

Week 3 Written Assignment

Name:

Professor:

Course:

Date:

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Question 4

The word mark 'YOU CAN GET IT ON EBAY' registered under the good and services section in the Trademark Electronic Search System IC 035. US 100 101. G &S. The word mark describes trading services conducted through the internet where goods and services are bought. Additionally, the platform allows the clients provide feedback and an evaluation of the quality of the services of the sellers regarding their delivery and overall performance. The platform also evaluates client's trading experience concerning its advertising services. The word mark was first used in commerce on 17 October 2007. The serial number of the word mark is 78733648 under the registration number 3299409 and was published for opposition on 27 June 2007. The word mark is wholly owned by eBay Inc. corporation with the registered address Delaware 2145, Hamilton Avenue, San Jose, California 95125. The attorneys of the record are Jennifer M. Lantz and James R. Cady (United States Patent and Trademark Office).

Question 5

The proposed name for the new mobile application is 'pesa app.' A search of the new trade name on the USPTO website in the Trade Mark Electronic Search System does not reveal any name registered under the same name. A search of the word 'pesa' on the TESS system shows 153 records. However, some registered marks in the TESS system reveal a proximity to proposed word mark. Notably, the word mark iPesa registered under the goods and services section for electronic money transfer has high similarity content with the proposed word mark. The word mark iPesa is wholly owned Frank mwaniki DBA Epilson Solutions LLC Limited Liability Company. The company is registered under the address 217 1801 Butler Pike, 217

Conshohocken, Pennsylvania 19428. Additionally, the search on TESS reveals another word mark with a high similarity ratio to the proposed word mark, M-PESA. The word mark is registered under the goods and services section offering a variety of services in communication sector. The word mark, registered on 28 June 2016 is wholly owned by Vodafone Group Public limited company located at Vodafone House in the United Kingdom. The registered address is the connection New Bury, Berkshire, United Kingdom, RG 142 FN (United States Patent and Trademark Office). The word mark is valid for registration despite the similarities since typo squatting does not apply because the two word marks have distinct alphabetical characters before the word 'pesa.'

Question 6

In the case, the plaintiff accuses the defendant, Apple Inc. of infringement of its word marks and benefitting commercially since the infringed word marks are keywords on Google and several search engines. According to the plaintiff, the keywords 'iPad accessories' are registered under his name, and the defendant was using the words on Adwords to direct clients to his sponsored links in the search engines. With reference to the case 1-800 Contacts, Inc. v. Lens.com the use of the keyword 'iPad accessories' by the defendant in various search engines to redirect to his sponsored links on its own, does not constitute to a liability of infringement (800 CONTACTS INC v. LENS.COM, INC., 2013). The defendant might as well benefit from unregistered words such as 'accessories' and the client is not in a position to tell which word marks had been registered from a search on the search engines. The use of the keyword cannot create confusion, and the plaintiff does not justify that the defendant used specific words to confuse clients. As such, the defendant is not liable for infringement.

References

800 CONTACTS INC v. LENS.COM, INC., 11-4114, 11-402, 12-4022 (United States Court of Appeals, Tenth Circuit 7 16, 2013).

United States Patent and Trademark Office. (n.d.). *Trademark Electronic Search System*.

Retrieved 9 15, 2017, from

<http://tmsearch.uspto.gov/bin/showfield?f=doc&state=4805:a4whpm.2.1>

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