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 "borrow" materials from, 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 '06" etc. on the booklet. You should keep your answers BRIEF AND TO THE POINT, but there are no page limitations. Your answer must be your own work. Do not copy into your answer long passages from texts or slides for this course. Write on one side of a bluebook page only.

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

1. How do the TRIPS Agreement and related WTO mechanisms work, and how effective are they, in allowing countries at different levels of development to formulate and implement domestic intellectual property policies which reflect their own evolving national situations? Please explain with specific examples, using the text of the Agreement and the cases and situations in this course where it has been applied.

2.What is the formal relationship between Article XX (and specifically Article XX(d)) of the GATT and the text of the TRIPS Agreement? What does this relationship tell us about the state of international intellectual property law as it relates to international trade? The relevant text of Article XX(d) is as follows:

Article XX General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures: ...

(d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;

3. Briefly describe the most important features of WTO Dispute Settlement [DSU] procedure and explain the effect of Panel Reports and Appellate Body Reports on the subsequent conduct of a party which may disagree with a ruling adverse to its own interests. Why is consultation so important at all stages of the process?

4. Briefly explain how the Doha Declaration on the TRIPS Agreement and public health of 2001 and the Decision on its Implementation at Cancun in 2003 came about, what they contain, and their implications for future TRIPS application and interpretation.

5. Compare and contrast the situation in the *Vaudable* case (p. 91) with the situation in the *Person's* case (p. 93) and explain what they tell us about the meaning of "good faith" in international trademark law. Are the outcomes in the two cases consistent? If so, why? If not, why not?