Exam #_____

Federal Trademark Registration
Spring, 2007
Mid-Term Examination
February 21, 2007

Instructions:

- You have **1.5 hours** to complete this examination. Please write your answers in a blue book (short answers or mini-essays).

- This examination counts as twenty-five percent (25%) of your grade. I have assigned 100 points to this examination. The number of points applicable to each question is listed alongside the question numbers.

- Use an exam number on both your blue book and this exam; do not use your name anywhere. Please return your exam to the proctor in the blue book.

- This is a closed book exam.

- Unless otherwise specified, all questions pertain to the United States federal trademark registration system under the Lanham Act and the U.S. Patent and Trademark Office ("PTO").

- Following is the point distribution:

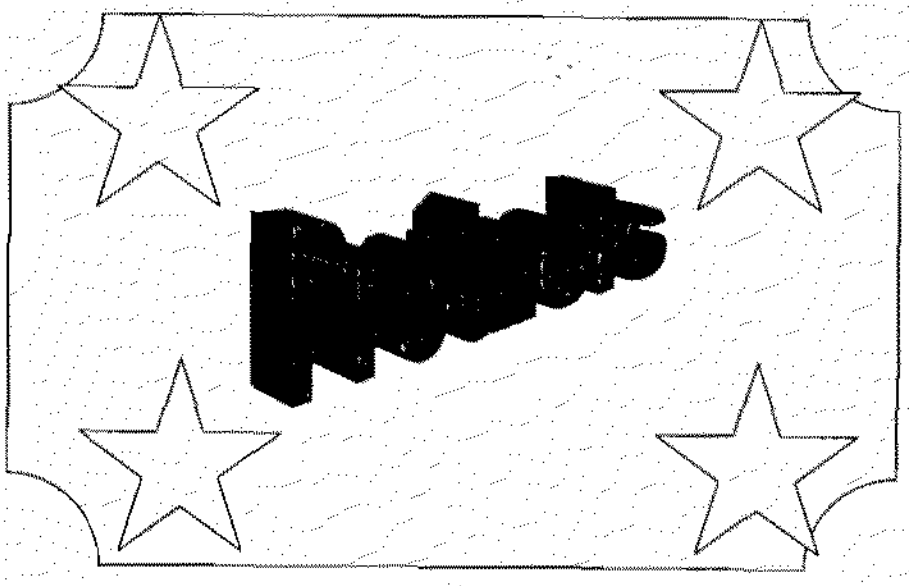
Question Number	Point Value
1	10
2	10
3	10
4	10
5	10
6	8
7	8
8	8
9	6
10	5
11	5
12	5
13	5

Total: 100

Questions:

1. *(10 points)* You are an examining attorney at the PTO, and you receive the following trademark application (applying to the Principal Register) to examine:

Mark Drawing (word element is PRETZELS):



Identification of Goods: "Pretzels"

Let's assume your search finds no other marks likely to cause confusion with this mark. What action will you take on this application?

2. (10 points) As PTO examining attorney assigned to the mark application in question #1, you are also assigned to the applicant's sister application for the standard character mark PRETZELS for the goods identified as "pretzels." In this

application, the applicant submits an additional statement under 2(f) that the mark has acquired distinctiveness as a result of at least five years of exclusive and continuous use. What action will you take on this sister application?

3. (10 points) You are a trademark attorney. Your client has a mark (BALLOONBOY.COM) that he is using in commerce in connection with a good (balloons) and a service (online retail store selling balloons). He wants a trademark application filed today for BALLOONBOY.COM for balloons and the web site. He does not have with him any useful specimens, nor can he get them today. He also only has $325 he can pay for today (outside of your legal fees). Can you meet his request? If so, how? What do you tell him you expect will happen with the rest of the registration process in terms of fees and specimens?

4. (10 points) What is an office action? Please include at least four types of things that could be listed in an office action. How long do you have to respond to an office action? And what is the result if you fail to file a complete response within that time period?

5. (10 points) What is the controlling case for a likelihood of confusion analysis when engaged in trademark prosecution? What are the factors the PTO examiner considers?

6. (8 points) You are a trademark examiner and receive an application for AMORE for a dating service. The applicant includes an additional statement in the application that "AMORE" is translated in English to "love." There is a pending application for "LOVE" for a dating service. Do you issue a likelihood of confusion rejection where LOVE and AMORE sound and appear completely different?

7. (8 points) Please diagram and/or describe how a client would electronically sign a trademark application you arranged to have sent to him/her via the TEAS system, and how that e-signed application will get submitted.

8. (8 points) You are running a trademark search and find a conflicting mark owned by Company X. However, based on publicly available information, it is unclear if the conflicting mark is abandoned or still in use. Should you, or someone else at your request, make a "pretext" call to Company X (posing as a potential customer for example) to find out if the product is still being sold?

9. (6 points) True or False. Explain. Registration on the Supplemental Register is pointless.

10. (5 points) True or False. Explain. A mark drawing containing a stylized mark depicted in black, white, and grey claims the color grey.

11. (5 points) True or False. Explain. A trademark registration takes about 5 months to obtain and costs $275.

12. (5 points) What is a pseudo mark and would an applicant consider it good or bad to have a pseudo mark assigned to his/her/its mark? Why?

13. (5 points) What "extra" must happen during the prosecution of a trademark application that is filed on an intent-to-use basis as compared to an application filed on a use basis.