Prof. Jepson
IP Survey Fall 2000

Exam Id. No. _____

INSTRUCTIONS:

1. This examination lasts for THREE HOURS (longer for ESLs)

2. Write your Exam number on this Exam and on the BlueBook. Do not write your name on anything else. Check Right Now that you have 18 pages and a sheet of images.

3. CLOSED BOOK: Hand-held dictionaries are allowed. Nothing else is allowed. YOU MAY NOT USE A COMPUTER.

4. This Exam has two parts. PART 1 is 50 Multiple-Choice (MC) questions worth 100 points. PART 2 is Very Short Answer (VSA) questions worth 50 points. Divide your time as you like. Most students will have plenty of time. Think carefully before committing an answer to paper.

5. Use the Scantron sheet for the Multiple-Choice. Fill in completely the bubble corresponding to the best answer. Do not make any stray marks. If you erase, you must do so completely. No one will check this for you. This is like voting: an uncaring machine will count your choice only if you follow the rules exactly. There will be no hand recount.

6. Write LEGIBLY within margins and only on one side of BlueBook pages. Clearly indicate by number which question you are answering and which sub-part you are discussing. Follow the word limits scrupulously.

7. There is an attached page of 6 images. Some of the MC questions and some of the VSA questions refer to the images by number.

8. Return this examination paper with your BlueBooks. Nothing written on this examination paper will be graded. Nothing written on scratch paper put into the BlueBook will be graded. Only the Scantron Sheet and what is written in the BlueBook will be graded.

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Exam Id. No. _____

PART I – Multiple-Choice Questions (100 points)

1) (Image 4) Recall reading the Brief for Jireh Publishing on behalf of sports artist Rick Rush regarding the print "The Masters of Augusta," which shows Tiger Woods in three poses. The focus of the Brief you read is that at least one element of Woods' purported cause of action is missing:
   a) The print is not commercial
   b) There is no likelihood of sponsorship confusion
   c) Woods' image is incidental
   d) The use of Woods' image was traditional reportage
   e) Woods' no longer owns the right in question and, therefore, has no standing

2) The Copyright doctrine of Fair Use __1__ analogous to the Patent doctrine of Noninfringement; the Copyright doctrine of First Sale __2__ analogous to the patent doctrine of Exhaustion.
   a) (1) is NOT; (2) is
   b) (1) is; (2) is NOT
   c) (1) is ; (2) is
   d) (1) is NOT; (2) is NOT
   e) "b" is correct for derivative works; "c" is correct for original works

3) The Milestone Motel, the world's first motel, opened in Monterey, California in 1925. The owners coined the term "motel" and used it as a trademark, which was __1__ at that time, but now is __2__.
   a) (1) suggestive; (2) generic
   b) (1) descriptive; (2) generic
   c) (1) arbitrary; (2) generic
   d) (1) fanciful; (2) generic
   e) (1) descriptive; (2) functional

4) How would you advise your client to protect Image 6?
   a) Design Patent
   b) Trademark
   c) Utility Patent
   d) Copyright
   e) Unfair competition

5) Suppose Crest toothpaste reads: "**Sodium Fluoride Anticavity Toothpaste**" immediately above a box with the words "**ADA Accepted**". The ADA had authorized the use of its name and that Crest had "anticavity" effects. To a dentist, the word "anticavity" means that the toothpaste reduces the number of cavities compared with toothpaste without fluoride by a statistically significant amount. Colgate, a Crest competitor, asked people in a survey: "What does the term anticavity mean to you?"; the most common answer was: "Prevents any cavities!"

Suppose a group of 1,000 persons using Crest for two years had 1,000 cavities, while a control group suffered 1,200 cavities. Crest's maker is:

a) False advertising
b) False advertising because the term "anticavity" is misleading
c) False advertising because its claim is not objectively true
d) Not false advertising if the difference between 1000 and 1200 cavities satisfies normal tests of significance
e) Not false advertising because nothing totally prevents cavities

6) In the Crest example above, consumers __1__ better off if the court removes these words from the product. The market share of the toothpaste that is most effective in reducing cavities will __2__ if the court removes these words from the product.

a) (1) will be made; (2) rise
b) (1) will Not be made; (2) rise
c) (1) will be made; (2) fall
d) (1) will Not be made; (2) fall
e) (1) will be made; (2) not change

7) Section 43(a)(3) of the Lanham Act is also known as __1__ and pertains to __2__.

a) (1) 15 USC § 1125(a)(3); (2) unregistered tradedress
b) (1) 15 USC § 1115(a)(3); (2) functional trademarks
c) (1) 15 USC § 1165(a)(3); (2) unregistered tradedress
d) (1) 15 USC § 1065(a)(3); (2) functional trademarks
e) (1) 15 USC § 1157(a)(3); (2) unregistered tradedress

8) The __1__ originated in an opinion written by Judge __2__: Haelan Laboratories, Inc. v. Topps Chewing Gum, Inc., 202 F. 2d 866 (2d Cir. 1953) (the baseball cards case).
   a) (1) right of publicity; (2) Jerome Frank
   b) (1) dilution principle; (2) Learned Hand
   c) (1) right of publicity; (2) Charles Clark
   d) (1) misappropriation doctrine (2) Frank Easterbrook
   e) (1) misappropriation doctrine (2) Learned Hand

9) What would be a good argument that the United States District Court for the District of NH should NOT follow the rule from ***American Washboard Co.*** v. ***Saginaw Mfg. Co.***, 103 F.281 (6th Cir. 1900) (common-law unfair competition means only passing off)?
   a) The Erie Doctrine
   b) The Dilution Doctrine
   c) Stare Decisis
   d) The Passing Off doctrine
   e) No jurisdiction

10) More argument(s) why the United States District Court for the District of NH should NOT follow the rule from ***American Washboard:***
   a) 15 USCA §§ 1051-1127 now supplants the common-law unfair competition role
   b) The NH Uniform Trade Practices & Consumer Protection Act would now supplant the common-law unfair competition role
   c) Both "a" and "b"
   d) Arrow's Information Paradox
   e) Both "b" and "d"

11) Why was the decision in ***American Washboard*** so influential and so long lasting?
   a) The tort of unfair competition should be confined to "passing off"
   b) The tort of unfair competition should be confined to "passing off" and "false advertising"
   c) The plaintiff had purchased the entire world production of aluminum sheet metal. Therefore when defendant used the term "aluminum", it could not have been true
   d) The decision was by Judge Learned Hand
   e) The decision was by a highly respected panel from a major circuit

12) The Supreme Court of the United States of America held in ***Zacchini v. Scripps-Howard Broadcasting (SHB)***, (the Human Cannonball case) that:
a) Mr. Zacchini had a Right of Publicity
b) Mr. Zacchini had a Right of Publicity, which SHB infringed
c) Mr. Zacchini did not have a Right of Publicity
d) Mr. Zacchini had a Right of Publicity, but SHB did NOT violate the right
e) SHB was not immunized by the First and Fourteenth Amendments for liability for violating Mr. Zacchini's Right of Publicity

13) The so-called "Federal Unfair Competition" statute is:
a) Lanham Act § 32
b) Lanham Act § 43
c) Lanham Act § 34
d) 15 USC § 1152
e) 15 USC § 1165

14) (Image 5) The dispute in ***Scandia Down*** v. ***EuroQuilt*** was about whether the words "Down Shoppe" in connection with the goose in Scandia's logo were merely descriptive. If YES, then Scandia was trying to __1__. If the words are more -- "arbitrary" or "suggestive", then Scandia has done its own work and EuroQuilt arguably was trying to __2__ .
a) (1) free ride; (2) free ride
b) (1) free ride; (2) confuse
c) (1) confuse; (2) free ride
d) (1) confuse; (2) confuse
e) (1) distinguish; (2) distinguish

15) For a company that puts on Star Trek conventions, as a trademark "Dreamwerks" is __1__ ; Sci-Fi Conventions Inc. is descriptive (maybe generic); and Sci-Fi World is __2__.
a) (1) arbitrary; (2) descriptive
b) (1) fictitious; (2) suggestive
c) (1) arbitrary; (2) descriptive
d) (1) fanciful; (2) suggestive
e) (1) arbitrary; (2) distinctive

16) The decision of the Supreme Court of the United states of America in ***Samara Bros.*** v. ***Wal-Mart*** (the little girls' outfit case) __1__ the reach of the Court's 1992 holding in __2__ that trade dress could be protected on the basis of inherent distinctiveness.
a) (1) affirmed; (2) ***Inwood*** (the colored capsule case)
b) (1) overruled; (2) ***Qualitex*** (the colored ironing board cover case)
c) (1) restricted; (2) ***Taco Cabana*** (the Mexican restaurant case)
d) (1) expanded; (2) ***Qualitex*** (the colored ironing board cover case)
e) (1) overruled; (2) ***Taco Cabana*** (the Mexican restaurant case)

17) The Court in ***Samara Bros.*** v. ***Wal-Mart*** reasoned that, while consumers are predisposed to regard word marks and packaging as trade symbols, they understand product designs differently: "Consumers are aware that, almost invariably, even the most unusual of product designs * * * is intended not to identify __1__, but to render __2__ more appealing."
a) (1) the source of the goods; (2) the goods
b) (1) the goods; (2) the packaging
c) (1) the packaging; (2) the goods
d) (1) product qualities; (2) those qualities
e) (1) the source of the goods; (2) the consumer

18) Exclusive use of a feature must put competitors at a significant non-reputation-related disadvantage before __1__ protection is denied on __2__ grounds.
a) (1) trade dress; (2) functionality
b) (1) copyright; (2) antitrust
c) (1) trademark; (2) inherent distinctiveness
d) (1) trade dress; (2) inherent distinctiveness
e) (1) copyright; (2) functionality

19) In the ***TrafFix*** case, the court used the following factors from ***Sassafras***:

1. Direct consumer testimony;
2. Consumer surveys;
3. Exclusivity, length, and manner of use;
4. Amount and manner of advertising;
5. Amount of sales and number of customers;
6. Established place in the market; and
7. Proof of intentional copying.

to determine:

a) The likelihood of confusion
b) The zone of expansion
c) The presence or absence of secondary meaning
d) The good faith of the defendant
e) The size of the market

Remember ***Oddo*** versus ***Ries***:

> Oddo and Ries entered into a partnership in March 1978 to create and publish a book describing how to restore Ford F-100 pickup trucks. According to the partnership agreement, Ries was to provide capital and supervise the business; Oddo was to write and edit the book. By January 1980, Oddo had delivered to Ries a manuscript that contained much but not all of the material the partners planned to include in the book. This manuscript consisted partly of a reworking of previously published magazine articles that Oddo had written and partly of new material, also written by Oddo, that had never before been published.
>
> Ries became dissatisfied with Oddo's progress. Ries hired another writer to complete Oddo's manuscript, and then published the finished product. The book that Ries eventually published contained substantial quantities of Oddo's manuscript but also contained material added by the new writer.

Questions 20-25 pertain to the above facts from ***Oddo*** v. ***Ries***.

20) A suit to make a co-owner of a copyright account for profits he earned from licensing __1__ under the copyright laws because the duty to account __2__ from the copyright law's proscription of infringement.

a) (1) does not arise; (2) does not derive
b) (1) does not arise; (2) derives
c) (1) arises; (2) does not derive
d) (1) arises; (2) derives
e) (1) may arise; (2) may derive

21) The original articles the Oddo had written were contributions to ___.
a) collective works
b) derivative works
c) motor works
d) works for hire
e) pre-existing works

22) Ries infringed the copyright in the:
a) Book
b) Manuscript
c) Articles
d) Manuscript and Book
e) Ford F-110 pickup

23) Oddo could not recover statutory damages and attorneys' fees for infringement of the copyrights in the articles because there was no proof of:
a) Registration
b) Damages
c) Infringement
d) Publication
e) Confusion

24) Oddo and Ries are __1__ in some works; Oddo and the new writer are __2__ in the finished manuscript.
a) (1) joint authors; (2) not joint authors
b) (1) joint authors; (2) joint authors
c) (1) both authors; (2) not joint authors
d) (1) co-authors; (2) joint authors
e) (1) co-owners; (2) not joint authors

25) On these facts, Oddo could allege (and did allege) __1__ ; Ries' most likely defense would be (and was) __2__, which would not succeed.
a) (1) unfair competition and false advertising; (2) preemption
b) (1) unfair competition and false advertising; (2) the First Amendment
c) (1) conversion and breach of duty as a partner; (2) preemption
d) (1) conversion and breach of duty as a partner; (2) the First Amendment
e) (1)violation of the Lanham Act; (2) preemption

26) If Oddo sued Ries for converting his articles, Ries would argue __ 1__ saying that __ 2__ .
a) the works are different; (2) timing was wrong
b) the rights are different; (2) no one would be confused
c) rights are the same; (2) reasonable people would be confused
d) the assertion conflicts with copyright; (2) the rights are the same
e) the copyright is invalid; (2) Oddo had not registered

27) The thickest most robust copyright is in:
a) The book
b) The manuscript
c) Oddo's articles
d) Oddo's original screenplay about a teenage boy and his Ford F-110 pickup
e) The Ford F-110 pickup

28) A(n) __1__ claim is __2__ than the claim from which it depends.
a) (1) dependent; (2) broader
b) (1) dependent; (2) narrower
c) (1) independent; (2) broader
d) (1) independent; (2) narrower
e) (1) robust; (2) stronger

29) A(n) __1__ claim has __2__ limitations than the claims that depend from it.
a) (1) dependent; (2) more
b) (1) dependent; (2) fewer
c) (1) independent; (2) more
d) (1) independent; (2) fewer
e) (1) robust; (2) fewer

30) Max invents a patentable improvement on Elizabeth's mousetrap. Max:
a) Can get a patent
b) Can get a patent if he pays Elizabeth a royalty
c) Can get a patent without paying a royalty only if Elizabeth's patent is expired
d) Cannot get a patent
e) Cannot get patent claims having any elements covered by Elizabeth's patent claims

31) The President of the company for which you are the IP Officer says, "Want to come look at this patent I am trying to evaluate, I cannot understand anything it says." You should reply:
a) "Frankly, you should get a patent attorney to look at it."
b) "I'll be right there, try reading the Claims."
c) "I'll be right there, try reading the Abstract."
d) "I'll be right there, try reading the Summary."
e) "I'll be right there, try reading the Advantages and Objects."

32) A patent that has a filing date of Monday, December 11, 2001 will issue on:
a) A Monday
b) A Tuesday
c) A Wednesday
d) A Thursday
e) There is no way to be sure, just based on this information

33) A patent that has a filing date of Monday, December 11, 2001 will expire on:
a) December 11, 2018
b) December 11, 2021
c) January 1, 2021
d) December 31, 2021
e) There is no way to be sure just based on this information

34) A researcher is the first in the history of the world to discover that taking small daily doses of a certain common painkiller prevents heart attack. The researcher:
a) Cannot get a patent
b) Can get a patent on the painkiller
c) Can get a patent of the method of making the painkiller
d) Can get a patent on the use of the painkiller as heart attack preventative
e) Can get a patent on "d" and "c" and "b," or any combination thereof

35) An American food anthropologist works in the darkest recesses of the Indian subcontinent. She learns of certain medicinal properties of ground turmeric root, a common spice. The local peoples have known of these properties for hundreds of years, but those properties are not known elsewhere. The American:
a) Cannot get a patent
b) Can get a patent on the turmeric root
c) Can get a patent on the medicine: ground turmeric root
d) Can get a patent on the use of the turmeric root as medicine
e) Can get a patent on "d" and "c"

36) Max makes a specialized chair. The chair infringes claim 1 of Elizabeth's patent. Does the chair infringe claim 7 of Elizabeth's patent?
a) Yes
b) No
c) Yes, if claim 7 depends from claim 1
d) Yes, if the chair has each and every element of claim 7
e) Yes, if Max has not taken a license

Questions 37-42 relate to these facts:
The Illinois High School Association ("IHSA") began using, in the early 1940s, "March Madness" as a nickname for "the premier high school basketball tournament in the United States". IHSA never applied for trademark registration, but IHSA did license use of "March Madness" on merchandise related to its tournament. In 1982, CBS began broadcasting the men's National College Athletic Association ("NCAA") basketball tournament, which culminates in March. During that year's tournament, CBS broadcaster Brent Musburger described the games between the "Final Four" teams as "March Madness." The term caught on immediately.

The media and public now use the term to refer to the NCAA tournament. In 1993, the NCAA finally decided to capitalize on this renown by selling licenses for the use of "March Madness" for goods and services related to its tournament. Under such a license, GTE Vantage began in 1996 to produce a CD-ROM computer game called "NCAA Championship Basketball," the packaging included the term "March Madness."

37) The senior party is __1__ and the junior party is __2__.
   a (1) The NCAA; (2) IHSA
   b (1) Brent Musberger; (2) GTE
   c (1) The NCAA; (2) Brent Musberger
   d (1) IHSA; (2) The NCAA
   e (1) GTE; (2) IHSA

38) Is IHSA likely to be able to stop CBS from using the term "March Madness"?
   a) No, the term is generic
   b) No, IHSA never registered the trademark
   c) No, IHSA waited way too long
   d) Yes, if IHSA registers as soon as possible
   e) Yes, No question!

39) The lawyer for GTE would argue in good faith that the term "March Madness" is __1__ when used by the high school, __2__ when used by GTE.
   a) (1) descriptive; (2) suggestive
   b) (1) suggestive; (2) descriptive
   c) (1) suggestive; (2) suggestive
   d) (1) descriptive; (2) descriptive
   e) (1) arbitrary; (2) suggestive

40) If the IHSA now sues GTE and moves for a preliminary injunction, the court will most likely:
   a) Grant the injunction
   b) Deny the injunction because the IHSA waited too long
   c) Deny the injunction because the IHSA has no money
   d) Deny the injunction because the IHSA has never registered
   e) Deny the injunction because the NCAA is a national institution

41) If a court grants an injunction today against GTE, the scope of the injunction would likely be:
a) Nation wide and perpetual
b) Nation wide and to last until changed circumstances are shown
c) The state of Illinois
d) The IHSA's area of market penetration
e) The IHSA's zone of natural expansion

42) If the IHSA sues CBS asking for an injunction to stop Brent from saying "March Madness" on TV, CBS' best defense is:
a) First Amendment
b) No likelihood of confusion
c) The IHSA' never registered
d) The trademark is descriptive
e) CBS is not using the term as a trademark

43) ViewSort has a patent that fully describes only how a sorting machine separates sheep droppings from blue berries. The patent includes claim 7 to a method of "separating ripe blue berries from unripe blue berries." Fruit Sellers uses a machine not licensed from ViewSort that separates ripe blue berries from unripe blue berries. ViewSort sues for infringement of Claim 7.
a) Claim 7 is likely invalid, but if valid, likely not infringed
b) Claim 7 is valid and likely infringed
c) Claim 7 is likely invalid, but if valid, likely infringed practicing method
d) Claim 7 is valid and likely not infringed
e) Claim 7 is likely invalid, but neither likely infringed or likely not infringed

44) Your client New Hampshire Fireplace Doors makes and sells patented glass and metal fireplace doors that help conserve energy. Vermont State contracts for a Vermont firm to make fireplace doors covered by your client's patent. Vermont gives the fireplace doors to Vermont residents for free. Your client:
a) Cannot sue
b) Cannot sue Vermont State, but can sue and recover from Vermont's citizens
c) Cannot sue Vermont State for patent infringement in federal court, but can sue Vermont State for patent infringement in Vermont State Court
d) Can sue Vermont State only in the Court of Federal Claims in Washington, DC
e) Can sue Vermont State

45) Vermont State also copies and distributes with each fireplace a copy of your client's brochure: "How to use a fireplace door." Your client:
a) Cannot sue Vermont State for copyright infringement for the same reason as in the question above, and anyway would likely be barred by the merger doctrine
b) Cannot sue Vermont State, but can sue and recover from Vermont's citizens
c) Cannot sue Vermont State for copyright infringement in federal court, but can sue Vermont State for copyright infringement in Vermont State Court
d) Cannot sue for copyright infringement for the same reason as in the question above, but the merger doctrine would not be an issue
e) Can sue Vermont State for copyright infringement

46) The claim: "A shrimp having its sand, vein and head removed." Which patentable statutory classification, if any?
a) None, because shrimps are naturally occurring
b) None, because shrimps are living things
c) Machine
d) Manufacture
e) Compound

47) If I load on board a ship on the Oregon seacoast all the components to make the machines that will do the deveining and deheading, but I do not start the process or make the machines until the ship is in international waters:
a) I am not a direct infringer, but I am a contributory infringer
b) I am a direct infringer under the exporting components statute that resulted from ***Deep South***
c) I am not an infringer because patents are territorial
d) I am not a direct infringer, but I am inducing infringement
e) I am not an infringer because the patent is not valid

48) In Florida, the Gore Presidential campaign selected several counties rich in democratic-party voters, in which to protest the machine counts and demand a hand count. Hand counts can be more accurate than machine counts. If a court takes an ex ante view of this, the court will:
a) Grant those requests for hand counts
b) Order hand counts for the entire state
c) Grant those requests for hand counts, but allow Bush's people to select Republican-rich counties in which to do hand counts
d) Compare a representative hand count with the machine counts to see if a hand count would really make a difference
e) Deny the request otherwise more and more candidates will demand more and more hand counts in districts known to favor them

49) It is good social policy to grant exclusive rights in perpetuity in land. Reasons why it may <u>not</u> be good policy to grant rights in perpetuity in intellectual property:
a) Perpetual exclusivity comes at a very low social price for land
b) Intellectual property is scarce
c) Once developed, information may have greater value if it is used by many people simultaneously
d) The incentive function for IP is concentrated up front
e) "a" and "c" and "d" are all good arguments

50) The Tragedy of the Commons __1__ Patent Protection because patent protection in a single entity makes it likely that __2__.
a) (1) justifies; (2) the technology will be full exploited
b) (1) argues against; (2) the technology will be exploited by its owner
c) (1) justifies; (2) all who have help bring forth a technology will share in the wealth
d) (1) argues against; (2) externalities will be minimized
e) (1) argues against; (2) those who have been left out will feel exploited

Short Answer The questions below are worth 5 or 10 or 15 points as indicated. (In fewer than 25 words, unless otherwise indicated, answer ANY combination of questions that adds up to 50 points (and no more than 50). Clearly identify in your BlueBook which Question each answer relates to.

51) (**5** points) In ***Mead Johnson & Co.*** *v.* ***Abbott Lab.***,(the "1st Choice of Doctors" case) Judge Easterbrook wrote:

> Section 43(a)(1) forbids misleading as well as false claims, but interpreting "misleading" to include factual propositions that are susceptible to misunderstanding would make consumers as a whole worse off * * * *

What did he mean? Demonstrate that you understood his point.

52) (**5** points) In ***Scandia Down*** v. ***EuroQuilt*** Judge Easterbrook wrote:

> "The value of a trademark is in a sense a hostage of consumers; * * *"

What did he mean? Demonstrate that you understood his point.

53) (**5** points) Write the two words that are the most precise label for this thought conveyed by the following quote from ***Qualitex:***

> where a color serves a significant nontrademark function - whether to distinguish a heart pill from a digestive medicine or to satisfy the "noble instinct for giving the right touch of beauty to common and necessary things," G. K. Chesterton, Simplicity and Tolstoy 61 (1912) – courts will examine whether its use as a trademark would permit one competitor to interfere with legitimate (nontrademark – related) competition through actual or potential exclusion use of an important product ingredient.

54) (**10** points) The preamble of New Hampshire's first Copyright statute (1783) read:

> As the improvement of knowledge, the progress of civilization, and the advancement of human happiness, greatly depend on the efforts of learned and ingenious persons in the various arts and sciences; as the principal encouragement such persons can have to make great and beneficial exertions of this nature, must consist in the legal security of the fruits of their study and industry to themselves; and as such security is one of the natural rights of all men, there being no property more peculiarly a man's own than that which is produced by the labor of his mind * * *

In 15 words, or fewer, state the underlying philosophical basis or justification for this statute.

55) (**10** points) Explain why the holding in ***Taco Cabana*** (the Mexican restaurant trademark case) did not determine the holding of ***Wal-Mart*** (the little girls' outfit case).

56) (**10** points) With regards to the ***TrafFix*** case, distinguish the **Polaroid Factors** from the **Sassafras Factors**: (15 words or fewer)

57) (**10** points) With regards to the ***TrafFix*** case, apply the elements for a prima facie case of trademark infringement: (15 words or fewer)

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Questions 58-60 relate to images 1, 2, & 3 and this scenario:

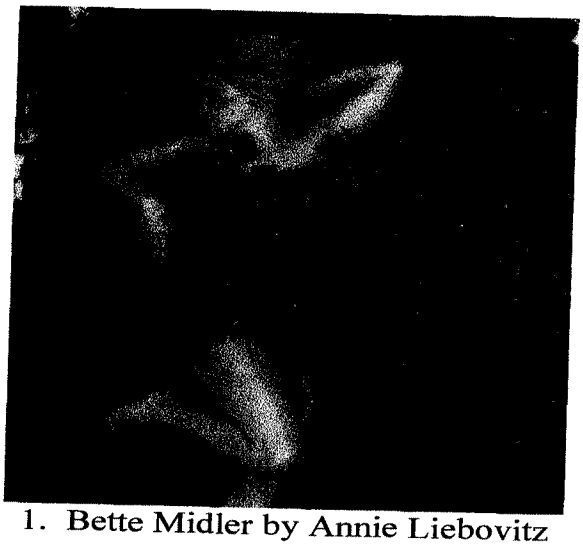
Annie Liebovitz is the most sought-after photographer in the world (She did the pregnant Demi Moore for the cover of Vanity Fair; she did John and Yoko Lennon naked in the fetal position for Rolling Stone). She did Images 1 and 2 (attached) of Bette and Whoopie. Annie seeks counsel regarding Image 3, just published in the British tabloid Attitude/NAKED as advert for the BBC-produced soap opera Emmerdale. "Just look what that no-name Eurotrash copycat has done!" Annie exclaims, "I want him jailed!"

58) (**5** points) List Annie's 2 best theories for recovery other than Copyright, and state in which court would she bring (them / each)?

59) (**10** points) Set out the elements for 2 good theories for recovery other than Copyright and explain using the facts how each theory applies, and, if applicable, note any really significant factual or legal weak point for each theory.

60) (**15** points) On the issue of copyright infringement, using one of Learned Hand's analytical tools, explain your major concern.

Write your responses NEATLY in the BlueBook. Identify which Question you are answering.



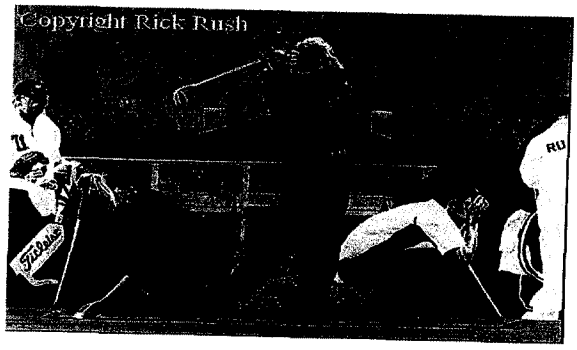
1. Bette Midler by Annie Liebovitz



2. Whoopie Goldberg by Annie Liebovitz



3. James Carlton by Paul Puetie



4. Tiger Woods by Rick Rush

Scandia Down Shops

5. Scandia Down



6. Neto

Images for Prof. Jepson's Intellectual Property Survey Final Examination 2000.

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STUDENT ENROLLMENT SHEET

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I.D. NUMBER: KEY

PHONE NUMBER: AREA CODE

LAST NAME: IPSURVEY | **FIRST NAME** | **M.I.** | **CODE**

TEST FORM: M

EXAM NUMBER

NAME

SUBJECT: IPSurvey

DATE

HOUR/DAY

FINAL FALL 2000

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SCORE SHEET

	T	F		T	F		T	F		T	F		T	F
1	●	B C D E	11	A B C D	●	21	●	B C D E	31	A B	●	D E	41	A B C	●	E
2	●	B C D E	12	A B C D	●	22	A B C	●	E	32	A	●	C D E	42	A	●	C D E
3	●	B C D E	13	●	B C D E	23	●	B C D E	33	A	●	C D E	43	A B	●	D E
4	A B C	●	E	14	A B C	●	E	24	A B C D	●	34	A B C	●	E	44	A	●	C D E
5	A B C	●	E	15	A B C	●	E	25	A B	●	D E	35	A B C	●	E	45	●	B C D E
6	A B C	●	E	16	A B	●	D E	26	A B C	●	E	36	A B C	●	E	46	A B C	●	E
7	●	B C D E	17	●	B C D E	27	A B C	●	E	37	●	B C D E	47	A	●	C D E
8	●	B C D E	18	●	B C D E	28	A	●	C D E	38	A B	●	D E	48	A B C D	●
9	●	B C D E	19	A B C	●	E	29	●	B C D E	39	A B C	●	E	49	A B C D	●
10	A B	●	D E	20	●	B C D E	30	●	B C D E	40	A B C D	●		50	●	B C D E

51	A B C D E	61	A B C D E	71	A B C D E	81	A B C D E	91	A B C D E
52	A B C D E	62	A B C D E	72	A B C D E	82	A B C D E	92	A B C D E
53	A B C D E	63	A B C D E	73	A B C D E	83	A B C D E	93	A B C D E
54	A B C D E	64	A B C D E	74	A B C D E	84	A B C D E	94	A B C D E
55	A B C D E	65	A B C D E	75	A B C D E	85	A B C D E	95	A B C D E
56	A B C D E	66	A B C D E	76	A B C D E	86	A B C D E	96	A B C D E
57	A B C D E	67	A B C D E	77	A B C D E	87	A B C D E	97	A B C D E
58	A B C D E	68	A B C D E	78	A B C D E	88	A B C D E	98	A B C D E
59	A B C D E	69	A B C D E	79	A B C D E	89	A B C D E	99	A B C D E
60	A B C D E	70	A B C D E	80	A B C D E	90	A B C D E	100	A B C D E
101	A B C D E	111	A B C D E	121	A B C D E	131	A B C D E	141	A B C D E
102	A B C D E	112	A B C D E	122	A B C D E	132	A B C D E	142	A B C D E
103	A B C D E	113	A B C D E	123	A B C D E	133	A B C D E	143	A B C D E
104	A B C D E	114	A B C D E	124	A B C D E	134	A B C D E	144	A B C D E
105	A B C D E	115	A B C D E	125	A B C D E	135	A B C D E	145	A B C D E
106	A B C D E	116	A B C D E	126	A B C D E	136	A B C D E	146	A B C D E
107	A B C D E	117	A B C D E	127	A B C D E	137	A B C D E	147	A B C D E
108	A B C D E	118	A B C D E	128	A B C D E	138	A B C D E	148	A B C D E
109	A B C D E	119	A B C D E	129	A B C D E	139	A B C D E	149	A B C D E
110	A B C D E	120	A B C D E	130	A B C D E	140	A B C D E	150	A B C D E
151	A B C D E	161	A B C D E	171	A B C D E	181	A B C D E	191	A B C D E
152	A B C D E	162	A B C D E	172	A B C D E	182	A B C D E	192	A B C D E
153	A B C D E	163	A B C D E	173	A B C D E	183	A B C D E	193	A B C D E
154	A B C D E	164	A B C D E	174	A B C D E	184	A B C D E	194	A B C D E
155	A B C D E	165	A B C D E	175	A B C D E	185	A B C D E	195	A B C D E
156	A B C D E	166	A B C D E	176	A B C D E	186	A B C D E	196	A B C D E
157	A B C D E	167	A B C D E	177	A B C D E	187	A B C D E	197	A B C D E
158	A B C D E	168	A B C D E	178	A B C D E	188	A B C D E	198	A B C D E
159	A B C D E	169	A B C D E	179	A B C D E	189	A B C D E	199	A B C D E
160	A B C D E	170	A B C D E	180	A B C D E	190	A B C D E	200	A B C D E