WORLD TRADE AND WORLD IP LAW AND INSTITUTIONS
FINAL EXAMINATION

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DIRECTIONS:

This is a two-hour examination. (3 hours for qualified ESL speakers) Students are allowed to bring any materials they wish into the examination except laptop computers or writable memory devices. Students may not speak to or ask assistance of one another during the examination. Answers should be written in a blue exam booklet. Do not put your name or any other identifying device on your exam booklet -- just your exam number. Do not write "MIP," "2L", or "Class of '05" etc. on the booklet. You should keep your answers BRIEF AND TO THE POINT, but there are no page limitations Just answer the question. Write on one side of a bluebook page only.

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

1. The current text of Article 5A(2) of the Paris Convention (1979) (found on page 401 of the casebook) permits member nations to issue compulsory licenses for "failure to work" a patented invention ("working requirements"). Please explain in detail what the term "working requirements" means, and discuss the relationship between Article 5A(2) and Article 28.1 of the TRIPS Agreement (found on page 429).

2. Article 23.4 TRIPS Agreement states:

> In order to facilitate the protection of geographical indications for wines, negotiations shall be undertaken in the Council for Trade-Related Aspects of Intellectual Property Rights concerning the establishment of a *multilateral system* of notification and registration of geographical indications for wines eligible for protection in *those Members participating in the system.* [emphasis added]

What is the nature of the current dispute in the TRIPS Council concerning the meaning of this provision? What do you think is the correct interpretation of the provision? You should consider the provisions of the Vienna Convention on the Law of Treaties (at pp. 40-41) in formulating your answer.

3. To what extent, if any, does the TRIPS Agreement provide enhanced protection to copyright and trademark owners against pirated or counterfeit goods beyond protection provided against other kinds of infringing products?

4. What does the term "reciprocity" mean, as it was used in this course? What are the benefits of reciprocal agreements in international IP relations? What are the drawbacks? You may cite some specific examples of reciprocal agreements discussed in this course as illustrations.

5. Based upon the WTO Dispute Settlement Body decisions we read in this course (at p. 437 and p. 575), and taking into account the historical development of international intellectual property law, which of the two provisions is broader, Article 13 TRIPS or Article 30 TRIPS? Please explain your answer.