INTERNATIONAL & COMPARATIVE TRADEMARK LAW
FINAL EXAMINATION

Dr. Gerd F. Kunze
July 2002

Instructions:

This is a 1 1/2-hour, open book exam (2 hours for students with a native language other than English). You may consult the course materials and any other materials. Yet, your examination must be you own work. Do not discuss it with other students.

Write your answers in the blue book supplied, but please use only one side of the page and observe the margin. Please write or print as legibly as possible.

Grading will be anonymous. Please do not put your name on anything you turn in.

BE SURE YOUR EXAM NUMBER IS ON EACH BOOK YOU TURN IN.

Question 1

Give examples for the application of the "mark as is" principle of Art. 6quinquies in practice and explain the significance of its application in the respective context.

[20 points]

Question 2

Which is the solution provided by the TRIPS Agreement concerning the exhaustion of trademark rights?

[10 points] -

Question 3

Does an international treaty exist, obliging members to provide for an interlocutory injunction without hearing the other party for intellectual property infringements?

[10 points]

Question 4

a) Does the Community Trade Mark Regulation provide for the protection of well-known marks and/or marks having a reputation; if yes under what conditions and in which context?

b) In particular, is it possible, under Community Trade Mark Law, to acquire rights in a well-known Community Trade Mark?

[20 points]

Question 5

Is it possible, under the Madrid System, to register license agreements in the international register?

[10 points]

Question 6

In which territory must or may the owner of a trademark registration make use of his trademark in order to safeguard its protection under the user-obligation provisions, if he owns a

a) registration in France
b) registration in Ecuador
c) registration in Uruguay
d) Community Trade Mark registration
e) International registration

[20 points]

Question 7

The Japanese applicant for the trademark GEISAH, applies on July 15, 2001 for an international registration of his trademark, designating China, France, Germany, Switzerland, Italy, Poland, the Russian Federation and the United Kingdom. The international registration is registered under that date. On July 3, 2002 his application for the registration of the trademark DRAGON is refused in Japan.

a) Can he retain his international registration?
b) If not, is everything lost, or what may he be able to do with respect to the countries, which he had designated?

[10 points]