WORLD TRADE AND WORLD IP LAW AND INSTITUTIONS
FINAL EXAMINATION

William O.Hennessey December 18, 2003

DIRECTIONS:

This is a two-hour examination. Students are allowed to bring any materials they wish into the examination except laptop computers or memory devices. Students may not "borrow" materials from, speak to, or ask assistance of one another during the examination. Answers should be written in a blue exam booklet. Do <u>not</u> put your name or any other identifying device on your exam booklet -- just your exam number. Do not write "MIP," "2L", or "Class of '04" etc. on the booklet. You should keep your answers BRIEF AND TO THE POINT, but there are no page limitations Write on one side of a bluebook page <u>only</u>.

Select three (3) of the following five (5) questions (40 minutes for each question):

1. In the case, *United States – Section 110(5) of the U.S. Copyright Act*, the panel stated (Casebook at p. 615):

> "we have to take into account not only the actual loss of income from those restaurants that were licensed by the CMOs at the time that the exemption became effective, but also the loss of potential revenue from other restaurants of similar size likely to play music that were not licensed at that point."

Explain the relevance of this statement to the ability of rightsholders to enforce their rights.

2. In his essay "Toward the Regime of the Twenty-First Century" (Casebook, p. 633), Verstrynge states:

> "For all these very good reasons, national treatment should remain the governing principle, be it in the Berne, the Rome or the Geneva Convention."

To what extent have "reciprocity" and "minimum standards" delimited "national treatment" as the "governing principle" of the Berne Convention in the past, and in what ways are they likely to delimit it as the "governing principle" of the Berne Convention in the future.

3. What is the principle of the case of *Vaudable v. Montmartre., Inc.* (Casebook p. 92)? How similar is it to the principles articulated in Article 16(3) TRIPS Agreement (Casebook, p. 195) and in what ways, if any, does it differ from that provision?

4. Distinguish the role played by the Council for TRIPS from that played by the Dispute Settlement Body in intellectual property disputes between WTO member states. Cite and comment upon specific examples of those roles in the readings for this course.

5. Discuss the relevance of Articles 7 and 8, TRIPS Agreement, to the Declaration on the TRIPS Agreement and public health adopted at Doha Qatar on 14 November 2001.