

The Public's Domain in Trademark Law

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Modern trademark law doctrine has for some time included within its scope a cause of action based on the conclusion that consumers are likely to be confused into thinking that the plaintiff sponsored or is associated with the defendant, but little work has been done to determine why trademark law's reach should extend this far. Drawing on other areas of the law in which readers are asked to interpret similar association signals, I consider what value sponsorship and association have for consumers and whether allowing trademark owners to control the cognitive process behind these interpretations may actually frustrate consumers' need for self-determination.