

## Intellectual Property Fall 2025 Final Exam

This examination consists of **13 questions**. Each question has a **point value** out of a **total of 180**. You can allocate your time as you wish, but I recommend roughly one minute per point. (I will scale the raw scores so that the midterm and final count equally.)

Each question also has a **word limit**. The limits are generous; it is possible to answer each question fully correctly in far fewer words. I want you to think carefully about your answer, rather than trying to write everything you can. If your answer exceeds the limit, I will read and grade an arbitrary excerpt of the appropriate length.

Write and submit your answer using **Exam4** following the instructions provided by the registrar. In case of technical issues during the exam, alert the proctor and contact the Law School registrar.

This is an **open-book but not open Internet** examination. You are welcome to consult the textbook, other handouts, slides, your notes or outlines, or other reference materials such as a statutory supplement. Because you will not have access to the Internet during the exam, you should download any documents that you wish to consult *before* the exam starts. That said, you should *not* plan to rely on looking things up during the exam, because doing so takes time that could be better spent thinking about and writing out your answers. You are not allowed to consult any interactive sources (people, AIs, etc.) during the exam.

Please make your answer as **specific** to the facts of the question as you can. Generic statements or suggestions, such as “Make sure that all employees follow proper security practices,” will receive few or no points. Your answer should assume that I am already familiar with the facts of the problem and relevant law, and dive directly into your analysis. Use **simple citations** (e.g. “see Feist”) where appropriate. I include **spelling, grammar, clarity, and organization** in my grading, but only to the extent that they interfere with my ability to understand the substance of your answer. If you find the question **ambiguous** or need to **assume additional**

**facts**, state your assumptions and explain how they affect your answer. No reasonable resolution of an ambiguity will be penalized.

Assume for purposes of the examination that **present-day law** has been fully in effect at all relevant times. Unless otherwise noted, **all names are fictitious**. Please disregard any resemblance to actual persons, places, or institutions, unless they are specifically incorporated into a question.

You can **focus on the IP issues**. If you need to make assumptions about other areas of law, it is fine to write "I assume that ..." rather than giving a detailed explanation.

Your work on this examination is subject to the Cornell Code of Academic Integrity, the Law School Code of Academic Integrity, and the Campus Code of Conduct. **You may not discuss the questions or your answers** with anyone until after the conclusion of the exam.

### True/False

6 questions, 5 points each (30 points total) / 50 words each

Answer each of the following questions with "true," "false," or "it depends." Justify your answer in a sentence or two.

1. Kermit is considering the mark EASY BEING GREEN for a public-awareness campaign to encourage recycling. True or false: Kermit will acquire trademark rights in the mark as soon as he starts using it, without needing to wait to prove secondary meaning?
2. Rowlf uses his cell phone to record himself improvising a jazz piano song. True or false: Rowlf's song is not yet copyrightable because he has not written it out as sheet music?
3. Camilla has filed a utility patent application claiming a binding agent for making juicier hamburgers. A Swedish chef has been serving meatloafs including this binding agent in her restaurant for five years. True or false: The meatloafs count as prior art for purposes of novelty under § 102?
4. Regardless of your answer to (2), assume for purposes of this question that the answer was "true." True or false: The meatloafs count as prior art for purposes of nonobviousness under § 103?
5. Rizzo acquires coffee-table art books, cuts out the photographs, mounts them in frames, and sells them to the public with captions that say "Art by Rizzo." One of the publishers sues him for violating the public distribution right. True or false: Rizzo's conduct constitutes copyright infringement?
6. Janice uses the ELECTRIC MAYHEM trademark on January 1. Zoot files an application for a federal registration for the mark on February 1. Janice files an application on March 1. Zoot uses the mark on April 1. True or false: The USPTO should grant Janice's application?

### Short Answer

6 questions, 15 points each (90 points total) / 250 words each

7. Gonzo has come up with an elegant new juggling pattern, in which each hand alternates in front and in back and the balls alternate passing over his left and right shoulders. *Which body or bodies of IP law, if any, can Gonzo use to secure effective protection for the pattern?*



8. In 2024, the operators of Metropolitan Oakland International Airport (airport code: OAK) announced that it was changing its name to San Francisco Bay Oakland International Airport. The operators of San Francisco Airport (airport code: SFO) sued for trademark infringement and unfair competition under § 43(a). Neither airport is in the city of San Francisco; both airports are adjacent to San Francisco Bay, on op-

posite sites, eleven miles apart. (See map above.) *Who should win this suit, and why?*

9. “Miss Piggy” (a pseudonym) is a makeup influencer who posts tutorials to YouTube. Her videos are filmed in front of a swirly pink background; her hair is always dyed in two contrasting colors; she frequently uses French phrases; and she sometimes interrupts her videos to demonstrate martial-arts moves. Recently, another influencer, “Annie Sue,” has started posting makeup product reviews to YouTube. Annie Sue’s videos are are filmed in front of a swirly pink background; her hair is always dyed in two contrasting colors; she frequently uses French phrases; and she sometimes interrupts her videos to demonstrate martial-arts moves. *Can Miss Piggy use IP law stop Annie Sue from using a similar aesthetic in her videos?*
10. When OpenAI launched its Sora video creator tool to the general public, it prevented Sora users from creating videos of living people, but allowed Sora users to create videos of dead people. A month later, OpenAI reversed this policy and restricted Sora users from creating videos of dead “historical figures” unless their estate representatives consented. *Was the old policy or the new policy more consistent with what the right of publicity allows and disallows?*



11. Campbell's sells a well-known line of soups in cans with red-and-white labels (above, right). Shelby Campbell, a candidate for Congress,

- used a red-and-white soup-can design on her campaign website, yard signs, and flyers (above, left). *If Campbell's (the company) sues Campbell (the candidate), who should win and why?*
12. Sam recently published a book, *120 Patriotic Poems*, ranging in length from 3 to 30 lines. Statler and Waldorf are professional content creators who posted a series of 120 "reaction videos" to TikTok, each of which consists of one of them reading aloud one of Sam's poems, followed by a sarcastic joke from the other about how bad the poem is. *If Sam sues Statler and Waldorf for copyright infringement, are the videos a fair use?*

### **Long Answer**

*60 points / 1500 words*

13. Two inventors, Dr. Honeydew and Dr. Beaker, have filed applications with the USPTO relating to making carrots magnetic so that they stick to your fork. The timeline of events is:
- January 1: Henson Co., a large food-sciences supply company, releases WILKINS, a flavorless food-safe liquid that is high in iron, and markets it for use as an ingredient in foods for people with low iron levels.
  - February 1: Muppet Labs, another food-sciences supply company, releases the ML-108, a machine that uses infuses liquids into vegetables.
  - March 1: The USPTO grants Muppet Labs patent # 8,435,200 on the arrangement of valves in the ML-108.
  - April 1: Honeydew has the idea to use the ML-108 with WILKINS and vegetables, and use an electromagnet to magnetize the iron-infused vegetables. He buys an ML-108 and begins experimenting.
  - May 1: Beaker has a similar idea, constructs a device in his lab that functions identically to the ML-108, and begins experimenting.
  - June 1: Beaker files a provisional application, describing the process but not including specific numerical values for the iron concentration.
  - July 1 Honeydew succeeds in magnetizing a carrot by using an iron concentration of 200 mg/mL.

- August 1: Beaker succeeds in magnetizing a potato by using an iron concentration of 250 mg/mL.
- September 1: Honeydew files a non-provisional application with one claim to “a magnetic carrot.” The specification details the process, including an iron concentration of 200 mg/mL.
- October, 1: Beaker files a non-provisional application, relating back to his earlier provisional application, claiming “(1) a method of magnetizing a vegetable, comprising ... [the steps of the process with] an iron concentration between 100 and 300 mg/mL ... (2) the method of claim 1, wherein the iron concentration is 250 mg/mL”

*Which claims in Honeydew and Beaker’s applications, if any, should the USPTO grant a patent on? Has either of them infringed on any IP rights?*