Exam #_____

Federal Trademark & Copyright Registration Practice
Spring, 2009
Mid-Term Examination
February 19, 2009

Instructions:

- You have **1 hour** to complete this examination.
- This exam counts as **15%** of your grade.
- Use your exam number; do not use your name anywhere.
- This is a closed book exam.
- All questions pertain to the United States federal trademark registration system.
- Following is the point distribution:

Question Number	Point Value
1	15
2	15
3(a)	15
3(b)	15
3(c)	15
3(d)	15
3(e)	10
Total:	100

Questions:

1. **(15 points)** The toymaker Mattel, Inc. has filed approximately 3,000 intent-to-use ("1B") trademark applications using only the description "toys, games and playthings." Generally speaking, during the post-application prosecution of the application, Mattel's attorneys amend the identification of goods/services to be more definite, per the examiner's requirement.

   One of Mattel's many mark applications presently pending is – believe it or not – for the mark ASHLYN (standard character). The 1B application listed "toys, games and playthings" for the entire identification of goods/services. The examiner, with Mattel's permission, amended the identification to read as follows (all items are in International Class 28 (the toy class)):

   > TOYS, GAMES AND PLAYTHINGS, NAMELY, TOY FIGURES, PLAY FIGURES, ACTION FIGURES, DOLLS, DOLL CLOTHING, DOLL STYLING

HEADS, TOY VEHICLES, TOY VEHICLE TRACK SETS, AND PLAYSETS, ACCESSORIES AND CASES FOR ALL OF THE FOREGOING; BOARD GAMES, CARD GAMES, MEMORY GAMES, PARLOR GAMES, ACTION SKILL GAMES, ARCADE GAMES, LCD GAME MACHINES, ELECTRONIC HAND-HELD GAMES, PUZZLES; EQUIPMENT SOLD AS A UNIT FOR PLAYING BOARD GAMES, CARD GAMES AND MEMORY GAMES; ELECTRONIC EDUCATIONAL GAME MACHINES; PLUSH TOYS, STUFFED TOYS, BENDABLE TOYS, BATH TOYS, CHILDREN'S MULTIPLE ACTIVITY TOYS, CONSTRUCTION TOYS, DRAWING TOYS, ELECTRIC ACTION TOYS, FANTASY CHARACTER TOYS, INFANT TOYS, INFLATABLE TOYS, MECHANICAL TOYS, MUSICAL TOYS, POP UP TOYS, PULL TOYS, PUSH TOYS, RIDE-ON TOYS, SAND TOYS, SQUEEZE TOYS, TALKING TOYS, LEVER ACTION TOYS, WIND-UP TOYS, TOY BOXES, TOY FURNITURE, PUPPETS, CHILDREN'S PLAY COSMETICS, CHRISTMAS TREE DECORATIONS, JUMP ROPES, SPORT BALLS, BALLOONS, YO-YOS, FLYING DISKS, KITES

If I opposed the mark based on lack of a bona fide intent to use the mark, **what types of evidence would Mattel need to show to demonstrate a bona fide intent to use**?

2. **(15 points)** While I was studying Mattel's trademark prosecution practices for intent-to-use applications, I noticed that – generally speaking -- Mattel appears to select one of two identifications for its marks: (1) a single-class (International Class 28) identification of "toys, games and playthings"; or (2) an 8-International-Class identification which reads as follows:

> TOYS, GAMES AND PLAYTHINGS; ENTERTAINMENT; CLOTHING; FASHION; CONTAINERS; ELECTRONICS; WEBSITE USE; TEXTILES; STATIONERY; BAGS

Mattel filed a 1B application for the standard character mark HEFTY using the above-shown 8-International-Class identification. There are a number of registered marks for HEFTY for plastic garbage bags and other plastic containers owned by another company, which company opposed Mattel's mark. **What should Mattel do when clearing marks and preparing 1B trademark applications that will help prevent likelihood of confusion oppositions and rejections**?

3. Your client is Manheim Auctions, Inc. Manheim recently launched a web site to serve as an online vehicle exchange for automobile dealers. The core of the service is that the web site is used to sell vehicles between dealers (i.e. wholesale) through an auction mechanism; automobile dealers can buy and sell vehicles online, which helps dealers maintain an adequate selection of vehicles to satisfy their customers without needing to have a significant automobile inventory on the lot. The URL for the web site is www.ove.com.

   a. **(15 points) Write out an identification of goods/services for the core service provided through the web site.** Attached to this exam is partial listing from the Acceptable Identification of Goods and Services Manual (the "ID Manual"). It shows 13 listings containing the word "auction."

   b. **(15 points) Why** and **How** might you use the ID Manual in crafting the identification of goods/services?

   c. **(15 points)** Attached are several web page print outs and an advertisement. **List all the possible mark drawings than can be submitted for the online auction service.** Identify whether the mark drawing is standard character or stylized and give a brief description of the design for stylized marks so I can determine which mark you mean.

   d. (15 points) Are any of the marks you listed in item 3.c. above likely to be registered on the Supplemental Register? What are the benefits of the Supplemental Register?

   e. **(10 points) What is the filing fee for each application**? **Describe** how you came to that answer.

See you after Winter Break!

Trademark ID Manual

Refine Search: AUCTION

Submit Query

Documents: 1 - 13 of 13

Hit No.	Class	Description	Status	Effective Date	Type	Note	Trilateral
1	035	Arranging and conduction of auction sales	A	20 Jul 04	S	N	T
2	035	Arranging and conducting auctions in the field of {indicate field or type of goods or services offered at auction}	A	03 Aug 06	S	N	
3	035	Auction management services provided to others over an on-line web site accessed through a global computer network	A	01 Aug 05	S	N	
4	035	Business management assistance and particularly carrying out tasks necessary for the smooth conduct of sales by auction	A	20 Jul 04	S	N	T
5	035	On-line auction bidding for others	A	15 Feb 07	S	N	
6	035	On-line auction services	A	28 Sep 06	S	N	
7	035	On-line consignment services whereby goods are received on consignment for auction on an online auction site	A	01 Sep 05	S	N	
8	035	Organisation of internet auctions	A	20 Jul 04	S	N	T
9	035	Organizing and conducting charity auctions for charitable fund raising purposes	A	02 Aug 07	S	N	
10	035	Providing a web site that features an on-line market for users to list offered or wanted personal and business assets and skills for hire, rent, sale or auction transacted on the basi s of predefined performance and closing terms and conditions	A	22 Nov 07	S	N	
11	035	Providing on-line auction services	A	03 Jul 08	S	N	T
12	035	Real estate auctions	A	01 Oct 01	S	N	
13	035	Telephone and television auctions	M	02 Jan 97	S	N	T

Refined Search: AUCTION

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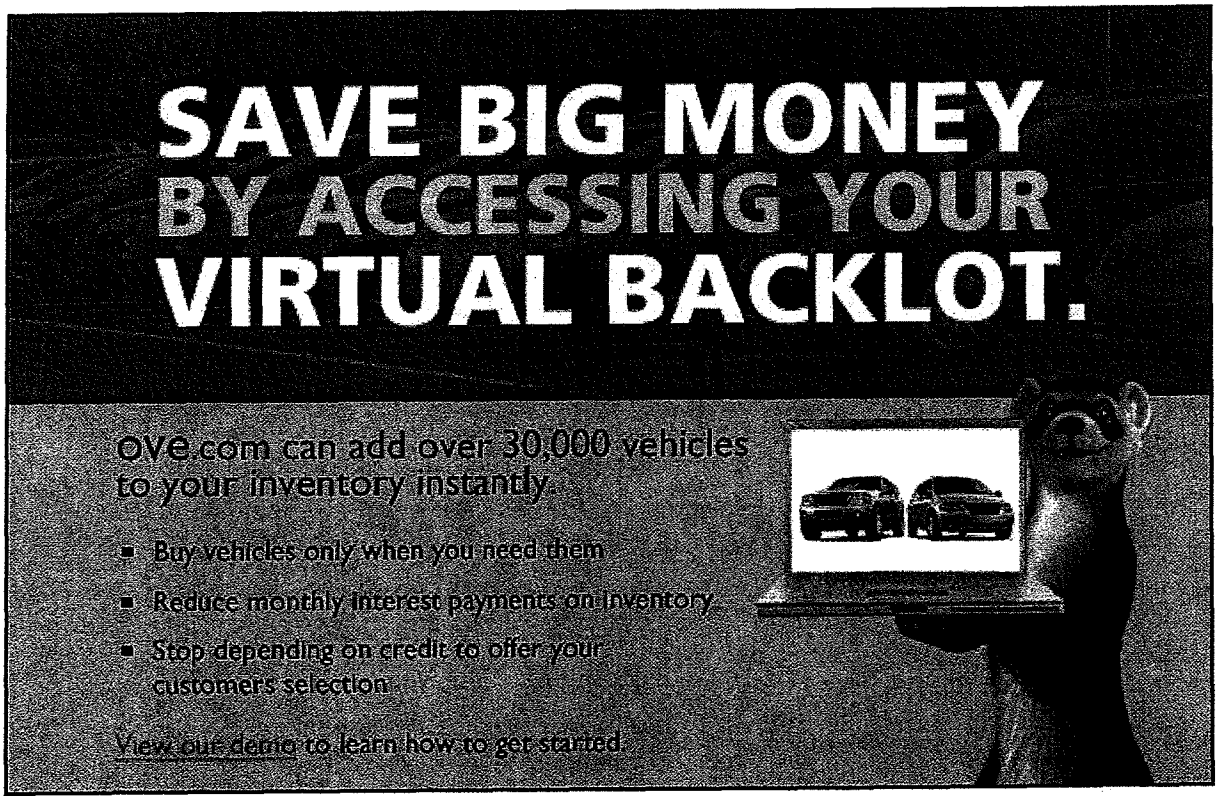
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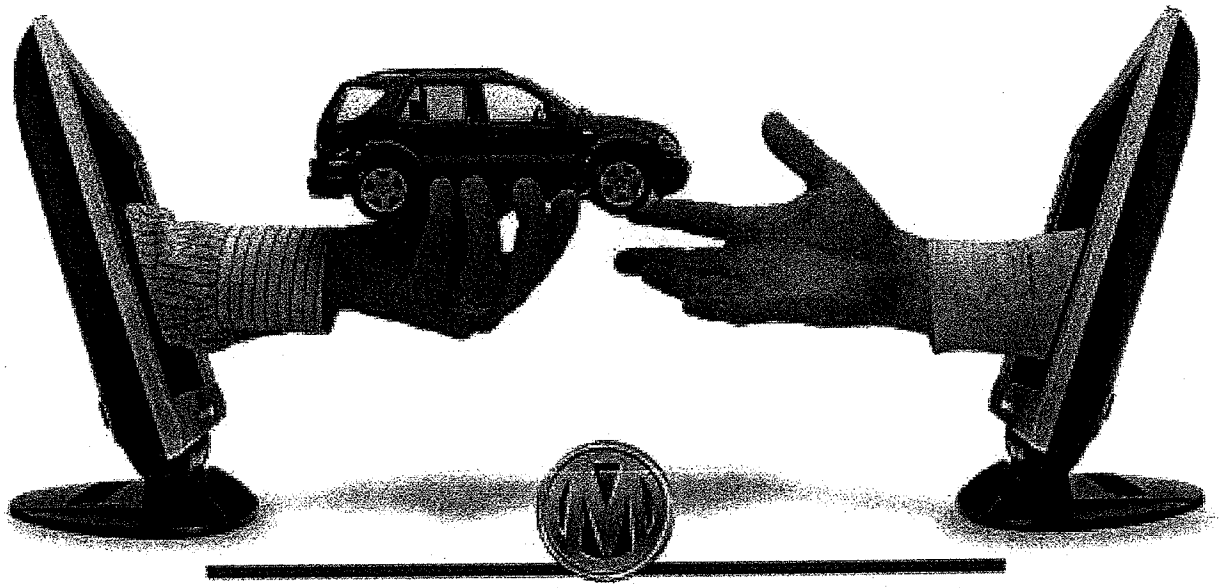
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