Franklin Pierce Law Center

Trademark Trial and Appeal Board

Inter Partes Procedure

Spring 2003

Instructor -- David J. Kera

This is an open-book take home examination. You have 48 hours to complete the exam. Two hours should be sufficient. All exams must be picked up from the Registrar no later than May 5th and completed and returned to the Registrar's Office no later than May 7th by 3:00 pm.

Opposer B.O.L., a corporation of Delaware, doing business at 3100 Dupont Drive, Wilmington, Delaware, has been using the mark "Burn-Out Live!" since June 24, 1996 for "computer services, namely providing streaming audio and video via the internet" in International Class 38. "Burn-Out Live!" was registered on the Principal Register, U.S. Registration No. 3,062,476, on May 28, 1997. Section 8 and 15 Declarations have been filed.

Applicant Live, a corporation of Delaware, doing business at 6500 Nemours Lane, Newark, Delaware, filed trademark Application Serial No. 79/555,310 to register the mark, "BurnIT! Live" on April 4, 2002 for computer software, namely software for recording and copying to a DVD live or prerecorded audio and video streams obtained from an internet source," in International Class 9. Applicant first used the mark anywhere and in commerce on January 1, 2001. The mark was published for opposition in the Official Gazette on April 22, 2003, Volume 6000, No. 3, at page 715.

1. Prepare a Notice of Opposition on behalf of Plaintiff – consider Section 2(d) and Section 2(e)(1) of the Trademark Act

2. Prepare an Answer to the Notice of Opposition on behalf of Applicant.

3. Draft ten Interrogatories on behalf of Opposer.

4. Draft five Requests for Production on behalf of Opposer.

5. Draft ten Interrogatories on behalf of Applicant.

6. Draft five Requests for Production on behalf of Applicant.

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