

The  
**Trademark  
Reporter**<sup>®</sup>



The Law Journal of the International Trademark Association

# United States Annual Review

The Seventieth Year of Administration  
of the Lanham Act of 1946

*Theodore H. Davis Jr.*  
*John L. Welch*

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IN MEMORIAM

Arthur J. Greenbaum



We dedicate this *United States Annual Review* issue of *The Trademark Reporter* (TMR) to our friend and colleague Arthur J. Greenbaum (1931–2017). Arthur brought his many talents to the TMR starting in 1964 and served as its Editor in-Chief from May 1970 through April 1972. Arthur was a longtime supporter of the TMR’s *Annual Review*, having worked on the *Annual Review* with Prof. Walter J. Derenberg in 1973 and continuing this work through 1979.

Arthur graduated from the University of Pennsylvania and Harvard Law School, started his legal career at White & Case, and then for the next fifty years practiced law at Cowan, Liebowitz & Latman in New York. He joined that firm, which then had six lawyers, in 1967, became the managing partner just three years later, and continued to handle numerous special projects for the firm, even after ostensibly “retiring” from active practice in 2005, up until his death in November 2017. Arthur taught trademark law at New York University for several years and was awarded the first

Pattishall Medal for Teaching Excellence of Trademark and Trade Identity Subjects at the INTA Annual Meeting in 1997.

Throughout his career, Arthur was dedicated to the development of trademark law and practice, whether as a litigator, an adjunct professor, an author, an advocate, an editor, or a mentor. Arthur was a wonderful combination of impressive intellectual, kind mentor, and would-be comedian. *Harvard Law Today* published a short article in 2013 highlighting one example of Arthur’s kindness and love of the law. During law school, Arthur took the same classes as his college friend, Joseph F. Nocca, who was legally blind, so that Arthur could read the class materials to Joseph and the two could study together. In the article, Arthur is quoted as noting that the arrangement benefited him as well, saying “Joe’s a very smart guy, so if I didn’t understand something, we could talk about it, and figure out the theory of law together. We would stop the reading to discuss it—you learn it better that way.”

A review of Arthur’s contributions to INTA and the TMR also inspires awe. Arthur, along with Jane Ginsburg and Steven Weinberg, wrote “A Proposal for Evaluating Genericism after ‘Anti-Monopoly,’” in the wake of the controversial Ninth Circuit decision in *AntiMonopoly, Inc. v. General Mills Fun Group, Inc.*, 684 F.2d 1316 (1982).<sup>1</sup> One year later, the Lanham Act was amended to eliminate the controversial holding of the *AntiMonopoly* case, adding language to the statute that “[t]he primary significance of the registered mark to the relevant public rather than purchaser motivation shall be the test for determining whether the registered mark has become the generic name of goods or services on or in connection with which it has been used.” 15 U.S.C. § 1064(3). Arthur was also involved in INTA’s Trademark Review Commission, leading up to another significant amendment in the U.S. law—the adoption of the intent-to-use trademark system in 1989. A review of the issues of the TMR published during his tenure as Editor-in-Chief more than forty-five years ago reveals many articles on topics still relevant and timely today: “Trademarks, Technology and Social Change: Research into Trademark Confusion,”<sup>2</sup> “Problems with Section 2(e)(3) of the Lanham Act (Primarily Merely a Surname),”<sup>3</sup> “How to Use a Trademark Properly,”<sup>4</sup> “Geographical Scope of Registered Rights: Then and Now,”<sup>5</sup> “Fraud in Trademark Procurement and Maintenance,”<sup>6</sup> “The Mechanics of Proof of

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<sup>1</sup> 73 TMR 101 (1983).

<sup>2</sup> 62 TMR 43 (1972).

<sup>3</sup> 62 TMR 67 (1972).

<sup>4</sup> 61 TMR 431 (1971).

<sup>5</sup> 61 TMR 411 (1971).

<sup>6</sup> 61 TMR 1 (1971).

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Secondary Meaning,”<sup>7</sup> “The Impact of Intent in Trade Identity Cases,”<sup>8</sup> and “Preserving Distinctiveness of a Symbol Mark after Embellishment,”<sup>9</sup> along with, of course, the Annual Reviews for the Twenty-Third and Twenty-Fourth Years of Administration of the Lanham Act.<sup>10</sup>

Arthur’s significant contributions to the law, to INTA, and to the TMR, will be missed.

Kathleen E. McCarthy  
*Editor-in-Chief, 2016–2017*

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<sup>7</sup> 60 TMR 263 (1970).

<sup>8</sup> 60 TMR 575 (1970).

<sup>9</sup> 61 TMR 201 (1971).

<sup>10</sup> 60 TMR 387 (1970), 61 TMR 257 (1971).