

SECTION 1: ESSAY QUESTIONS**Question 1**

(Question 1 is worth 50 points. Recommended time: 1 hour and 25 minutes.)

Your client, Petaluma Corporation (PC), sells computers directly to consumers, via phone order only. It offers its customers technical support via both phone and email. Last month, PC also set up a web page that lists its phone number, email address, and some information about PC's products.

Like many high tech companies, PC tries to project a playful and quirky image. "Because can people get so intimidated by technology," PC's president once explained to you, "we like to balance out the geek factor with something cute." PC thus uses images of pigs to sell its computers. In 1990, it began using and registered two trademarks, one a logo and the other a package design. The logo mark shows the firm name under the profile image of an enormous, happy, cartoon pig staring at a computer screen. This mark appears on all of PC's publications and ads, and is prominent at the top of its web page. The package design mark is a box designed to look as if it were a square pig, with an image of cartoonish pink colored pig skin all over, with a cartoon image of pig ears and snout on one side of the box, and a cartoon image of a pig tail on the opposite side of the box. PC has always used this box to ship its computers. Now, it also uses the box's pig design as the background on its web page.

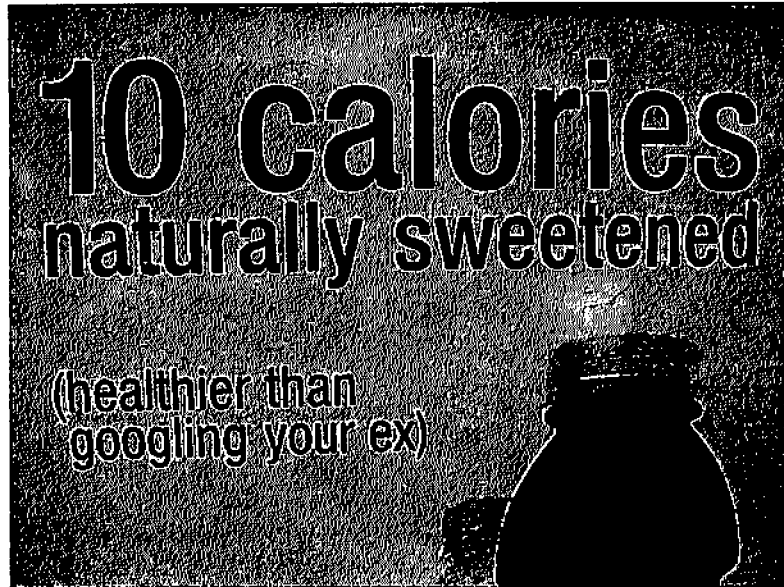
PC recently discovered another web page on the Internet - the PIGS page - that has a pig theme. PIGS stands for Pickings on the Internet of Great Shareware. The PIGS page offers a wide variety of shareware - computer software that anyone can download and sample free of charge. The page generates no revenue for its owner, Big University (BU), which instead maintains, updates and offers the page as a public service. The PIGS page includes many photographs of live pigs of different colors and sizes. An image of a cartoon pig in profile does appear on the PIGS page; when that image is clicked on by a user, they are taken to a listing of shareware games. The PIGS page also uses a pink colored pig skin design as a background. The PIGS page has proven very popular since it began operating in the spring of 2008. BU has not registered any marks related to the page.

PC guards its marks jealously, and has contacted your firm because it is concerned that BU's PIGS page will adversely affect PC's ability to market its products. You are the attorney assigned to this matter. Draft a letter to PC describing its related rights and remedies against BU under state and federal unfair competition and trademark law, and include recommendations to your client regarding how to best respond to the PIGS page.

(NOTE: Only discuss topics and advice in the context of the subject matter of this Trademark Law class, i.e. do not discuss any copyright or other issues that may be implicated.)

Question 2**(Question 2 is worth 30 points. Recommended time: 55 minutes.)**

Congratulations! You've just accepted a position as outside trademark counsel for Google, and you begin your new job on Monday. As you were on your way to GGU to take this exam today, you saw the following billboard for vitaminwater® (a vitamin and flavor enhanced water-based beverage produced by Glaceau Corporation):



The billboard is very simple; the only things on it are a picture of the vitaminwater® bottle, accompanied by the following text:

10 calories naturally sweetened
(healthier than googling® your ex)

The bottom part of the vitaminwater® bottle was cut off in this picture; in the actual billboard, the bottle displays a label that states: GLACEAU vitaminwater®

You looked at the billboard and laughed for a minute, and then quickly stopped as you realized that you now represent Google's Trademark interests. Draft a memo to your new boss, the Senior Partner overseeing the firm's relationship with Google, which details any Trademark Law issues you see with this billboard, any steps that you would recommend taking, and likely issues and/or outcomes stemming from those steps. Be sure to include in your memo both the steps that you would take to research/analyze the issues presented by the billboard, as well as any steps that you recommend your firm and/or Google should take. You want the Senior Partner to know that hiring you was a smart decision, so be thorough in your memo.

END OF ESSAY QUESTIONS