminal actions

Prosecution: government entity representing the people against the accused (criminal)

Defendant: the accused

# Who's on first?

## In both civil & criminal APPEALS

### Appellant

a party who appeals a decision by a trial or “lower” court

### Appellee

a party who responds to an appeal by appellant



# Who's on first?

## ➤ Amicus Curiae

- Friend of the Court
- Non-parties who petition the court for permission to file legal briefs on behalf of their respective constituencies because the issues involved may have broad impact on them

## ➤ Amici

- Plural of amicus curiae

# Who's on first?

## ➤ Petitioner

- Party seeking appeal in the U.S. Supreme Court (SCOTUS)

## ➤ Respondent

- Party responding to a petition to the U.S. Supreme Court

# Parts of the Case File

## ➤ Complaint

- Initial document filed by plaintiff to start a law suit

## ➤ Cause of Action

- The theory or theories of legal recovery articulated by plaintiff in the complaint
  - e.g. Copyright infringement, breach of contract
  - Sometimes facts are described, but the “meat” is/are the issue(s)

## ➤ Motion

- An application to a court or judge for purpose of obtaining a rule or order directing some act to be done in favor of applicant.

## ➤ Stipulations

- Case facts that both sides agree to.

# Parts of the Case File

## ➤ Motion to Dismiss

- Filed by a defendant early in a case to challenge the legal theories.
- Assumes all facts alleged are true but says that no legal claim exists.

## ➤ Motion for Summary Judgment

- Filed by either plaintiff or defendant.
- No genuine issue of material fact is in dispute.
- Court can decide the issues without need for a trial.

# Parts of the Case File

## ➤ Holding

- Narrow legal answer to the question posed by the case.
- Holdings of an appellate court are binding on future cases that come before the trial courts below the appellate court.
- Dicta: Additional explanation within the opinion.
  - Not binding on future cases that present the same issue.
  - Contains facts/reasoning that might get used in other cases but that is NOT binding as law.

# Writ of Certiorari

- An order of an appellate court granting or denying a petition to appeal

# Parts of the Case File: Findings

- Cases often present multiple issues. Findings can vary across issues.
- Affirmed
  - When an appellate court agrees with the lower court decision.
- Reversed
  - When an appellate court disagrees with and overturns the lower court decision.
- Remanded
  - When an appellate court sends a case (or an aspect of the case) back to the lower court for further proceeding/reconsideration.
- Mixed Holding: Separate holdings for different parts (“Affirm in part, reverse in part, remand in part”).



# Over the weekend please watch

## ➤ Good Copy, Bad Copy

- <https://vimeo.com/19941622>
- It is about copyright as we entered the new media age.
- It is OLD.
- It is FUN.
- A lot of it still holds.
- It illustrates instances of other country's approaches to our laws.
- Jot questions/comments as needed. Bring to class next week.