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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91228593
Party	Defendant Focus Approach, LLC
Correspondence Address	ELLEN S SIMPSON SIMPSON & SIMPSON PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5430 UNITED STATES TrademarkEFS@idealawyers.com, esimpson@idealawyers.com
Submission	Opposition/Response to Motion
Filer's Name	Ellen S. Simpson
Filer's e-mail	esimpson@idealawyers.com, cyaple@idealawyers.com
Signature	/Ellen S. Simpson/
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Attachments	FOCO101US_MOL opposing motion for summary judgment.pdf(423326 bytes) FOCO101US_Gormanly Affidavit in Opposition to Motion for Summary Judgment.pdf(328395 bytes) FOCO101US_Attorney Affidavit in Opposition to Motion for Summary Judgment.pdf(2506856 bytes) Exhibit 1 - The Focus Approach Registration.pdf(24884 bytes) Exhibit 2 - IRAC Definition - Wikipedia.pdf(51603 bytes) Exhibit 3 - Facebook Post 2014-09-04.pdf(89861 bytes) Exhibit 4 - Office Action 2015-06-18.pdf(565702 bytes) Exhibit 5 - IRAC Methodology Articles.pdf(989974 bytes) Exhibit 6 - Cease and Desist Letter 2016-04-13.pdf(88539 bytes) Exhibit 7 - IRAC - Supplemental Register.pdf(50709 bytes) Exhibit 8 - IRAC Challenge - Supplemental Register.pdf(58540 bytes) Exhibit 9 - IRAC ME and design.pdf(66177 bytes) Exhibit 10 - Opposers Responses to Applicants Request for Admissions from Opposer.pdf(228478 bytes) Exhibit 11-1 - Opposers Response to Applicants First Set of Interrogatories from Opposer.pdf(4710966 bytes) Exhibit 11-2 - Opposers Response to Applicants First Set of Interrogatories from Opposer.pdf(3769102 bytes) Exhibit 11-3 - Opposers Response to Applicants First Set of Interrogatories from Opposer.pdf(5818727 bytes) Exhibit 12 - Email from RLP Ventures 2017-02-27.pdf(596048 bytes) Exhibit 13 - Applicants Answers to Opposers First Set of Requests for Admission.pdf(4102821 bytes) Exhibit 14 - Tri-state area - Wikipedia.pdf(428937 bytes) Exhibit 15 - College Registrations.pdf(96548 bytes) Exhibit 16 - Pace Law FAQ.pdf(1096801 bytes) Exhibit 17 - Focus Approach Brochure.pdf(250207 bytes) Exhibit 18 - Focus Approach Website.pdf(1598661 bytes)

Applicant, and an Affidavit from Applicant Peter D. Gormanly, Esq., Founder and President of Applicant, attesting to the facts in this matter.

PRELIMINARY STATEMENT

U.S. Service Mark Application Serial No. 86/554,989 for registration of the mark



was filed on March 5, 2015 asserting a date of first use in interstate commerce of September 4, 2014. The instant Notice of Opposition was filed on June 22, 2016 claiming that Opposer had the exclusive right to use and register the acronym IRAC and that, as such, Applicant's mark was confusingly similar to Opposer's marks all of which include the acronym IRAC. Discovery in the proceeding commenced and ended on February 27, 2017.

On April 12, 2017, six weeks after the close of discovery, and the day prior to Opposer's due date to file its Pretrial Disclosures, Opposer filed combination "Motions for (1) Leave to File a First Amended Notice of Opposition and (2) Summary Judgment on Newly-Pleaded Grounds for Opposition and Likelihood of Confusion." Applicant's Motion for Leave to File a First Amended Notice of Opposition appears to be based solely on Opposer's incorrect interpretation of responses to admission requests which are the subject of an objection as Opposer's First Set of Requests for Admissions was untimely filed, and further is based on facts and evidence that were available to Opposer well prior to the eve of trial. Opposer has not provided any justification for not including these newly-pleaded claims in its original proceeding or for seeking leave to file an amended Notice of Opposition well prior to trial. Allowing Opposer to add new claims at this stage would be highly prejudicial to Applicant in light of the fact that discovery ended six weeks ago, and in light of the procedural posture of this case, which is on the verge of entering the

testimony period with a motion for summary judgment pending. Further, Opposer is seeking summary judgment on its new claims based on evidence which Applicant has objected to and is further seeking to have the Board rule in its favor without any additional discovery on the issues raised in the proposed Amended Notice of Opposition. In addition, Opposer is seeking summary judgment on its claim of likelihood of confusion where the facts, as set forth by Opposer, are clearly in dispute. In fact, based on the discovery responses from Opposer, and the prosecution record of Opposer's registrations, the undisputed facts show that the mark itself and/or the dominant portion of each of the marks in Opposer's pleaded registrations is the acronym IRAC which is merely descriptive of the Opposer's services as a matter of law, and therefore, Opposer cannot claim an exclusive right to the acronym.

For the reasons that follow, Applicant asserts that the "new" evidence submitted by Opposer fails to establish that Applicant's mark is not used in interstate commerce, and thus the new claims raised in the proposed amended Notice of Opposition are legally futile. Further, seeking leave to amend the Notice of Opposition on the eve of trial based on facts that have been long available to Opposer is highly prejudicial. As such, the Motion for Leave to File an Amended Notice of Opposition should be denied. Further, the facts as set forth by Opposer on the issue of likelihood of confusion are clearly disputed by Applicant, and thus the Motion for Summary Judgment should be denied.

Finally, Applicant submits that the facts in this matter relating to the acronym IRAC are undisputed and establishes that the acronym IRAC is descriptive when used in association with Opposer's services. As the acronym IRAC is the only similarity alleged by Opposer between any of the marks cited by Opposer, and Opposer does not have the exclusive right to the acronym IRAC, Applicant respectfully requests that its cross-motion for summary judgment be granted.

FACTS


1. Applicant provides educational services, namely, a preparation course for the Law School Admission Test (LSAT) to prospective law students. Applicant commenced its business THE FOCUS APPROACH on or about 1996 and, over the past twenty (20) years, has prepared pre-law students to take the LSAT and to enter law school and the legal profession. *See* Affidavit of Peter D. Gormanly, Esq. at Paragraph 3-4 (hereinafter “Gormanly Affidavit”).

2. Applicant is the owner of U.S. Service Mark Registration No. 2,125,111, dated December 30, 1997 and last renewed in 2007, for the mark THE FOCUS APPROACH for use in association with educational services, namely, conducting classes for law school preparation tests. *See* Exhibit 1, Copy of Certificate of Registration No. 2,125,111. Since at least as early as April 17, 1996, Applicant has been using, and continues to use, the service mark THE FOCUS APPROACH in interstate commerce in connection with educational services, namely, conducting classes for law school preparation tests. *See* Gormanly Affidavit. Para. 3-4.

3. Since its inception, Applicant, using its service mark THE FOCUS APPROACH, has advertised, promoted, and marketed its LSAT preparation course to prospective students through the mailing of printed brochures, at exhibitions, events, law fairs, and other conferences attended by prospective students, at universities attended by students from both New York and other states, through the use of a toll-free telephone number, and, through its website www.focusapproach.com. *See* Gormanly Affidavit at Para. 7-14.

4. Applicant's LSAT review course uses the Issue, Rule, Application, and Conclusion (IRAC) methodology for legal analysis. The IRAC format is well-known among lawyers, law students, law school professors and administrators, and prospective law students, and is mostly used in hypothetical questions in law schools and on bar examinations. *See* Gormanly Affidavit at Para. 6; *See* Exhibit 2, Printout of IRAC Definition from Wikipedia.

5. In March, 2013, Applicant began the process of upgrading its website for the primary reason of using its website for e-commerce as well as updating the look and content of the website itself. Applicant designed a new logo to be used in association with the new website which was forwarded to the website developer. After a few revisions, the new logo was


finalized and then used on Applicant's website and its Facebook page as . The new logo incorporated Applicant's existing mark THE FOCUS APPROACH, along with the acronym IRAC to indicate that the services associated with the mark incorporated the IRAC methodology, along with a design meant to depict a law school with the words LAW SCHOOL underneath the "roof" of the school. *See* Gormanly Affidavit at Para. 17-18.

6. Applicant's new website was launched on September 4, 2014. The new website allowed for the registration of new students, the viewing of videos relating to the LSAT, and on-line classes. Using its new service mark, along with its existing service mark THE FOCUS APPROACH, Applicant continued its business as it had since at least as early as 1996, preparing prospective students to take the LSAT, through programs at various locations. *See* Gormanly Affidavit at Para. 19-20.

7. Additionally, on the same day as the launch of Applicant’s new website, a post was made to Applicant’s Facebook page stating “The Focus Approach proudly presents our NEW website www.focusapproach.com. Watch videos, read testimonials, register for classes—including the new online course and much more.” Applicant’s new service mark is clearly visible on the Facebook page. *See* Gormanly Affidavit at Para. 20 and Exhibit 3, Printout of Facebook page post, dated September 4, 2014.

8. On March 5, 2015, Applicant filed U.S. Service Mark Application Serial



No. 86/554,989 for its new logo  for use in association with “educational services, namely, conducting classes for law school preparation tests.” During prosecution of the application, Applicant was required to disclaim the exclusive rights to the words LAW SCHOOL and the acronym IRAC on the ground that Applicant had, “for a number of years”, advocated for a method of mastering the LSAT – namely, the same approach used by many law schools, “IRAC,” and as such, the words were descriptive of the services. *See* Exhibit 4, U.S. Service Mark Application Serial No. 86/554,989 Office Action, dated June 18, 2015. Applicant subsequently entered a disclaimer into its application for the words LAW SCHOOL and IRAC, and the application was approved for publication on February 23, 2016.

9. As previously noted in Paragraph 6, IRAC is a well-known acronym used by law students, legal writing instructors, law professors, and attorneys, as a method of answering legal questions. IRAC stands for “Issue, Rule, Application, and Conclusion,” and


there are numerous articles and examples of the use of IRAC as a legal writing tool available. *See, e.g.*, Exhibit 5, Articles regarding the IRAC methodology.

10. On April 13, 2016, Opposer sent a cease and desist letter to Applicant claiming that it had the exclusive right to the acronym IRAC, specifically stating that Applicant should “appreciate that the IRAC name and mark are valuable assets of RLP.” *See* Exhibit 6, Copy of Cease and Desist letter.

11. Applicant responded to the cease and desist letter on May 23, 2016 asserting that the acronym IRAC was descriptive and, as such, Opposer could not claim exclusive rights in the “IRAC name.”

12. On May 31, 2016, Opposer again demanded that Applicant stop using the acronym IRAC.


13. On June 22, 2016, Opposer filed the instant opposition.

14. Opposer pleaded three (3) marks as a basis for the instant opposition, namely, U.S. Service Mark Registration No. 5,033,571 for the mark IRAC, U.S. Service Mark Registration No. 5,038,276 for the mark IRAC CHALLENGE; and, U.S. Service Mark Registration No. 5,082,402 for the mark  .

15. U.S. Service Mark Registration No. 5,033,571 for the mark IRAC used in association with “Education services, namely, providing instruction in the fields of legal writing; Entertainment in the nature of competitions in the field of legal writing; Providing online non-

downloadable journals in the field of law” was registered on August 30, 2016 on the Supplemental Register. *See* Exhibit 7, Copy of Certificate of Registration.

16. U.S. Service Mark Registration No. 5,038,276 for the mark IRAC CHALLENGE used in association with “Education services, namely, providing instruction in the field of legal writing; Entertainment in the nature of competitions in the field of legal writing” was registered on September 6, 2016 on the Supplemental Register. *See* Exhibit 8, Copy of Certificate of Registration.

17. U.S. Service Mark Registration No. 5,082,402 for the mark  used in association with “Education services, namely, providing instruction in the fields of legal writing; Entertainment in the nature of competitions in the field of legal writing; Providing online non-downloadable journals in the field of law” was registered on November 15, 2016 on the Principal Register. A disclaimer was entered into the application and is a part of the registration, namely, “No claim is made to the exclusive right to use the following apart from the mark as shown: "IRAC!"". *See* Exhibit 9, Copy of Certificate of Registration.

18. In each of the three (3) registrations cited above, Opposer initially filed its applications to be registered on the Principal Register. The U.S. Patent & Trademark Office amended U.S. Service Mark Application Serial No. 87/075,978, now U.S. Service Mark Registration No. 5,033,571, and U.S. Service Mark Application Serial No. 87/076,136, now U.S. Service Mark Registration No. 5,038,276, to the Supplemental Register. The U.S. Patent & Trademark Office entered a disclaimer into U.S. Service Mark Application No. 87/077,703, now U.S. Service Mark Registration No. 5,082,402, disclaiming exclusive rights to the IRAC apart from the mark as shown. Opposer, in response to Applicant’s First Set of Requests for

Admission, denied the fact that the U.S. Patent & Trademark Office required these amendments. *See Exhibit 10, Copy of Opposer's Answers to Applicant's Requests for Admission Nos. 2, 3, 5, 8, dated January 31, 2017.*

19. In each of the above three (3) registrations, Opposer has claimed a date of first use of the mark in interstate commerce of March, 2013. However, in Opposer's responses to Applicant's discovery requests asking for documentation to prove the March, 2013 date of first use, Opposer did not provide any documentation other than copies of its applications for registration of its service marks, and related specimens, so there is no actual proof of a date of first use. *See Exhibit 11, Copies of Opposer's Responses to Applicant's First Set of Interrogatories Nos. 8, 9, dated January 31, 2017.*

20. All of the evidence submitted by Opposer supports Applicant's position that the acronym IRAC is descriptive when used in association with the services as identified in Opposer's three (3) pleaded registrations, notwithstanding Opposer's claim that it is not.

21. On February 27, 2017 at 11:52 p.m., eight (8) minutes before the close of the discovery period, Opposer served upon Applicant Opposer's First Set of Requests for Admission, notwithstanding the fact that such service was a clear violation of Trademark Rule 2.120. No request for an extension of time to complete discovery was ever made by Opposer either to Applicant or to the Board. *See Exhibit 12, Copy of email from RLP Ventures, LLC.*

22. Applicant timely responded to Opposer's First Set of Requests for Admission, clearly preserving its objection to the untimely service of the discovery request, and

asking that any responses be stricken from the record. *See* Exhibit 13, Copy of Applicant's Answers to Opposer's First Set of Requests for Admission.

23. On April 12, 2017, Opposer filed a Motion for Leave to File a First Amended Notice of Opposition and Summary Judgment on the same, ostensibly based on Opposer's interpretation of Applicant's responses to the untimely served First Set of Requests for Admission by Opposer.

EVIDENTIARY ISSUES

Applicant hereby objects to the use of any of the responses to Opposer's First Set of Requests for Admission, and requests that the responses be stricken from the record and not be permitted to be used as evidence in this proceeding. Under Trademark Rule 2.120, all discovery requests must be served early enough to allow for responses prior to the close of discovery. 37 CFR 2.120(a)(3). In this proceeding, the discovery period opened on August 31, 2016 and closed on February 27, 2017.

As set forth in the Statement of Facts, on February 27, 2017, at 11:52 p.m., eight (8) minutes before the close of the discovery period, Opposer emailed Applicant a "courtesy copy" of Opposer's First Set of Requests for Admission, while sending the original by first class mail. Pursuant to Fed.R.Civ.P. 34 and TBMP 407.03(a), the responses to the Requests for Admission were not due until March 28, 2017, thirty (30) days after the date of service, and well after the end of the discovery period. Thus, Opposer's First Set of Requests for Admission were clearly untimely. It is undisputed that Opposer did not request or seek an extension of time in which to complete discovery, and no extension of time was granted. Discovery ended on February 27,

2017 at midnight. TBMP 407.03(a) clearly states that the response may not be due later than the close of discovery. 37 CFR 2.120(a)(3).

Applicant responded to these untimely served Requests for Admission, clearly reserving its right to raise its objection to the Board, and clearly objecting to the untimeliness of the service and asserting that the responses to the discovery requests should be stricken from the record. *See* Exhibit 13. Applicant hereby objects to any use of the responses to Opposer's First Set of Requests for Admission on the basis that the discovery request was untimely under Trademark Rule 2.120(a)(3) and asks that any references to the responses to Opposer's First Set of Requests for Admission be disregarded and stricken from the record.

ARGUMENT

1. OPPOSER'S MOTION FOR LEAVE TO FILE A FIRST AMENDED NOTICE OF OPPOSITION SHOULD BE DENIED

At 4:08 p.m., on the day before its Pretrial Disclosures were due, Opposer filed this last-minute Motion for Leave to Amend the Notice of Opposition combined with its Motion for Summary Judgment. While Applicant objects to the combining of a Motion for Leave to Amend the Notice of Opposition with a Motion for Summary Judgment, Applicant will respond to this motion as a part of its response to the summary judgment motion.¹

In its Motion for Leave to Amend the Notice of Opposition, Opposer seeks to add claims that Applicant was not using its mark in interstate commerce prior to the filing date of its application for registration, and that, as such, Applicant made a material misrepresentation in its application and thereby committed fraud on the U.S. Patent & Trademark Office. Opposer's argument appears to be that Florida Coastal School of Law (FCSL), where Applicant's LSAT

course is now offered, did not appear on Applicant's website as a class location until at least September 2015, after the filing date of Applicant's application for registration, and that, as Applicant's classes prior to that time were all presented in locations within New York State, Applicant was not using its mark in interstate commerce as of the time of the filing of its application for registration on March 5, 2015. Specifically, Opposer appears to be asserting that the date when information regarding FCSL and/or the date on which offered Applicant's classes were offered on FCSL's campus is Applicant's date of first use in commerce. Opposer has completely disregarded the fact that Applicant has clearly advertised, promoted, marketed, and offered its LSAT preparation courses to prospective law students in various locations – both from New York and other states as shown by the Affidavit of Peter Gormanly, Esq. and other attached evidence - since at least as early as 1996 and continues to this day, and that these activities constitute Applicant's date of first use in commerce under the relevant law.

A request to amend a pleading before the Board is governed by Fed.R.Civ.P. 15(a). TBMP §507.01. After twenty-one (21) days have passed since the service of the original pleading, the pleading may only be amended with written consent of the adverse party or by leave of the Board. TBMP §507.02. The Board will not grant leave to amend a pleading if allowing the amendment would be prejudicial to the rights of the adverse party, or if the proposed new claim or defense is legally insufficient or would serve no useful purpose. *Id.* The timing of a motion for leave to amend “plays a large role in the Board's determination of whether the adverse party would be prejudiced by allowance of the proposed amendment.” TBMP §507.02 (a). “A motion for leave to amend should be filed as soon as any ground for

¹ On May 4, 2017, The Board issued an Order clarifying its April 19, 2017 suspension order, providing Applicant thirty (30) days from the date of the filing of the Combined Motions to respond in a single brief.

such amendment ... becomes apparent.” *Media Online Inc. v. El Clasificado, Inc.* 88 USPQ2d 1285, 1286 (TTAB 2008).

A. THE PROPOSED AMENDMENT WOULD BE HIGHLY PREJUDICIAL TO APPLICANT

Applicant first asserts that the requested amendment would be highly prejudicial to Applicant in light of the almost ten (10) months that have passed since the filing of the original Notice of Opposition, and due to the fact that we are on the eve of trial, discovery having ended six (6) weeks ago. All of the facts relating to Opposer’s claims of alleged non-use of Applicant’s mark in interstate commerce and related alleged fraud on the U.S. Patent & Trademark Office were in existence and were well-known or should have been well-known to Opposer at the time it filed the Notice of Opposition, and Opposer has not provided any reasonable justification for its failure to include these claims in its original pleading. Further, allowing Opposer to add two new claims at this late stage of the proceeding – six weeks after the close of discovery and just prior to the start of the testimony period – would significantly delay the resolution of the case and would unfairly require Applicant to expend significant time and effort in preparing its defense to the new claim.

Opposer was well aware or should have been well aware of the so-called facts purportedly giving rise to a claim of non-use of Applicant’s mark in interstate commerce and alleged fraud on the U.S. Patent & Trademark Office at the time Opposer filed the Notice of Opposition in June, 2016. Applicant has been in business for over twenty (20) years. There has been no change in Applicant’s business model, other than the fact that Applicant adopted an additional new service mark and put it on its website, on its Facebook page, and on any new advertising materials. For over twenty years, Applicant has promoted, marketed, and advertised

its services in many states both through personal marketing efforts, and through its website. Applicant has taught many students over the years that have been domiciled in different states.

From the specific allegation contained in Opposer's brief regarding information in relation to FCSL, it appears that Opposer, presumably after the end of the discovery period, purportedly viewed "mockups" on "Applicant's demo site"², and found so-called "new" information that the FCSL class location was on Applicant's schedule for classes beginning in December 2015 and that Applicant's collaboration with FCSL was announced through a blog post from September 2015 and on a YouTube video posted in December 2015. As Opposer filed its Notice of Opposition on June 22, 2016, this information was clearly available to Opposer months before the filing of the opposition, and certainly all through the pendency of this proceeding. For Opposer, on the eve of trial, well after the completion of discovery, to assert that information that was readily available in 2015 could not have been set forth in its initial pleading, filed in June, 2016, is disingenuous. It appears that Opposer, at the very last minute, is simply seeking to raise any possible claim in an attempt to prevail.

Applicant's application has already been delayed by almost a year, and Applicant has spent thousands of dollars in defending its mark from Opposer's claims. Adding meritless claims at this late date would be highly prejudicial to Applicant, and Applicant respectfully requests that the Board deny Opposer's motion on this ground.

B. THE PROPOSED AMENDMENT IS LEGALLY FUTILE

Opposer is seeking to add two (2) claims in its proposed amended complaint. First, Opposer is claiming that Applicant had not conducted actual classes for law school preparation

² Applicant is not certain what "mockups" or "demo site" Opposer claims to have viewed as information regarding the building of Applicant's website was not the subject of any discovery request.

tests outside of New York State in association with the mark shown in the application prior to the filing date of March 5, 2015, and, as such, Applicant's application was and is *void ab initio*. Secondly, Opposer is seeking to add a claim that Applicant's representation to the U.S. Patent & Trademark Office in its application that the mark shown therein had been used in interstate commerce at the time of its filing on March 5, 2015 for the applied-for services was a material false representation, and thus the mark is unregistrable. Opposer appears to believe that Applicant's actual classes must be offered outside of New York State in order for Applicant to be using its mark in interstate commerce. That is simply not the law.

In order to meet the use requirement of the Lanham Act, it is not required that the actual services be rendered in more than one state. *Larry Harmon Pictures Corp. v. Williams Rest. Corp.*, 929 F.2d 662, 18 USPQ2d 1292, 1295 (Fed. Cir. 1991). *See also In re Gastown, Inc.* 326 F.2d 780 at 782-84, 140 USPQ 216 at 217-18 (CCPA 1964); *In re Smith Oil Corp.*, 156 USPQ 62, 63 (TTAB 1967); 1 J. McCarthy, *Trademarks and Unfair Competition*, §19:36 (It is not required that such services be rendered in more than one state to satisfy the use in commerce requirement). Rather, it is required that the services associated with the mark impact interstate commerce. *Doctors Associates, Inc v. Janco, LLC*, 2016 WL 247200 (TTAB 2016).

In *In re Gastown*, the court held that the "use in commerce" requirement set forth in Section 3 of the Lanham Act was met where the applicant operated a chain of automobile and truck service stations all located in the State of Ohio. The court found that, although the applicant's services were all provided within Ohio, some of the applicant's customers had legal residences in other states, and were extended credit and billed in their respective domiciliary states. The court held that those circumstances established that the services had an impact and a

direct effect on interstate commerce, and were sufficient to show that the applicant's mark was used in interstate commerce within the meaning of the Lanham Act.

Later, in *Larry Harmon Pictures Corp.*, a single location restaurant located in Tennessee seeking to register its service mark was found to have satisfied the "use in commerce" requirement of the Lanham Act by showing that it was located near a major city, namely, Memphis, Tennessee, whose metropolitan statistical area comprised portions of three states (Tennessee, Arkansas, and Mississippi), that it had been mentioned in publications originating in a number of other states, and that it served interstate travelers.

In this case, the evidence clearly shows that Applicant is located near a major city (New York, New York) whose metropolitan statistical area comprises portions of New York, New Jersey, and Connecticut. *See* Gormanly Affidavit at Paragraph 5; Exhibit 14, Printout of Tri-State Area from Wikipedia. The evidence further shows that Applicant serves students domiciled both in New York State and in out-of-state locations. *See* Gormanly Affidavit at Paragraph 7, 21. There is clear evidence that Applicant extends credit and bills its services to persons located outside of New York State. *See* Gormanly Affidavit at Paragraph 21. Additionally, there is a myriad of evidence that Applicant visits with and speaks to prospective students who are located out of state. *See* Gormanly Affidavit at Paragraph 7, 9-11, 16, 22. Finally, by virtue of its website and Facebook page, Applicant advertises and promotes its services nationwide, and, in particular, on its website, allows for customers to register for its services online, and watch videos relating to Applicant's services. *See* Gormanly Affidavit at Paragraph 19-20. Indeed, approximately fifteen (15%) percent of the credit cards processed through its website from the time of the website launch on September 4, 2014 through the time of the filing of Applicant's application for registration were for credit cards billed to out-of-state

addresses. *See* Gormanly Affidavit at Paragraph 21. As such, the evidence is clear that Applicant has an impact on interstate commerce, notwithstanding Opposer's claim that there can be no "use in interstate commerce" if Applicant did not actually hold a class outside of New York State prior to the filing date of its application.

Carried to its extreme, Opposer's asserted claim would mean that any school or learning institution that offered classes in one location would not be entitled to register a service mark for those services. Based on a search of third-party registrations, that is clearly not the case. For example, *see* U.S. Service Mark Registration No. 1,229,771 for the mark SKIDMORE COLLEGE for, in part, "providing educational instruction and classes on the college level"; U.S. Service Mark 2,197,838 for the mark BOWDOIN COLLEGE for "educational services, namely, providing courses of instruction at the college level"; U.S. Service Mark Registration No. 2,233,342 for the mark BRANDEIS UNIVERSITY for, in part, "educational services, namely, providing courses of instruction at the undergraduate and graduate college level...." *See* Exhibit 15, Printouts of Certificates of Registration. These colleges all offer their services in one location, namely, Saratoga Springs, New York; Brunswick, Maine; and Waltham, Massachusetts, respectively, yet their service marks are used in interstate commerce under the Lanham Act.

Based on the above, as Opposer cannot prevail on its claim that Applicant did not use its mark in interstate commerce as of the date of the filing of its application for registration, and on its claim that Applicant made a material misrepresentation in its application at the time of filing, Applicant respectfully submits that the proposed amended Notice of Opposition is legally futile, and thus, Opposer's Motion for Leave to File an Amended Notice of Opposition should be denied.

**2. APPLICANT'S MOTION FOR SUMMARY JUDGMENT ON NEWLY-
PLEADED GROUNDS FOR OPPOSITION AND LIKELIHOOD OF
CONFUSION SHOULD BE DENIED**

The standard for granting summary judgment is well established:

"Summary judgment may not be granted unless "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Fed. R. Civ. P. 56(c)*. A party seeking summary judgment bears the burden of establishing that no genuine issue of material fact exists. *See Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 157, 90 S. Ct. 1598, 26 L. Ed. 2d 142 (1970). "[T]he movant must make a *prima facie* showing that the standard for obtaining summary judgment has been satisfied." 11 *Moore's Federal Practice*, § 56.11[1][a] (Matthew Bender 3d ed.). That is, the burden is on the moving party to demonstrate that the evidence creates no genuine issue of material fact. *See Amaker v. Foley*, 274 F.3d 677 (2d Cir. 2001); *Chipollini v. Spencer Gifts, Inc.*, 814 F.2d 893 (3d Cir.1987) (*en banc*). Where the non-moving party will bear the burden of proof at trial, the party moving for summary judgment [*20] may meet its burden by showing the evidentiary materials of record, if reduced to admissible evidence, would be insufficient to carry the non-movant's burden of proof at trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986).

Once that burden has been met, the burden then shifts to the non-moving party to demonstrate that, as to a material fact, a genuine issue exists. *Fed. R. Civ. P. 56(e)*; *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986). A fact is "material" only if the fact has some effect on the outcome of the suit. *Catanzaro v. Weiden*, 140 F.3d 91, 93 (2d Cir. 1998). A dispute regarding a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson*, 477 U.S. at 248. In determining whether a genuine issue exists as to a material fact, the court must view underlying facts contained in affidavits, attached exhibits, and depositions in the light most favorable to the non-moving party. *U.S. v. Diebold, Inc.*, 369 U.S. 654, 655, 82 S. Ct. 993, 8 L. Ed. 2d 176 (1962). Moreover, the court must draw all reasonable inferences and resolve all ambiguities in favor of the non-moving party. *Leon v. Murphy*, 988 F.2d 303, 308 (2d Cir.1993); [*21] *Anderson*, 477 U.S. at 248-49; *Doe v. Dep't of Pub. Safety ex rel. Lee*, 271 F.3d 38, 47 (2d Cir. 2001), *rev'd on other grounds Connecticut Dep't of Public Safety v. Doe*, 538 U.S. 1, 123 S. Ct.

1160, 155 L. Ed. 2d 98 (2003); International Raw Materials, Ltd. v. Stauffer Chemical Co., 898 F.2d 946 (3d Cir. 1990).

Alonci v. IUE-CWA, Local 509, 2007 WL 4730318 (W.D.N.Y. 2007)

A. SUMMARY JUDGMENT ON OPPOSER'S NON-USE AND FRAUD CLAIMS


Opposer's proposed claims for non-use in interstate commerce and fraud on the U.S. Patent & Trademark Office appear to arise from Opposer's misreading of the law on use in interstate commerce under the Lanham Act. Opposer appears to believe that, unless Applicant offered its classes in a physical location other than New York State, then Applicant has not used its mark in commerce. As such, Opposer's argument is that the facts are undisputed that Applicant did not provide an actual class with a physical location outside of New York State until December 2015. However, that alleged fact is irrelevant to the issue at hand. As discussed above in Section 1(B), it is not required that the actual services be rendered in more than one state in order to meet the use in interstate commerce requirement of the Lanham Act. *Larry Harmon Pictures Corp.*, 18 USPQ2d 1292 at 1295. Rather, it is required that the services have an impact on interstate commerce. Opposer has not set forth any facts, let alone undisputed facts, to support any assertion that Applicant's services have not had an impact on interstate commerce. Opposer appears to be unaware of the facts as set forth in the Affidavit of Peter D. Gormanly, Esq. As such, both the facts and the law relating to use of Applicant's mark are clearly disputed.

As discussed above in Section 1(B), Applicant has argued that Opposer's proposed new claims on non-use in interstate commerce and fraud on the U.S. Patent & Trademark Office are legally futile. Applicant re-asserts these arguments here in opposition to Opposer's Motion for Summary Judgment on this issue.

Alternatively, even if the Board allows Opposer leave to file an amended Notice of Motion, the facts as to use in commerce are clearly disputed. There has been no discovery on this issue, and Opposer's only "fact" is that Applicant did not offer its course in Florida until after the filing of its application for registration of its mark. Applicant submits that this fact alone is not sufficient for the Board to rule on a motion for summary judgment on the issues of non-use and fraud. Applicant has set forth its facts on this issue in its Affidavit, none of which Opposer has addressed any time during discovery or prior to the filing of its Motion for Summary Judgment on these issues. As such, at best, the facts as sworn to by Applicant are undisputed and judgment should be entered for Applicant on these issues. At worst, the facts are clearly in dispute, and summary judgment is not appropriate for either party.

B. SUMMARY JUDGMENT ON LIKELIHOOD OF CONFUSION

Opposer is seeking summary judgment on the issue of likelihood of confusion. Opposer argues that it is undisputed that it has priority of use of its pleaded marks, and that Applicant's mark is confusingly similar to Opposer's mark, thereby entitling Opposer to judgment as a matter of law. For Opposer to prevail on summary judgment, there must be a demonstration that there are no genuine disputes of material fact as to Opposer's claim of likelihood of confusion. *See Hornblower & Weeks, Inc. v. Hornblower & Weeks, Inc.*, 60 USPQ2d 1733, 1735 (TTAB 2001).

First, Opposer argues that it has established priority of use based on the common law usage of its marks IRAC, IRAC CHALLENGE, and  IRAC! as of March, 2013. Yet, in response to Applicant's specific interrogatory requests No. 8 and No. 9, provided no documents or other evidence to support Opposer's alleged date of first use of its pleaded marks.

In particular, Applicant's Interrogatory No. 8 asked:


"State the earliest date (month, day, year) on which Opposer will rely to establish any rights to use the Opposer's marks in commerce in the United States, stating in detail the basis on which such claim of rights is made."

Interrogatory No. 9 asked:


"Identify all documents, purchases orders, invoices, labels, websites, Facebook pages, flyers, brochures, other advertising or any other writing whatsoever (print or electronic) which Opposer will rely upon to establish the date(s) specified in response to Interrogatory No. 8 above."


See Exhibit 11.

In response, Opposer simply referred Applicant to "Exhibits A and B." See Exhibit 11. Opposer's Exhibit A contained copies of Opposer's applications for federal registration and state registration of its marks with alleged specimens of use wherein Opposer claimed a date of first use of March, 2013. Opposer's Exhibit B contained printouts of Opposer's Twitter page with a 2017 copyright date. See Exhibit 11. None of the documents contained in these exhibits were responsive to Applicant's interrogatories, nor did any of the documents provide evidence establishing a date of first use in commerce. As such, Applicant asserts that there are disputed issues of fact as relates to priority of use, of the respective marks, as Opposer has provided no evidence to show that its marks were in use in commerce prior to Applicant's date of first use. Accordingly, Opposer's motion for summary judgment must fail on this issue.

Second, as to the likelihood of confusion of Opposer's and Applicant's respective marks, Opposer is first asserting that Applicant's mark is confusingly similar in appearance and overall commercial impression to Opposer's mark  as both parties' marks are comprised of the literal element IRAC in bold and large capital letters, and both marks include a "triumphal arch" as a design element. Opposer is arguing that Applicant's mark is similar to Opposer's

mark IRAC and IRAC CHALLENGE as both parties' marks include the literal element IRAC. Opposer further asserts that the dominant portion of both design marks is IRAC, and that therefore, confusion may be likely "notwithstanding peripheral differences." Opposer's Brief at p. 17.

Applicant submits that the evidence in the record indicates that the literal elements in each of the marks at issue, namely, the acronym IRAC, are merely descriptive. Opposer's pleaded registration for the typed mark IRAC is registered on the Supplemental Register. Opposer's pleaded registration for the typed mark IRAC CHALLENGE is registered on the Supplemental Register. In addition, Opposer disclaimed the exclusive right to use the term IRAC in its pleaded registration on the Principal Register for the mark . Indeed, Applicant too disclaimed the exclusive right to use the term IRAC in its pending application to

. It is well settled that a mark on the Supplemental Register constitutes an implied admission that the term is descriptive at least as of the time of registration. *See Perma Ceram Enterprises, Inc. v. Preco Indus., Ltd.*, 23 USPQ2d 1134, 1137 n.11 (TTAB 1992). *See also Win Luck Trading, Inc. v. Northern Food I/E Inc. dba Northern Food*, 2015 WL 9913828 at *2 (TTAB 2015) (A mark registered on the Supplemental Register is an admission by the registrant that the term was merely descriptive of its described goods, at least as of the time of registration). Further, it is also well settled that a disclaimer in an application may be considered to be an admission that the disclaimed term is merely descriptive. *See SMS, Inc. v. Byn-Mar, Inc.*, 228 USPQ 219, 220 (TTAB 2008). As all three of Opposer's relied upon registrations, and Applicant's opposed application contain implied admissions that the acronym IRAC is merely descriptive, Applicant submits that there is no genuine issue of material fact that



the literal element in each of the marks IRAC, IRAC CHALLENGE, , and



, namely IRAC, is merely descriptive of the services of both Opposer and Applicant. *See, e.g., Standard Tools and Equipment Co. v. Dropship LLC dba Tool USA*, 2016 WL 8222571 (TTAB 2016) (where opposer’s pleaded mark TOOLS USA was registered on the Supplemental Register and opposer further disclaimed the exclusive right to use the term TOOLS USA in its registration on the Principal Register and applicant disclaimed the terms TOOL and USA.COM in its application there was no genuine issue of material fact that the literal elements of each of the marks at issue were merely descriptive of the goods and services of the parties.

Opposer has asserted throughout its brief that the dominant portion of its mark is the acronym IRAC, and that Opposer has exclusive rights to IRAC. Evidence of ownership of an existing mark on the Supplemental Register is insufficient to establish ownership rights in the mark because it is not entitled to the presumptions of Section 7(b) of the Trademark Act. 15 U.S.C. §1057(b); *Copperweld Corp. v. Arcair Co.*, 200 USPQ 470, 474 (TTAB 1978) (ownership of a registration on the Supplemental Register “does not constitute prima facie evidence of registrant’s ownership of the mark, or its exclusive right to use the mark in commerce”). In order to establish ownership rights in its descriptive mark on the Supplemental Register, Opposer must demonstrate that the mark has acquired distinctiveness. *Otter Products v. BaseOneLabs LLC*, 105 USPQ2d 1252, 1255-56 (TTAB 2012). As to the registrations for IRAC and IRAC CHALLENGE, both registered on the Supplemental Register, Opposer has not claimed and/or provided any evidence that either mark has acquired distinctiveness, and, as such, has failed to establish ownership rights in the literal element IRAC contained in each mark. As

such, Applicant respectfully submits that summary judgment in favor of Opposer must fail on that ground.

Further, as to the mark , the exclusive right to the literal element of the mark, namely, the acronym IRAC, has been disclaimed by Opposer. Here again, Opposer has not provided any evidence that the acronym IRAC contained in the mark  has acquired distinctiveness in the marketplace, and, as such, Opposer is not entitled to the weight that a “dominant” portion of a mark may be given. *See In re Hunke & Jochheim*, 185 USPQ 188, 189 (TTAB 1975) (“the scope of protection afforded a merely descriptive or highly suggestive term is less than that accorded an arbitrary or coined mark”). As such, Applicant respectfully submits that summary judgment in favor of Opposer on this ground must also fail.

Indeed, as evidenced by the third-party usage of the acronym IRAC from dates prior to the claimed date of first use of the acronym IRAC by Opposer, the acronym IRAC is not owned by Opposer and Opposer has no exclusive right in the acronym IRAC. In March, 2003, a professor at New York University published an article entitled “What is the ‘R’ in ‘IRAC’?” in the New York Law School Law Review. A legal writing instructor from West Virginia University College of Law published an article entitled “Using Formulas to Help Students Master the “R” and “A” of IRAC” in Spring 2006. And LawSchoolSurvival.org, a website created to assist law students, an article entitled “The IRAC Method” was posted in 2011. These example articles all pre-date Opposer’s claimed date of first use of its mark, and clearly show that Opposer does not have the exclusive right to the acronym IRAC in relation to legal writing. *See Exhibit 5.*

Opposer has claimed throughout its brief that the only similarity between the marks in its pleaded registrations, and Applicant’s mark in its application is the literal element IRAC, and as

it is undisputed that Opposer does not have the exclusive right to the literal element IRAC. Further, Applicant's services are specifically LSAT preparation courses, which are far different than the legal writing competitions alleged to be provided by Opposer.³ Finally, Opposer's marks and Applicant's mark are not likely to be encountered by the same class of consumers, as Opposer's services and Applicant's services are quite different. As the marks are not similar, the services are not similar, and the channels of trade are not similar, Applicant respectfully submits that it is entitled to summary judgment on its cross-motion on the issue of likelihood of confusion.

WHEREFORE, Applicant respectfully requests that the Board issue an Order denying Opposer's Motion for Leave to File a First Amended Notice of Opposition and Opposer's Motion for Summary Judgment in its entirety, granting Applicant's Cross-Motion for Summary Judgment, and any such other relief that may be appropriate.

Respectfully submitted,



Ellen S. Simpson
Attorney for Applicant
Simpson & Simpson PLLC
5555 Main Street
Williamsville, New York 14221
(tel) 716-626-1564
(fax) 716-626-0366
(email) esimpson@idealawyers.com

DATED: May 11, 2017

³ Opposer asserts that Applicant's mark is used in association with goods, namely, software for ecommerce; software to gather feedback, classes and promoting the services of others. Applicant does not offer any downloadable software, and Opposer's assertions have no basis in fact.

CERTIFICATION UNDER 37 C.F.R. §1.8

I hereby certify that this APPLICANT'S RESPONSE TO OPPOSER'S MOTIONS FOR LEAVE TO FILE A FIRST AMENDED NOTICE OF OPPOSITION AND FOR SUMMARY JUDGMENT ON NEWLY-PLEADED GROUNDS FOR OPPOSITION AND APPLICANT'S CROSS-MOTION FOR SUMMARY JUDGMENT is being filed electronically with the United States Patent & Trademark Office utilizing the *Electronic System for Trademark Trials and Appeals* on this day 11th of May, 2017.



Ellen S. Simpson
Attorney for Applicant
Simpson & Simpson PLLC
5555 Main Street
Williamsville, New York 14221
(tel) 716-626-1564
(fax) 716-626-0366
(email) esimpson@idealawyers.com

CERTIFICATE OF SERVICE

I certify that a true copy of this APPLICANT'S RESPONSE TO OPPOSER'S MOTIONS FOR LEAVE TO FILE A FIRST AMENDED NOTICE OF OPPOSITION AND FOR SUMMARY JUDGMENT ON NEWLY-PLEADED GROUNDS FOR OPPOSITION AND APPLICANT'S CROSS-MOTION FOR SUMMARY JUDGMENT was served upon the Opposer by electronic mail pursuant to 37 CFR 2.119(a) and (b) directed to Opposer:

Ramona Prioleau
RLP Ventures, LLC
Times Square Station
P.O. Box 2605
New York, NY 10108-2605
(email) rlpvllc@gmail.com

By: 
Ellen S. Simpson
Attorney for Applicant
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, New York 14221
Telephone: (716) 626-1564
Facsimile: (716) 626-0366

Dated: May 11, 2017

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of U.S. Trademark Application Serial No. 86/554,989
Published in the *Official Gazette* on February 23, 2016

RLP Ventures, LLC,)	
)	
Opposer,)	
)	Opposition No. 91228593
v.)	
)	
Focus Approach, LLC)	
)	
Applicant.)	
_____)	

Commissioner for Trademarks
ATTN: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

AFFIDAVIT OF PETER D. GORMANLY, ESQ.

State of New York)
) ss:
County of Westchester)

Peter D. Gormanly, Esq., being duly sworn, deposes and says that:

1. I am the Founder and President of Focus Approach, LLC, Applicant in this opposition proceeding.

2. I am a licensed attorney in the State of New York. From 1987-1998, I served as an assistant district attorney in Westchester County, New York, and I continued to practice law through 2001, after which I devoted all of my time to Focus Approach, LLC.
3. As the Founder and President of Focus Approach, LLC, I designed, adopted, and began use of the mark THE FOCUS APPROACH in 1996. The mark was registered as U.S. Service Mark Registration No. 2,125,111 in 1997 for use in association with “Educational services, namely, conducting classes for law school preparation tests.” The registration was renewed in 2007. An application to renew the registration for a third ten year term will be filed this year.
4. In 1996, I formed The Focus Approach, the predecessor to Focus Approach, LLC, which was formed on August 12, 2014, and is the Applicant in this opposition proceeding. The Focus Approach, now Focus Approach, LLC, prepares students to take the Law School Admission Test (LSAT) by offering courses taught by attorneys using the same teaching methods as those used in law schools.
5. At the time that The Focus Approach, now Focus Approach, LLC, registered its first mark, it was located in Yonkers, New York, a suburb of New York City. Applicant’s main office is now located in Pound Ridge, New York, which is in Westchester County in New York State on the border of Stamford, Connecticut. Two of the main class locations are Pace University Law School, with a campus in Westchester County, and Touro Law Center, located on Long Island, New York. All of these aforementioned geographic regions are within the tri-state

New York metropolitan area, which covers parts of the states of New York, New Jersey, and Connecticut.

6. From the beginning and to this day, Applicant's LSAT review course has been taught by myself and other attorneys. Since at least 2010, the LSAT review course has used the Issue, Rule, Application, and Conclusion (IRAC) methodology for legal analysis. The IRAC format is well-known among lawyers, law students, law school professors and administrators, and prospective law students, and is mostly used in hypothetical questions in law schools and on state bar examinations. See, Exhibit 2, Definition of IRAC from Wikipedia.
7. As the Focus Approach program began and expanded in 1996 and thereafter, classes were held at various colleges and universities in New York and New Jersey, such as Pace University (New York, NY), Fordham University (New York, NY), Mercy College (New York, NY), Brooklyn College (New York, NY), William Patterson College (Wayne, NJ), City University of New York, Siena College (Albany, NY), Touro Law Center (Long Island, NY), and Albany Law School (Albany, NY) and attended by students domiciled in both New York State and outside of New York State attending school at these various colleges and universities.
8. Focus Approach also instituted a toll-free "800" number, specifically "888-234-LSAT", for out of area callers seeking to use the services of Focus Approach.
9. In 1998-1999, Pace University Law School launched an initiative to offer students previously denied admission to the law school a second chance at admission by preparing for the LSAT with Focus Approach and then having students' applications reconsidered if their LSAT

score improved. Students attending Pace Law School are from both New York State and out-of-state, and its website specifically notes that “many students drive from apartments located across the tri-state area of New York, New Jersey and Connecticut. Exhibit 16, Printout of Pace Law School FAQ.

10. Similarly, on or about 2001, Mercy College offered through its continuing education program two courses in conjunction with Focus Approach and Pace University Law School. Mercy College, having a total enrollment of approximately 11,000 students at its four (4) campuses, has an estimated ninety-one (91%) in-state enrollment and an estimated nine (9%) percent out-of-state enrollment.
11. Also on or about 2001, Focus Approach established a relationship with William Patterson College in Wayne, New Jersey wherein Focus Approach was compensated by the College for making its LSAT course available to students attending the College.
12. On or about November 3, 2004, the original Focus Approach website was launched reaching prospective students in all fifty (50) states. The website allowed prospective students to contact Focus Approach online.
13. During approximately the same time period, from approximately 2000-2010, Touro Law Center became an anchor location for Focus Approach, and visiting programs were established at Fordham Lincoln Center, Fordham Law School, William Patterson College, State University of New York at Purchase, Mercy College, Brooklyn College, and Pace University. Albany Law became an anchor location in 2011. William Patterson College is

located in New Jersey. All of these colleges and universities have students that are domiciled both in New York and out-of-state.


14. In approximately 2010, Focus Approach established a marketing presence in Washington D.C., reaching out to pre-law advisors, student organizations, and law schools, providing a copy of the Focus Approach brochure. See Exhibit 17, Focus Approach brochure used in New York and Washington, D.C.

15. Since the time of the inception of the Focus Approach program, I have personally attended many events on behalf of Focus Approach, including pre-law advisory conferences in San Diego, CA, Philadelphia, PA, Ithaca, NY, Boston, MA, Easton, PA, and Durham, NC. During this period, I also visited schools such as Lafayette College (Easton, PA), Villanova University (Villanova, PA), Rutgers University (Newark, NJ), Yale University (New Haven, CT), Sacred Heart University (Fairfield CT), Fairfield University (Fairfield, CT), Pennsylvania State (Centre County, PA), Lehigh College (Bethlehem, PA), William Patterson College (Wayne, NJ), Bloomfield College (Bloomfield, NJ), Princeton University (Princeton, NJ), Howard University (Washington, D.C.), George Mason University (Washington, D.C.), George Washington University (Washington, D.C.), University of Maryland (Baltimore, MD), and Cornell University (Ithaca, New York).

16. During these visits, I would speak with groups about the LSAT and Focus Approach. Alternatively, I would represent Focus Approach at a Focus Approach or Law School table where prospective students would stop by and discuss preparation for the LSAT. The students were from many geographic areas, both in New York and outside of New York.

17. In 2013, a decision was made to upgrade the FOCUS APPROACH website in order to add further features related to e-commerce, such as online registration, user login, online classes, and videos.



18. In association with the upgraded website, I designed the service mark  to be used in association with “Educational services, namely, conducting classes for law school preparation tests.” The mark was first used on or about September 4, 2014 when the upgraded FOCUS APPROACH website at www.focusapproach.com was launched with the mark placed on the home page of the website. See Exhibit 18, Printout of Focus Approach website home page. In designing the new service mark, I incorporated the trade name and service mark THE FOCUS APPROACH with the acronym IRAC, well-known to law schools, law school professors and administrators, and law students, along with the words “LAW SCHOOL” and the design of a structure that was meant to depict a law school building.

19. On or about September 4, 2014, our new website was launched displaying the service mark



20. On or about the same day, a post was made to Applicant’s Facebook page, stating “The Focus Approach proudly presents our NEW website www.focusapproach.com. Watch videos, read testimonials, register for classes—including the new online course and much

more.” Applicant’s new service mark is clearly visible on the Facebook page. See Exhibit 3, Printout of Applicant’s Facebook Page Post, dated September 4, 2014.

21. On September 27, 2014, prior to the date of filing of Applicant’s application for registration, and just after the launch of the new Focus Approach website, the first sale using the portal in the new www.focusapproach.com website was made. Thereafter, from September 27, 2014 through March 7, 2015, just after the March 5, 2015 filing date of Applicant’s application for registration, approximately seventy (70) transactions were processed through the website, with the typical amount of the transaction being \$1950 per customer, which is the cost of the LSAT preparation course. Of the approximately seventy (70) transactions, eleven (11) of the transactions, or fifteen (15%) percent of the transactions, were processed to out-of-state credit card addresses. The states other than New York included Connecticut, Delaware, New Jersey, California, and Mississippi.


22. On or about October 14, 2014, I attended the University of Connecticut Law Fair held in Storrs, Connecticut on behalf of Touro Law Center. The event also provided Focus Approach the opportunity to display its recently launched website on a computer located on the table where I was present during the three (3) hour event. The event further provided an opportunity to discuss a joint program between Focus Approach and the Touro Law Center, and to encourage student attendees at the law fair to enroll in the Focus Approach LSAT preparation course. Additionally, the event gave Focus Approach opportunities to discuss how the “Portal Program” worked on its website with other out-of-state law school representatives attending the law fair. At least two (2) expression of interest cards were completed and provided to me by student attendees at the University of Connecticut Law

Fair, and at least one law school representative from Western New England School of Law expressed an interest in a joint program with Focus Approach.

23. On or about October 24, 2014, after the launch of the new website, and after the date of first use of the new service mark, Focus Approach held the first in a series of weekly LSAT classes at Pace University. The class list provided by Pace University provided information for students that had New York residences, and students that had out-of-state residences, including Massachusetts, New Jersey, and Tennessee. Pace University paid compensation of \$30,000 to Focus Approach, LLC to conduct this six (6) month program.

24. On March 5, 2015, approximately six (6) months after the launch of its website and use of its new service mark on its Facebook page, Applicant filed U.S. Service Mark Application



Serial No. 86/554,989 for registration of the mark  for use in association with “Educational services, namely, conducting classes for law school preparation tests.” During prosecution of the application, Applicant was required to disclaim the acronym “IRAC” and the phrase “LAW SCHOOL” apart from the mark as shown on the ground that IRAC and LAW SCHOOL were descriptive of the services provided in association with the mark. Applicant entered the required disclaimer into the application, and the application was approved for publication.

25. A review of individuals who, utilizing the “Join us for a free online class!” section of the www.focusapproach.com website, provided contact information in order to obtain further

information about the Focus Approach LSAT preparation course included prospective students from Washington, D.C., New Jersey, Connecticut, California, and Pennsylvania.

26. As attested to above, I have been developing, promoting, managing, and teaching the Focus Approach LSAT preparation course for over twenty (20) years. During that time, I have attended numerous open houses, law fairs, and university events. Pace University Law School, which is located within twenty (20) miles of Stamford, CT, and Touro Law School which is located in the New York City area, and are main anchors of Focus Approach, have held two open houses a year which I have personally attended. As the New York City area serves New York, New Jersey, and Connecticut in particular, I have spoken with, and taught, many students from these three (3) jurisdictions, along with students from other states.



PETER D. GORMANLY, ESQ., President
Focus Approach, LLC

Sworn to before me this
11th day of May, 2017



Notary Public

SCOTT G. SULLIVAN
Notary Public, State of New York
No. 02SU6032053
Qualified in Westchester County
Commission Expires October 18, 2020

CERTIFICATION UNDER 37 C.F.R. §1.8

I hereby certify that this AFFIDAVIT OF PETER D. GORMANLY, ESQ. is being filed electronically with the United States Patent and Trademark Office utilizing the *Electronic System for Trademark Trials and Appeals* on this 11th day of May, 2017.



Ellen S. Simpson
Attorney for Applicant
Simpson & Simpson PLLC
5555 Main Street
Williamsville, New York 14221
(tel) 716-626-1564
(fax) 716-626-0366

CERTIFICATE OF SERVICE

I certify that a true copy of this AFFIDAVIT OF PETER D. GORMANLY, ESQ. was served upon the Opposer by electronic mail pursuant to 37 CFR 2.119(a) and (b) directed to Opposer:

Ramona Prioleau
RLP Ventures, LLC
Times Square Station
P.O. Box 2605
New York, NY 10108-2605
(email) rlpvllc@gmail.com

By: 
Ellen S. Simpson
Attorney for Applicant
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, New York 14221
Telephone: (716) 626-1564
Facsimile: (716) 626-0366

Dated: May 11, 2017

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of U.S. Trademark Application Serial No. 86/554,989
Published in the *Official Gazette* on February 23, 2016

RLP Ventures, LLC,)	
)	
Opposer,)	
)	Opposition No. 91228593
v.)	
)	
Focus Approach, LLC)	
)	
Applicant.)	
_____)	

Commissioner for Trademarks
ATTN: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

**ATTORNEY AFFIDAVIT IN SUPPORT OF APPLICANT’S OPPOSITION TO
OPPOSER’S MOTION FOR LEAVE TO FILE A FIRST AMENDED NOTICE OF
OPPOSITION AND FOR SUMMARY JUDGMENT ON NEWLY-PLEADED GROUNDS
FOR OPPOSITION AND LIKELIHOOD OF CONFUSION AND IN SUPPORT OF
APPLICANT’S CROSS-MOTION FOR SUMMARY JUDGMENT**

State of New York)
) ss:
County of Erie)


Ellen S. Simpson, Esq., being duly sworn, deposes and says that:

1. I am a member of SIMPSON & SIMPSON PLLC, counsel of record for Applicant, Focus Approach, LLC. As such, I am fully familiar with this matter based upon a review of the file maintained in my office.

2. I submit this affirmation in support of Applicant's opposition to Opposer's Combined Motion for Leave to File a First Amended Notice of Opposition and Motion for Summary Judgment and in support of Applicant's Cross-Motion for Summary Judgment.

3. Applicant is the owner of U.S. Service Mark Registration No. 2,125,111, dated December 30, 1997, for the mark THE FOCUS APPROACH for use in association with educational services, namely, conducting classes for law school preparation tests.




4. Applicant is also the owner of the service mark  for use in association with educational services, namely, conducting classes for law school preparation tests, which is the subject of U.S. Service Mark Application Serial No. 86/554,989.

5. On June 22, 2016, Opposer filed the instant Notice of Opposition against U.S. Service Mark Application Serial No. 86/554,989.

6. Applicant answered such Notice of Opposition on July 28, 2016 and, thereafter, the discovery period commenced on August 31, 2016 and ended on February 27, 2017.

7. Despite the requirements set forth in Trademark Rule 2.120(a)(3) which states that all discovery must be served early enough to allow for responses prior to the close of discovery, on February 27, 2017 at 11:52 p.m., eight (8) minutes prior to the close of the discovery period Opposer served Opposer's First Set of Requests for Admission on Applicant. *See* Exhibit 12, Printout of email from RLP Ventures, LLC to Ellen Simpson.


8. Applicant responded to Opposer's First Set of Requests for Admission on Applicant but objected to the discovery request in full as it was untimely served. *See* Exhibit 13, Copy of Applicant's Responses to Opposer's First Set of Requests for Admission.
9. Thereafter, the day before Opposer's Pretrial Disclosures were due, Opposer filed the instant Opposer's Notice of Motions and Motions for Leave to File a First Amended Notice of Opposition and Summary Judgment on Newly-Pleaded Grounds for Opposition and Likelihood of Confusion. Opposer's Motion for Leave to File a First Amended Notice of Opposition appears to be based on Opposer's incorrect interpretation of the objected-to responses contained in Opposer's untimely First Set of Requests for Admission.
10. Further, with no discovery on the issue of use in interstate commerce having taken place, after which Opposer would have been in possession of voluminous evidence relating to Applicant's use of its mark THE FOCUS APPROACH in commerce since 1996 and use of its mark  in commerce since 2014, Opposer filed the Motion for Summary Judgment on Newly-Pleaded Grounds for Opposition, asserting a myriad of self-described undisputed facts that are clearly rebutted by the evidence as set forth in the Affidavit of Peter D. Gormanly, Esq., Applicant's Founder and President.
11. Opposer has filed its motion for summary judgment based only on its version of allegedly undisputed facts.
12. Applicant asserts that the so-called undisputed facts alleged by Opposer are clearly disputed by Applicant, and that a motion for summary judgment on the likelihood of confusion claim, or the

claims sought to be added to the pleading, cannot be granted where there are disputed factual issues.

13. Further, as discussed in the attached memorandum of law, Applicant is seeking an order from the Board striking from the record any responses to Opposer's First Set of Requests for Admission on the ground that the discovery request was untimely served pursuant to Trademark Rule 2.120(a)(3).

14. Further, as discussed in the attached memorandum of law, Opposer's Motion for Leave to File a First Amended Notice of Opposition should be denied on the ground that, not only are the claims Opposer seeks to add legally futile, but the requested amendment would be prejudicial to Applicant on the eve of trial as it would significantly delay the resolution of this case. Opposer's motion for leave to amend the pleading are based on Opposer's incorrect interpretation of responses to Opposer's First Set of Requests for Admission which were untimely served and thus subject to an objection as to admissibility. Alternatively, there has been no discovery on the issues raised in the amended claims, and, as such, summary judgment on these new issues would be premature.

15. As further set forth in the attached memorandum of law, this entire opposition is based upon Opposer's far-fetched idea that it alone is entitled to use the acronym IRAC in association with legal teaching or similar services. If Opposer's claim was to be accepted as true, then every law school, every review course for bar exams or admission tests for law school, every law professor, and every law school administrator, would not be permitted to use the acronym IRAC.

16. Opposer, by registering its mark IRAC for use in association with “Education services, namely, providing instruction in the fields of legal writing; Entertainment in the nature of competitions in the field of legal writing; Providing online non-downloadable journals in the field of law,” on the Supplemental Register as U.S. Service Mark Registration No. 5,033,571, by registering its mark IRAC CHALLENGE for use in association with “Education services, namely, providing instruction in the field of legal writing; Entertainment in the nature of competitions in the field of legal writing” on the Supplemental Register as U.S. Service Mark Registration No. 5,038,276, and by registering its mark  for use in association with “Education services, namely, providing instruction in the fields of legal writing; Entertainment in the nature of competitions in the field of legal writing; Providing online non-downloadable journals in the field of law” on the Principal Register as U.S. Service Mark Registration No. 5,082,402 subject to the disclaimer that “No claim is made to the exclusive right to use “IRAC” apart from the mark as shown,” has stated as a matter of law that the acronym IRAC is descriptive of the services identified as used in association with Opposer’s marks.

17. As the main alleged similarity between Opposer’s marks and Applicant’s mark is the descriptive acronym IRAC, Opposer’s motion for summary judgment on likelihood of confusion must fail.

18. Inasmuch as Applicant’s so-called undisputed facts assert that Opposer’s and Applicant’s respective marks both contain the acronym IRAC and that, as such, the marks are confusingly similar, Opposer’s motion must fail as Opposer as Opposer does not have the exclusive right to the acronym IRAC.

19. Further, Applicant asserts that the same undisputed facts as set forth by Opposer, establish that the acronym IRAC is descriptive of the identified services in both Opposer’s marks and

Applicant's mark, and, as such, that Applicant is entitled to summary judgment in this opposition proceeding.

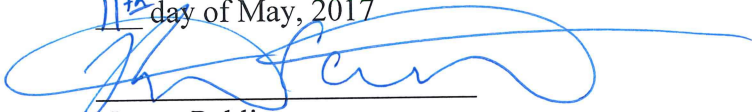
20. As such, Applicant's cross-motion for summary judgment should be granted.

WHEREFORE, Applicant, Focus Approach, LLC, respectfully requests that Opposer's motion for leave to file a First Amended Notice of Opposition be DENIED, Opposer's motion for summary judgment should be DENIED, and Applicant's cross-motion for summary judgment should be GRANTED.



ELLEN S. SIMPSON

Sworn to before me this
11th day of May, 2017



Notary Public

Robert C. Atkinson
Notary Public, State of New York
No. 02at6164966
Qualified in Erie County
My Commission Expires May 7, 2019

CERTIFICATION UNDER 37 C.F.R. §1.8

I hereby certify that this AFFIDAVIT IN SUPPORT OF APPLICANT'S OPPOSITION TO OPPOSER'S MOTION FOR LEAVE TO FILE A FIRST AMENDED NOTICE OF OPPOSITION AND FOR SUMMARY JUDGMENT ON NEWLY-PLEADED GROUNDS FOR OPPOSITION AND LIKELIHOOD OF CONFUSION AND IN SUPPORT OF APPLICANT'S CROSS-MOTION FOR SUMMARY JUDGMENT is being filed electronically with the United States Patent and Trademark Office utilizing the *Electronic System for Trademark Trials and Appeals* on this 11th day of May, 2017.



Ellen S. Simpson
Attorney for Applicant
Simpson & Simpson PLLC
5555 Main Street
Williamsville, New York 14221
(tel) 716-626-1564
(fax) 716-626-0366

CERTIFICATE OF SERVICE

I certify that a true copy of this AFFIDAVIT IN SUPPORT OF APPLICANT'S OPPOSITION TO OPPOSER'S MOTION FOR LEAVE TO FILE A FIRST AMENDED NOTICE OF OPPOSITION AND FOR SUMMARY JUDGMENT ON NEWLY-PLEADED GROUNDS FOR OPPOSITION AND LIKELIHOOD OF CONFUSION AND IN SUPPORT OF APPLICANT'S CROSS-MOTION FOR SUMMARY JUDGMENT was served upon the Opposer by electronic mail pursuant to 37 CFR 2.119(a) and (b) directed to Opposer:

Ramona Prioleau
RLP Ventures, LLC
Times Square Station
P.O. Box 2605
New York, NY 10108-2605
(email) rlpvllc@gmail.com

By:



Ellen S. Simpson
Attorney for Applicant
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, New York 14221
Telephone: (716) 626-1564
Facsimile: (716) 626-0366

Dated: May 11, 2017

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 1

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

Reg. No. 2,125,111

United States Patent and Trademark Office

Registered Dec. 30, 1997

**SERVICE MARK
PRINCIPAL REGISTER**

THE FOCUS APPROACH

GORMANLY, PETER D. (UNITED STATES
CITIZEN), DBA THE FOCUS APPROACH
76 HOLLS TERRACE WEST
YONKERS, NY 10701

FOR: EDUCATIONAL SERVICES, NAMELY,
CONDUCTING CLASSES FOR LAW SCHOOL
PREPARATION TESTS, IN CLASS 41 (U.S. CLS.
100, 101 AND 107).

FIRST USE 4-17-1996; IN COMMERCE
4-17-1996.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "FOCUS", APART FROM THE
MARK AS SHOWN.

SER. NO. 75-146,981, FILED 8-8-1996.

SUSAN LESLIE, EXAMINING ATTORNEY

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 2

IRAC

For other uses, see [IRAC \(disambiguation\)](#).

IRAC (/ˈaɪræk/ *EYE-rak*) is an acronym that generally stands for: **I**ssue, **R**ule, **A**pplication, and **C**onclusion. It functions as a methodology for legal analysis. The IRAC format is mostly used in hypothetical questions in law school and bar exams.

1 Sections of an IRAC

1.1 Issue

The IRAC commences with a statement of the issues or legal questions at hand. In the issue section of an IRAC it is important to state exactly what the question of law is. Each issue is often treated separately. The “Whether...when” or “Under (law) ... does” formats may be of service in framing the issue.

1.2 Rule

The Rule section of an IRAC follows the statement of the issue at hand. The rule section of an IRAC is the statement of the rules pertinent in deciding the issue stated. Rules in a **common law** jurisdiction derive from court case **precedent** and **statute**. The information included in the rules section depends heavily on the specificity of the question at hand. If the question states a specific **jurisdiction** then it is proper to include rules specific to that jurisdiction. Another distinction often made in the rule section is a clear delineation of rules that are in **holding**, and binding based on the authority of the hierarchy of the court, being **ratio decidendi**, and being the majority ruling, or simply persuasive. There are occasions when rules are adopted on the basis they are the only clearly articulated rules on the issue, in spite of being minority decisions, **obiter dicta**, and from lower courts, in other jurisdictions, which have never been contradicted.

The rules help make a correct legal analysis of the issue at hand using the facts of the case. The rules section needs to be a legal summary of all the rules used in the analysis and is often written in a manner which paraphrases or otherwise analytically condenses information into applicable rules.

1.3 Application

The Application (or Analysis) section of an IRAC applies the rules developed in the rules section to the specific facts of the issue at hand. This section uses only the rules stated in the rules section of the IRAC and usually utilizes all the rules stated including exceptions as is required by the analysis. It is important in this section to apply the rules to the facts of the case and explain or argue why a particular rule applies or does not apply in the case presented. The application/analysis section is the most important section of an IRAC because it develops the answer to the issue at hand. It is useful to think like a lawyer, arguing the facts of the matter from both sides while sticking to the rules before coming to a decision.

1.4 Conclusion

... or simply making it a close call and identifying whether it is decided by the tribunal of fact or is a matter of law to be decided by the judge. The Conclusion section of an IRAC directly answers the question presented in the issue section of the IRAC. It is important for the methodology of the IRAC that the conclusion section of the IRAC not introduce any new rules or analysis. This section restates the issue and provides the final answer. Conclusion is a vital process where the final calls are distributed upon the previous cases and are redefined by the judge.

1.5 Facts

The facts of a case are central to every step in the IRAC. It is from the facts that the issues are identified. It is the facts that lead to the identification of the most appropriate rules, and the rules which lead to the most useful way of construing the facts. Analysis requires the interpretation of facts and rules. The conclusion is a decision based on the application of the rules to the facts for each issue.

2 Criticism

IRAC has many proponents and opponents. The main arguments of the proponents of the IRAC methodology say it reduces legal reasoning to the application of a formula that helps organize the legal analysis. Since an organized legal analysis is easier to follow and reduces errors in reasoning, therefore, the proponents argue that the IRAC is

a very useful tool. The opponents of the IRAC fall into two categories.

The first category are those who object to using an IRAC because of its strict and unwieldy format. Most of these critics offer an alternative version of the IRAC such as MIRAT, IDAR, CREAC, TREACC, CRuPAC, ISAAC and ILAC. Each new iteration is supposed to cure the defects of the IRAC and offer more or less freedom depending upon the format. A very good example of such an alternative format is the CREAC which is said to offer more clarity and congruity. They argue this based upon the repetition of the conclusion in the beginning and the end which is said to leave no doubt as to the final answer and offer congruity to the overall reasoning. It also has an explanation of the rules section which helps delineate rules into stating the rules and explaining the rules for further clarity.

The second category of critics of the IRAC say that it tends to lead to overwriting, and oversimplifying the complexity of proper legal analysis. This group believes that a good legal analysis consists of a thoughtful, careful, well researched essay that is written in a format most amiable to the writer. The importance of an open format amiable to the writer is supposed to let the legal reasoners concentrate on expressing their argument to the best of their abilities instead of concentrating on adhering to a strict format that reduces this focus.

3 An example IRAC

A generic IRAC on a law school exam would consist of an answer to a question. The following example demonstrates a generic IRAC as an answer to a question.


Person “A” walks into a grocery store and picks up a loaf of bread. He then stuffs the bread beneath his jacket. A security attendant sees him and follows him to the cash register. Person A passes through without stopping to pay for anything. The security attendant stops him at the gate. He detains person A while he interrogates him. Person A is unresponsive and uncooperative and in fact downright hostile to the charges being leveled at him by the security attendant. Person A is held for a period of two hours at the end of which it is found that he had actually put the loaf of bread back and was not stealing. Person A sues the grocery store for false imprisonment. Would person A prevail in court?

4 Variations

- HIRAC (Heading, Issue, Rule, Analysis/Application, Conclusion)^[1]
- FIRAC (Facts, Issues, Relevant Legal Provisions and Rules, Application of Rules, Conclusion)

- MIRAT (Material Facts, Issues, Rules, Application, Tentative Conclusion).
- IDAR (Issues, Doctrine, Application, Result).
- AFGAN (Application, Facts, Grounds, Answer, Negotiation)
- CRAAC (Conclusion, Rules, Analogous Case (if applicable), Application, Conclusion. This is mostly used for writing assignments.
- CREAC (Conclusion, Rules, Explanation, Application, Conclusion)
- TREACC (Topic, Rule, Explanation, Analysis, Counterarguments, Conclusion)
- TRIAcc (Topic, Rule, Issues, Analysis [cases, conclusion], Conclusion)
- TREAT (Thesis, Rule, [Rule] Explanation, [Rule] Application, Thesis)
- TRRAC (Thesis, Rule Statement, Rule Explanation, Application, Conclusion)
- CRuPAC (Conclusion, Rule, Proof, Analysis, Conclusion)
- ILAC (Issue, Law, Application, Conclusion)
- KUWAIT (Konclusion, Utility, Wording, Answer, Initiation, Thoughts)
- CIRAC (Conclusion, Issue, Rules, Application, Conclusion)
- IPAAC (Issue, Principle, Authority, Application, Conclusion)
- CRAB (Conclusion Rule Analysis Basis)^[2]
- IRREAC (Issue, Rule, Rule Explanation, Application, Conclusion)
- CLEO (Claim, Law, Evaluation, Outcome)
- IRACDD (Issue, Rule, Analysis, Conclusion, Defense, Damages).
- CI/REXAC (Conclusion, Introductory/Roadmap (Issue and Rule), Explanation, Application, Conclusion)
- BaRAC (Bold Assertion, Rule, Application, Conclusion)

5 References

- [1] “Legal Reasoning and HIRAC”. Australian National University.
- [2] Turner, Tracy L. (2015-07-01). “Flexible IRAC: A Best Practices Guide”. Rochester, NY. SSRN 2633667 

6 External links

- Legal Reasoning and HIRAC: Australian National University College of Law
- Explanation of IRAC
- In Defense of IRAC - a rejoinder to “Why IRAC sucks”
- Dondal J. Kochan, *“Thinking” in a Deweyan Perspective: The Law School Exam as a Case Study for Thinking in Lawyering*, 12 Nev. L.J. 395 (2012).

7 Text and image sources, contributors, and licenses

7.1 Text

- **IRAC** *Source:* <https://en.wikipedia.org/wiki/IRAC?oldid=773945558> *Contributors:* Timrollpickering, Toytoy, Jessesamuel, PhilHibbs, Duk, Rahnle, A2Kafir, Raj2004, Arthena, Wikidea, Garrisonroo, PullUpYourSocks, Jersyko, Jeff3000, Xiong Chiamiov, ScottJ, Subwayguy, Sceptre, Pseudomonas, Taco325i, BirgitteSB, Eugrus, SmackBot, Prototime, Ex nihil, Noah Salzman, Hetar, Ouzo-enwiki, George100, Eastlaw, Anubis3, Gogo Dodo, Killer Swath, Mattisse, Headbomb, Marek69, Instinct, PrincessCaitlai, VolkovBot, Edwin Herdman, Graymornings, StAnselm, Radon210, ClueBot, The Thing That Should Not Be, Addbot, Dullescoelho, CanadianLinuxUser, Dagrqv, AnomieBOT, Materialschemist, T10000564, Srich32977, Alaztair, DARTH SIDIOUS 2, Lazzarok, ClueBot NG, Smtchahal, DBigXray, MusikAnimal, Kagundu, Antony1024, Werelived, Jf;ejfjldkjfhjksdhfk, Lugia2453, Jason A. Shackelford, Noyster and Anonymous: 110

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Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 3



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The Focus Approach Law Review

September 4, 2014 · 🌐

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Opposition No. 91228593
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U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 4

To: Focus Approach, LLC (TrademarkEFS@idealawyers.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86554989 - LAW SCHOOL IRAC THE FOCUS APPROACH - FOCS101US
Sent: 6/18/2015 11:49:06 AM
Sent As: ECOM103@USPTO.GOV
Attachments: [Attachment - 1](#)
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[Attachment - 14](#)
[Attachment - 15](#)
[Attachment - 16](#)
[Attachment - 17](#)
[Attachment - 18](#)

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 86554989

MARK: LAW SCHOOL IRAC THE FOCUS APPROACH

86554989

CORRESPONDENT ADDRESS:

ELLEN S. SIMPSON
Simpson & Simpson PLLC
5555 Main St
Williamsville, NY 14221-5430

CLICK HERE TO RESPOND TO THIS LETTER:

http://www.uspto.gov/trademarks/teas/response_forms.jsp

[VIEW YOUR APPLICATION FILE](#)

APPLICANT: Focus Approach, LLC

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

FOCS101US

CORRESPONDENT E-MAIL ADDRESS:

TrademarkEFS@idealawyers.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 6/18/2015

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

TRADEMARK ACT SECTION 2(d) REFUSAL

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 2125111. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. *See In re Viterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

COMPARISON OF THE MARKS

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F. 3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re 1st USA Realty Prof’ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007)); TMEP §1207.01(b).

In this case, applicant’s mark, LAW SCHOOL IRAC THE FOCUS APPROACH and design, is similar in sound, appearance and meaning to the registered mark(s), THE FOCUS APPROACH. Applicant’s mark wholly encompasses the registered mark. Incorporating the entirety of one mark within another does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d). *See Wella Corp. v. Cal. Concept Corp.*, 558 F.2d 1019, 1022, 194 USPQ 419, 422 (C.C.P.A. 1977) (finding CALIFORNIA CONCEPT and surfer design and CONCEPT confusingly similar); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (finding BENGAL and BENGAL LANCER and design confusingly similar); *Hunter Indus., Inc. v. Toro Co.*, 110 USPQ2d 1651, 1660-61 (TTAB 2014) (finding PRECISION and PRECISION DISTRIBUTION CONTROL confusingly similar); TMEP §1207.01(b)(iii). In the present case, the marks are identical in part.

The additional wording and design element comprising the applied-for mark does not sufficiently distinguish it from the registered mark. Adding a term or terms to a registered mark generally does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d). *See Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (finding BENGAL and BENGAL LANCER and design confusingly similar); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1269 (TTAB 2009) (finding TITAN and VANTAGE TITAN confusingly similar); *In re El Torito Rests., Inc.*, 9 USPQ2d 2002, 2004 (TTAB 1988) (finding MACHO and MACHO COMBOS confusingly similar); TMEP §1207.01(b)(iii). Here, where the additional wording is highly descriptive of applicant’s methodology utilized in its educational classes the wording adds little source identifying value to the mark

Moreover, for a composite mark containing both words and a design, the word portion may be more likely to be impressed upon a purchaser’s memory and to be used when requesting the goods and/or services. *Joel Gott Wines, LLC v. Rehoboth Von Gott, Inc.*, 107 USPQ2d 1424, 1431 (TTAB 2013) (citing *In re Dakin’s Miniatures, Inc.*, 59 USPQ2d 1593, 1596 (TTAB 1999)); TMEP §1207.01(c)(ii); *see In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908, 1911 (Fed. Cir. 2012) (citing *CBS Inc. v. Morrow*, 708 F. 2d 1579, 1581-82, 218 USPQ 198, 200 (Fed. Cir 1983)). Thus, although such marks must be compared in their entireties, the word portion is often considered the dominant feature and is accorded greater weight in determining whether marks are confusingly similar, even where the word portion has been disclaimed. *In re Viterra Inc.*, 671 F.3d at 1366, 101 USPQ2d at 1911 (Fed. Cir. 2012) (citing *Giant Food, Inc. v. Nation’s Foodservice, Inc.*, 710 F.2d 1565, 1570-71, 218 USPQ2d 390, 395 (Fed. Cir. 1983)).

Given that applicant’s mark wholly encompasses the registered mark, they convey similar commercial impressions.

COMPARISON OF THE SERVICES

Adding to the confusion as to source is the relatedness of applicant's services to those of the registrant. The goods and/or services of the parties need not be identical or even competitive to find a likelihood of confusion. See *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective goods and/or services need only be “related in some manner and/or if the circumstances surrounding their marketing [be] such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

Here, applicant's services are identified as: Educational services, namely, conducting classes for law school preparation tests

Similarly, registrant's services are identified as: educational services, namely, conducting classes for law school preparation tests

Applicant and registrant offer identical educational services. Where the goods and/or services of an applicant and registrant are “similar in kind and/or closely related,” the degree of similarity between the marks required to support a finding of likelihood of confusion is not as great as in the case of diverse goods and/or services. *In re J.M. Originals Inc.*, 6 USPQ2d 1393, 1394 (TTAB 1987); see *Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238, 1242, 73 USPQ2d 1350, 1354 (Fed. Cir. 2004); TMEP §1207.01(b).

Given the similarity of the marks and the relatedness of applicant's services to those of registrant, confusion as to source is likely and registration is refused under Trademark Act section 2(d).

PLEASE NOTE: If the mark in the cited registration has been assigned to applicant, applicant may provide evidence of ownership of the mark by satisfying one of the following:

- (1) Record the assignment with the USPTO's Assignment Recordation Branch (ownership transfer documents such as assignments can be filed online at <http://etas.uspto.gov>) and promptly notify the trademark examining attorney that the assignment has been duly recorded.
- (2) Submit copies of documents evidencing the chain of title.
- (3) Submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **“Applicant is the owner of U.S. Registration No. 2125111.”**

TMEP §812.01; *see* 15 U.S.C. §1060; 37 C.F.R. §§2.193(e)(1), 3.25, 3.73(a)-(b); TMEP §502.02(a).

Recording a document with the Assignment Recordation Branch does not constitute a response to an Office action. TMEP §503.01(d).

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

If applicant responds to the refusal(s), applicant must also respond to the requirement(s) set forth below.

DISCLAIMER REQUIRED

Applicant must disclaim all the wording in the mark because it merely describes an ingredient, quality, characteristic, function, feature, purpose, or use of applicant's goods and/or services, and thus is an unregistrable component of the mark. *See* 15 U.S.C. §§1052(e)(1), 1056(a); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); TMEP §§1213, 1213.03(a).

As the attached information shows, applicant has been using the mark THE FOCUS APPROACH for a number of years to advocate for a method or "approach" to mastering the LSAT – namely, the same approach used by many law schools, "IRAC." See the attached information from applicant's website. Thus, "The Focus Approach" merely describes the methodology taught by applicant and "law school IRAC" merely describes components of this methodology, namely, using the IRAC method utilized in law schools to issue spot, problem solve and analyze test questions. As such, this wording must be disclaimed.

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/Emily K. Carlsen/

Trademark Attorney

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571.272.2235

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Serial Number

75146981

Status

REGISTERED AND RENEWED

Word Mark

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Standard Character Mark

No

Registration Number

2125111

Date Registered

1997/12/30

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Gormanly, Peter D. DBA The Focus Approach INDIVIDUAL UNITED STATES 56
DINGEE RD POUND RIDGE NEW YORK 105761306

Goods/Services

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S: educational
services, namely, conducting classes for law school preparation tests.
First Use: 1996/04/17. First Use In Commerce: 1996/04/17.

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Filing Date

1996/08/08

Examining Attorney

DUBOIS, SUSAN LESLIE

Attorney of Record

ELLEN S. SIMPSON



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Methodology

Here's how it works

Click on the video link to see a demonstration of I.R.A.C

<http://www.youtube.com/watch?v=BUqg7DRaBQ>

Legal Reasoning

I.R.A.C.

- What is the Issue to be solved
- What is the Rule (law) to which the issue must be applied
- How do I apply the issue to the law (Analysis)
- What Conclusion properly flows from that analysis

Socratic Method

The law school method of learning.

- Will my analysis withstand scrutiny?
- Will I prove capable of explaining WHY my argument is correct
- Can I measure up to the cross-examination of a trial lawyer

Brief the material

As you will on every law school case assigned

- Am I able to break an argument down into its essential parts?
- Do I understand what role each and every sentence plays in an argument?
- Will I have the discipline required to thoroughly brief this material?

Issue Spotting

The ability to identify the seminal point of an argument

- Am I able to identify the conclusion of an argument?

→ [Click a word to identify the connection to the definition.](#)

- Am I able to distinguish relevant from irrelevant information?

Study Groups

Learn how to use them effectively

- Can I reason effectively with my peers in a small group?
- Do I have what it takes to put in additional time and effort?

Attorney-Mentors

A step beyond

- Some guidance in a new, complex world, would be good!
- I'd like to have an experienced go-to person on my side.

Statutory Construction

All legal writing begins with definitions

- Will I have mastery of the words repeatedly used on the LSAT?
- Do I really know what definition is assigned to the word "assumption", or "inference", or "conclusion", or "argument" by the test maker?
- How much trouble am I in if the definition I use for these words is different from the definition being used by the test maker?

Trial Prep

Prepare for the LSAT the way a litigator prepares for trial

- Do I have the willingness, capacity, and stamina to prepare for this exam?

- Am I able to reason systematically?
- Do I have what it takes to "own" this process?

Schedule a Class Visit

Do your *due diligence*. Attorneys gather and carefully examine evidence before acting; so must you. Schedule your free class visit now and come experience what real LSAT preparation looks like. [More Information](#)

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Our Students

Why Choose The Focus Approach?

Other LSAT preparation programs, though not many, may talk about recreating a law school learning experience; REALLY?

Compare:

That every teacher graduate law school with a Juris Doctor, pass the Bar Exam, and be licensed to practice

THE FOCUS APPROACH

Who pays its attorney/teachers an hourly rate greater than what New York State pays the criminal defense bar?

THE FOCUS APPROACH

Which program, in partnership with Pace Law School, offers a "Pipeline to Law School" opportunity? Participating students who achieve a reported LSAT score of 153 or higher, and enroll at Pace Law School, receive a one time tuition reduction equal to the price of the Focus Approach course, are guaranteed admission and remain eligible for additional scholarship awards.

[Click for Pipeline Video](#)



THE FOCUS APPROACH

Who, drawing on their legal education and experience, requires its students to prepare for the LSAT by learning how to think like a lawyer?

www.focusapproach.com

THE FOCUS APPROACH

Who, in partnership with multiple law schools, and as part of its LSAT preparation program, offers its students a 12 hour legal reasoning/writing seminar taught by a law school faculty member?

[Click for Pipeline Video](#)



THE FOCUS APPROACH

Who has established anchor locations at multiple law schools?

THE FOCUS APPROACH

Who provides an opportunity for each and every student to have a one-on-one meeting with multiple law school Deans of Admissions?

THE FOCUS APPROACH

THE FOCUS APPROACH

Who provides each and every student with an attorney/mentor who is there every step along the way?

THE FOCUS APPROACH

Who is able to demonstrate, over a two year period, an average improvement in repeat test takers' scores of 6 points, an improvement twice as great as those reported by the LSAC?

THE FOCUS APPROACH

Who can demonstrate over that same two year period an average LSAT score reported by its students (155) which resulted in scholarship offers to over 75% of those students?

THE FOCUS APPROACH

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Today, The Focus Approach:

- Has anchor locations at Pace, Touro, and Albany Law Schools
- Prepares approximately 250 students annually at its Law School Locations
- Offers its students an unparalleled on-line 60 hour course with an ever expanding library of LSAT questions and in-depth explanations
- Has over 500 alumni practicing law

The Beginnings (1995 – 1999)

- Focus arrived on the Fordham Rose Hill campus.
- Peter leaves his position as an assistant district attorney at the Westchester County District Attorney's Office to devote his full time schedule to Focus
- Pace Law School launches an initiative to offer students, previously denied admission, a second chance. Prepare with Focus Approach lawyers, raise your score, and have your application reconsidered.
- Results: an average improvement of 10 points
- Siena College welcomes The Focus Approach with its first contractual relationship
- NY Law Journal publishes, "Unique LSAT Prep Course Looks to Lawyers to Teach"

Making an Impact (2000-2010)

- Pace Law School, Mercy College, and Focus Approach launch "Strategies for Success in Law School."
- Touro Law Center and Albany Law School become anchor locations
- "Meet the Deans" is introduced —> every Focus student is given the opportunity of sitting down one-on-one with visiting law school deans of admission
- Working attorneys recruited at Southern Florida College, Southern Law School, William Paterson College, CUNY Binghamton

- Visiting programs are established at Fordham Lincoln Center, Fordham Law School, William Patterson College, SUNY Purchase, Mercy College, Brooklyn College, and Pace University
- Faculty grows to include six attorneys
- Median reported score = 155

Moving Forward (2011- present)

- Pace Law School Pipeline Initiative launched
- Introduced 12 hour Legal Writing class taught by law school faculty
- Launches a state of the art web-site
- Introduces 60 hour on-line course
- Established on-line video library offering detailed explanations of LSAT questions to enrolled Focus Approach students
- Median reported score = 156

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To: Focus Approach, LLC (TrademarkEFS@idealawyers.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86554989 - LAW SCHOOL IRAC THE FOCUS APPROACH - FOCS101US
Sent: 6/18/2015 11:49:07 AM
Sent As: ECOM103@USPTO.GOV
Attachments:

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Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 5

Using Formulas to Help Students Master the “R” and “A” of IRAC

By Hollee S. Temple

Hollee S. Temple, Lecturer in Law, teaches the first-year legal reasoning, research, and writing course at West Virginia University College of Law in Morgantown.

In the recently published *How Lawyers Lose Their Way: A Profession Fails Its Creative Minds*, two University of Pittsburgh law professors propose that the “formalistic” nature of legal education is one reason why so many lawyers are so unhappy.¹ They suggest that by valuing “rigid rules” above all else, the traditional law professor has slowly destroyed the spirit of law students who once prized innovative thought, and that these students carry this discontent into their law practices.²

As I read the book, I empathized with the large law firm associates who were interviewed, many of whom found their practices to be unsatisfying because of monotonous work, lack of human interaction, and intense competition.³ Many of the same complaints propelled me out of my law firm and into the classroom, where I felt some of my natural “creative” talents were better utilized. However, as a newer legal writing professor, I worried about the book’s core assumption. Was I now a party to this formalistic law teaching that was draining my students’ creativity?

After giving this some thought, I’ve concluded that while the formalistic nature of doctrinal teaching may indeed be too rule-focused, legal writing and skills professors operate in a different, distinct

universe. Our students, most fresh from undergraduate writing experiences that prized both length and obfuscation, need a template to help them transition into the legal setting, where supervisors and judges expect practitioners to adhere to the IRAC (Issue, Rule, Application, Conclusion) format.⁴

While we all, of course, use IRAC (or some derivation of it) to outline the general approach to legal reasoning and writing, I have found that the more “formulas” I develop to help my students with IRAC’s individual elements, the more they thank me.⁵ For this generation of law

⁴ Anne Enquist, *Talking to Students About the Differences Between Undergraduate Writing and Legal Writing*, 13 *Perspectives: Teaching Legal Res. & Writing* 104 (2005).

⁵ At the risk of sounding a bit overconfident, I’ve included a comment from a student’s evaluation of my fall 2004 semester course: “I love Professor Temple’s approach to teaching skills. Her technique is simple and straightforward, which is much appreciated by this confused 1L.”

¹ Jean Stefancic & Richard Delgado, *How Lawyers Lose Their Way: A Profession Fails Its Creative Minds* (2005).

² *Id.* at 48–49.

³ See generally *id.* at 62–71.

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Mary A. Hotchkiss, William H. Gates Hall, Box 353020,
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students—a group accustomed to Googling for instant answers—simple templates that can be quickly grasped and applied seem to work best.⁶ These students, most having come through an American educational system that valued content over form, need the most help with structure, and the more bite-sized templates I offer, the more easily my students seem to digest the IRAC format.⁷

Over the past two years, I have developed and adapted internal formulas for both the R and A sections of an IRAC analysis.⁸ Of course, students must develop the judgment to determine whether a particular formula is warranted for the specific R or A at issue, but the formulas provide a great launching pad. Time and again, I have found that my formulas flip the mental light switch for students who are struggling with the transition to legal writing.⁹

⁶ For more on the tendencies and preferences of today's students, see Tracy McGaugh, *Generation X in Law School*, 9 *Legal Writing* 119, 143 (2005). Professor McGaugh notes that the next generation of law students will be accustomed to “constant visual and auditory stimulation.” While I can't suggest that my formulas are as fun as computer games, they seem to speak to students who need stimulation (just as “guided note-taking” has worked for McGaugh's students).

⁷ For a great explanation of why so many of our students struggle with form, see Stanley Fish, *Devoid of Content*, *N.Y. Times*, May 31, 2005, at A17.

⁸ Many legal writing professors have devised their own formulas for tackling IRAC, and some have published these ideas. In 1995, the Legal Writing Institute devoted an entire edition of its biannual newsletter to debating the pros and cons of IRAC, with many professors offering their own twists on the paradigm. 10 No. 1 *The Second Draft* (Nov. 1995). More recently, Professor Craig Smith has written about a visual “charting” technique that helps his students with a difficult task in the R section—rule synthesis. Craig T. Smith, *Teaching Synthesis in High-Tech Classrooms: Using Sophisticated Visual Tools Alongside Socratic Dialogue to Help Guide Students Through the Labyrinth*, 9 *Perspectives: Teaching Legal Res. & Writing* 110 (2001).

⁹ In addition, my experience has mirrored that of Professor Karen Koch, who has written an extensive piece about the parallels between scientific writing and legal writing, noting that students with scientific backgrounds who struggled to master IRAC were able to overcome that mental hurdle when she showed comparisons between the IRAC structure and the rules-driven structure of computer programming/scientific writing. Karen L. Koch, *A Multidisciplinary Comparison of Rules-Driven Writing: Similarities in Legal Writing, Biology Research Articles, and Computer Programming*, 55 *J. Legal Educ.* 234 (2005).

The R Section: Formulas for Writing About Rules¹⁰

■ Big Formula #1:

R= 1) Rule Overview + 2) Case Illustrations

■ Mini-Formula #1: Rule Overview

I preface the R formulas by explaining that when a reader is prepared for what follows, comprehension improves. In other words, if the writer will “set the stage” for a rule before diving into its details, the reader is more easily able to grasp a difficult concept.¹¹

Therefore, I tell my students that they should begin their R sections with a “Rule Overview.” As I explain below, the length and complexity of the overview will vary depending upon the rule. But, the gist is that a rule should be broadly defined before the legal writer uses cases to illustrate its operation.¹² After offering a general explanation of the rule in the overview, the writer should then go on to explain how the rule operates, and how judges will apply it. Case illustrations accomplish that task.

For a simple rule, the rule overview should be simple. It is often a single-sentence statement that

¹⁰ After I encountered success with my first formula, I figured I was on to something, so I developed “formulas within formulas” to give further guidance on building strong R and A sections. For clarity, I label the overarching formulas for the R and A sections as “Big Formulas,” and the formulas within formulas “Mini-Formulas” with “Steps.” This works for my students because we use the term “mini-IRAC” for what others call nested IRACs. For example, my students would call the discussion of what constitutes a “dwelling” under an arson statute the “*mini-IRAC* on the dwelling element of burglary.” They know that means they will need to go through an I-R-A-C outline for that element.

¹¹ I offer an example from the quintessential torts case, *Palsgraf v. Long Island Railroad Company*, 248 N.Y. 339, 162 N.E. 99 (1928). I tell the students to imagine that they are telling a non-law student friend about what they've learned in torts, and then I ask them to choose from two techniques: 1) they can dive right into a description of Helen Palsgraf and the details of the falling scale and exploding fireworks, or 2) they can explain that they are learning about negligence and how much someone has to contribute to an accident to be held responsible before giving any facts. Most of my students immediately agree that the reader/listener “gets” the difficult concept of proximate cause more quickly if a brief introduction to the rule precedes the factual background.

¹² Professor Sarah Ricks offers a similar approach in *A Case Is Just an Example: Using Common Experience to Introduce Case Synthesis*, *The Second Draft*, Dec. 2003, at 22.

“ [T]he more bite-sized templates I offer, the more easily my students seem to digest the IRAC format. ”

“In a simple case, a verbatim copy of the relevant statute might suffice for the rule overview.”

clearly describes the rule. For a more complex rule overview, such as a rule requiring synthesis of a statute and case law, the students write more complex, and often longer, overviews.

Simple Rule Overview

In a simple case, a verbatim copy of the relevant statute might suffice for the rule overview. For example, imagine that a partner asks an associate to find West Virginia’s indecent exposure statute and advises that the associate is not to deeply analyze any factual issues.¹³ The associate would not be aware of the partner’s real question—whether a breastfeeding mother could be convicted of indecent exposure under West Virginia law. (This was the topic of my fall 2004 research problem; most of the following examples are drawn from student memoranda.)

Example: Section 61-8-9(a) of the *West Virginia Code* provides:

(a) A person is guilty of indecent exposure when such person intentionally exposes his or her sex organs or anus or the sex organs or anus of another person, or intentionally causes such exposure by another or engages in any overt act of sexual gratification, and does so under circumstances in which the person knows that the conduct is likely to cause affront or alarm. W. Va. Code § 61-8-9 (2002).

Complex Rule Overview

On the other hand, if the partner asked for a deeper analysis of West Virginia’s indecent exposure statute, the rule overview might include a synthesis of the relevant statute and case law.¹⁴ I describe the

¹³ Former law firm associates will remember well (but perhaps not fondly) the “just find me the law” assignment. Our students face this task often, and are often not given enough factual background to perform any detailed analysis. In such cases (particularly if the associate is discouraged from asking follow-up questions regarding the facts of the case), the simple rule is all that can be offered.

¹⁴ An example from a student’s memorandum shows how West Virginia’s highest court interpreted and applied the statute: Under the West Virginia indecent exposure law, a person is guilty of indecent exposure when he or she (1) intentionally exposes his or her sex organs or anus, (2) does so under circumstances in which he or she knows that the conduct will likely cause affront or alarm, and (3) does so without the consent of the victim. W. Va. Code § 61-8-9 (2002); *State v. Knight*, 285 S.E.2d 401, 405 (W. Va. 1981) (citing W. Va. Code § 61-8B-10 (superseded 1992)).

process of creating a synthesized rule as one of my first students did: grabbing ingredients from different shelves (case law, statutes, policy) to create the final recipe.¹⁵

Many of my students were able to draft solid rule overview paragraphs that included synthesis after I’d offered the “recipe” analogy, but some still struggled. They weren’t sure how to bring the ingredients together into a cohesive rule overview. So, I looked for a more specific, formulaic way of describing a strong rule synthesis, and came up with the following “steps” for students to consider (in this suggested order) when drafting a synthesis: 1) what is the law/rule; 2) what isn’t the law/rule (exceptions, exclusions); and, 3) what factors will the court consider/how does the rule work? These steps worked better for some students, and produced almost identical results.

Example: Under West Virginia law, a person is guilty of indecent exposure when he or she (1) intentionally exposes his or her sex organs or anus, (2) does so under circumstances in which he or she knows that the conduct will likely cause affront or alarm, and (3) does so without the consent of the victim (string citation to statute and cases omitted). In analyzing the defendant’s intent, the court will carefully consider the circumstances surrounding the exposure (case cite omitted).

Mini-Formula #2: Case Illustrations

My students immediately understood that their “case illustrations” should somehow imitate the case descriptions that they read in appellate opinions, but they wanted more specifics on what to include. Again, a step-by-step approach did the trick.

Step 1: The Three-Part Approach

First, I explain that a thorough case illustration¹⁶ should include at least three parts: 1) factual

¹⁵ For an excellent, but slightly different, approach to teaching rule synthesis, see Sarah Ricks, *supra* note 12.

¹⁶ I use the term *case illustration* when I want students to provide a detailed case background. If the students determine that they need only a proposition or rule derived from the case, I advise them to consider whether a full case illustration is warranted.

background, 2) reasoning, and 3) holding. I define factual background as the determinative facts that the court relies on in reaching its holding. Reasoning means the specific reasons that the court articulates (or implies) for reaching its holding. The holding, of course, is the decision in the case. I suggest that these are the key elements that a practicing lawyer or judge needs to later evaluate the validity of the legal writer's analogies and distinctions.

Example¹⁷: In *Capetta*, a topless dancer exposed her breasts to patrons and allowed them to touch her breasts for a dollar. The patrons of the establishment were willing participants, solicited her conduct with their dollars, and did not leave in shock (*factual background*). Because a reasonable person would interpret the patrons' conduct to signal approval (*reasoning*), the court held that, based on these circumstances, the defendant had no reason to know that her exposed breasts would cause affront or alarm (*holding*).¹⁸

Step 2: Adding the Key Proposition

Once the students have mastered the three-part formula, I add one final step. Because case illustrations are so important to a reader's understanding of how a rule operates, I suggest that an introductory "key proposition" sentence should precede the three-part case illustration. The introductory key proposition sentence is somewhat self-explanatory.¹⁹ First, it should kick off the case illustration, preceding the details of the case's factual background, reasoning, and holding. Second, it must contain the key proposition from the case, which I often explain as "the reason why the reader should bother to read the case

illustration," or "what you want the reader to get from reading your case illustration." As experienced legal writers know, the key proposition often speaks to the court's reasoning (and that tip often gets students on the right track).

Case Illustration Plus Key Proposition Example:

In analyzing the defendant's knowledge, the court likely will consider the circumstances surrounding the defendant's conduct objectively (*key proposition*). For example, in *Capetta*, the defendant, a topless dancer, exposed her breasts to patrons and allowed them to touch her breasts for a dollar. The patrons of the establishment were willing participants, solicited her conduct with their dollars, and did not leave in shock (*factual background*). Because a reasonable person would interpret the patrons' conduct to signal approval (*reasoning*), the court held that, based on these circumstances, the defendant had no reason to know that her exposed breasts would cause affront or alarm (*holding*).

The A Section: Formulas to Help Students Analyze Facts in Light of Rules

■ Big Formula #2:

A = 1) Best Fact + 2) Compare to Precedent + 3) Connect to Expected Result

After my students mastered the formulas and steps for the R section, they wanted formulas for the rest of IRAC.²⁰ My students have struggled with the A section for a variety of reasons. Some are overwhelmed by the structure we require in legal writing. By the time they get to the A section, they are either too exhausted or frustrated to "stick with the program," and some go off on incoherent tangents in their efforts to apply the rules to the facts of their fictional clients' cases. Others suffer

“After my students mastered the formulas and steps for the R section, they wanted formulas for the rest of IRAC.”

¹⁷ To save space, I've omitted citations.

¹⁸ I suggest the "Because X, then Y" formula as a logical way of addressing both reasoning and holding in a single sentence.

¹⁹ My "key proposition" sentence is similar to the "thesis sentence" that Professor Linda Edwards describes in her textbook. Linda H. Edwards, *Legal Writing: Process, Analysis, and Organization* 94–5 (3d ed. 2002). However, my students seem to have an undergraduate, broad view of the term thesis sentence. Using the word "key proposition" gets them to accomplish the specific task that Edwards suggests: to "articulate the paragraph's point." *Id.* at 95.

²⁰ I will admit that when badgered by a well-meaning student during a conference, I even dictated a fill-in-the-blank formula for the A/C statement: Because _____ (insert key fact here), the party will/won't establish _____ (insert rule here). Example: Because the prosecution cannot establish that the defendant knowingly exposed her breast, the prosecution cannot satisfy the second element of indecent exposure. But for fear that students will believe that "all I want" is adherence to a rote formula, I don't share this in class.

“Because legal analysis turns on rules, and because rules vary so widely from case to case, I couldn’t devise a simple formula to cover all types of analysis.”

from weak analogical reasoning skills; they simply cannot see how their facts are like or unlike the precedent. Finally, some of my students just don’t want to do the difficult work required of legal writers tackling the A section. These students leave the reader with what I call the difficult job of “connecting the dots.” They may throw out a few facts for the reader to consider, but they leave it to the reader to draw the explicit comparisons or distinctions.

Because legal analysis turns on rules, and because rules vary so widely from case to case, I couldn’t devise a simple formula to cover all types of analysis. Nevertheless, because I wanted to offer some sort of model for the A section, I developed a three-step system that has worked for analyzing many types of rules.²¹ The steps are: 1) give the best fact first; 2) compare to the precedent; and, 3) connect to the likely result.

Step 1: Give Your Best Fact First

My students struggle to begin their A sections. We offer numerous examples from textbooks, but they’re all slightly different and I honestly don’t love any of them, mostly because I believe they ask too much of the reader.²² With my students, I emphasize that a busy partner does not want to have to do any “heavy lifting” when reading their memoranda, and therefore they must strive for absolute clarity and simplicity. “Don’t leave the

²¹ I got the idea for this formula by adapting the excellent suggestions made by Professors Anne Enquist and Sarah Ricks in previous *Perspectives* articles. Anne Enquist, *Teaching Students to Make Explicit Factual Comparisons*, 12 *Perspectives: Teaching Legal Res. & Writing* 147 (2004); Sarah E. Ricks, *You Are in the Business of Selling Analogies and Distinctions*, 11 *Perspectives: Teaching Legal Res. & Writing* 116 (2003).

²² For example, I offer Appendix C of Richard Neumann’s textbook for an office memorandum example. Richard K. Neumann Jr., *Legal Reasoning and Legal Writing* (5th ed. 2005). However, I think the beginning of the A section in that memo requires too much of the reader: “The courts are likely to consider Goslin’s circumstances to be at least comparable to those of the farmer in Sharp and the brother in Sinclair.” *Id.* at 444. Instead, I advise my students to lead with the *fact* that will hold sway with the court. Here, I think the memo would be more readable if the A section began with a sentence about the key fact: an unstated understanding that mortgage payments were made to reciprocate college tuition payments.

reader to connect the dots,” I say. Instead, begin by explicitly stating which fact or facts the court will rely upon in analyzing the rules and reaching its conclusion. In other words, start with the determinative facts and immediately tell the reader why those facts influence the analysis.

Example: Because Ms. Boyle exposed herself at a public pool, at 11 a.m., and in the presence of children, ages 8 and 9, the court probably will find that Ms. Boyle’s conduct under the circumstances was likely to cause affront or alarm.

Step 2: Explicitly Compare Your Facts to the Precedent

For this step, I’ve drawn heavily from Professor Anne Enquist’s excellent template.²³ Using a simple charting system, Professor Enquist helps students draw explicit factual analogies and distinctions, and then she offers a format for writing about those comparisons. The basic idea is that the writer must lay out the determinative facts in the client’s case and in the precedent, and then explain why the clients’ circumstances will produce a similar or different result. Professor Enquist suggests that the reader will “readily see the comparison” between the cases if the writer maintains the sentence structure shown in her example.²⁴

Example: Like the defendant in *Randall*, who exposed himself to an 11-year-old boy during the afternoon, the defendant here also exposed herself during the day and in the presence of children.

Step 3: Connect to the Expected Result

After the writer has offered up the key facts and explained how those facts should be analyzed in light of the precedent, I suggest that the writer should

²³ Anne Enquist, *Teaching Students to Make Explicit Factual Comparisons*, 12 *Perspectives: Teaching Legal Res. & Writing* 147 (2004).

²⁴ My students have successfully implemented Professor Enquist’s technique. The example from her article is: “Like the defendant in *Smith*, who allowed his daughter’s boyfriend to use the family car to drive to a dance, the defendants’ in the clients’ case allowed their family friend to use the family car to drive to work.” *Id.* at 148. While Professor Enquist suggests that students need not “rigidly and mindlessly” repeat the exact sentence structure from the example, many of my students did—to great effect.

conclude the analysis by predicting how the court will rule. This seems simple, but too many legal writers “leave the reader hanging,” or assume that the reader can reach the conclusion without this explicit connection. Therefore, I include the “predicted result” as one of the three steps required for a complete analysis.

Example: Therefore, just as the *Randall* court held that exposure of genitals during the day and in the presence of children caused affront and alarm, the court here will probably hold that the client’s breast exposure also caused affront and alarm.

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“ [T]oo many legal writers ‘leave the reader hanging,’ or assume that the reader can reach the conclusion without this explicit connection.”

Another Perspective

“Books spend a lot of time on bookshelves, hanging around near the curb, as it were, waiting for someone to come along with an idea for something to do. Books are the wallflowers at the dance, standing up but leaning on one another and depending on one another for their collective status. Books are the Martyrs of Saturday nights, ending up at the same place at the same time week after week. Books in dust jackets are the queue at the bus stop, the line of commuters with their faces hidden in their newspapers. Books are the things in the lineup, all fitting a profile but with only one of them expecting to be picked out. Books are the objects of searches.”

—Henry Petroski, *The Book on the Bookshelf* 14 (1999).



ORGANIZING A LEGAL DISCUSSION (IRAC, CRAC, ETC.)

Introduction

The organization of your writing will determine whether or not a reader will understand and be persuaded by your argument. Brilliant rhetoric will only carry you so far—if your piece does not follow a clear structure, many of your points will be lost or misunderstood. As a result, it is crucial that your writing follow a clear organizational format that will be intelligible to your reader.

Most legal writing requires the writer to analyze a set of facts using legal rules gleaned from a myriad of sources, including cases, statutes, and secondary materials. Unlike the non-legal writing you've done in college and at work, legal writing has its own specific structure that lawyers everywhere use in one form or another—and which they expect to see in your written work.

Whether they call it IRAC (Issue, Rule, Application, Conclusion), CRAC (Conclusion, Rule, Application, Conclusion), or CREAC (Conclusion, Rule, Explanation, Application, Conclusion), all lawyers write in the same way: by laying out the issue to be discussed, the legal rule relevant to the issue, the analysis of the pertinent facts based on that rule, and the overall conclusion reached.

Although this may sound daunting at first, it will quickly become second nature. Below is a primer on how to structure a legal argument using IRAC. CRAC and CREAC are incredibly similar to IRAC, and the same principles apply.

Where do I use IRAC?

IRAC is used after your facts section, in the 'discussion' section of your memo, or the 'argument' section of your brief. Each discrete legal topic will have its own IRAC structure, under a separate sub-heading. For example, an affirmative defense and a necessary element of a claim would each receive their own complete, independent IRAC discussions.

How do I use IRAC?

With practice, it will feel entirely natural to organize your legal discussion following the IRAC form. In the meantime, below is a basic outline of the IRAC format and its best uses.

Issue

State the issue in the first paragraph at the beginning of the sub-section: what is the legal question you will need to analyze? Why do you need to analyze this issue? This first section should give your reader an understanding of what you intend to discuss and why you must discuss it.

In a memo, you should be neutral in your statement of the facts while also predicting how the judge will rule on the issue.

Best: state the relevant issue in a way that reveals your conclusion

- **Example:** The Court will likely rule that Officer used unconstitutionally excessive force under the *Graham* test as applied to the facts of this case.

- **Good:** state the relevant issue in a neutral fashion.

- **Example:** The judge must then decide whether the balancing test in *Graham* warrants a finding of excessive force.

- **Not Good:** state the relevant issue as a question

- **Example:** Did the Officer use excessive force under the *Graham* test?

Note that using the question format is stylistically disfavored in the legal profession.

In a brief, you should be more opinionated and assert how your client would like the issue to be resolved.

Best: assert that the relevant issue should come out in your client's favor and (briefly) explain why

- **Example:** The balancing test in *Graham* warrants a finding of excessive force because Officer responded to an unthreatening suspect with a serious intrusion into his Fourth Amendment rights.

- **Good:** assert that the relevant issue should come out in your client's favor

- **Example:** The court should find that the officer used excessive force under the balancing test in *Graham*.

- **Not Good:** state the relevant issue in a neutral fashion

- **Example:** The court will need to employ the balancing test in *Graham* to decide whether the officer used excessive force.

Rule/Explanation

After you lay out the issue, you will need to establish the governing legal rule that the court will employ to resolve that issue. Your rule section should resemble a funnel: set out the broadest principles first, with the smaller, secondary components, or exceptions to the rule following afterwards. Generally, you will be able to naturally create a funnel by discussing authorities in order from most important to least important. State holdings of cases briefly, and only include relevant facts and conclusions. Depending on the nature of your case, you may also wish to include a paragraph discussing particularly relevant precedent in order to establish how the rule works in practice.

- Order of Authorities: Constitution, statutes, regulations, Supreme Court cases, appellate court cases, trial court cases, and lastly, secondary sources.
- General → specific
- Baseline rule → exceptions
- **Tip:** For concise use of legal sources, use ellipses (Bluebook R. 5.3), and minimize use of block quotations
- Explain the whole rule; don't just give a one-liner

Example: It is well established that “the use of force is contrary to the Fourth Amendment if it is excessive under objective standards of reasonableness.” *Saucier v. Katz*, 533 U.S. 194, 201–02, 121 S.Ct. 2151, 150 L.Ed.2d 272 (2001) (citing *Graham v. Connor*, 490 U.S. 386, 109 S.Ct. 1865, 104 L.Ed.2d 443 (1989)). The reasonableness of the application of force applied by a police officer depends on a balancing of the force applied and the circumstances confronted by the officer. “A claim that excessive force was used in the course of a seizure is subject to an objective test of reasonableness under the totality of the circumstances of each case, including the severity of the crime at issue, whether the suspect posed an immediate threat to the safety of others, and whether he is actively resisting arrest.” *Sullivan v. Gagnier*, 225 F.3d 161, 165 (2d Cir. 2000) (citing *Graham v. Connor*, 490 U.S. at 395–396). Under the law, police are not permitted to use any degree of force in all instances—in some circumstances, no use of force is reasonable because none is required. *Bauer v. Norris*, 713 F.2d 408, 412 (2d Cir. 1983) (“the use of any force by officers simply because a suspect is argumentative, contentious, or vituperative is not to be condoned”) (internal quotations omitted). The Second Circuit has held that the degree of injury is not determinative of an excessive force claim; even an injury that is not permanent or severe can suffice. *Robinson v. Via*, 821 F.2d 913, 924 (2d Cir. 1987).

Example: When applying the balancing test in *Graham*, the court has held that there is little governmental interest in arresting a suspect for a minor offense. See *Jones v. Parmley*, 465 F.3d 46 (2d Cir. 2006) (jury could reasonably find that kicking and punching peaceful protesters in violation of local ordinance was excessive); *Thomas v. Roach*, 165 F.3d 137 (2d Cir. 1999) (verbal threats are a too minor a crime to create a strong governmental interest in the arrest). Therefore, a suspect's alleged crime must be sufficiently serious to warrant use of painful force, such as a taser, under a

Graham analysis. *Tennessee v. Garner*, 471 U.S. at 11. Given that the threat posed by the suspect is “the most important single element” of the Graham analysis, *Chew v. Gates*, 27 F.3d 1432, 1441 (9th Cir. 1994), any arrest in which the suspect poses no threat and is only wanted for a minor infraction likely does not give rise to a significant governmental interest.

Application

In this section, you will apply the rule to your facts, using the cases you’ve discussed in the rule section to draw analogies or distinctions. You should track the order and key phrases of the Rule section so that your reader can easily follow along. Don’t be afraid to repeat key terms and phrases—you will frequently need to do so to show that your case follows precedent. This section will be the bulk of your argument, and may run several paragraphs or pages long.

Example: In the instant matter, the officer’s use of force against Victim was objectively unreasonable because Victim committed only a minor offense and posed no threat to Officer. Officer arrested Victim for loitering under New York Penal Law § 240.35, which classifies the infraction as a violation – a lower grade than even a misdemeanor. This infraction is even less serious than the one at issue *Thomas* (verbal threats) and is equivalent to the minor ones in *Jones* (protest violation). Moreover, Victim posed so little threat to Officer that sanctioning taser use in this situation would run contrary to precedent and notions of justice. Victim did not approach Officer or manifest any intention to harm him. Much like in *Tennessee v. Garner*, 471 U.S. at 21, where substantial force was unreasonable because the fleeing suspect posed no threat to the officer, Victim was actually attempting to escape away from Officer.

Conclusion

Here, all you will need is a sentence or two that concisely state the outcome of the issue, based on the Application of the Rule to the facts of the case.

Example: Therefore, because Victim posed no threat to Officer and was only liable for a minor infraction, Officer’s use of force was excessive under *Graham*.

Putting it all together

Fully synthesized, IRAC will allow you to move from the main problems in a case through the governing law, and to a final conclusion. Consider one final example. Your client is getting divorced in Connecticut. Her husband argues that she did not fairly and reasonably disclose her property, which Connecticut law requires, because her disclosure inaccurately stated her overall assets. In a memo, you might analyze this point like this:

ISSUE, or Topic Sentence:

A court will not be convinced that my client's financial disclosures are 'incomplete.'

RULE:

A "fair and reasonable" disclosure refers to the nature, extent and accuracy of the information to be disclosed." *Friezo v. Friezo*, 914 A.2d 533, 545 (Conn. 2007). *Friezo* notes that "a fair and reasonable financial disclosure requires each contracting party to provide the other with a general approximation of their income, assets and liabilities." 914 A.2d at 550.

ANALYSIS: Interpret the Evidence

In *Friezo*, the defendant provided "an accurate representation, in writing," that "set forth a list of the defendant's assets and liabilities, most of which were valued individually." *Id.* at 551, 550. Here, my client provided a similarly detailed written valuation. Her husband's claims that the schedules omit key information about the value of my client's real estate holdings and miscalculate her total assets, undervaluing them by \$1,000,000, are inaccurate. My client provided either statements of value or recent assessments of value for each of her properties holdings to her husband. While Schedule A inaccurately states my client's total assets, this misstatement is a clerical error; each of her properties is accurately valued individually.

CONCLUSION: Reconnect This Point to Your Thesis

Since Connecticut requires only a "general approximation" of assets, a court will find my client's disclosure to be fair and reasonable.

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IRAC/CRRACC Format

IRAC and CRRACC

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IRAC and CRRACC

IRAC is the acronym for Issue, Rule, Application, Conclusion. These words represent the stages of the most commonly accepted way to organize a written legal analysis: first, articulate an important legal issue or question; next, state and explain the relevant legal rule; next, apply the rule to your facts; finally, conclude by explicitly answering the question or taking a position on the issue. IRAC is the most popular form of organization because it is usually the one that makes it easiest for the reader to follow your analysis. Following the IRAC structure will provide a framework around which to organize your writing, thus making your discussion easier to write (and read).

CRRACC is an elaborated form of IRAC: Conclusion, Rule, Rule Proof, Application, Counterargument, Conclusion. The RR reminds you to state the relevant legal Rule as you have synthesized it from the sources of legal authority (i.e., constitutions, statutes, regulations, and decisional or common law), and then support this rule statement with some organized explanation and discussion of the legal authority upon which the rule statement is based (i.e., the Rule Proof). The CC reminds you to raise important Counterarguments, i.e., contrary approaches to the way you have synthesized the rule or applied the rule to your facts, before stating your Conclusion.

To reiterate, as a legal writer, you will be presented with a set of facts and will be expected to answer legal questions about them in either a predictive or a persuasive voice (unless your task is to draft legislation, a will, or an agreement, which involves a different set of writing, analytic, and planning skills that are beyond the scope of this discussion). As a law student, sometimes you will be asked to write something that addresses a narrow range of issues (e.g., a short memo); sometimes you will be asked to spot all the legal issues you can and then address them (e.g., an answer to one kind of exam question). Larger legal questions can usually be broken down into a series of smaller ones, such that you can break off each component sub-question in turn, "IRAC" it, dispose of it, and then turn your full attention to the next sub-question. As you tease apart the sub-questions, you must define and organize them in a way that covers all the relevant legal rules and also makes it easy for the reader to follow. A good legal analysis of a set of facts is usually structured as a series of IRAC (or CRRACC) units.

Finally, try to remember that the IRAC structure is a guideline, and that all of the comments in this document are also guidelines. They exist to help you reason in a more orderly way and to allow that reasoning to be as understandable and accessible to your reader as possible. If you feel as though the application of one of these guidelines would create obscurity or confusion in your writing, then do not apply it; at times it may be preferable to modify slightly this suggested structure. Your goal is to reason in a deep and well-organized way, and to write so as to convey your reasoning clearly. Your use of IRAC should be in service of these goals.



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WHAT IS THE “R” IN “IRAC”?

MICHAEL B. W. SINCLAIR*

What does the “R” in “IRAC” stand for? One student suggested “ridiculous.”¹ But we know better than that: it is for “**R**ule.” “IRAC” is an acronym for a popular procedure for briefing cases or “synthesizing” sets of cases: “I-R-A-C” for “**I**ssue” (the problem), “**R**ule” (the rule of the case, or the rule you synthesize from the precedent cases), “**A**pplication”² (how your case comes under that rule), and “**C**onclusion” (not, one hopes, “client goes to jail.”) The “**I**”, “**A**”, and “**C**” are pretty innocuous. This essay is about the “**R**.” Are the proponents of IRAC serious about there being rules in cases? If so, what sort of rules could they be? I shall argue that this key aspect of IRAC is not merely wrong: it is seriously misguided.³

The conception of judge-made rules that is the most prevalent and the most objectionable is a quite simple one. Judicial decisions (cases) stand for rules; there are rules in opinions, of much the same kind as we find in statute books. One eminent jurist, Ronald Dworkin, called it the “enactment theory.”⁴ It is this sense that Judge

* Professor, New York Law School. I abandon my copyright in this essay: copy it if you please, in whole or in part, with or without attribution. But note that the editors of this journal claim copyright in the issue in which this article appears. I thank Dean Yeotis and Professors Daniel O. Conkle and Randolph N. Jonakait for helpful criticism of earlier drafts.

1. She also suggested that rather than “Iraq” we say “Irate.” Obviously enough, she must remain anonymous.

2. Sometimes “Analysis,” or possibly “Argument.”

3. The difference of opinion is a live one. Three sources exemplifying the range of positions are: NEIL MACCORMICK, *Universalisation and Induction in Law*, LEGAL REASONING AND LEGAL THEORY (1978) (says there are rules underlying judicial decisions and discoverable therein); Robert S. Summers, *Two Types of Substantive Reasons: The Core of a Theory of Common Law Justification*, 63 CORNELL L. REV. 707 (1978) (says there are not judge-made rules; the judicial decision is particular as to facts only); Steven J. Burton, *Professor MacCormick’s Claim Regarding Universalization in Law*, INTRODUCTION TO LEGAL REASONING (1985) (says judge-made rules are not universal but are limited generalizations acceptable to the legal community).

4. RONALD DWORKIN, *TAKING RIGHTS SERIOUSLY* 111 (1977). “Enactment theory” is an accurate enough expression, but a bit too derogatory for my purposes: One wants to show the error of IRAC without negative name-calling. An English eminent, recently transposed to the United States, wrote, “This may be called the ‘School-rules concept’ of law, and it more or less assimilates all law to statute law.” A.W.B. (Brian) Simpson,

Easterbrook used when he wrote, “Judges both resolve disputes and create rules.”⁵

How does this “enactment theory” of common law decision-making account for *stare decisis*, the power of precedent? Dworkin again:

Judges, when they decide particular cases at common law, lay down general rules that are intended to benefit the community in some way. Other judges, deciding later cases, must therefore enforce these rules so that the benefit may be achieved. If this account were a sufficient justification of the practices of precedent, then [a judge] could decide these hard common law cases as if earlier decision were statutes⁶

The use of precedents is thought of as akin to the use of a code: “A legal rule established by the ratio of a case forms a precedent for application in future cases.”⁷

It is rules thus conceived that the “**R**” stands for in IRAC. This enactment theory, the foundational presupposition of IRAC, is the null hypothesis of this essay.

What are the criteria by which one might test this enactment theory? First there are some limitations on what might properly be called a “rule.” One does not want to turn this into a mere verbal question, but on the other hand it is pointless to say the hypothesis works by definition, *i.e.*, whatever is required for the “**R**” in IRAC we will call a rule. In section two, I make a preliminary sketch of the meaning of “rule” as we use it in expressions like “the rule of law.” That we are talking about law, that aspect of society that we call “the legal system,” puts some functional constraints on what we can count as a rule. A key aspect is the doctrine of *stare decisis*: “the method of precedents, . . . the characteristic and all-pervading method of the common law, for better or worse.”⁸ But it is another thing about which one ought not

The Common Law and Legal Theory, OXFORD ESSAYS IN JURISPRUDENCE 77, 82 (2d ed. 1973).

5. Frank Easterbrook, *The Supreme Court 1983 Term, Forward: The Courts and the Economic System*, 98 HARV. L. REV. 4, 5 (1984).

6. See DWORKIN, *supra* note 4, at 110.

7. COLIN MANCHESTER ET AL., *EXPLORING THE LAW: THE DYNAMICS OF PRECEDENT AND STATUTORY INTERPRETATION* 3, 4 (2d ed. 2000). See also Simpson, *supra* note 4, at 79-82.

8. The Right Hon. Lord Wright, *Precedents*, 8 CAMBRIDGE L.J. 118, 118 (1943), reprinted in 4 U. TORONTO L.J. at 247 (1942); see also EDWARD H. LEVI, *AN INTRODUCTION TO LEGAL REASONING*, 2 (1949); see generally SALMOND ON JURISPRUDENCE 162 (12th ed. 1966).

be overly dogmatic or precious; it must be accounted for, but the account should not depend on a precise stipulation of the doctrine. Quite generally, "[T]he common law doctrine of *stare decisis* gives a decided case authoritative force with respect to future decisions in other cases, whether or not the case is later thought to have been decided correctly in the light of principle."⁹

In section three, the central section of the paper, I provide some arguments rejecting the null hypothesis as failing to account for *stare decisis* and other basic rule-of-law requirements. Section four deals with counter arguments: there are occasions in which we all talk of rules in cases –“the *Rule of Foalkes 'n' Beer*” for example - and there are ways in which judicial decisions show a rule-like quality; completely to knock out the “rule-of-the-case” hypothesis I have to account for these. In section five I explain why IRAC and its *Rule* have proven so popular. Finally, there is a conclusion, wrapping up the argument.

II. WHAT IS A RULE?

I do not propose to define rules. We do not define things, even intangible social things like rules. We define only words, or a little more generally, signs in systems of signs. Rephrasing the question as “What is the meaning of ‘rule’?” does not help. Like everyone else, I do not have the power to define words. Perhaps I do have that power for the purpose of this paper, but were I to do so you should put your hand over your intellectual pocket; you could be pretty sure I was about to try to pick it.¹⁰ Still, if we are to get very far and avoid merely verbal disputes, we need some constraints on the use of “rule.”

In law, our paradigmatic rules are statutes. A statute, in Ronald Dworkin’s apt turn of phrase, is a string of words with the appropriate pedigree.¹¹ The pedigree rules are those governing enactment, ratifi-

9. Thomas C. Grey, *Langdell's Orthodoxy*, 45 U. PITT. L. REV. 1, 24 (1983); see DWORKIN, *supra* note 4, at 113 (“A precedent is the report of an earlier political decision; the very fact of that decision provides some reason for deciding other cases in a similar way in the future.”).

10. It is a commonplace rhetorical scam: The speaker carefully defines a key term; the audience quickly forgets that careful definition and is drawn to an unexpected conclusion; if challenged as to the generality of that conclusion, the speaker can revert to the stipulated definition. For example, check John Locke’s definition of “property” in the second *Treatise on Government*. See, e.g., JOHN LOCKE, *SECOND TREATISE ON GOVERNMENT* 87 (1690). His argument goes through with his definition of “property” as “life, liberty, and estates,” but it also gives the franchise to everyone, even women. He wanted to and rhetorically succeeded in justifying the franchise for only those with property as everyone commonly understood it at that time: estates.

11. See DWORKIN, *supra* note 4, at 17.

cation, and promulgation.¹² The pedigree rules distinguish statutes from other social rules.

Functionally, statutes convey control data from the government to the governed. Any rule of law, such as the hypostasized case rules of IRAC, must serve this function. This distinguishes rules of law from the rules of natural science: Rules of nature apply whether or not their subjects know of them.¹³

Conveying control data means rules tell us what we may and may not do, how to do certain things, and what might be the consequences of failure to comply. They may do more than that too; think of statutes that define words for use in other statutes, or of statutes conferring honors. But the central function of legal rules is *prescriptive*, not *descriptive*.¹⁴ I may say, truly, "As a rule I wake up at five thirty," but that is merely a descriptive generality, not the sort of thing that could be enacted into a statute. Compare, "Everybody must wake up at five thirty," which might be daft but could be a statute.¹⁵

The prescriptive content of a rule must be backed by some kind of authority. This was a central thesis of the pedantic and boring, but nevertheless foundational jurisprudence of John Austin.¹⁶ Legal rules have the backing of society; that's one of the things we (as society) do through courts and administrations and armed might: we back up the legal rules. A rule is hardly prescriptive if it lacks authoritative backing; imagine planning a transaction in reliance on a formula with no au-

12. See, e.g., Abbot Low Moffat, *The Legislation Process*, 24 CORNELL L.Q. 223, 223 (1939); WILLIAM J. KEEFE & MORRIS S. OGUL, *THE AMERICAN LEGISLATIVE PROCESS: CONGRESS AND THE STATES* 46 (1985); see also any of the numerous textbooks on legislation presently in print.

13. See MICHAEL SINCLAIR, *GUIDE TO STATUTORY INTERPRETATION* Chs. 1 & 2 (2000).

14. This is truly old hat. See, e.g., ST. THOMAS AQUINAS, *SUMMA THEOLOGICA*, Question 90, Art. 1 (1273).

15. It would be puffed up in legal fashion, something like this:

- (a) [Definitions of 'person', 'wake up', terms of time, etc.] . . .
- (b) [Disclaimer about gender in using masculine pronouns]. . .
- (c) If a person is found guilty of failing to wake up at five thirty on any morning he shall be subject to a fine of not more than . . . , imprisonment for not less than nor more than . . . , or both.
- (d) [Exceptions for narcoleptics, the comatose, night watchmen, billionaire campaign contributors, etc.] . . .

16. JOHN AUSTIN, *THE PROVINCE OF JURISPRUDENCE DETERMINED* (1832) (he argued that laws were orders backed by threats; there may be lots in that formulation to disagree with, but its kernel of truth has survived).

thority. That being the case, something or someone with power must invest a string of words with that authority for it to be a legal rule.

A rule of law has preemptive power: one is justified in following a rule because it is a rule, without investigating the reasons for it or the rationality of its application.¹⁷ An enacted rule of law is not just a ground for action in addition to other justifying reasons, it supplants those reasons. This is characteristic of rules generally, not just of rules of law. For example most of us remember that $dax^n/dx = nax^{n-1}$; but few would ever want to work through the reasons for it — we would rather rely on it as a rule. So too with most statutes. But notice that legitimate political authorities can go wrong in their use of justifying reasons in a way that the mathematician in the above example cannot. If the legislature or other authority misses some relevant reasons, or if the relevant reasons have changed in the extra-legal world so that the rule is not in fact justified, the rule still stands.¹⁸ In such a case, a subsequent decision-maker could not be faulted for following the rule; that it is a rule provides a complete justification and excuse. This flows from legal rules' having authority, the weight of society, behind them. Think of a statute: whether or not it accords with ordinary human decencies, and especially when it does not, it operates as an insulation from legal blame.

Must a rule of law be a string of words? If it were not, then how could it function to convey control data to the governed? What would it be like to say: "There is a rule governing . . . , but it is impossible to express in words."? Or, "There is a general rule governing . . . , but nobody can *tell* you what it is."? Words are our most common means of expression, perhaps not necessary but certainly convenient. So a rule of law is expressed in words, hopefully complying with the grammatical requirements for a sentence in the language.

Must a rule have a single formulation? A rule that lacked a form, stable over time and persons governed, could hardly communicate control data. Just imagine planning a business transaction or settling a

17. I got this idea from the work of Joseph Raz. See, e.g., *Joseph Raz, Ethics in the Public Domain: Essays in the Morality of Law and Politics* 196-99 (1994). Raz's analysis is, as you'd expect, much richer and more subtle than the little I have extracted. But note that his warning: "No blind obedience to authority is here implied," *id.* at 199.

18. Of course an authority *should* make rules only based on good and sufficient reasons; so a rule *should* be such that the subjects would obey it anyway even if not enacted simply because of those good and sufficient reasons. But this is not *necessary* to the exercise of rule-making power, such as that of a legislature (with administrative approval.) See SINCLAIR, *supra* note 14, at 10.

dispute pursuant to a variable verbal formula: variable according to what? at whose whim? at what time? at what place? Who would risk their wealth or livelihood on that? I wouldn't for a kick off. The same sort of argument suggests that a rule must be quite stable in content. So a rule must have a stable verbal formulation, reliable, not at issue between parties to a transaction or dispute. That's a bit too strong; it looks like it eliminates the "R" in "IRAC" by stipulation. So backing off somewhat one might say that a rule should be reasonably stable in verbal expression even though there may not be a canonical form such as statutes must have.

One might draw a useful contrast with a domestic rule, such as a parent's authoritative requirement that a child do her homework, backed by the threat of deprivation of television or a good whipping with barbed wire. That is too particular to be a rule of law: rules of law have some generality. That means their verbal formulation must include in the specification of to whom they are to apply at least one common noun phrase. They must be general as to action too, not, for example, "At 2:00 p.m., Eastern Standard Time, on January 6, 2003, no person may ride Trek 1200 bicycle #C96-2/59231." That is simply too particular as to action to count as a rule. So rules, including rules of law, are general.¹⁹ This immediately excludes some of the constraining edicts courts regularly issue from the class of rules. For example, the outcome of a civil action may be that the defendant pay the plaintiff a specified sum of money; this is not a rule, as it is specific as to both whom it applies to and what is required of them.²⁰

We've already contrasted "rule of law" with "rule of science" and "social generality". We might also contrast it with "social norm" such as for example –H.L.A. Hart's example²¹ – that men take their hats off in church. That norm might well be backed by society, as for example when one is hissed at or preached at for failure to comply; but it is not a rule of law. And we might contrast rules with wishes, exhortations,

19. "The word 'law,' however, necessarily implies generality and uniformity, which can operate only in practice by some method and mechanism." Wright, *supra* note 8, at 118. Austin drew the distinction between commands and rules — a command is to a specific person or group of persons requiring the performance or restraint from performing some specific act or acts. A command is not a rule: it is isolated in time, place, and scope.

20. In Austin's terms it would be a command.

21. H.L.A. Hart, *THE CONCEPT OF LAW* 54 (1961) ("[I]t is the rule with them that the male head is to be bared on entering a church" is the first, but he makes frequent use of the example.).

complaints, promises – one might generate some interest there, especially in contract law – vituperations But I think we’ve got enough here to have corralled the term “rule” in the kind of way we use it in law, at least well enough to have a sensible disagreement about its use in “IRAC” with respect to cases.

III. WHY CASES DO NOT MAKE RULES

A. *Power: The Authority Behind a Rule*

To be a rule, a string of words must have some sort of authority behind it. Whence cometh a judge’s power to back a string of words with authority? To make, that is, a rule? Certainly courts can make rules governing their own procedures, but we are talking here of rules governing societal interaction outside the court room. Even where a court in an opinion announces that it is “adopting a rule,” where would it get the power to make that a rule of law? Look, for example at the federal constitution. Article III sets up the courts. It gives the judicial power of the United States to “one supreme court,” and authorizes Congress to give judicial power to “such inferior courts as [it] may, from time to time, ordain and establish.”²² But nowhere does the constitution directly or through Congress give courts the power to make rules. Contrast Article I, where it does give that power to the Congress.

Suppose there were rules in cases, as IRAC says. Then a court – presumably a supreme court in most cases – would have the power to establish as law formulaic generalities with scope beyond the facts of the case before it. Rules announced in this way would be – just like statutes — sufficient reasons in and of themselves for subsequent decision-makers’ actions; not only would they preempt the need to resort to any other reasons, not to follow them would be contrary to law. So a subsequent court would in some case have to make a less than optimal, less than just decision on facts coming within the scope of that rule,²³ a decision it would not otherwise have made.²⁴ Authority in a rule means one must follow it even if one would rather not.²⁵

22. U.S.CONST. art III, § 1.

23. But not identical to the precedent case; that only occurs in *res judicata*.

24. Otherwise the subsequent court could simply decide on grounds of justice, then say: “Oh yes, and this comes within the rule laid down in”

25. The power of vertical *stare decisis* can make it appear otherwise. *See infra* notes 108-111.

This is not the case in common law decision-making. If the reasons that proved sufficient to decide the precedent case no longer obtain, then the new reasons should provide sufficient ground to distinguish the present facts from those of the precedent, or for overruling. Justice Kennedy: "We have overruled our precedents when the intervening development of the law has 'removed or weakened the conceptual underpinnings from the prior decision, or where the later law has rendered the decision irreconcilable with competing legal doctrines or policies.'"²⁶ If the reasons remain relevant, the precedent governs: that is the power of *stare decisis*; the present judge may not decide differently simply because she assesses values differently. But this is distinguishing facts under evaluative criteria, not deciding whether a rule applies. Values, reasons, technologies – as Holmes said, "[t]he felt necessities of the time, the prevalent moral and political theories, intuitions of public policy . . ." – are the key determinates, not judge-made rules, and all these are, for the most part, determined exogenously to the law.

Thus, I think, the common law judge does not make a rule that preempts the reasons for her decision for anybody but the parties before her. All other parties, advisors, advocates and judges must base their positions on reasons, which remain as good and as bad as ever, but mostly beyond the power of courts.

Would we want judges to have the power to make rules? Some people would. Some people even treat the Restatements as though they were statutes, parsing them as if they had been enacted into law. The Restatements may be a very useful secondary source, but they are still only the formulaic wishes of an exclusive and self-appointed club of rich, old, white men. In our constitutional democracy we do not

26. *Neal v. United States*, 516 U.S. 284, 295 (1996).

27. O. W. HOLMES, JR., *THE COMMON LAW* 1 (1881). Judge Richard Posner of the 7th Circuit recently wrote to similar effect:

[A]t the higher levels of the judiciary, where the conventional materials of decision cannot resolve a case and the judge must fall back on his values, his intuitions, and, on occasion, his ideology, public-intellectual work may have an effect on the judicial process. How large an effect one cannot say. But what is clear is that the work of public intellectuals is only one of the non-legal influences on judges, others being temperament, life experiences, moral principles, party politics, religious belief or non-belief, and academic ideas.

RICHARD A. POSNER, *PUBLIC INTELLECTUALS: A STUDY OF DECLINE* 364 (2001).

give such groups the power to make law.²⁸ Nor, I think, would most people want it.

Yet the American Law Institute is better set up to make rules than is the judiciary. It can collect information in much the same way as a legislative committee, it can muster considerable expertise, and it can test its drafts on relevant segments of the bar. Even so, I'd prefer the judiciary to the American Law Institute as a law making body;²⁹ at least a judge's appointment is part of the democratic governmental process. But the bench would have to be differently structured and have the additional powers essential to rule making. For example, what if the case before the court was the one that should (under a sensible rule making regime) have the second best decision, the later one the more typical and thus the one needing the more just decision? The accident of time, and the extreme informational constraints imposed by the rules of evidence preclude justice for the later, and so also for all the more typical cases. Were the enactment theory of IRAC correct, temporal happenstance would control society's future. So we would need to re-constitute the judiciary as a legislative panel with the power to call on expertise and gather information ranging over wider social circumstances than involved in the case.

We put great faith in judicial decisions, whether by a judge with expertise in the subject area or not, because judges decide under great social and moral pressure, under "decisional fire":³⁰ before them are the parties whose wealth, freedom, and sometimes (I'm sorry to say) lives are at stake. We follow the wisdom that flows from a court decision ahead of expert commentators who put in a life-time's professional study of the area. Deciding with immediate consequences to fellow humans is importantly different from deciding hypotheticals. But that critical quality of decisional fire does not stretch beyond the actual decision; it does not reach the other, future, and hypothetical cases that would come under a rule. So we do not have the same reasons for putting our trust in anything a court may say beyond the decision itself. That's why we have the relegatory category *obiter dictum*: it is that part of an opinion not necessary to making the connection be-

28. Even England is at last giving up most of its hereditary upper house; in the United States we never had one, and we don't have a self-made one either.

29. Either of them would be preferable to the most common law school source of "the rule of the case", viz, guide books like Gilbert's, Sum & Substance, the Black Letter Series, etc.

30. This apt expression is not original; but I cannot find from whom I learned it.

tween the facts and the outcome. It is *not* the part of an opinion that doesn't come under some rule.

We might sweep up some remaining arguments by further contrasting common law with statutory law. Legislatures decide future and hypothetical disputes; and they collect information, including expert speculations, to help them formulate general solutions to societal problems. Legislatures do not decide particular disputes; they enact strings of words as rules.³¹ That is all; a legislature speaks by enacting statutes.³² But a legislature may choose whether or not to act. Contrast a court. A common law judge can decide only the controversy before her, but once it is before her she must decide it. She may not decide other contemporaneous, future or hypothetical issues; any attempt in an opinion to do so is downgraded as dicta, at most advisory, easily dismissed. Under the rules of evidence, a judge is not provided factual information about any other, potential disputes; she decides particular disputes between particular parties, arising out of events from the past. She may decide according to law, but except for the decision as to how the law applies to the particular dispute, the judge has no power to decide further, and certainly not to make a rule for resolving disputes yet to occur.

B. Notice, and Arguments Following from its Necessity

A person cannot be bound by a law of which he or she has no notice.³³ How could a person follow a rule if she didn't know it? As Jeremy Bentham said: "That a law may be obeyed, it is necessary that it should be known."³⁴ Well, couldn't one find out if there was a rule covering what she wanted to do? That is what is said of statutory law:

31. As Chief Justice Marshall wrote, it is "the peculiar province of the legislature to prescribe general rules for the government of society." *Fletcher v. Peck*, 10 U.S. 87, 136 (1810); accord *United States v. Brown*, 381 U.S. 437, 446 (1965).

32. Max Radin, *A Case Study in Statutory Interpretation: Western Union Co. v. Lenroot*, 33 CAL. L. REV. 218, 223 (1945) ("[T]he constitutional power granted to Congress to legislate is granted only if it is exercised in the form of voting on specific statutes.").

33. See ST. THOMAS AQUINAS, *TREATISE ON LAW SUMMA THEOLOGICA*, Question 90, arts. 1 & 3 (1273); JOHN LOCKE, *SECOND TREATISE ON CIVIL GOVERNMENT* 33 (1690); 1 WILLIAM BLACKSTONE, *COMMENTARIES ON THE LAWS OF ENGLAND* 45-46 (1938); JEREMY BENTHAM, *Essay on the Promulgation of Laws and the Reasons Thereof; With Specimen of a Penal Code*, in *THE WORKS OF JEREMY BENTHAM* 155, 157 (1859); LON L. FULLER, *THE MORALITY OF LAW*, 34-35, 39 (1964); *Lambert v. California*, 355 U.S. 225 (1957); *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972).

34. BENTHAM, *supra* note 33, at 157; AQUINAS, *supra* note 33, at Question 90, art. 4; LOCKE, *supra* note 33, § 57, at 33.

you are subject to it because you could look it up. It is also behind the requirement that to be valid as law a statute must be promulgated; Bentham continued, "that it may be known, it is necessary that it be promulgated."³⁵

Suppose that IRAC were an accurate theory of common law: how would one take notice of those rules? Certainly not by looking up cases. Very few people have any idea how to do that.³⁶ Among those that do, put them on opposite sides of a dispute and they will come up with different rules from different cases, and different interpretations of the cases they find in common. This counts as notice? *Prospective* notice, available to a person before she takes action? Hardly.

When a judge decides a case, the events giving rise to it have already happened. But what of landmark cases, the big ones that change the course of common law? The parties to such a case could not, *ex hypothesi*, have had notice of the decision. This prompted Bentham's scathing comparison of common law with dog training:

Do you know how they make [common law]? Just as a man makes laws for his dog. When your dog anything you want to break him of, you wait till he does it, and then beat him for it. This is the way you make laws for your dog: and this is the way the judges make law for you and me.³⁷

Were cases to set rules, he would have a point. The rule of the case could not have been known to the parties to it because it had not been decided; in a major case going right through the court system it would not be decided until three to six years after the event, or even later. A new decision would enact a rule retroactively.³⁸

35. BENTHAM, *supra* note 33, at 157; *see also*, LOCKE, *supra* note 33, § 57, at 33 ("[N]obody can be under a law, which is not promulgated to him.").

36. There are still fewer than half a million lawyers in this country, out of over two hundred and fifty million people.

37. JEREMY BENTHAM, *Truth Versus Ashhurst; or, Law as it is, Contrasted With What it is Said to be*, THE WORKS OF JEREMY BENTHAM 231, 235 (1792).

38. *See* Kenneth J. Kress, *Legal Reasoning and Coherence Theories: Dworkin's Rights Thesis, Retroactivity, and the Linear Order of Decisions*, 72 CAL. L. REV. 369 (1984).

Retroactive laws have long been thought an abomination;³⁹ the Constitution prohibits them at both the federal and state level.⁴⁰ If the enactment theory were correct, common law would indeed have a problem. One takes notice of common law requirements from prevailing standards of decent behavior, not from anything peculiar to law. That is one of the reasons that the reasons for a decision refer to society, its qualities, conditions, and requirements. We cannot and do not expect better behavior than social conditions justify.

In section two, I distinguished between the mathematical rule for simple differentiation and rules of law. Here is another useful distinction: The mathematical rule is much more accessible than the reasons justifying it. The judicial decision is much less accessible to most people than are the reasons for it. Those reasons abound in our social organization and morality. Judicial decisions are wretchedly difficult to find even for lawyers. If a person is to be governed by a law, she needs to be able to find out what it is; if she can't find the case, how then is she to find the rule in it by which she is governed? Contrast the ease with which she can find the reasons.

Suppose again that there were rules in cases; suppose "judge made law" were just like legislated law, authoritative rules. They would govern an awful lot of social interaction: everything our legislatures have not seen fit to cover with statutes. (Actually, that gets less by the year, doesn't it?) Surely, as decent citizens wishing to be law abiding we should find out about those rules before taking action. Hardly anybody *knows* much law. Even the better informed lawyers know only a small part of it, the part of their area of expertise or whatever the litigation of the moment is about; what we know is how to find it out. But in an IRAC governed world, everyone would need to find out the rules. Some of those rules were laid down a good time ago, since when much has changed; so relying merely on good behavior would be unwise. Think of how much time would have to be spent "looking it up" or sitting in classes being told. Simply put: we haven't the time. There

39. Demosthenes called a retroactive statute "the most disgraceful and scandalous ever enacted in your assembly." Demosthenes' *Speech against Timokrates*, XXIV DEMOSTHENES 371, 388 (353 B.C.) (J.H. Vince, trans. 1935).

40. U. S. CONST., art. I, §§ 9, 10. However this was interpretively restricted to criminal statutes only in 1798; *Calder v. Bull*, 3 U.S. 386 (1798). See Laura Ricciardi & Michael Sinclair, *Retroactive Civil Legislation*, 27 U. TOL. L. REV. 301, 302-28 (1996); DANIEL E. TROY, *RETROACTIVE LEGISLATION* (1998).

are better things to do.⁴¹ That's one reason why, if IRAC were correct, we would want to give it up pretty damned quick.⁴²

C. How Can You Pick the Rule?

The governed need to know, or to be able to find out by what they are governed. As we have seen, notice of the law is essential to its justice as well as efficacy. This means that how we pick the rule of a case is critically important to the enactment theory of IRAC. As an introductory text puts it, "Since legal rules are established by judges when deciding cases, it is important to become familiar with how these rules are formulated."⁴³

The key is the *ratio decidendi* connecting the facts with the outcome.⁴⁴ In appellate courts, providing the reasoning that generates the outcome is a primary judicial function. This is why we publish significant opinions. Thus if the judge "lays down a rule" in a case, the *ratio decidendum* is where you'll find it. That is certainly what the true believers say about hunting out the "**R**" for an IRAC model of a case.⁴⁵ The reasoning sets the rule for future cases.

Just how does one find what it is in the reasoning that sets the rule? Even the true believers disclaim a determinate method. For starters, it is often difficult to determine what is the reasoning, what is essential to the decision, and what is not. "Although the most important part of a case is the *ratio*, there is no agreed way of discovering the

41. Could we, in the prevailing custom, substitute money for time? Hire expert advice? We don't even have the time to consult experts (lawyers) before taking action, let alone devoting such a large portion of the economy to a non-material function.

42. This is a ground for distinguishing the kind of behavior suited to legislative control from the kind suited to common law. See MICHAEL SINCLAIR, GUIDE TO STATUTORY INTERPRETATION 8-9 (2000).

43. COLIN MANCHESTER ET AL., EXPLORING THE LAW: THE DYNAMICS OF PRECEDENT AND STATUTORY INTERPRETATION 3 (2d ed. 2000) (Note that this is an English text; it is notable for its clarity and forthrightness about the subject under examination).

44. A quotable English text identifies *ratio decidendi* and rule: "There have been many definitions of the *ratio decidendi*. My own is –a proposition of law which decides the case, in the light or in the context of the material facts. If there appear to be more than one proposition of law that decide the case, it has more than one ratio and both are binding Any statement of law, however carefully considered, which was not the basis of the decision is obiter." MICHAEL ZANDER, THE LAW MAKING PROCESS 263 (5th ed. 1999).

45. "What is important is what is known as the *ratio decidendi* A legal rule established by the *ratio* of a case forms a precedent for application in future cases." MANCHESTER, *supra* note 43.

ratio and no simple mechanical procedure for doing so.”⁴⁶ Suppose we overcome this difficulty; we agree as to what is reasoning and what *dicta*. How do we pick what it is in that reasoning that is the rule of the case?

If we’re lucky there will be suitably rule-like abstraction in the opinion, nicely expressed in a sentence or two. But if it suits your position and not mine, I won’t concede it’s the rule; as we’ve seen, judges do not have the power to give authority to a verbal formula as law. But if not the judge, the author of the opinion, then who? Surely an abstraction formulated by you or me will be no better. As Simpson writes, “. . . it is a feature of the common law system that there is no way of settling the correct text or formulation of the rules, so that it is as a single rule in what Pollock called ‘any authentic form of words.’”⁴⁷ There are indefinitely many ways that a rule may be formulated to fit an opinion, and none is more authoritative than another. As lawyers and students of law we are entitled – *empowered* — to dispute any claim to authority in a particular formulation. But how is the poor denizen, untrained in law, to find a reliable rule?⁴⁸

We are familiar enough with the difficulties legislatures have in formulating strings of words covering all and only the behavior they wish to govern and in the way the wish to govern it. Those words are to be struggled with, fought over, and only enacted when settled to a majority’s satisfaction. If the rules coming out of cases are to have the same power of governance, that is, to be rules of law, their formulation and its determinacy should be similarly vital. Ninth Circuit Judge Alex Kozinski writes, “[a]s lawyers well know, even small differences in language can have significantly different implications when read in light of future fact patterns, so differences in phrasing that seem trivial when written can later take on a substantive significance.”⁴⁹ But a reli-

46. *Id.*

47. A.W.B. Simpson, *supra* note 4, at 89.

48. Even given the implausible supposition that she can find the case.

49. *Hart v. Massanari*, 266 F.3d 1155, 1179 (9th Cir. 2001). To be fair, in this opinion Judge Kozinski is unabashedly adopting the enactment theory. In this section he is arguing against permitting reliance on unpublished opinions because they are not written with the care necessary to a potential precedent. Requiring all opinions to be published would have an additional downside effect explained immediately before the passage quoted in the text: “[P]ublishing redundant opinions will multiply significantly the number of inadvertent and unnecessary conflicts, because different opinion writers may use slightly different language to express the same idea.” *Id.* at 1179. Here he wishes to give enhanced rule-making power to the first opinion in the field. *Cf. infra* IIe.

able, determinate rule from a case is not available; the supposed "rules" of judicial decisions simply cannot be expressed with any precision. Simpson again says it well:

[I]f six pundits of the profession, however sound and distinguished, are asked to write down what they conceive to be the rule or rules governing the doctrine of *res ipsa loquitur*, the definition of murder or manslaughter, the principles governing frustration of contract or mistake as to the person, it is in the highest degree unlikely that they will fail to write down six different rules or sets of rules.⁵⁰

Nothing similar to a statute or "school rule" can be found in the supposed rules of judicial decisions.

But maybe I've got the idea wrong. Don't we extract rules not from single cases but from sets of cases? And isn't that exemplified by standard teaching practice?

Typically, early in one's first year at law school, one is introduced to a set of cases — the opinions in appellate decisions, a new and formidable literary mode — and given a problem, that is, a set of facts and a client. My research and writing teacher in my first year of law school told us to "synthesize a rule" from the precedent cases. Such a "rule" is a verbal formula that accounts for all of the cases we'd been given. Then we were instructed to use that rule to tell the outcome of the case we had been given as a problem. This has proved successful as a method of introducing the mysteries and uncertainties of common law to nervous and bewildered One-Ls.

This approach to common law as rules derived from sets of cases is attributable to Christopher Columbus Langdell, first dean of Harvard Law School.⁵¹ Langdell advocated a scientific approach to the discovery of legal rules, treating the reports of judicial decisions as raw data. Just as with the phenomena of nature, we can classify that data and generate rules to explain it in a coherent and intelligible way. Langdell thought that all law was contained in the Harvard Law Library. One entered the library as a botanist might enter an Amazon jungle: to collect a set of specimens from which to extrapolate a rule governed taxonomy based on their similarities and differences. Isn't this what we all do when we find and advocate theories for reconciling sets of cases? On this view, individual judges may not make rules but collectively the judicial system does.

50. Simpson, *supra* note 4, at 89.

51. WILLIAM LA PIANA, LOGIC & EXPERIENCE 55 (1994); Thomas C. Grey, *Langdell's Orthodoxy*, 45 U. PITT. L. REV. 1 (1983).

As a method of initiation, Langdell's is probably not especially harmful, but it is misleading. There are many problems with it (some of which we've seen already),⁵² but primarily it tempts one to invest too much authority in the formula called "the rule." There are indefinitely many such "rules" that will fit all the cases in any given set of precedents *and* the present case (which we call "reconciling") or that will fit all the precedents and *not* the present case (which we call "distinguishing").⁵³ So *nothing* flows from the mere fact that a rule synthesized by a student does one or the other. Such a synthesized rule gets its force from whatever *independent support* — moral, economic, social, or political argument — can be mustered for it. In other words the "rule" is valuable only insofar as it captures values of society determined for the most part exogenously to the legal system. In litigation one must convince a judge of the correctness of those societal values if one is to induce her to follow the chosen "rule." The Rule of IRAC is no better or worse than the reasons that can be adduced for it, and in common law those reasons do not come from inside the law.

But the method may also be misleading in a converse way. Some among the academic celestials talk of the law as autonomous, meaning that it exists and functions independently from and free of exogenous inputs.⁵⁴ If a set of records of previously decided cases could serve as an adequate data base for discovering the law, then law might indeed be autonomous. At least a student might be deceived into thinking so. It is a dreadful idea, an idea prohibitive of change, correction, adaptation to a changing extra-legal world. Nobody, I think, would teach such a conception in a substantive course. Yet it is implicit in this method of initiation, and it is implicit in IRAC with its *R*ules generated from cases.

52. For some others, *see, e.g.*, M.B.W. Sinclair, *The Semantics of Common Law Predicates*, 61 IND. L.J. 373, 382-386 (1985-86).

53. This is simply an instance of the fact that infinitely many true explanations can be drawn through any set of data. CLARK GLYMOUR, *THEORY AND EVIDENCE* 10 (1980). For a simple proof, *see* Scott Brewer, *Exemplary Reasoning: Semantics, Pragmatics, and the Rational Force of Legal Argument by Analogy*, 109 HARV. L. REV. 925, 932 n.19 (1996).

54. For a subtle and sophisticated account, *see generally* ERNEST J. WEINRIB, *THE IDEA OF PRIVATE LAW* (1995). Perhaps the extreme is reached in the "autopoietic theory of law" of Niklas Luhmann. *See generally* Symposium, *Closed Systems and Open Justice: The Legal Sociology of Niklas Luhmann*, 13 CARDOZO L. REV. 1419 (1992); *AUTOPOIETIC LAW: A NEW APPROACH TO LAW AND SOCIETY* (G. Teubner, ed., 1988); Jacobson, *Autopoietic Law: The New Science of Niklas Luhmann*, 87 MICH. L. REV. 1647 (1989). I have argued that Luhmann's theory, notwithstanding its academic following, crosses the boundary from latent to patent nonsense: M.B.W. Sinclair, *Autopoiesis: Who Needs It?*, 16 LEGAL STUDIES FORUM 81 (1992). The general idea took a significant battering from Judge Posner fifteen years ago; Richard A. Posner, *The Decline of Law as an Autonomous Discipline: 1962-1987*, 100 HARV. L. REV. 761 (1987).

How, if it is not purely misleading, is the commonplace exercise of "closed universe" reasoning to be accounted for? Were it completely wrong, presumably it would not have found such widespread acceptance in first year research and writing courses. Conversely, to the extent it is not completely wrong, aren't there rules in cases? The answer is easily explained, and in fact supports the opposite conclusion, *viz.*, that there must not be rules in cases. It is the normal practice of lawyers, both academic and otherwise, to look at a set of cases and devise a way of reconciling them, and if necessary, of distinguishing those that appear irreconcilable. This presupposes at least two accepted propositions: (a) that the judge making a decision is not necessarily authoritative as to the grounds of her decision, and (b) that no particular case stands for an authoritative rule. If cases did announce rules, then this normal lawyerly game would be illegitimate; the only grounds for comparison, reconciliation, or distinguishing would be those rules stated by the deciding courts. Thus, the usual practice of the legal profession, statements to the contrary notwithstanding, belies the notion of court made rules.

The IRAC formula is pure Langdell in its jurisprudence. The period following the civil war was one of social uncertainty; society had recently failed dramatically in its most basic function of providing security for its denizens. Accordingly, our judges adopted an extremely formalistic jurisprudence.⁵⁵ It is from this era that we got the notion of the "rule of the case," that rule being an exact equivalent of a statute of natural law. This was not faith in society but faith in the "brooding omnipresence in the sky,"⁵⁶ fixed rules waiting to be exposed and enunciated. To inculcate this jurisprudence, Langdell developed the "Socratic method." Few would now subscribe to Langdellian jurisprudence; but equally few reject the Socratic method. Are the two inextricably connected? Did Langdell lose the overt battle only to win the covert war?

D. *Such Rules Can Clash*⁵⁷

We would like our governing rules to be consistent. By that we mean that there ought not to be rules requiring one to do thus-and-so,

55. See GRANT GILMORE, *THE AGES OF AMERICAN LAW* 62 (1977).

56. *Guaranty Trust v. York*, 326 U.S. 99, 113 (1945).

57. I learned much of the following argument from chapter 2 of Ronald Dworkin's *TAKING RIGHTS SERIOUSLY* (1977). He allows for generalities derived from cases but calls them "principles" and points out many ways in which they are quite different from the statute-like rules of IRAC.

but also prohibiting doing thus-and-so.⁵⁸ The entire body of statutory law is now so vast that we cannot require perfect consistency of it, but we do treat consistency as a goal and we have ways of resolving conflicts when they arise.⁵⁹ But the common law imposes no such requirement.

Ronald Dworkin attacks the question of the consistency of IRAC's rules by example, his prime case being the rule of *Riggs v. Palmer*.⁶⁰ Elmer Palmer murdered his grandfather in order to take under the old man's will. That was too much of a manifest injustice for New York's Court of Appeals, which accordingly denied Elmer the bequest: "[N]o one shall be permitted to profit from his own fraud."⁶¹ Dworkin points out that, "in fact, people often profit, perfectly legally, from their legal wrongs. The most notorious case is adverse possession — if I trespass on your land long enough, someday I will gain a right to cross your land whenever I please."⁶² Thus the rule of *Riggs v. Palmer* can scarcely be called a rule at all; it does not apply consistently in different situations. How would a law abiding citizen know whether hers was a problem governed by it or not?

E. Fact Sensitivity (A More Sporting Argument)

A feminist luminary who gave a talk here said she wanted a "more multi-faceted, more continuous"⁶³ decision-making, a closer and more fine-grained attention to facts. It is a staple of critical argument, be it "critical-feminist" or "critical-race" or just plain "critical,"⁶⁴ that law should be more "fact sensitive;" that is what the visiting feminist meant.

58. For a different and more elaborate analysis of consistency in law, see John E. Coons, *Consistency*, 75 CAL. L. REV. 59 (1987).

59. One of the more trivial rules of interpretation solves this problem: take the later enacted on the presumption that it amends preceding inconsistent statutes by implication.

60. *Riggs v. Palmer*, 115 N.Y. 506 (1889).

61. *Id.* at 511 (but over a vigorous and intelligent dissent). *Riggs v. Palmer* reversed the Supreme Court decision; thus the aggregate opinion of the New York judges was equally divided. And not all other state courts, given the opportunity, agreed with *Riggs v. Palmer*, see, e.g., *Demos v. Freemas*, 43 Ohio App. 426 (1931).

62. DWORKIN, *supra* note 4.

63. She seemed quite oblivious to the oxymoron.

64. "Critical," as of some theory, is a word we are supposed to have picked up from the great Frankfurt Institute of Social Research (big names: Theodore Adorno, Max Horkheimer, the director from 1930), which characterized its positions as critical in opposition to the then fashionable phenomenology and Marxism. Goodness knows what it means in its ubiquitous adoption by legal academics, other than "what's in fashion can't be correct, even if it is critical theory that's in fashion."

The argument is misguided;⁶⁵ what it usually means is that the speaker would like the law to pay more attention to facts she thinks important, less to those in vogue with the present law makers – but that is not our concern here. What is of concern is that the generality of a rule precludes precise particularity. In law that means rules cannot be especially fact sensitive; they must choose some classes of facts as variables despite variations in detail within those classes.

Common law decision-making has the power to be infinitely fact sensitive. Any fact can be outcome determinative if you can convince the court it matters. A court can sift as finely as the advocates make possible and through whatever class of facts however denominated. But if there were rules in cases they could not; they would be bound to those classes of facts at the level of generality determined by the precedent court. The difference between statutory rules and common law decisions would evaporate; and with it would evaporate the traditional empirical wisdom that progress in common law is from homogeneous to heterogeneous. And it would be anti-feminist to boot!

F. Anti-Positivism

In three very influential papers now collected into chapters two, three, and four of the book *Taking Rights Seriously*,⁶⁶ Ronald Dworkin launched a sustained attack on positivism, in particular that of H.L.A. Hart.⁶⁷ Part of this attack involved argument against the enactment theory of case law; a judge who adopted this theory, Dworkin wrote, “will encounter fatal difficulties if he pursues that theory very far.”⁶⁸ IRAC fits legal positivism, with the “**R**” as the positive element: there is

65. Isn't the willingness to look into unlimitedly specific facts what led to the “poverty of equity”? Feminists and critical race theorists claim that they are more sensitive to facts, like equity, casting their nets wider; if given power they would install a legal regime of greater fact sensitivity. That's all very well, but the costs are not only in the enactment and enforcement transactions, where the finer grained detail requires many more words and pages in the statute books and much more time in figuring the meanings and inter-relationships. The greater cost is surely in loss of certainty to those who must refer to “the state of the law” to plan future actions, for example persons wanting to build a hospital, or a college, or finance an institute of critical feminist theory. And more: the more detailed the statute the less confidence it reflects in one's fellow denizens, and in the enforcement agencies. This is quite the sort of thing the crit-feminist and crit-race theorists should be aghast at.

66. DWORKIN, *supra* note 4.

67. See H.L.A. HART, *THE CONCEPT OF LAW* (2d ed. 1994).

68. DWORKIN, *supra* note 4, at 110.

a rule put in place (“enacted”) by the precedent court, and owing its status as a rule to that court’s action. It controls because of its position.

Looking at Dworkin’s arguments from the vantage point of twenty-five years’ hind-sight, those he takes to be dispositive appear quite skimpy. But they are, nevertheless, significant, and not just because of their adoption by one of the most important jurisprudences of the late twentieth century. For the most part they point out ways in which the enactment theory does not fit what we do in practice.

In chapter four of *Taking Rights Seriously*, Dworkin writes, “even important opinions rarely attempt that legislative sort of draftsmanship. They cite reasons, in the form of precedents and principles, to justify a decision, but it is the decision, not some new and stated rule of law, that these precedents and principles are taken to justify.”⁶⁹ He then goes on about the “gravitational force” of precedent. I have sometimes used a similar metaphor, calling certain land-mark cases – *Hadley v. Baxendale*,⁷⁰ *Dickinson v. Dodds*⁷¹ — “black holes” because their gravitational force is so great that they suck everything into them, including light.⁷² As an explanation of precedent, gravitational force fails; unless we can down-load the metaphor onto practice it has no operational value. Later, Dworkin attempts to justify the nebulous “gravitational force” as fairness: “The gravitational force of a precedent may be explained by appeal, not to the wisdom of enforcing enactments, but to the fairness of treating like cases alike.”⁷³ This merely begs the key question of the criterion of similarity: what makes two cases alike? Dworkin’s failure to provide an adequate account of precedent does not detract from the force of his argument against the positivist notion of rules in cases: one very seldom finds courts attempting to enunciate rules in their opinions. Further, his:

general explanation of the gravitational force of precedent accounts for the feature that defeated the enactment theory, which is that the force of a precedent escapes the language of its opinion. . . . If an earlier decision were

69. *Id.* at 111.

70. 9 Ex. 341, 156 Eng. Rep. 145 (Ct. Exchequer 1854).

71. 2 Ch. D. 463 (N.Y. 1876).

72. But this is only a device for expressing disagreement with the deference with which they are treated, and for casting doubt on the present rationality, or adaptivity, of those cases; it is not an attempt to account for precedent as a control on judicial decisions.

73. DWORKIN, *supra* note 4, at 113 (the origin of “justice as fairness”).

taken to be entirely justified by some argument of policy, it would have no gravitational force. Its value as a precedent would be limited to its enactment force, that is, to further cases captured by some particular words of the opinion.⁷⁴

It is a sound empirical point; neither judges nor advocates attempt to confine a precedent to a particular string of words. Many cases have a domain of influence considerably more expansive than any of the formulae attributed to them by enactment theorists. In perhaps more cases, the precedential power of an uncongenial decision is "confined to its facts."

H.L.A. Hart, in a justly famed section of *The Concept of Law*, says that the rules created by cases have an "open texture"⁷⁵ and so stand in need of substantial interpretation in application to hard cases. Dworkin takes this up, contrasting such rules with those of chess:

In adjudication, unlike chess, the argument *for* a particular rule may be more important than the argument *from* that rule to the particular case; and while the chess referee who decides a case by appeal to a rule no one has ever heard of before is likely to be dismissed or certified, the judge who does so is likely to be celebrated in law school lectures.⁷⁶

But judges agree that precedents do matter, even though in a particular case they may disagree as to which, and how much. And in making new decisions good judges explain the limitations of what they are doing, as compared with a legislature.

They say, for example, that they find new rules immanent in the law as a whole, or that they are enforcing an internal logic of the law through some method that belongs more to philosophy than to politics, or that they are the agents through which the law works itself pure, or that the law has some life of its own even though this belongs to experience rather than logic.⁷⁷

74. *Id.* at 113.

75. HART, *supra* note 67, at 124-136.

76. DWORKIN, *supra* note 4, at 112.

77. *Id.* There is no acknowledgement of the sources he is using here: Lord Mansfield; see *Omychund v. Barker*, 26 Eng. Rep. 15, 22-23 (Ch. 1744) (argument of Mr. Murray, then Solicitor-General of England, later Lord Mansfield: "[A] statute very seldom can take in all cases, therefore the common law, that works itself pure by rules drawn from the fountain of justice, is for this reason superior to an act of parliament."); and the most famous of all quotable passages generated by OLIVER WENDELL HOLMES, JR., *THE COMMON LAW* 1 (1881).

G. Empirically, It's Just Not What We Do

What do we do when we use previously decided cases? Do we say things like, "The rule of that case tells us that plaintiff must prevail here." No; we say things like, "The facts of that case are indistinguishable from the facts before us." Or, "These two decisions can be reconciled on the grounds that . . ." So we look first to similarities in facts, not to some abstraction from its reasoning called "the rule of . . . case." We take the facts of a prior case, a set of sentences over which that prior court had control and which we cannot dispute,⁷⁸ and test their similarity with those of the case before us. But you can find similarities and differences between the facts of any pair of cases according to your choice of criterion of similarity. Where do we get the criterion? Is it "the rule of the precedent?" The "**R**" of "IRAC"?

Reasoning depends on the security of starting points. If we are to get anywhere, there must be some propositions about which we feel comfortably certain, propositions which, in Holmes' words, one can't help believing.⁷⁹ Looking at a precedent case, we are certain of the facts and the outcome; at least they cannot be contested.⁸⁰ What about the reasoning that connects them, the *ratio decidendi*? If there is a rule in the case, it will be a generalization on the facts according to the constraints of the reasoning, and vested with authority because of the power of the court to make it so. That rule would be a secure point for

78. You can equivocate about this. One of Justice Cardozo's methodological favorites was to re-order, or change the priorities among facts of prior cases so as to fit a rationale for the decision different from that of the opinion. But Justice Cardozo did not invent or change facts.

79. Oliver Wendell Holmes Jr., *Ideals and Doubts*, 10 ILL. L. REV. 1, 2 (1915) ("When I say that a thing is true, I mean that I cannot help believing it.")

80. That does not mean the facts of a prior case are unaffected by the judge's reasons:

The facts of precedent cases, however, are always filtered through the courts' rationales in those cases. In other words, the court in the case at hand, lacking direct access to the facts of the precedent cases, is entirely dependent on the precedent courts' determinations of what facts were worthy of mention; and such determinations in turn depend on what general norms the precedent courts invoked, and how abstract or particular they were.

Larry Alexander, *Incomplete Theorizing: A Review Essay of Cass R. Sunstein's LEGAL REASONING AND POLITICAL CONFLICT*, 72 NOTRE DAME L. REV. 531, 537 (1997). So, for example, it was of no relevance to the author of *State v. Davis*, 1 HILL 46, 19 S.C.L. 46 (1833), that the property from which the defendant separated the plaintiff was a slave; presumably that fact would be given central importance today. The facts of a prior case may be determined at the time of that decision, but their relative importance is determined by the present judge according to present values.

legal reasoning in the future. Our reasoning in a present case would be a matter of deduction from this rule. If the facts of this case fit within the scope of that rule, this case is decided, *stare decisis*; if not, then we must search elsewhere for a different rule from which to deduce our answer. If there were a doubt about the application of such a rule to these facts, we should have to look for further resources to resolve that doubt. The rule, remember, has authority because it was laid down by a court. So, just as in statutory interpretation, we look to the reasons for the enacting legislature's decision, here we would appropriately look to the reasoning of the court that made the rule. Why did it choose this rule? What won over a majority of the judges? The "felt necessities of [that] time, the [then] prevalent moral and political theories" The deduction from the rule will become clear once we have resolved the difficulty of the intent of the rule-making judge(s). It all looks reasonable and somewhat familiar, doesn't it?

Only as a parody. This is undoubtedly *not* what common law reasoning is about. When Holmes wrote: "The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow men . . .,"⁸¹ he was not referring to the time, the prevalent theories, the public intuitions, or the judges' prejudices at some past date when a precedent case was decided; he was referring to the time of the decision at hand: now. Otherwise common law would remain static, incapable of adapting to changing times, changing technology, changing mores and values. Change would be impossible. The first supreme court to get a shot at a type of issue would settle it forever. The necessities of a different time, the prejudices of another age, would set the law. Even worse: Because it didn't all happen at once, the times whose social make-up determined the rules would vary according to the time of the first decision.⁸² Judges and lawyers would become historians, seeking not justice now but justice as it was perceived at various times past. So, obviously, the enactment theory does

81. OLIVER WENDELL HOLMES, JR., *THE COMMON LAW* 1 (1881).

82. This would not be like the British under *London Street Tramways Co. v. London City Council*, [1898] A.C.375 (and prior to the House of Lords Practice Statement on Precedent, [1966] W.L.R.1234, 3 All E.R. 77), when a judge was absolutely bound by prior decisions. The British always eschewed the idea of there being rules in cases, requiring each member of a panel in the House of Lords to write a separate opinion (speech) to inhibit the use of catchy turns of phrase as if they were rules. For a period in the 18th century the House of Lords even barred publication of its opinions (speeches) to prevent their being quoted as rules.

not fit the common law as we know it. Common law could not have endured for so many centuries in such a wide variety of social circumstances without being sufficiently malleable to adapt constantly to multifarious and changing societal needs.

Just as the governed take notice of common law's behavioral constraints from the requirements of decent behavior in society, judges also draw their reasons from that same source. The criteria of similarity a judge must use to rely on or distinguish a precedent come from society at the time of decision; that is, where we look for the resources on which an opinion stands. Great opinions ring true to their audience: they are in accord with the "felt necessities," they are convincing to a public that need know nothing of the social conditions at the time some historical precedent was laid down. A rule gets its power from the authority of the rule maker; the common law gets its power from its ongoing rationality. An irrational or immoral common law decision is a wrong decision. Chief Judge Charles Breitel in a deservedly oft-quoted passage wrote of common law decision-making:

The judicial process is based on reasoning and presupposes — all antirationalists to the contrary notwithstanding — that its determinations are justified only when explained or explainable in reason. No poll, no majority vote of the affected, no rule of expediency, and certainly no confessedly subjective or idiosyncratic view justifies a judicial determination. Emphatically, no claim of might, physical or political, justifies a judicial determination.⁸³

As Lord Mansfield said long ago, common law "works itself pure" by drawing on "the fountain of justice," not by relying on the utterances of officials from the past.⁸⁴

Finally, the enactment theory of common law decisions is incompatible with ordinary academic practice. From the hypothesis that a

83. Charles Breitel, *The Lawmakers*, 65 COLUM. L. REV. 749, 772 (1965).

84. This account of common law and stare decisis is often called "reasoning by analogy:" "[Analogical reasoning in law] presumably involves comparing the facts of the case at hand with the facts of various precedent cases in order to determine which of the precedent cases are relevantly like and unlike the case at hand." Alexander, *supra* note 80, at 537. It is pretty much accepted today. See, e.g., Edward H. Levi, *An Introduction to Legal Reasoning* 7-18 (1948); *Planned Parenthood v. Casey*, 505 U.S. 833, 854-856, 864 (1992); M.B.W. Sinclair, *The Semantics of Common Law Predicates*, 61 IND. L.J. 373, 390-395 (1986); MELVIN ARON EISENBERG, *THE NATURE OF THE COMMON LAW* 58-61 (1988); Heidi Li Feldman, *Objectivity in Law*, 92 MICH. L. REV. 1187 (1994); MICHAEL SINCLAIR, *GUIDE TO STATUTORY INTERPRETATION* 21-24 (2000).

common law decision makes a rule, it would follow that theoretical approaches such as law-and-economics could be dismissed a priori. The legal economists' procedure of showing how diverse cases can be understood in terms of a uniform goal of maximizing economic efficiency is incompatible with the notion of judge-made rules. Only where the judge in her opinion actually relied on an economic efficiency analysis would the typical "law and economics" argument apply. That we take such theories and their proponents seriously shows yet again that we do not take the notion of "rules in cases" seriously.

IV. COUNTER ARGUMENTS

A. *What about the Rule in Shelley's Case?*

In *Foakes v. Beer*,⁸⁵ the House of Lords decided that a creditor's promise to accept a lesser sum in full satisfaction of a debt was not enforceable. It is known as "the rule of *Foakes 'n' Beer*." Who knows the facts of *Foakes v. Beer*? Not many; but all lawyers (all?) know the rule. Surely that must be a rule made by a court in a case. And do we not have a "Rule in *Shelley's Case*,"⁸⁶ something about sequential future interests, learned for an exam but otherwise known only to estate planners, even though the name is remembered by all?⁸⁷ Don't these examples show that, at least in great cases, courts do make rules?

They don't; but it takes a little work to explain them away.

Up through the second half of the nineteenth century, the western world believed that there was one true morality, laid down by God at the construction of our universe, an ethical blueprint just like the empirical blueprint scientists sought out in their experiments.⁸⁸ This blueprint for ethical behavior was the source of the common law. Common law decisions were manifestations of the universal moral law in action. So they could be seen as deductions from, or illustrative glimpses of that universal and timeless law.⁸⁹ Christopher Columbus Langdell at Harvard Law School could consistently posit that all there was to be known about law could be found in the cases in his li-

85. 9 A.C. 605 (H.L. 1884).

86. 76 Eng. Rep. 206 (K.B. 1581) it had a predecessor, *Abel's Case*, Y.B. 18 Edw. II. 577 (1324).

87. It is said to be defunct in the law of future interests, but in some parts of the country it is used as a euphemism for "My client hasn't paid my bill."

88. See SINCLAIR, *supra* note 84, at 31-32.

89. For this reason they controlled statutes in the early days – see *The Case of the College of Physicians, Dr. Bonham's Case*, 77 Eng. Rep. 646 (C.P. 1610) – and when statutes became supreme, those in derogation of the common law were construed narrowly.

brary; those cases were windows to a coherent, seamless scheme, the “brooding omnipresence in the sky.”⁹⁰

Even when faith waned as a source of moral determinacy at the start of the twentieth century,⁹¹ it didn’t matter much in England. Most of England’s lawyers and judges, and all of its law lords, came from an upper class education system that espoused a common set of values, the superiority of which to any other in the world they saw no reason to doubt. Thus, their decisions would draw on a uniform source, very slow to change, appearing to them as “The Moral Law.” But in the United States it did matter. Immigrants from all over the world brought enlightened and variegated ways to different parts of the continent; rapid technological development and changing economic structure along with advances in scientific understanding of the empirical world undermined the universality of any one conception of rectitude. Common law cases decided in local fora depended on local customs and local values. How else would a denizen, far too busy on the farm or in the factory to be looking up books, have notice of it? How else were judges like Mansfield, Holmes, Brandeis, Cardozo, and Traynor able to put such moves on the tradition?

Throughout long periods, most of the law remains stable. Just think of those basic torts: one may not wield one’s scythe so negligently as to lop off one’s neighbor’s arm without paying compensation; and that goes for anything similar to a scythe in negligent implementation. A society simply could not survive without some such rule, especially a society too big and complex for everyone to know everyone else. In commerce, where people commonly inquire as to the law before acting, at least in larger transactions, there is an incentive to keep law stable “because . . . it is more important that the applicable rule of law be settled than that it be settled right.”⁹² When such fundamental

90. *Guar. Trust v. York*, 326 U.S. 99, 113 (1945).

91. It appeared to be making a comeback towards the end of the twentieth century when post-modern *nouveau solipsists* had to put their faith in faith because they denied everything else. Mercifully, that fad seems to have fallen from fashion as fast as it arose.

92. *Burnet v. Coronado Oil and Gas Co.*, 285 U.S. 393, 406-407 (1932), (Brandeis, J., dissenting) (the full sentence is: “Stare decisis is usually the wise policy, because in most matters it is more important that the applicable rule of law be settled than that it be settled right.”) Lord Mansfield himself said much the same, but explicitly restricted to commercial contexts: “In all mercantile transactions the great object should be certainty: and therefore, it is of more consequence that a rule should be certain, than whether the rule is established one way or the other. Because speculators in trade then know what ground to go upon.” *Vallejo v. Wheeler*, 1 Cowp. 143, 153, 98 Eng. Rep.

cases come before the courts and get decided according to society's needs, it does no harm to talk of them as "the rule of . . .". In contracts, we have for a long time had a fetish about consideration. *Foakes v. Beer*⁹³ was a manifestation of that fetish, not the first of its line, but the first to reach the highest court of its jurisdiction, and so it took on a mana and a momentum well beyond its true worth. "The Rule of *Foakes 'n' Beer*" simply names a regularity in legal thinking that has persisted over hundreds of years, and persists in classrooms and in England and New York to this day, even if people in commerce mostly ignore it.⁹⁴ It shows *stare decisis* in action when the source of reasons doesn't change in relevant respects.

B. Courts Today say They are Adopting or Following Rules

Courts today sometimes *say* they are adopting or following rules; doesn't that show that courts make rules? Take as a familiar example the rules laid down by California's supreme court for determining whether a plaintiff might recover for negligently inflicted emotional harm, the *Dillon* factors.⁹⁵ Other courts have adopted the rule, adopted it with modifications,⁹⁶ and rejected it.⁹⁷ California itself has stuck with it in egregious circumstances that would tempt even the most stone-hearted to wilt.⁹⁸ Surely this is treating *Dillon* as stating a rule.

1012, 1017 (K.B. 1774). Robert Coase, in the only law review article to earn its author a Nobel Prize, provides a reasoned economic argument that these great jurists' instincts were correct. But this same point makes commerce more suited to statutory than common law control, and so it has, for the most part, become.

93. *Foakes v. Beer*, 9 App. Cas. 605 (1884) relied on *Pinnel's Case*, 5 Coke's Rep. 117a, 77 Eng. Rep. 237 (Com.Pl.1602).

94. Estate planning shares the quality remarked by Mansfield and Brandeis of needing certainty more than justice: may *Shelley's Case* live on.

95. *Dillon v. Legg*, 441 P.2d 912, 920 (Cal. 1968) ("(1) Whether plaintiff was located near the scene of the accident as contrasted with one who was a distance away from it. (2) Whether the shock resulted from a direct emotional impact upon plaintiff from the sensory and contemporaneous observance of the accident, as contrasted with learning of the accident from others after its occurrence. (3) Whether plaintiff and the victim were closely related, as contrasted with an absence of any relationship or the presence of only a distant relationship.").

96. See, e.g., *Portee v. Jaffee*, 417 A.2d 521 (N.J. 1980) (adding a 4th, horribleness, requirement).

97. See, e.g., *Tobin v. Grossman*, 24 N.Y.2d 609 (1969); *Bovsum v. Sanperi*, 61 N.Y.2d 214 (1984); Florida still requires some personal impact to the plaintiff; *R.J. v. Humana of Florida Inc.*, 652 So.2d 360 (Fla. 1995).

98. See *Thing v. LaChusa*, 771 P.2d 814 (Cal. 1989).

This is one of the last remaining areas of pure common law, not yet interfered with by legislation. *Prima facie*, it appears to govern an area of social behavior where people do not take notice of the law before acting. The New Jersey supremes said as much: "We are not dealing with property law, contract law or other fields where stability and predictability may be crucial. We are dealing with torts where there can be little, if any, justifiable reliance and where the rule of *stare decisis* is admittedly limited."⁹⁹ That may be true of primary interpersonal behavior; the state of the law doesn't matter, decent people just don't do it. But the state of the law certainly is important to insurers and lawyers who must settle claims. These days it is so important that the California supremes in 1988 wrote, "a bright line in this area of the law is essential."¹⁰⁰ Didn't *Dillon* lay down a rule drawing that bright line?

Because a court defers to a prior decision, and in doing so cites the need for certainty, does not mean that there must be a rule? There can be stability and certainty, and a court can defer to a prior decision without there being a rule. That we have *stare decisis* makes this the *normal* judicial behavior, the default decision-making, the course that can be followed with little further justification.¹⁰¹

But what is the difference between that and rule making? After all, the *Dillon* factors come to us in a verbal formulation of the requisites for a plaintiff to prevail, and that is a rule, isn't it? Not quite. The key difference is this: a common law position rests on reasons telling us why it suits the needs of society; when that adaptive connection fails, so does the power of the precedent. It will show up in the ease with which the old cases will be distinguished or re-justified on new grounds.¹⁰² As Chief Judge Breitel wrote, common law "is based on reasoning and presupposes . . . that its determinations are justified

99. *Falzone v. Busch*, 214 A.2d 12, 17 (1965) (in the course of justifying putting a big move on a New Jersey position stable since 1900).

100. *Elden v. Shelden*, 758 P.2d 582, 588 (Cal. 1988) (denying emotional distress damages to the homosexual life partner of the victim because he was not closely related, the third of the *Dillon* factors).

101. I first picked up the style of much of the argument of this section, and of many other parts of this paper, from LUDWIG WITTGENSTEIN, *THE BLUE AND BROWN BOOKS* (1958); it is clearly set out as anywhere in the first part of *The Blue Book*, although, of course, about our use of words, not about law.

102. *See, e.g., MacPherson v. Buick Motor Co.*, 217 N.Y. 382 (1916) (where not a single rule gets changed).

only when explained or explainable in reason."¹⁰³ Rules are formulae with authority; they are formulated by an authority, and they control because they are there, that is, by force of their enactment.¹⁰⁴

Thus – and this ought not to be surprising — one needs to look to the reasoning of a case. These cases are about limiting potential liability. Our courts have always been so afraid of imposing on an unsuspecting populace, in Cardozo's incomparably stylish words, "a liability in an indeterminate amount for an indeterminate time to an indeterminate class."¹⁰⁵ But on its own this will just not do as a decisional limitation; it may motivate a limiting requirement, but alone, it would work to support *any* decision so long as it was limiting. So it finds its expression in more or less arbitrary limitations that hold their precedential course because they are sufficiently stable, reasonably determinate, and adequately in tune with societal needs. This is not about rules, it's about social rationality.

C. Courts Draw Lines, which is the Same as Making Rules

We've seen an example above, of the California supreme court's saying, "a bright line in this area of the law is essential."¹⁰⁶ As one court said, it may be difficult to do, but a line must be drawn.¹⁰⁷ Legislatures draw lines when they make statutes. Courts draw lines when they make rules akin to statutes. The argument is clear: Courts draw lines; drawing lines is making rules; *ergo*, courts make rules.

The short answer is that courts don't draw lines. They don't have to, nor do they have the power to. Nobody in decisional law needs to draw a line. Suppose you are an advocate: you say, in effect, that although the line is hard to draw, it is clear for *x-y-z* reasons that your client is on this side of it. Counsel for the opposing party says those are

103. Breitel, *supra* note 83, at 772.

104. As Breitel said, quite the contrary of common law: "Emphatically, no claim of might, physical or political, justifies a judicial determination." *Id.*

105. *Ultramares Corp. v. Touche*, 255 N.Y. 170, 178 (1931).

106. *Elden v. Sheldon*, 758 P.2d 582, 588 (Cal. 1988) (denying emotional distress damages to the homosexual life partner of the victim because he was not closely related, the third of the Dillon factors).

107. *See, e.g.*, *Warner Bros. Pictures v. Columbia Broad. Sys.*, 216 F.2d 945, 950 (9th Cir. 1954) ("[T]he line between infringement and non-infringement is indefinite and may seem arbitrary when drawn; nevertheless it must be drawn.") *citing* *Nichols v. Universal Pictures Corp.*, 45 F.2d 119, 122 (2d Cir. 1930) (Hand, J.) ("[W]hile we are as aware as anyone that the line, wherever it is drawn, will seem arbitrary, that is no excuse for not drawing it; it is a question such as courts must answer in nearly all cases.").

very persuasive reasons, but nevertheless, for reasons *u-v-w*, it is clear that your client is on the other side of the line. Then the judge, oozing sagacity, says that the case is a close one with neither party clearly prevailing, the line is indeed difficult to draw, and although reasons *x*, *y*, *v*, and *w* are quite compelling, she is persuaded that your client is just over this side of it. Nobody drew a line. What they did was give reasons for deciding one way or the other using the line as metaphor for the decision. There is never a line: there are only competing reasons and the evaluation of them. That's common law: rationality in action.

D. How Can There be Stare Decisis Without Rules?

Oddly enough, this question should run the other way. Remember the distinction between *horizontal* and *vertical stare decisis*?¹⁰⁸ Horizontal *stare decisis* requires a court to follow its own prior decision unless something exogenous to the law has changed sufficiently to make the prior decision now discordant with justice. That's the interesting and difficult one. Vertical *stare decisis* requires a court lower in the hierarchy to follow decisions of courts senior to it. This one is easy to see: it is not much more than what it is to have a hierarchical system. However, it is extremely powerful, incorporating horizontal *stare decisis* and all the social power of the mandarin on top. And, as a practical matter, overworked trial court judges, seldom specialists in an area of law in which they are called upon to rule and not in a position to start a jurisprudential empire, are just as happy to follow the words of their seniors.

At least for horizontal *stare decisis*: how can there be precedent if cases enact rules? Some writers of enactment theory textbooks say there is no horizontal *stare decisis*. For example, "[A]ppellate courts, or so-called 'higher' courts, are not legally bound to adhere to the principle of *stare decisis*."¹⁰⁹ This follows simply from the concept of rule. "A legal rule established by the *ratio* of a case forms a precedent for application in future cases."¹¹⁰ If it's an established rule of law, then a subsequent court must follow it; but a supreme court has the power to

108. The earliest I have found this distinction drawn, although not with its present appellation, is *Veley and Joslin v. Burder*, 163 Eng. Rep. 127, 133-34 (Consistory Ct. of London 1837).

109. CATHY GLASER ET AL., *THE LAWYER'S CRAFT* 23 (2002). See also MANCHESTER, *supra* note 7, at 3-4.

110. MANCHESTER, *supra* note 7, at 3. See also Simpson, *supra* note 4, at 79-82.

overrule its precedents;¹¹¹ so it would be *false* to say that a supreme court *must* follow the rules of its prior cases. And being consistent, these authors therefore say that *stare decisis* does not apply to highest level courts, like New York's Court of Appeals, England's House of Lords, or the United States Supreme Court.

That is perhaps the worst and most misleading fall-out of the enactment theory of IRAC. It is quite simply false, and quite simply gives the students a truly half-baked conception of *stare decisis* – and a conception of very little social interest or power.

Yet how is it possible to have *stare decisis* without rules in cases? This is not the place for a full-blown account of *stare decisis*. But let me offer a very brief example borrowed from a recently published introductory textbook.¹¹²

Shlomo is in the 10th or 11th grade. He wants to go to Milly's birthday party, her "sweet 16th." Will his parents let him? In the previous month, he was not allowed to go to Jerry's party because it was on a Wednesday and he had to go to school the next day. That doesn't apply here. That is distinguishable: Milly's party is on Saturday. And he was not allowed to go to Rosie's party because there was no parental supervision. That doesn't apply here. That is distinguishable: Milly's Mom is going to supervise this one. (Notice in passing that we distinguish facts in this case from facts in the precedent cases, not facts under an antecedently determined rule.) Now we know there's a presumption: parents always say "No" unless convinced otherwise. That puts the burden on Shlomo to come up with an argument, and it shouldn't be difficult. All his classmates are going, and he would stand out as exceptionally infantile if not allowed. Parties are normal processes of adolescent socialization, which he needs. It would help him a lot to have a precedent, something like having been allowed to go to Julie's party on a Friday night, which was supervised by Julie's parents. But in its absence he will be trying to set a precedent – at which he will surely succeed someday, if not this time. He's in this with a chance – unless of course his oldies find out that Milly's Mom is a

111. "For any number of reasons, the United States Supreme Court, and state supreme courts, might decide that a previous rule was wrong and OVERRULE the case or cases that established it." GLASER, *supra* note 109. *But see* Planned Parenthood v. Casey, 505 U.S. 833, 854-856, 864 (1992).

112. GLASER, *supra* note 109, at 9-10.

lush, or that she has a voracious appetite for high school boys, especially those who, like Shlomo, can say “Piero della Francesca.”¹¹³

In that story there were no rules. There were only cases with facts, outcomes, and reasons. There are other reasons of potential importance waiting in the wings; there always are. Some of those reasons might change. For example, the supervision reason should change as Shlomo grows older. There is a presumption in favor of one outcome; there always is. But such presumptions also change as society changes, as one expects this one will over time.

For now, Shlomo can put his hopes in his arguments from normalcy and social utility – and his oldies’ ignorance of the propensities of Milly’s Mom. Nowhere in the story is there a rule. Talk of a rule would be quite superfluous.

E. Prospective Stare Decisis Requires Rules

Professor Fred Schauer has argued that courts should always eschew justice in the particular case in favor of global rule-making efficiency.¹¹⁴ According to Schauer, common law courts should forego optimal immediate decisions for the sake of more general ideals, expressible as rules (more characteristic of legislative decision-making.) The only restrictions on the scope of Schauer’s thesis are implicit: the court should be of consequence and its opinions reported. The constraint of precedent, Schauer argues, applies prospectively as well as retrospectively:¹¹⁵ “the conscientious decisionmaker must recognize that future conscientious decisionmakers will treat her decision as precedent, a realization that will constrain the range of possible decisions about the case at hand.”¹¹⁶ Thus, the judge is restrained by the force of precedent even if there has never been a similar case in the past: this decision will, as a precedent, have progeny for which the court must take responsibility. *Ergo*, in making a decision the judge must acknowledge how, in the future, that case may be interpreted and used in “the many directions in which it might be extended.”¹¹⁷ So in

113. *AMERICAN PIE* (Universal/MCA Pictures 1999) (the last words of the geeky Finch before the scene fades as he is seduced by Stiffler’s mom).

114. Frederick Schauer, *Precedent*, 39 *STAN. L. REV.* 571 (1987). Dean Roscoe Pound made a somewhat similar argument but limited to the situation of dispersed, newly developing communities in the United States with weak and inactive legislatures. See generally ROSCOE POUND, *THE SPIRIT OF THE COMMON LAW* 120 *et seq.* (1921).

115. Schauer, *supra* note 114, at 571-74, 578, 589.

116. *Id.* at 589.

117. *Id.* at 574.

reaching her decision, the judge must take into account future cases that might be assimilated under the description of this one.¹¹⁸ "The decisionmaker must then decide on the basis of what is best for *all* of the cases falling within the appropriate category of assimilation."¹¹⁹ Taking account of all future decisions that are the potential progeny of this decision can require a less than optimal, less than just decision in the case at hand.¹²⁰

This argument is misconceived. Remember that the general principles used to justify a decision are not binding on a future decisionmaker. Common law, as we have already noted, is not expressible in any definitive string of words. Thus to make Schauer's argument work in practice, the present court would have to withhold some facts and/or reasons from its report, facts and reasons that would have been relevant had it been making an optimal judgement. But if some particular fact in a future case is significant enough to matter it will *for that very reason* be grounds for distinguishing that case from the one presently being decided. Only if the present court were more competent or more thorough and dedicated than future courts would Schauer's argument hold. And of course there are no sufficient grounds for the present court's taking such an attitude. Parties to present litigation should not be denied a just decision merely because the judge takes a patronizing attitude to other and future judges.

F. *Bad Decisions by Great Judges*

I said earlier that a characteristic of a rule is that it preempts reason, becoming itself a complete reason for following it. That means one would be required to follow a rule even when one correctly thought it wrong (morally, economically, or suchlike.) The point was that the "rules" of cases are not like that; they are not applicable independently of the reasons on which they were posited. What then do I say about the obvious counter-examples? Holmes got it wrong in *Moore v. Bay*;¹²¹ Brandeis got it wrong in *Buck v. Jewell-LaSalle Realty Co.*¹²² Yet

118. This is not as implausible as it may first appear. Think of the example used by Schauer: "[F]ear that allowing restrictions on Nazis because they are Nazis will establish a precedent for restrictions on socialists because they are socialists. . . ." *Id.* at 578. As he notes, the example is a reference to the dispute over allowing Nazis to march in Skokie, Illinois.

119. *Id.* at 589.

120. "[I]n some cases we will make decisions that are worse than optimal for that case taken in isolation." *Id.*

121. *Moore v. Bay*, 284 U.S. 4 (1931).

these decisions survived and did in fact preempt good reason, which these eminent justices had missed and/or mis-applied.¹²³

One of the things that we know about judges such as Holmes, Brandeis, Cardozo, Hand, Traynor, or Francis (add your favorites) is that they were very, very good at assembling and expressing reasons justifying decisions. That's one reason they wrote so many landmark opinions compared with other judges. Subsequent judges have been inclined to defer to their abilities in a way that they do not seem to be inclined to defer to judges of lesser stature. These great jurists were authoritative because they were expert. We are similarly inclined to defer to Einstein, but many of the more enlightened are not.

This phenomenon is rather like our acceptance of the differentiation rule for x^n : "the mathematics teacher said it, and that's good enough for me;" "Brandeis said it, and that's good enough for me." That certainly must be the feeling of many an overworked judge. Even if she aspires to blazing a jurisprudential trail, she is not going to do it in all fields, or in every case on her crowded docket. If somebody has done the reasoning before, and with style, authority, and wit, why do it again? The answer is: only if an advocate can convincingly demonstrate the non-applicability of the precedent's justifying reasons to this case.¹²⁴

So these are not counter-examples. In fact, they are just what you would expect of courts that do not and cannot make rules. If courts could and did make rules, then we would have real trouble accounting for the differential stature of judges. Each judge would in virtue of her office have equal rule making power; it would go with deciding cases. Awarding some judges more rule making power than others would be acceding to a government of men, not of law.

G. *Vertical Stare Decisis Produces Rule-Governed Common Law*

Let's return to the distinction between vertical and horizontal *stare decisis*. One effect of vertical *stare decisis* is to give rule-like power to the *dicta* of Supreme Court opinions. Think, for example, of the impact of

122. *Buck v. Jewell La-Salle Realty Co.*, 283 U.S. 191 (1931).

123. Both those decisions were interpretations of statutes; thus their endurance had going for it the fact that Congress could have but did not correct them. But that is an excuse of no present interest.

124. Or, perhaps, the case is in an area upon which the judge really wants to leave her mark.

footnote four of *Carolene Products*.¹²⁵ It was merely an aside suggesting that instead of a presumption of constitutionality, a stricter scrutiny would be given to laws affecting a "discrete and insular minority," but it "helped launch both a new substantive due process and equal protection doctrine by which the Court would closely scrutinize laws affecting political and personal rights."¹²⁶

So I concede: the pronouncements of recent higher courts, especially supreme courts, whether *dicta* or holding, do have a rule-like function to lower court judges and legal practitioners.¹²⁷ Advocates find it effective to put quotes from Supreme Court opinions in their briefs, especially memorably well turned phrases. A quotable string of words – like the "discrete and insular minority" of *Carolene Products* – has its own legs, although not always for the better.¹²⁸ Alliteration has, perhaps, made as much bad law as hard cases.

At first glance this appears to be a very big concession, almost big enough to eat up the rest of the argument. After all, in practice one would seldom advise a course of action expecting to change the Supreme Court's mind when the ensuing dispute got there. One advises deference and negotiating around the problem. Prosecutors, estate planners, front office social workers – all in the front lines of legal decision-making – follow the jurisdiction's decisions: "theirs is not to reason why." And that is most of the practice of law. So why not treat pronouncements from above as rules?

In one respect that is correct. Recent opinions do come down to the legal cogniscenti as commanding, even in their *dicta*. But that doesn't make them rules; it just makes them commanding, and only to

125. U.S. v. *Carolene Products Co.*, 304 U.S. 144, 152 n.4 (1938) ("There may be narrower scope for operation of the presumption of constitutionality when legislation appears on its face to be within a specific prohibition of the Constitution, such as those of the first ten amendments, which are deemed equally specific when held to be embraced within the fourteenth. . . . [T]hose political processes ordinarily to be relied upon to protect discrete and insular minorities . . . may call for a correspondingly more searching judicial inquiry.").

126. JETHRO K. LIEBERMAN, *THE EVOLVING CONSTITUTION* 89-90 (1992).

127. I had to add the modifier "recent:" it is hard to believe that a trial court in, say, Connecticut today would entertain an action by a father for the seduction of his daughter, merely because the most recent decision of the supreme court approved it. *Smith v. Richards*, 29 Conn. 232 (1860).

128. The same pen that gave us the line about falsely shouting fire in a crowded cinema also gave us "three generations of imbeciles are enough" to justify the forced sterilization of a competent woman. *Buck v. Bell*, 274 U.S. 200, 207 (1927). See STEVEN JAY GOULD, *THE MISMEASURE OF MAN* (1996).

that limited population that knows about them, little more than a selection of lawyers. So this is not really much of a concession. This conception of common law rules by vertical *stare decisis* is a conception of rules for lawyers only, and those who take and pay for their prospective advice. The ordinary denizen without legal training will have no notice of and no duty to comply with the so-called rule. That is hardly a rule of the law as we know and love it. Even for lawyers it is superficial at best. Usually those following a supreme court decision will formulate their own version of the "rule;" so it will be neither stable nor reliable as a formula, but have to compete with alternative formulations. Any particular formulation will carry no authority as a rule, so will always be suspect beyond the clear scope of the precedent. Practicing law by headnotes is hardly to be encouraged.

H. Verbal Tricks

But, it might be objected, I have misconceived the concept of *rule* as it is used in IRAC and "the rule of the case." Rules can change from case to case. In the important cases, the ones that make it into casebooks, the prior rule always gets modified or completely replaced; that is what makes such cases important. This, I have heard it said, is one of the more difficult points to convey to students. They tend to think that because *such-and-such* was the rule, it must control *this* decision; but no, it can be modified.¹²⁹ All of my arguments above, like these students, have missed this point.

In section two, above, I sketched the perimeters of the common usage of rule. The idea was to avoid a merely verbal dispute, but without being dogmatic. If "rule" can mean whatever the IRAC proponent chooses, then there is no discussion. And if "rule" can mean something quite unlike what in everyday usage we take it to mean, then IRAC might be saved, but the students will be deceived, defrauded even.

A rule that can change from case to case is not a rule of law. Lon Fuller's good King Rex's seventh way to fail to make law (he was a codifier) was to change the code at every change in social condi-

129. "Holding"? I think those wedded to finding the "holding" of a case mean some verbal formula of rather low level of generality, perhaps substituting common nouns, like "defendant" and "taking," for the proper names and actions, like "Eleanor Rigby" and "theft of rice."

tions.¹³⁰ Recall the argument from section two: If the content of a rule could change at any time then the governed cannot rely on it to plan their actions or settle their disputes. Statutes cannot be changed without the proper ritual and notice to the governed. No such mechanism is available to the common law judge; her decisions are about facts that occurred well in the past. Thus the students' pre-law, common place understanding of the word "rule" is correct: A rule cannot change from case to case and still be a rule. No wonder it is hard to convince them of the contrary.

But of course the teacher of the IRAC method seldom has to deal with these arguments. They occur at separate times, and in separate courses. IRAC can be explained and defended to unsuspecting first year students by stipulating the meaning of the "rule" of its "**R**" as being of the variable kind. It is a straightforward example of the stock rhetorical ploy mentioned in section two. If all one wants is to save a thesis in a particular forum, it will often work. But if one is to convey understanding of the phenomena in question, it won't do at all.

5. WHY IS IRAC SO POPULAR?

Why do so many sell such a bill of goods to unsuspecting first year law students?

A. *Security?*

Students of law in their first year suffer desperate intellectual insecurities. Many report that their introduction to law is like learning a new language, but all the while being required to answer questions in it. One hears even from the brightest that they do not know what is going on, that they are struggling through a terrain quite foreign to them with maps whose signs and symbols are in a language equally foreign. They commonly believe that the teacher is "hiding the ball," that there are answers, and that they are being gratuitously tormented with their own ignorance when grilled on some fact pattern. This is all familiar, you've heard it all before, right?

Reasons rooted in society exogenous to the law books make for uncertainty. The student is as authoritative as the professor? ("Give me a break!" you can hear the anxious students mutter.) Justice Scalia

130. The citizenry protested in a pamphlet "carrying scurrilous cartoons of the king and a leading article with the title: 'A law that changes every day is worse than no law at all.'" LON L. FULLER, *THE MORALITY OF LAW* 37 (1964).

says it “explains why first-year law school is so exhilarating: because it consists of playing the common-law judge, which in turn consists of playing king How exiting!”¹³¹ My impression is rather that it creates rampant insecurity, sending students scurrying for the shelter of black letter study guides. How many times does one hear a student say “So you say that . . .,” wanting to confirm what she’s written down as the real thing? Finding the source of common law’s reason in society is doubly burdensome: first one has to identify the relevant values; second one has to see how those values support or undermine a proposed decision. It is a heavy trip to lay on a new student.

Compare rules. Rules are secure. You can even learn them off by heart and recite them back. A rule has authority; it is reliable; it saves one the responsibility of thinking, of justifying, of supporting some reasoned priorities. A rule, as we have seen, stands in for reasons, preempts thought and the risk and responsibility associated with it. IRAC provides just the straw for a floundering I-L to clutch. It may not be easy to spot the issue, but once you do, you can recite the rule and apply it to yield a decision, an authoritative decision, justified because it is under the rule. What a substitute for understanding!

It would be so nice if only it would work. But it won’t; too many changes, especially in case-books, spanning, as they do, centuries within a sub-section. So we have to introduce the notion of changeable rules, rules that cannot be relied on because the next case may abandon them in favor of the minority or the new or the California or even the Restatement position. What really count are the reasons supporting a rule. Why keep calling them “rules”? At its best it is verbal sleight of hand, at worst patronizing delusion.

B. Perhaps it is Effective to Convey Substance

How then could a teacher in good conscience pass off IRAC as a workable model? It isn’t even an approximation. Remember in junior high school chemistry when you learned that an acid plus an alkali yields a salt plus water, and the whole thing gets a bit warmer? There was somebody with the wit to ask why it gets warmer. We were told “It’s the latent heat of fusion.” What patronizing bilge water! That’s merely big words for “It gets warmer.” But we swallowed it and regurgitated it on exams! Is that all that is going on with IRAC? An easy and patronizing way for a teacher to duck hard questions?

131. ANTONIN SCALIA, *A MATTER OF INTERPRETATION* 7 (1997).

I don't think so. There are any number of serious scholars who have believed, and some who have argued that there are rules in cases. There are even people who teach the Restatements as though they were statutes; whether from an inability or unwillingness to come to grips with the common law, I don't know, but they do it and quite possibly it is effective in conveying substance to students. In the end few students seem to be taken in methodologically. Somehow most come out of the three years of law school with a reasonable grip on what it is to distinguish and reconcile cases, and what counts as a theory for such purposes.

Could it be that IRAC allows a teacher to suspend serious questions about the nature of reasoning in law in order to get on with the substance of his subject area? Surely there is enough to do for both teacher and students in a torts or contracts class without having also to do legal reasoning. If there doesn't seem to be much harm done in the end – if, that is, the students do seem to graduate without the illusion of rules in cases – why not duck the methodological jurisprudence?

This last would seem to be a reasonable answer, if a bit too speculative. Empirically it is unsound, because it is primarily in introductory legal reasoning and research and writing classes that we find IRAC, not in substantive courses. But this and the insecurity hypothesis of the previous subsection are all that I can come up with.

VI. CONCLUSION

I suppose I might be accused of waging a merely verbal war: I want to stiffen up the definition of "rule" so as to preclude the "**R**" of IRAC. But if that is correct, just think what sort of rule that "**R**" must stand for. It will not have the authority, or the power, of the state behind it;¹³² it will be a rule one must obey without notice of what it requires,¹³³ and one that can operate retroactively;¹³⁴ it will be a rule that does not have a stable formulation, one which is subject to change at any moment;¹³⁵ if you can discover the relevant rule in advance of action, a judge may change it if you go to the mats;¹³⁶ and it will be a rule that may have a contradictory first cousin, consistency not being

132. See text *supra* at § 3A.

133. See text *supra* at § 3B.

134. See *id.*

135. See text *supra* at § 3C.

136. See text *supra* at § 3A, C.

especially dear to its heart.¹³⁷ If IRAC's *R*s can bear all that and still be called rules, so be it. But could they be rules of law?

The great twentieth century jurisprude Lon L. Fuller summarized his story of good King Rex and the eight-fold path to failure in law making:

The first and most obvious lies in a failure to achieve rules at all, so that every issue must be decided on an ad hoc basis. The other routes are: (2) a failure to publicize, or at least to make available to the affected party, the rules he is expected to observe; (3) the abuse of retroactive legislation, which not only itself cannot guide action, but undercuts the integrity of rules prospective in effect, since it puts them under threat of retroactive change; (4) a failure to make rules understandable; (5) the enactment of contradictory rules or (6) rules that require conduct beyond the powers of the affected party; (7) introducing such frequent changes in the rules that the subject cannot orient his action by them; and, finally, (8) a failure of congruence between the rules as announced and their actual administration.¹³⁸

The list is disjunctive: failing any one is failing to make law. The "rule" that would fit the "*R*" of IRAC would also fit (2),¹³⁹ (3),¹⁴⁰ (5)¹⁴¹, (7),¹⁴² and (8).¹⁴³ Five failures out of eight when any one would do is a pretty bad score. My thesis is that these failures in and of themselves make such "rules" also violate (1), the "failure to achieve rules at all."¹⁴⁴ The absence of authority behind the verbal formulations called "rules" in IRAC makes that failure complete.¹⁴⁵

But suppose I concede that IRAC's "rules" are indeed rules. Could they be rules of law? Fuller at least concludes that one ought not have to obey them:

137. See text *supra* at § 3D.

138. FULLER, *supra* note 130.

139. *Id.* at 39, 49-51.

140. *Id.* at 39, 51-62.

141. *Id.* at 39, 65-70.

142. *Id.* at 39, 78-81.

143. *Id.* at 39, 81-91.

144. *Id.* at 39.

145. That leaves IRAC's "rules" with a chance at beating only Fuller's failures (4) and (6): "(4) a failure to make rules understandable; [and] . . . (6) rules that require conduct beyond the powers of the affected party." FULLER, *supra* note 130, at 39. It will survive (4) because any formulation that is not understandable can be changed ad hoc.

Certainly there can be no rational ground for asserting that a man can have a moral obligation to obey a legal rule that . . . is kept secret from him, or that came into existence only after he had acted, . . . or was contradicted by another rule of the same system, . . . or changed every minute.¹⁴⁶

Few would disagree.

So if the "**R**" in IRAC stands for "rule" then it is a pretty unruly kind of rule for which it stands. Not the sort that I should like to have to follow; certainly not the sort that I came to this great land to live by. And certainly not the sort to allay the insecurities that cause such agitation in the I-L breast.

One might think of common law as like a path down a hillside. It follows the contours of the land, sometimes with easy stretches, sometimes steep, even dangerous, sometimes gentle and easy, sometimes rough and difficult, requiring careful attention. There will probably be some well-trodden parts, and even some flats where people regularly stop for a breather or to admire the view. Statutory law is like a set of steps cemented into that hillside. It has clearly defined treads, flat to take one's foot, with even risers. It may be steep in parts, but it has a hand rail for added security, and one is well advised to use it if in a hurry. It is commonplace among architects: steps are secure, slopes are not. So it is with statutory law and common law. The path down the hill follows the nuances of nature, as subtly as need be; so too the common law reflects society and its values, that "fountain of justice," but it is often uncertain, and one must take care – and responsibility — to establish a good footing. Statutes, like steps, impose a measure of stability on unruly nature; they may be secure, even to those of nervous step, but they ignore much of the variability and richness of the natural topology. Common law can be as fact sensitive as a situation calls for; statutes perforce lump facts into classes, and choose among them which is to count. That is why Justice Scalia wrote, "[b]ut the whole point of rulemaking (or of statutory law as opposed to case-by-case common law development) is to incur a small possibility of inaccuracy in exchange for a large increase in efficiency and predictability."¹⁴⁷

Those who would impose IRAC on the common law, who would force cases into rules, would abandon the subtlety, wisdom, and resilience of the common law in favor of security. They would walk the hillsides only if they could find stairs; their rules would sacrifice justice

146. *Id.*

147. *Ass'n of Data Processing Serv. Org., Inc. v. Bd. of Governors of the Fed. Reserve Sys.*, 745 F.2d 677, 689 (D.C. Cir. 1984) (Scalia, C.J.).

for certainty. But, as I have argued, that certainty is illusory. It would be a stairway of constantly varying treads and risers, a stairway nobody could traverse with confidence.

If not “rule”, then for what should the “R” in “IRAC” stand? I think “hypothesis” is the best choice. As Lord Goff put it, “common lawyers worship at the shrine of the working hypothesis.”¹⁴⁸ That would make it “IHAC”. That’s nice: it’s homophonic with “I hack,” which is often how I feel when I’m working in a common law field, as for example preparing a torts class. I hack around among the cases like a bad golfer hacks around in the rough. Just as she may seldom get a clear shot at the pin, I but seldom am able to draw a clear or precise bead on my subject. But I don’t mind that. Uncertainty¹⁴⁹ makes not only for interest,¹⁵⁰ but for opportunity – not merely opportunity for one’s client: opportunity for progress, improvement, justice!

Perhaps that is showing my age: IHAC is also eponymous with what the adventurous do on computers. That too is not a bad metaphor for common law research. Hackers take what scattered scraps they can get and with persistence and technique find their way to goals they treasure. The pots of gold sought by both computer hacker and common lawyer are informational and variable. What is the computer hacker’s grail? Whatever he wants it to be at that moment. And the common lawyers? Whatever his client of the moment wants it to be. Building on fragmentary and limited information to reach a successful goal, itself also information: that roughly characterizes both computer and common law hacker.

Overall though, wouldn’t we all be better off without a pretense to formulaic validity? Why put on blinkers when looking around is so much more interesting, and accurate?

148. Lord Goff of Chieveley, *The Future of the Common Law*, 46 INT’L & COMP. L.Q. 745, 752 (1997).

149. “Under-determination” is a more accurate term.

150. In this sentiment I have good company; Dante wrote “Che non men che saper dubiar m’agrada.” INFERNO, XI, at 93 (“It pleases me as much to doubt as to know.”).

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 6



April 13, 2016

Ellen S. Simpson, Esq.
Attorney for Focus Approach, LLC
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, New York 14221

Re: Application Serial No. 86/554,989 for registration of IRAC

Dear Ms. Simpson:

I am the representative of RLP Ventures, LLC, a New York limited liability company ("RLP"). RLP is the owner of the IRAC trademark (the "Mark") that has been used for many years in connection with legal education services, technology and a variety of consumer products. The nature and extent of IRAC's business may be seen at the website www.irc.me.

The IRAC name and mark have been used in the United States since 2013 by RLP. Accordingly, your client, Focus Approach, LLC, will appreciate that the IRAC name and mark are valuable assets of RLP.

The application for registration filed by your client for IRAC for services in International Class 41 is of concern, as is the use of the mark for such services.

Clearly, the services identified in the application include services of the sort offered in the United States by RLP under the IRAC name and mark.

Clearly, the marks are similar in sound, in appearance and in commercial impression. Briefly, the letters (IRAC) are identical and the pronunciations of the marks are identical.

Clearly, the services are such as will be offered through overlapping channels to overlapping classes of users in conditions that do not demand lengthy examination, strict scrutiny and a long period of deliberation.

A request for an extension of time to oppose registration of the mark of your client's application has been filed and accepted.

In order to resolve this matter, we are requesting that your client's application be withdrawn and that a written commitment be provided to us that no further use will be made of the IRAC mark.

Unless the withdrawal is entered and the commitment given, RLP is prepared to lodge an opposition to registration of the mark and reserves all right to take such other action as it deems appropriate to protect the IRAC name and mark in the United States.

A response by the close of business on April 22, 2016 would be appreciated. In the meantime, if you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Ramona Prioleau". The signature is written in black ink and includes a long, sweeping horizontal line at the end.

Ramona Prioleau
Founder

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 7

United States of America

United States Patent and Trademark Office

IRAC

Reg. No. 5,033,571

Registered Aug. 30, 2016

Int. Cl.: 41

Service Mark

Supplemental Register

RLP Ventures, LLC (NEW YORK LIMITED LIABILITY COMPANY)
Times Square Station
PO Box 2605
New York, NY 10108

CLASS 41: Education services, namely, providing instruction in the fields of legal writing; Entertainment in the nature of competitions in the field of legal writing; Providing online non-downloadable journals in the field of law

FIRST USE 3-00-2013; IN COMMERCE 3-00-2013

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-075,978, FILED P.R. 06-17-2016; AM. S.R. 07-14-2016
JOHN B REGAN, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 8

United States of America

United States Patent and Trademark Office

IRAC Challenge

Reg. No. 5,038,276

Registered Sep. 06, 2016

Int. Cl.: 41

Service Mark

Supplemental Register

RLP Ventures, LLC (NEW YORK LIMITED LIABILITY COMPANY)
Times Square Station
PO Box 2605
New York, NY 10108

CLASS 41: Education services, namely, providing instruction in the field of legal writing;
Entertainment in the nature of competitions in the field of legal writing

FIRST USE 3-00-2013; IN COMMERCE 3-00-2013

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY
PARTICULAR FONT STYLE, SIZE OR COLOR

No claim is made to the exclusive right to use the following apart from the mark as shown:
"CHALLENGE"

SER. NO. 87-076,136, FILED P.R. 06-17-2016; AM. S.R. 07-14-2016
JOHN B REGAN, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 9

United States of America

United States Patent and Trademark Office



Reg. No. 5,082,402

Registered Nov. 15, 2016

Int. Cl.: 41

Service Mark

Principal Register

RLP Ventures, LLC (NEW YORK LIMITED LIABILITY COMPANY)
Times Square Station
PO Box 2605
New York, NY 10108

CLASS 41: Education services, namely, providing instruction in the fields of legal writing; Entertainment in the nature of competitions in the field of legal writing; Providing online non-downloadable journals in the field of law

FIRST USE 3-00-2013; IN COMMERCE 3-00-2013

The mark consists of the wording "IRAC", preceded by a series of four designs in a quadrant. The design in the upper left quadrant consists of a silhouette of stylized scales of justice. The design in the lower left quadrant consists of a silhouette of four stylized figures, one figure atop a rectangle intersecting with a stylized polygon shape and three adjacent figures atop three intersecting rectangles. The design in the upper right quadrant consists of a silhouette of stylized triumphal arch. The design in the lower right quadrant consists of a silhouette of a stylized gavel and a silhouette of a stylized sound block. Following the word "IRAC", in the far upper right, is the design of a stylized word "ME" appearing inside of a rectangle. In the far lower right, is the design of a circle.

No claim is made to the exclusive right to use the following apart from the mark as shown: "IRAC"

SER. NO. 87-077,703, FILED 06-20-2016
JOHN B REGAN, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 10

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X
RLP VENTURES, LLC

Opposer,

v.

Opposition No. 91228593

FOCUS APPROACH, LLC

Applicant.
-----X

**OPPOSER'S RESPONSES TO
APPLICANT'S REQUEST FOR ADMISSIONS**

REQUEST FOR ADMISSION NO. 2.: Admit that, on July 14, 2016, the Examining Attorney required that a disclaimer be entered into U.S. Service Mark Application Serial No. 87/077,703 stating that "No claim is made to the exclusive right to use "IRAC" apart from the mark as shown."

RESPONSE NO. 2.

- Denied.

REQUEST FOR ADMISSION NO. 3.: Admit that, on July 14, 2016, with the authorization of Ramona Prioleau on behalf of Opposer, the Examining Attorney entered the required disclaimer into U.S. Service Mark Application Serial No. 87/077,703 stating "No claim is made to the exclusive right to use "IRAC" apart from the mark as shown."

RESPONSE NO. 3.

- Denied in part and admitted in part. Opposer denies that the Examining Attorney required a disclaimer into U.S. Service Mark Application Serial No. 87/077,703 stating "No claim is made to the exclusive right to use "IRAC" apart from the mark as shown."
- Opposer admits that with the authorization granted by Ramona Prioleau on 7/14/2016, the trademark examining attorney amended U.S. Service Mark Application Serial No. 87/077,703 to indicate "No claim is made to the exclusive right to use "IRAC" apart from the mark as shown."

REQUEST FOR ADMISSION NO. 5.: Admit that, on July 14, 2016, the Examining Attorney required U.S. Service Mark Application Serial No. 87/075,978 for the mark IRAC to be amended to the Supplemental Register in order for the application to be approved.

RESPONSE NO. 5.

- Denied.

REQUEST FOR ADMISSION NO. 8.: Admit that, on July 14, 2016, the Examining Attorney required U.S. Service Mark Application Serial No. 87/076,136 for the mark IRAC CHALLENGE to be amended to the Supplemental Register in order for the application to be approved.

RESPONSE NO. 8.

- Denied.

Dated: January 31, 2017

Respectfully submitted,

By:

A handwritten signature in cursive script, appearing to read "Ramona P.", written over a horizontal line.

Ramona Prioleau
RLP Ventures, LLC
Times Square Station
P.O. Box 2605
New York, NY 10108-2605
rlpvllc@gmail.com

OPPOSER

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 11

INTERROGATORY NO.8: State the earliest date (month, day, and year) on which Opposer will rely to establish any rights to use the Opposer's Marks in commerce in the United States, stating in detail the basis on which such claim of rights is made.

RESPONSE:

- See Exhibit A for exemplars of the Opposer's Service Marks and Trademarks.

INTERROGATORY NO.9: Identify all documents, purchase orders, invoices, labels, websites, Facebook pages, flyers, brochures, other advertising or any writing whatsoever (print or electronic) which Opposer will rely upon to establish the date(s) specified in response to Interrogatory No.8 above.

RESPONSE:

- Opposer objects to the Interrogatory as overly broad, vague, ambiguous, irrelevant and impermissibly compound. Notwithstanding the foregoing, Opposer directs Applicant to Exhibits A and B as exemplars.

Dated: January 31, 2017

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read "Ramona P.", written over a horizontal line.

Ramona Prioleau
RLP Ventures, LLC
Times Square Station
P.O. Box 2605
New York, NY 10108-2605
rlpvllc@gmail.com

OPPOSER

Exhibit A

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87075978

Filing Date: 06/17/2016

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	IRAC
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	IRAC
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. applicants)	New York
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	10108
EMAIL ADDRESS	rlpvllc@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	http://irac.me/
LEGAL ENTITY INFORMATION	
*TYPE	LIMITED LIABILITY COMPANY
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	New York
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	041

*IDENTIFICATION	Education services, namely, providing instruction in the fields of legal writing
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2013
FIRST USE IN COMMERCE DATE	At least as early as 03/00/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160617164533831145 . IRAC TM Attachment - Class 41-1.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\759\87075978\xml1\FTK0003.JPG
ORIGINAL PDF FILE	SPE0-1-1084665143-20160617164533831145 . IRAC TM Attachment - Class 41-2.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\759\87075978\xml1\FTK0004.JPG
SPECIMEN DESCRIPTION	Screenshot of item
*INTERNATIONAL CLASS	041
*IDENTIFICATION	Entertainment in the nature of competitions in the field of legal writing
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2013
FIRST USE IN COMMERCE DATE	At least as early as 03/00/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160617164533831145 . IRAC TM Attachment - Class 41-4.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\759\87075978\xml1\FTK0005.JPG
ORIGINAL PDF FILE	SPE0-1084665143-20160617164533831145 . IRAC TM Attachment - Class 41-5.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\759\87075978\xml1\FTK0006.JPG
SPECIMEN DESCRIPTION	Screenshot of item
*INTERNATIONAL CLASS	041
*IDENTIFICATION	Providing online non-downloadable journals in the field of law
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2013
FIRST USE IN COMMERCE DATE	At least as early as 03/00/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160617164533831145 . IRAC TM Attachment - Class 41-3.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\759\87075978\xml1\FTK0007.JPG
SPECIMEN DESCRIPTION	Screenshot of item
ADDITIONAL STATEMENTS INFORMATION	

*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
*NAME	RLP Ventures, LLC
FIRM NAME	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. addresses)	New York
*COUNTRY	United States
*ZIP/POSTAL CODE	10108
*EMAIL ADDRESS	rlpvllc@gmail.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
*TOTAL FEE PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/Ramona Prioleau/
* SIGNATORY'S NAME	Ramona Prioleau
* SIGNATORY'S POSITION	Founder
* DATE SIGNED	06/17/2016

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87075978

Filing Date: 06/17/2016

To the Commissioner for Trademarks:

MARK: IRAC (Standard Characters, see [mark](#))

The literal element of the mark consists of IRAC.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, RLP Ventures, LLC, a limited liability company legally organized under the laws of New York, having an address of

Times Square Station
PO Box 2605
New York, New York 10108
United States
rlpvllc@gmail.com

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 041: Education services, namely, providing instruction in the fields of legal writing; Entertainment in the nature of competitions in the field of legal writing; Providing online non-downloadable journals in the field of law

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 03/00/2013, and first used in commerce at least as early as 03/00/2013, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Screenshot of item.

Original PDF file:

[SPE0-1084665143-20160617164533831145 . IRAC TM Attachment - Class 41-1.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1-1084665143-20160617164533831145 . IRAC TM Attachment - Class 41-2.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1084665143-20160617164533831145 . IRAC TM Attachment - Class 41-4.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1084665143-20160617164533831145 . IRAC TM Attachment - Class 41-5.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1084665143-20160617164533831145 . IRAC TM Attachment - Class 41-3.pdf](#)

Converted PDF file(s) (1 page)

Specimen File1

For informational purposes only, applicant's website address is: <http://irac.me/>

The applicant's current Correspondence Information:

RLP Ventures, LLC
RLP Ventures, LLC
Times Square Station
PO Box 2605
New York, New York 10108
rlpvllc@gmail.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Ramona Prioleau/ Date Signed: 06/17/2016
Signatory's Name: Ramona Prioleau
Signatory's Position: Founder

RAM Sale Number: 87075978
RAM Accounting Date: 06/20/2016

Serial Number: 87075978
Internet Transmission Date: Fri Jun 17 18:14:14 EDT 2016
TEAS Stamp: USPTO/FTK-XXX.XX.XX.XXX-2016061718141430
5904-87075978-550395f806d8afe6c8543e5184
8f64eb795d3a174be3427dd2dbbeaedbc81-CC-5
260-20160617164533831145

IRAC

The IRAC Challenge – A Framework for Analytical Success is a course designed to help law students and practitioners sharpen their legal skills.



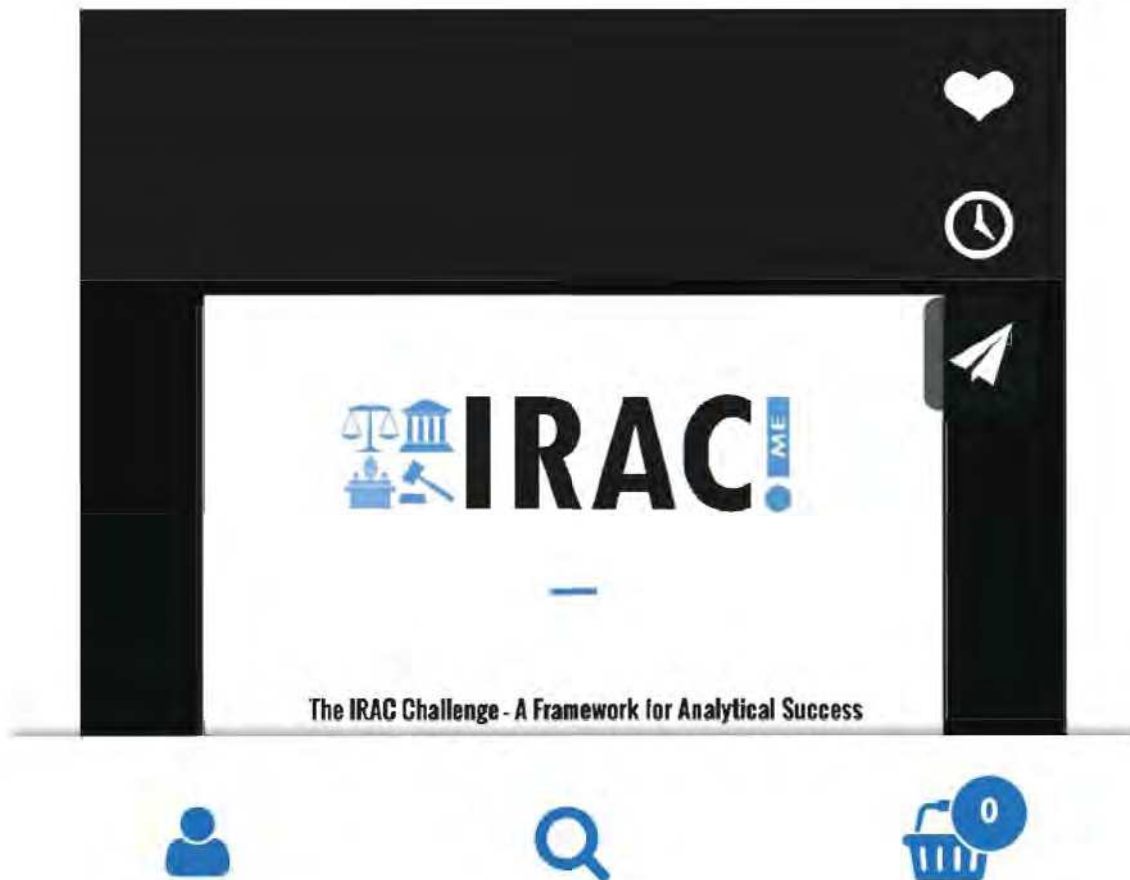
Whether you are studying for a class, preparing for an exam, creating a class outline or working on a matter for your employer,

analyzing and summarizing case law is an important component of that exercise. The IRAC Challenge course will provide you with an overview of the IRAC methodology – a time-



The IRAC Challenge – A Framework for Analytical Success

CONTACT LESSON TEACHER



IRAC Challenge

What is the IRAC Challenge?



The IRAC Challenge is a competition where you compete for points, badges and more against other lawyers, professors, law

librarians, and students. However, only law students that are residents of the United States are eligible to claim prizes.

When does it start and



Levels



Newbie

5 Points

You've joined IRAC and you're on your way.

[Show Details](#) ▲▼



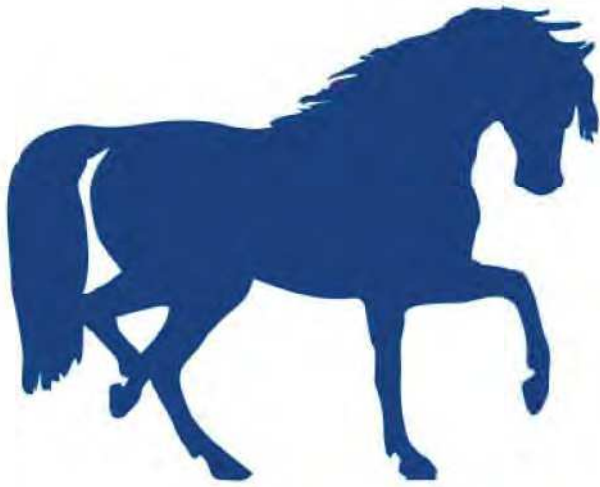
Immigration Law 101

10 Points

You've IRAC'd your first Immigration Law case. Yippee!



Bailey v. West



Analyze all or a portion of **Bailey v. West**, 249 A. 2d 414, Rhode Island Supreme Court 1969, using the Issue, Rule, Application, and



Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87076136

Filing Date: 06/17/2016

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	IRAC Challenge
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	IRAC Challenge
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. applicants)	New York
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	10108
EMAIL ADDRESS	rlpvllc@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	http://irac.me/
LEGAL ENTITY INFORMATION	
*TYPE	LIMITED LIABILITY COMPANY
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	New York
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	041

*IDENTIFICATION	Education services, namely, providing instruction in the field of legal writing
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2013
FIRST USE IN COMMERCE DATE	At least as early as 03/00/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160617211533521181 . IRAC TM Attachment - Class_41-1.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\761\87076136\xml1\FTK0003.JPG
ORIGINAL PDF FILE	SPE0-1084665143-20160617211533521181 . IRAC TM Attachment - Class_41-2.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\761\87076136\xml1\FTK0004.JPG
SPECIMEN DESCRIPTION	Screenshot of item
*INTERNATIONAL CLASS	041
*IDENTIFICATION	Entertainment in the nature of competitions in the field of legal writing
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2013
FIRST USE IN COMMERCE DATE	At least as early as 03/00/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160617211533521181 . IRAC TM Attachment - Class_41-4.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\761\87076136\xml1\FTK0005.JPG
ORIGINAL PDF FILE	SPE0-1084665143-20160617211533521181 . IRAC TM Attachment - Class_41-5.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\761\87076136\xml1\FTK0006.JPG
SPECIMEN DESCRIPTION	Screenshot of item
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
*NAME	RLP Ventures, LLC
FIRM NAME	RLP Ventures, LLC

INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. addresses)	New York
*COUNTRY	United States
*ZIP/POSTAL CODE	10108
*EMAIL ADDRESS	rlpvllc@gmail.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
*TOTAL FEE PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/Ramona Prioleau/
* SIGNATORY'S NAME	Ramona Prioleau
* SIGNATORY'S POSITION	Founder
* DATE SIGNED	06/17/2016

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87076136

Filing Date: 06/17/2016

To the Commissioner for Trademarks:

MARK: IRAC Challenge (Standard Characters, see [mark](#))

The literal element of the mark consists of IRAC Challenge.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, RLP Ventures, LLC, a limited liability company legally organized under the laws of New York, having an address of

Times Square Station
PO Box 2605
New York, New York 10108
United States
rlpvllc@gmail.com

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 041: Education services, namely, providing instruction in the field of legal writing; Entertainment in the nature of competitions in the field of legal writing

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 03/00/2013, and first used in commerce at least as early as 03/00/2013, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Screenshot of item.

Original PDF file:

[SPE0-1084665143-20160617211533521181 . IRAC TM Attachment - Class 41-1.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1084665143-20160617211533521181 . IRAC TM Attachment - Class 41-2.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1084665143-20160617211533521181 . IRAC TM Attachment - Class 41-4.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1084665143-20160617211533521181 . IRAC TM Attachment - Class 41-5.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

The applicant's current Correspondence Information:

RLP Ventures, LLC
RLP Ventures, LLC
Times Square Station
PO Box 2605
New York, New York 10108
rlpvllc@gmail.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Ramona Prioleau/ Date Signed: 06/17/2016
Signatory's Name: Ramona Prioleau
Signatory's Position: Founder

RAM Sale Number: 87076136
RAM Accounting Date: 06/20/2016

Serial Number: 87076136
Internet Transmission Date: Fri Jun 17 21:34:52 EDT 2016
TEAS Stamp: USPTO/FTK-XXX.XX.XX.XXX-2016061721345276
7998-87076136-5508c97f3d58af42eef38148f9
eb6eed2df27db56ae36b85d05795f272f5e269ee
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IRAC Challenge

The IRAC Challenge – A Framework for Analytical Success is a course designed to help law students and practitioners sharpen their legal skills.



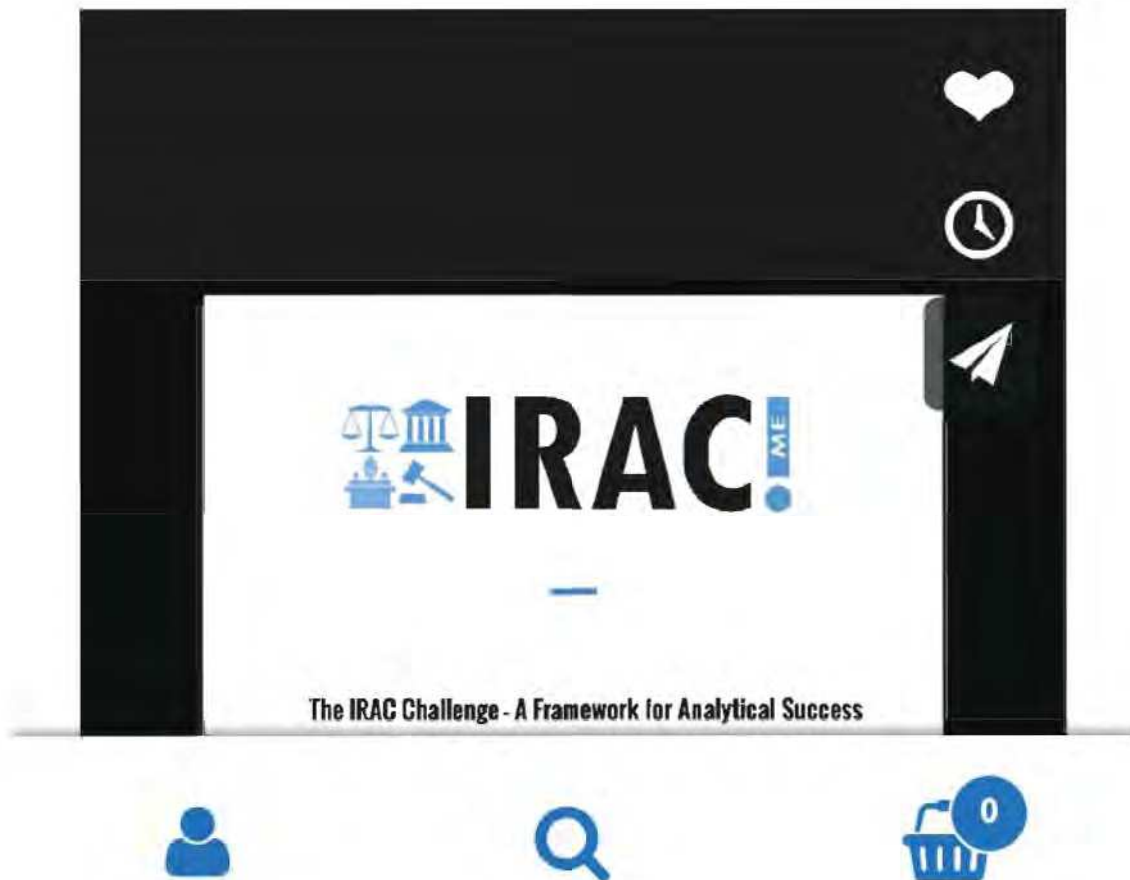
Whether you are studying for a class, preparing for an exam, creating a class outline or working on a matter for your employer,

analyzing and summarizing case law is an important component of that exercise. The IRAC Challenge course will provide you with an overview of the IRAC methodology – a time-



The IRAC Challenge – A Framework for Analytical Success

CONTACT LESSON TEACHER



IRAC Challenge

What is the IRAC Challenge?



The IRAC Challenge is a competition where you compete for points, badges and more against other lawyers, professors, law

librarians, and students. However, only law students that are residents of the United States are eligible to claim prizes.

When does it start and



Levels



Newbie

5 Points

You've joined IRAC and you're on your way.

[Show Details](#) ▲▼



Immigration Law 101

10 Points

You've IRAC'd your first Immigration Law case. Yippee!



Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87077703

Filing Date: 06/20/2016

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	\\TICRS\EXPORT16\IMAGEOUT 16\870\777\87077703\xml1\FTK0002.JPG
*SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	IRAC ME
*COLOR MARK	NO
*COLOR(S) CLAIMED (If applicable)	
*DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of the wording IRAC, preceded by a series of four designs in a quadrant. The design in the upper left quadrant consists of a silhouette of stylized scales of justice. The design in the lower left quadrant consists of a silhouette of four stylized figures, one figure atop a rectangle intersecting with a stylized polygon shape and three adjacent figures atop three intersecting rectangles. The design in the upper right quadrant consists of a silhouette of stylized triumphal arch. The design in the lower right quadrant consists of a silhouette of a stylized gavel and a silhouette of a stylized sound block. Following the word IRAC, in the far upper right, is the design of a stylized word ME appearing inside of a rectangle. In the far lower right, is the design of a circle.
PIXEL COUNT ACCEPTABLE	NO
PIXEL COUNT	1575 x 526
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. applicants)	New York

*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	10108
EMAIL ADDRESS	rlpvllc@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	http://irac.me/
LEGAL ENTITY INFORMATION	
*TYPE	LIMITED LIABILITY COMPANY
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	New York
GOODS AND/OR SERVICES AND BASIS INFORMATION	
* INTERNATIONAL CLASS	041
*IDENTIFICATION	Education services, namely, providing instruction in the fields of legal writing
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2013
FIRST USE IN COMMERCE DATE	At least as early as 03/00/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160619194410486949 . IRAC TM Attachment - Class 41-1.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\777\87077703\xml1\FTK0003.JPG
ORIGINAL PDF FILE	SPE0-1084665143-20160619194410486949 . IRAC TM Attachment - Class 41-2.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\777\87077703\xml1\FTK0004.JPG
SPECIMEN DESCRIPTION	Screenshot of item
* INTERNATIONAL CLASS	041
*IDENTIFICATION	Entertainment in the nature of competitions in the field of legal writing
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2013
FIRST USE IN COMMERCE DATE	At least as early as 03/00/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160619194410486949 . IRAC TM Attachment - Class 41-4.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\777\87077703\xml1\FTK0005.JPG
ORIGINAL PDF FILE	SPE0-1084665143-20160619194410486949 . IRAC TM Attachment - Class 41-5.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\777\87077703\xml1\FTK0006.JPG
SPECIMEN DESCRIPTION	Screenshot of item
* INTERNATIONAL CLASS	041

*IDENTIFICATION	Providing online non-downloadable journals in the field of law
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2013
FIRST USE IN COMMERCE DATE	At least as early as 03/00/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160619194410486949 . IRAC TM Attachment - Class_41-3.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\777\87077703\xml1\FTK0007.JPG
SPECIMEN DESCRIPTION	Screenshot of item
ADDITIONAL STATEMENTS SECTION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
*NAME	RLP Ventures, LLC
FIRM NAME	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. addresses)	New York
*COUNTRY	United States
*ZIP/POSTAL CODE	10108
*EMAIL ADDRESS	rlpvllc@gmail.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
*TOTAL FEE PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/Ramona Prioleau/
* SIGNATORY'S NAME	Ramona Prioleau
* SIGNATORY'S POSITION	Founder

* DATE SIGNED

06/20/2016

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87077703

Filing Date: 06/20/2016

To the Commissioner for Trademarks:

MARK: IRAC ME (stylized and/or with design, see [mark](#))

The literal element of the mark consists of IRAC ME.

The applicant is not claiming color as a feature of the mark. The mark consists of the wording IRAC, preceded by a series of four designs in a quadrant. The design in the upper left quadrant consists of a silhouette of stylized scales of justice. The design in the lower left quadrant consists of a silhouette of four stylized figures, one figure atop a rectangle intersecting with a stylized polygon shape and three adjacent figures atop three intersecting rectangles. The design in the upper right quadrant consists of a silhouette of stylized triumphal arch. The design in the lower right quadrant consists of a silhouette of a stylized gavel and a silhouette of a stylized sound block. Following the word IRAC, in the far upper right, is the design of a stylized word ME appearing inside of a rectangle. In the far lower right, is the design of a circle.

The applicant, RLP Ventures, LLC, a limited liability company legally organized under the laws of New York, having an address of

Times Square Station
PO Box 2605
New York, New York 10108
United States
rlpvllc@gmail.com

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 041: Education services, namely, providing instruction in the fields of legal writing; Entertainment in the nature of competitions in the field of legal writing; Providing online non-downloadable journals in the field of law

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 03/00/2013, and first used in commerce at least as early as 03/00/2013, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Screenshot of item.

Original PDF file:

[SPE0-1084665143-20160619194410486949 . IRAC TM Attachment - Class 41-1.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1084665143-20160619194410486949 . IRAC TM Attachment - Class 41-2.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1084665143-20160619194410486949 . IRAC TM Attachment - Class 41-4.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1084665143-20160619194410486949 . IRAC TM Attachment - Class 41-5.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1084665143-20160619194410486949 . IRAC TM Attachment - Class 41-3.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

For informational purposes only, applicant's website address is: <http://irac.me/>

The applicant's current Correspondence Information:

RLP Ventures, LLC

RLP Ventures, LLC

Times Square Station

PO Box 2605

New York, New York 10108

rlpvllc@gmail.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Ramona Prioleau/ Date Signed: 06/20/2016

Signatory's Name: Ramona Prioleau

Signatory's Position: Founder

RAM Sale Number: 87077703

RAM Accounting Date: 06/21/2016

Serial Number: 87077703

Internet Transmission Date: Mon Jun 20 18:14:07 EDT 2016

TEAS Stamp: USPTO/FTK-XXX.XX.XX.XXX-2016062018140734

7221-87077703-5501c54408a7996a4b4abc8ad8

f66c3bbb788642f75e7c5b8c01f7c0a7a9e9136e

-CC-5266-20160620180631232040



IRAC!

The IRAC Challenge – A Framework for Analytical Success is a course designed to help law students and practitioners sharpen their legal skills.



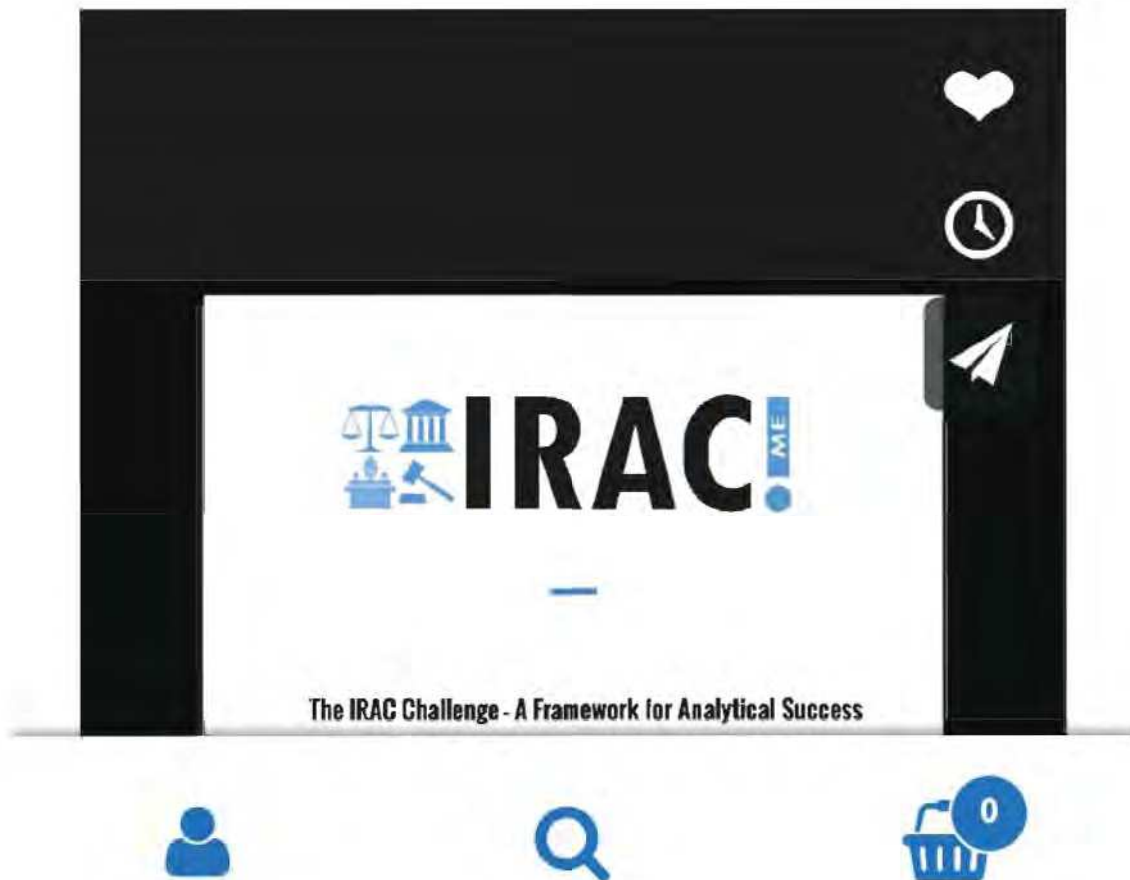
Whether you are studying for a class, preparing for an exam, creating a class outline or working on a matter for your employer,

analyzing and summarizing case law is an important component of that exercise. The IRAC Challenge course will provide you with an overview of the IRAC methodology – a time-



The IRAC Challenge – A Framework for Analytical Success

CONTACT LESSON TEACHER



IRAC Challenge

What is the IRAC Challenge?



The IRAC Challenge is a competition where you compete for points, badges and more against other lawyers, professors, law

librarians, and students. However, only law students that are residents of the United States are eligible to claim prizes.

When does it start and



Levels



Newbie

5 Points

You've joined IRAC and you're on your way.

[Show Details](#) ▲▼



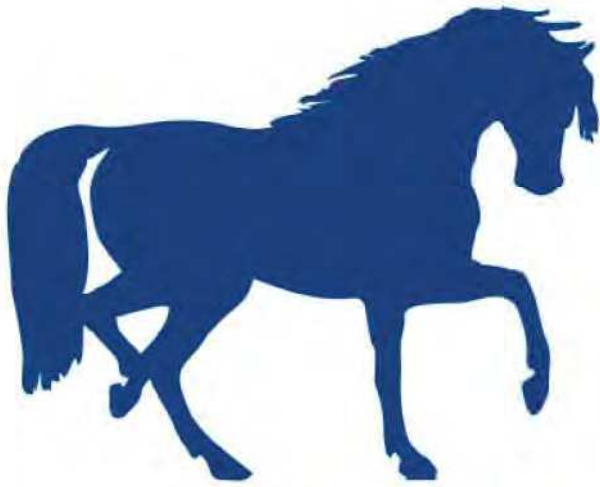
Immigration Law 101

10 Points

You've IRAC'd your first Immigration Law case. Yippee!



Bailey v. West



Analyze all or a portion of **Bailey v. West**, 249 A. 2d 414, Rhode Island Supreme Court 1969, using the Issue, Rule, Application, and



Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87140988

Filing Date: 08/17/2016

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	IRAC
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	IRAC
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. applicants)	New York
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	10108
EMAIL ADDRESS	rlpvllc@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	http://irac.me/
LEGAL ENTITY INFORMATION	
*TYPE	LIMITED LIABILITY COMPANY
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	New York
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	042

*IDENTIFICATION	Computer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form virtual communities and engage in social networking
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2013
FIRST USE IN COMMERCE DATE	At least as early as 03/00/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160817090002815257 . IRAC TM Attachment - Class 42-1.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\871\409\87140988\xml1\FTK0003.JPG
SPECIMEN DESCRIPTION	Screenshot of website
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
*NAME	RLP Ventures, LLC
FIRM NAME	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. addresses)	New York
*COUNTRY	United States
*ZIP/POSTAL CODE	10108
*EMAIL ADDRESS	rlpvllc@gmail.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
*TOTAL FEE PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/Ramona Prioleau/
* SIGNATORY'S NAME	

* SIGNATORY'S NAME	Ramona Prioleau
* SIGNATORY'S POSITION	Founder
* DATE SIGNED	08/17/2016

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87140988

Filing Date: 08/17/2016

To the Commissioner for Trademarks:

MARK: IRAC (Standard Characters, see [mark](#))

The literal element of the mark consists of IRAC.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, RLP Ventures, LLC, a limited liability company legally organized under the laws of New York, having an address of

Times Square Station
PO Box 2605
New York, New York 10108
United States
rlpvllc@gmail.com

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 042: Computer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form virtual communities and engage in social networking

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 042, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 03/00/2013, and first used in commerce at least as early as 03/00/2013, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Screenshot of website.

Original PDF file:

[SPE0-1084665143-20160817090002815257 . IRAC TM Attachment - Class 42-1.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

For informational purposes only, applicant's website address is: <http://irac.me/>

The applicant's current Correspondence Information:

RLP Ventures, LLC
RLP Ventures, LLC
Times Square Station
PO Box 2605
New York, New York 10108
rlpvllc@gmail.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Ramona Prioleau/ Date Signed: 08/17/2016

Signatory's Name: Ramona Prioleau

Signatory's Position: Founder

RAM Sale Number: 87140988

RAM Accounting Date: 08/17/2016

Serial Number: 87140988

Internet Transmission Date: Wed Aug 17 09:08:43 EDT 2016

TEAS Stamp: USPTO/FTK-XXX.XX.XX.XXX-2016081709084308

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3db29b5f63cf736cb8d33838cc1d670d82530-CC

-6834-20160817090002815257

IRAC

Q Search

Home / Caitlin Loewe

Caitlin Loewe



@caitlinloewe

Add Friend

Public Message

Private Message

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87140991

Filing Date: 08/17/2016

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	IRAC
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	IRAC
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. applicants)	New York
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	10108
EMAIL ADDRESS	rlpvllc@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	http://irac.me/
LEGAL ENTITY INFORMATION	
*TYPE	LIMITED LIABILITY COMPANY
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	New York
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	045

*IDENTIFICATION	Online social networking services provided through a community website
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/00/2013
FIRST USE IN COMMERCE DATE	At least as early as 03/00/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160817090953925770 . IRAC TM Attachment - Class 45-1.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\871\409\87140991\xml1\FTK0003.JPG
SPECIMEN DESCRIPTION	Screenshot of website
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
*NAME	RLP Ventures, LLC
FIRM NAME	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. addresses)	New York
*COUNTRY	United States
*ZIP/POSTAL CODE	10108
*EMAIL ADDRESS	rlpvllc@gmail.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
*TOTAL FEE PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/Ramona Prioleau/
* SIGNATORY'S NAME	Ramona Prioleau
* SIGNATORY'S POSITION	Founder

* DATE SIGNED

08/17/2016

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87140991

Filing Date: 08/17/2016

To the Commissioner for Trademarks:

MARK: IRAC (Standard Characters, see [mark](#))

The literal element of the mark consists of IRAC.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, RLP Ventures, LLC, a limited liability company legally organized under the laws of New York, having an address of

Times Square Station
PO Box 2605
New York, New York 10108
United States
rlpvllc@gmail.com

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 045: Online social networking services provided through a community website

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 045, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 03/00/2013, and first used in commerce at least as early as 03/00/2013, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Screenshot of website.

Original PDF file:

[SPE0-1084665143-20160817090953925770 . IRAC_TM Attachment - Class 45-1.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

For informational purposes only, applicant's website address is: <http://irac.me/>

The applicant's current Correspondence Information:

RLP Ventures, LLC
RLP Ventures, LLC
Times Square Station
PO Box 2605
New York, New York 10108
rlpvllc@gmail.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Ramona Prioleau/ Date Signed: 08/17/2016

Signatory's Name: Ramona Prioleau

Signatory's Position: Founder

RAM Sale Number: 87140991

RAM Accounting Date: 08/17/2016

Serial Number: 87140991

Internet Transmission Date: Wed Aug 17 09:15:05 EDT 2016

TEAS Stamp: USPTO/FTK-XXX.XX.XX.XXX-2016081709150559

2514-87140991-550b25793c5befe72fd6a49b02

c77ccec802547e152c16f6369e756059f1c9ebef



-CC-6860-20160817090953925770

IRAC

Q Search

Home / Caitlin Loewe

Caitlin Loewe



[@caitlinloewe](#)

[Add Friend](#) [Public Message](#) [Private Message](#)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87076127

Filing Date: 06/17/2016

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	IRAC
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	IRAC
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. applicants)	New York
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	10108
EMAIL ADDRESS	rlpvllc@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	http://irac.me/
LEGAL ENTITY INFORMATION	
*TYPE	LIMITED LIABILITY COMPANY
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	New York
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	025

*IDENTIFICATION	Hats
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 10/00/2014
FIRST USE IN COMMERCE DATE	At least as early as 10/00/2014
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160617193320023712 . IRAC TM Attachment - Class 25-2.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\761\87076127\xml1\FTK0003.JPG
SPECIMEN DESCRIPTION	Screenshot of item
*INTERNATIONAL CLASS	025
*IDENTIFICATION	Pants
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 11/00/2015
FIRST USE IN COMMERCE DATE	At least as early as 11/00/2015
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160617210950052956 . IRAC TM Attachment - Class 25-3.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\761\87076127\xml1\FTK0004.JPG
SPECIMEN DESCRIPTION	Screenshot of item
*INTERNATIONAL CLASS	025
*IDENTIFICATION	Shirts
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 05/00/2014
FIRST USE IN COMMERCE DATE	At least as early as 05/00/2014
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1084665143-20160617193320023712 . IRAC TM Attachment - Class 25-1.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\870\761\87076127\xml1\FTK0005.JPG
SPECIMEN DESCRIPTION	Screenshot of item
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	

CORRESPONDENCE INFORMATION	
*NAME	RLP Ventures, LLC
FIRM NAME	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. addresses)	New York
*COUNTRY	United States
*ZIP/POSTAL CODE	10108
*EMAIL ADDRESS	rlpvllc@gmail.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
*TOTAL FEE PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/Ramona Prioleau/
* SIGNATORY'S NAME	Ramona Prioleau
* SIGNATORY'S POSITION	Founder
* DATE SIGNED	06/17/2016

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87076127

Filing Date: 06/17/2016

To the Commissioner for Trademarks:

MARK: IRAC (Standard Characters, see [mark](#))

The literal element of the mark consists of IRAC.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, RLP Ventures, LLC, a limited liability company legally organized under the laws of New York, having an address of

Times Square Station
PO Box 2605
New York, New York 10108
United States
rlpvllc@gmail.com

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 025: Hats; Pants; Shirts

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 025, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 05/00/2014, and first used in commerce at least as early as 05/00/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Screenshot of item.

Original PDF file:

[SPE0-1084665143-20160617193320023712 . IRAC TM Attachment - Class 25-2.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1084665143-20160617210950052956 . IRAC TM Attachment - Class 25-3.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-1084665143-20160617193320023712 . IRAC TM Attachment - Class 25-1.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

For informational purposes only, applicant's website address is: <http://irac.me/>

The applicant's current Correspondence Information:

RLP Ventures, LLC
RLP Ventures, LLC
Times Square Station

PO Box 2605

New York, New York 10108

rlpvllc@gmail.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Ramona Prioleau/ Date Signed: 06/17/2016

Signatory's Name: Ramona Prioleau

Signatory's Position: Founder

RAM Sale Number: 87076127

RAM Accounting Date: 06/20/2016

Serial Number: 87076127

Internet Transmission Date: Fri Jun 17 21:14:18 EDT 2016

TEAS Stamp: USPTO/FTK-XXX.XX.XX.XXX-2016061721141808

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88bf6ac6cbacd0974f37349d9e36e768b321e6d-

CC-6438-20160617210950052956

IRAC



Embroidered Low Profile Hat

Color

Choose an option ▼





White Stretch





White American Apparel Fine Jersey Short Sleeve





Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87291123

Filing Date: 01/05/2017

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	\\TICRS\EXPORT17\IMAGEOUT 17\872\911\87291123\xml1\FTK0002.JPG
*SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	IRAC ME
*COLOR MARK	NO
*COLOR(S) CLAIMED (If applicable)	
*DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of the wording IRAC, preceded by a series of four designs in a quadrant. The design in the upper left quadrant consists of a silhouette of stylized scales of justice. The design in the lower left quadrant consists of a silhouette of four stylized figures, one figure atop a rectangle intersecting with a stylized polygon shape and three adjacent figures atop three intersecting rectangles. The design in the upper right quadrant consists of a silhouette of stylized triumphal arch. The design in the lower right quadrant consists of a silhouette of a stylized gavel and a silhouette of a stylized sound block. Following the word IRAC, in the far upper right, is the design of a stylized word ME appearing inside of a rectangle. In the far lower right, is the design of a circle.
PIXEL COUNT ACCEPTABLE	NO
PIXEL COUNT	1575 x 526
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
*STREET	PO Box 2605
*CITY	New York
*STATE (Required for U.S. applicants)	New York

* COUNTRY	United States
* ZIP/POSTAL CODE (Required for U.S. applicants)	10108
EMAIL ADDRESS	rlpvllc@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	http://irac.me
LEGAL ENTITY INFORMATION	
* TYPE	LIMITED LIABILITY COMPANY
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	New York
GOODS AND/OR SERVICES AND BASIS INFORMATION	
* INTERNATIONAL CLASS	025
* IDENTIFICATION	Hats; Pants; Shirts
* FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 05/00/2014
FIRST USE IN COMMERCE DATE	At least as early as 05/00/2014
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-70214101141-20170105225909026938 . IRAC TM Attachment - Class 25-1.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT17\IMAGEOUT17\872\911\87291123\xml1\FTK0003.JPG
ORIGINAL PDF FILE	SPE0-70214101141-20170105225909026938 . IRAC TM Attachment - Class 25-2.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT17\IMAGEOUT17\872\911\87291123\xml1\FTK0004.JPG
ORIGINAL PDF FILE	SPE0-70214101141-20170105225909026938 . IRAC TM Attachment - Class 25-3.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT17\IMAGEOUT17\872\911\87291123\xml1\FTK0005.JPG
ORIGINAL PDF FILE	SPE0-70214101141-20170105225909026938 . IRAC TM Attachment - Class 25-4.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT17\IMAGEOUT17\872\911\87291123\xml1\FTK0006.JPG
ORIGINAL PDF FILE	SPE0-70214101141-20170105225909026938 . IRAC TM Attachment - Class 25-5.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT17\IMAGEOUT17\872\911\87291123\xml1\FTK0007.JPG
SPECIMEN DESCRIPTION	Photos and screenshots of items
ADDITIONAL STATEMENTS SECTION	
* TRANSLATION (if applicable)	
* TRANSLITERATION (if applicable)	
* CLAIMED PRIOR REGISTRATION (if applicable)	

* CONSENT (NAME/LIKENESS) (if applicable)	
* CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
* NAME	RLP Ventures, LLC
FIRM NAME	RLP Ventures, LLC
INTERNAL ADDRESS	Times Square Station
* STREET	PO Box 2605
* CITY	New York
* STATE (Required for U.S. addresses)	New York
* COUNTRY	United States
* ZIP/POSTAL CODE	10108
* EMAIL ADDRESS	rlpvllc@gmail.com
* AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
* TOTAL FEE PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/Ramona Prioleau/
* SIGNATORY'S NAME	Ramona Prioleau
* SIGNATORY'S POSITION	Founder
* DATE SIGNED	01/05/2017

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87291123

Filing Date: 01/05/2017

To the Commissioner for Trademarks:

MARK: IRAC ME (stylized and/or with design, see [mark](#))

The literal element of the mark consists of IRAC ME.

The applicant is not claiming color as a feature of the mark. The mark consists of the wording IRAC, preceded by a series of four designs in a quadrant. The design in the upper left quadrant consists of a silhouette of stylized scales of justice. The design in the lower left quadrant consists of a silhouette of four stylized figures, one figure atop a rectangle intersecting with a stylized polygon shape and three adjacent figures atop three intersecting rectangles. The design in the upper right quadrant consists of a silhouette of stylized triumphal arch. The design in the lower right quadrant consists of a silhouette of a stylized gavel and a silhouette of a stylized sound block. Following the word IRAC, in the far upper right, is the design of a stylized word ME appearing inside of a rectangle. In the far lower right, is the design of a circle.

The applicant, RLP Ventures, LLC, a limited liability company legally organized under the laws of New York, having an address of

Times Square Station
PO Box 2605
New York, New York 10108
United States
rlpvllc@gmail.com

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 025: Hats; Pants; Shirts

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 025, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 05/00/2014, and first used in commerce at least as early as 05/00/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Photos and screenshots of items.

Original PDF file:

[SPE0-70214101141-20170105225909026938 . IRAC TM Attachment - Class 25-1.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File](#)

Original PDF file:

[SPE0-70214101141-20170105225909026938 . IRAC TM Attachment - Class 25-2.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File](#)

Original PDF file:

[SPE0-70214101141-20170105225909026938 . IRAC TM Attachment - Class 25-3.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File](#)

Original PDF file:

[SPE0-70214101141-20170105225909026938 . IRAC TM Attachment - Class 25-4.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPE0-70214101141-20170105225909026938 . IRAC TM Attachment - Class 25-5.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

For informational purposes only, applicant's website address is: <http://irac.me>

The applicant's current Correspondence Information:

RLP Ventures, LLC

RLP Ventures, LLC

Times Square Station

PO Box 2605

New York, New York 10108

rlpvllc@gmail.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Ramona Prioleau/ Date Signed: 01/05/2017

Signatory's Name: Ramona Prioleau

Signatory's Position: Founder

RAM Sale Number: 87291123

RAM Accounting Date: 01/06/2017

Serial Number: 87291123

Internet Transmission Date: Thu Jan 05 23:53:04 EST 2017

TEAS Stamp: USPTO/FTK-XX.XXX.XXX.XXX-201701052353042

83142-87291123-5707dc25bca69b39a547e8b10

5cfd9f3e75df4fc0e83647291fabd31b338518e-

CC-6990-20170105225909026938



IRAC!



White American Apparel Fine Jersey Short Sleeve





Embroidered Low Profile Hat

Color

Choose an option ▼





White Stretch







Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 11

REG NO

Original Application to Register a Trademark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME			
RLP Ventures, LLC			
2. ADDRESS NUMBER AND STREET	CITY	STATE	ZIP
340 West 42nd Street Unit 2605, New York, NY 10036			
3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED			
4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS			

5. DESCRIBE THE TRADEMARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)
The mark - IRAC - is a word mark that consists of standard characters, without claim to any particular font, style, size, or color.

6. DESCRIBE THE SPECIFIC GOODS BEING PRODUCED ON WHICH THE TRADEMARK IS USED
See attached

7. STATE THE MANNER IN WHICH THE TRADEMARK IS PLACED ON THE GOODS, CONTAINERS, ETC.
The mark appears on a label on computer application software and computer e-commerce software.

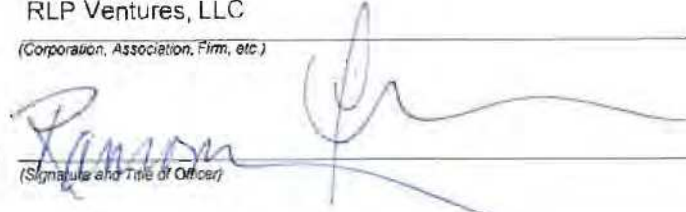
8. CLASS NUMBER(S)	9. DATE OF FIRST USE	(A) IN NEW YORK STATE	(B) ANYWHERE
9	03/00/2013	03/00/2013	03/00/2013

FOR OFFICE USE ONLY

The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive.

The undersigned applies to register the aforesaid mark pursuant to Article 24 of the General Business Law and affirms under the penalties of perjury that the statements herein made, including any attached papers, are true.

RLP Ventures, LLC
(Corporation, Association, Firm, etc.)

By:  _____
(Signature and Title of Officer)

01/23/17
(Date)

Original Application to Register a Trademark, Attachment 1

Applicant Name: **RLP Ventures, LLC**

Applicant Mark: **IRAC**

Mark Class: **9**

6. DESCRIBE THE SPECIFIC GOODS BEING PRODUCED ON WHICH THE TRADEMARK IS USED

Computer application software for consumer information, namely, software services for compilations, rankings, ratings, reviews, referrals and recommendations relating to governments, companies, non-profits and individuals; computer application software for desktop computers and mobile devices, namely, software for entering, accessing and tracking data related to governments, companies, non-profits, individuals and social networking; Computer application software for desktop computers and mobile devices, namely, software for uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network; Computer application software for desktop computers and mobile devices, namely, software for displaying and sharing a user's location and finding, locating, and interacting with other users and places; Computer software to enhance the audio-visual capabilities of multimedia applications, namely, for the integration of text, audio, graphics, still images and moving pictures; Computer e-commerce software to allow users to perform electronic business transactions via a global computer network.

Original Application to Register a Trademark, Specimens
Applicant Name: **RLP Ventures, LLC**
Applicant Mark: **IRAC**

IRAC

The IRAC Challenge – A Framework for Analytical Success is a course designed to help law students and practitioners sharpen their legal skills.



Whether you are studying for a class, preparing for an exam, creating a class outline or working on a matter for your employer,

analyzing and summarizing case law is an important component of that exercise. The IRAC Challenge course will provide you with an overview of the IRAC methodology – a time-



The IRAC Challenge – A Framework for Analytical Success

CONTACT LESSON TEACHER



IRAC Challenge

What is the IRAC Challenge?



The IRAC Challenge is a competition where you compete for points, badges and more against other lawyers, professors, law

librarians, and students. However, only law students that are residents of the United States are eligible to claim prizes.

When does it start and



Levels



Newbie

5 Points

You've joined IRAC and you're on your way.

[Show Details](#) ▲▼



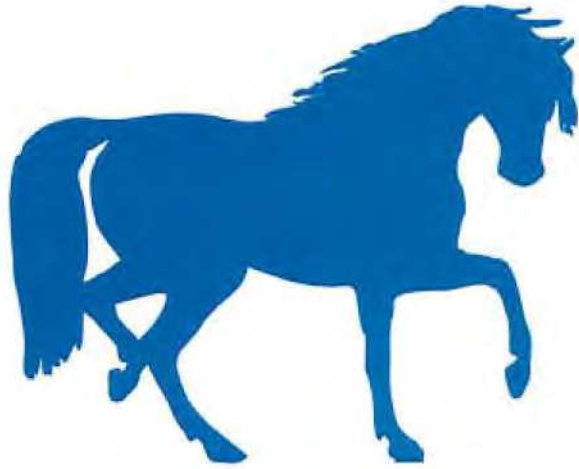
Immigration Law 101

10 Points

You've IRAC'd your first Immigration Law case. Yippee!



Bailey v. West



Analyze all or a portion of **Bailey v. West, 249 A. 2d 414, Rhode Island Supreme Court 1969**, using the Issue, Rule, Application, and



New York State Court of Appeals



Place Category: [Supreme Courts](#)

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Caitlin Loewe



[@caitlinloewe](#)

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White American Apparel Fine Jersey Short Sleeve





Embroidered Low Profile Hat

Color

Choose an option ▼





White Stretch



Q Search

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Cotton Canvas Tote

\$25.00

1

[Add to cart](#)

SKU: 33ad0c9736bb

Categories: [Accessories](#), [Bags](#)

Share this:



Description

[Additional Information](#)

Product Description

- 12.0 oz., 100% cotton canvas
- Reinforced bottom
- 22" handles

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
http://www.dos.ny.gov

REG NO

Original Application to Register a Trademark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME
R/LP Ventures, LLC

2. ADDRESS NUMBER AND STREET CITY STATE ZIP
340 West 42nd Street Unit 2605; New York, NY 10036

3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND
IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED

4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS

5. DESCRIBE THE TRADEMARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)
The mark IRAC - is a word mark that consists of standard characters, without claim to any particular font, style, size, or color.

6. DESCRIBE THE SPECIFIC GOODS BEING PRODUCED ON WHICH THE TRADEMARK IS USED
Hats, Pants, Shirts, Bags

7. STATE THE MANNER IN WHICH THE TRADEMARK IS PLACED ON THE GOODS, CONTAINERS, ETC.
The mark appears on a label printed on the inside collar of clothing and attached as a tag.

8. CLASS NUMBER(S) 18, 25	9. DATE OF FIRST USE	(A) IN NEW YORK STATE 05/00/2014	(B) ANYWHERE 05/00/2014
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FOR OFFICE USE ONLY

The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive.

The undersigned applies to register the aforesaid mark pursuant to Article 24 of the General Business Law and affirms under the penalties of perjury that the statements herein made, including any attached papers, are true.

R/LP Ventures, LLC
(Corporation, Association, Firm, etc.)

By:  01/23/2017
(Signature and Title of Officer) *(Date)*

Original Application to Register a Trademark, Specimens

Applicant Name: **RLP Ventures, LLC**

Applicant Mark: **IRAC**

IRAC



IRAC!

IRAC!
XL Micro
95% cotton 5% polyester
MADE IN USA

IRAC!

XL USA

100%

IRAC

IRACI





White American Apparel Fine Jersey Short Sleeve





Embroidered Low Profile Hat

Color

Choose an option ▼





White Stretch



🔍 Search

🏠 [Home](#) / [Accessories](#) / [Bags](#) / Cotton Canvas Tote



Cotton Canvas Tote

\$25.00

1

Add to cart

SKU: 33ad0c9736bb

Categories: [Accessories](#), [Bags](#)

Share this:



Description >

Additional Information

Product Description

- 12.0 oz., 100% cotton canvas
- Reinforced bottom
- 22" handles

REG NO

Original Application to Register a Service Mark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME RLP Ventures, LLC			
2. ADDRESS NUMBER AND STREET 340 West 42nd Street Unit 2605; New York, NY 10036	CITY	STATE	ZIP
3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED			
4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS			

5. DESCRIBE THE SERVICE MARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)
The mark IRAC - is a word mark that consists of standard characters, without claim to any particular font, style, size, or color.

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED
Advertising, namely, promoting and marketing the goods and services of others through all communication means. Arranging and conducting incentive reward programs to promote the use of company's goods or services.

7. DESCRIBE THE MODE OR MANNER IN WHICH THE MARK IS USED
The mark appears on website, letterhead, business cards and all advertising materials.

8. CLASS NUMBER(S) 35	9. DATE OF FIRST USE	(A) IN NEW YORK STATE 03/00/2013	(B) ANYWHERE 03/00/2013
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FOR OFFICE USE ONLY

The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive.

The undersigned applies to register the aforesaid mark pursuant to Article 24 of the General Business Law and affirms under the penalties of perjury that the statements herein made, including any attached papers, are true.

RLP Ventures, LLC

(Corporation, Association, Firm, etc.)

By:


(Signature and Title of Officer)

01/23/2017

(Date)

Original Application to Register a Service Mark, Specimens

Applicant Name: RLP Ventures, LLC

Applicant Mark: IRAC

IRAC

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Bailey v. West



Analyze all or a portion of **Bailey v. West, 249 A. 2d 414, Rhode Island Supreme Court 1969**, using the Issue, Rule, Application, and Conclusion methodology in your comments below. Remember to “**Blue Book**” where appropriate.

Share this:



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Created by **IRAC** | Posted in **Contract Law: Practice Area, Rhode Island, State, United States** | Tagged **Bailey v. West** | Comments **Leave a comment**

[Basic Inc. v. Levinson, 485 US 224 – Supreme Court 1988](#)

IRAC all or a portion of this case (Bluebook for extra points!)



Levels



Newbie

5 Points

You've joined IRAC and you're on your way.

[Show Details](#) ▲▼



Immigration Law 101

10 Points

You've IRAC'd your first Immigration Law case. Yippee!



REG NO

Original Application to Register a Service Mark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME
RLP Ventures, LLC

2. ADDRESS NUMBER AND STREET CITY STATE ZIP
340 West 42nd Street Unit 2605; New York, NY 10036

3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND
IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED

4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS

5. DESCRIBE THE SERVICE MARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)
The mark IRAC - is a word mark that consists of standard characters, without claim to any particular font, style, size, or color.

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED
See attached.

7. DESCRIBE THE MODE OR MANNER IN WHICH THE MARK IS USED
The mark appears on appears on website and telecommunications services.


8. CLASS NUMBER(S) 38	9. DATE OF FIRST USE	(A) IN NEW YORK STATE 03/00/2013	(B) ANYWHERE 03/00/2013
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FOR OFFICE USE ONLY

The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive.

The undersigned applies to register the aforesaid mark pursuant to Article 24 of the General Business Law and affirms under the penalties of perjury that the statements herein made, including any attached papers, are true.

RLP Ventures, LLC
(Corporation, Association, Firm, etc.)

By:  01/23/2017
(Signature and Title of Officer) *(Date)*

Original Application to Register a Service Mark, Attachment 1

Applicant Name: **RLP Ventures, LLC**

Applicant Mark: IRAC

Mark Class: **38**

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED

Telecommunications services, namely, electronic transmission of data and digital messaging via mobile handheld devices and via wired and wireless communication devices; telecommunications services, namely, enabling users to electronically transmit messages, text, multimedia content, videos, photos, audio, animation and images via a global computer network; providing online communications links that transfer users to other websites; providing online forums, chat rooms and electronic bulletin boards for transmission of messages among users; providing access to computer, electronic and online databases; audio and video broadcasting services over the internet, namely, posting, displaying, and electronically transmitting data, audio and video; providing access to computer databases in the field of social networking.

Original Application to Register a Service Mark, Specimens

Applicant Name: RLP Ventures, LLC

Applicant Mark: IRAC

IRAC



[Read a Case, IRAC It, Get Rewards.](#) [My Profile](#) [Shop](#)

🔍 Search

🏠 [Home](#) / [Caitlin Loewe](#)

Caitlin Loewe



@caitlinloewe

[Add Friend](#) [Public Message](#) [Private Message](#)

REG NO

Original Application to Register a Service Mark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME				
RLP Ventures, LLC				
2. ADDRESS	NUMBER AND STREET	CITY	STATE	ZIP
340 West 42nd Street Unit 2605; New York, NY 10036				
3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED				
4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS				

5. DESCRIBE THE SERVICE MARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)
The mark - IRAC - is a word mark that consists of standard characters, without claim to any particular font, style, size, or color.

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED
Education services, namely, providing instruction in the fields of legal writing; Entertainment in the nature of competitions in the field of legal writing; Providing online non-downloadable journals in the field of law;

7. DESCRIBE THE MODE OR MANNER IN WHICH THE MARK IS USED
The mark appears on appears on website, letterhead, business cards and all advertising materials.

8. CLASS NUMBER(S)	9. DATE OF FIRST USE	(A) IN NEW YORK STATE	(B) ANYWHERE
41		03/00/2013	03/00/2013

FOR OFFICE USE ONLY

The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive.

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RLP Ventures, LLC

(Corporation, Association, Firm, etc.)

By:

Ramona J.
(Signature and Title of Officer)

01/23/2017

(Date)

Original Application to Register a Service Mark, Specimens

Applicant Name: RLP Ventures, LLC

Applicant Mark: IRAC

IRAC

The IRAC Challenge – A Framework for Analytical Success is a course designed to help law students and practitioners sharpen their legal skills.



Whether you are studying for a class, preparing for an exam, creating a class outline or working on a matter for your employer,

analyzing and summarizing case law is an important component of that exercise. The IRAC Challenge course will provide you with an overview of the IRAC methodology – a time-



The IRAC Challenge – A Framework for Analytical Success

CONTACT LESSON TEACHER



IRAC Challenge

What is the IRAC Challenge?



The IRAC Challenge is a competition where you compete for points, badges and more against other lawyers, professors, law

librarians, and students. However, only law students that are residents of the United States are eligible to claim prizes.

When does it start and



Levels



Newbie

5 Points

You've joined IRAC and you're on your way.

[Show Details](#) ▲▼



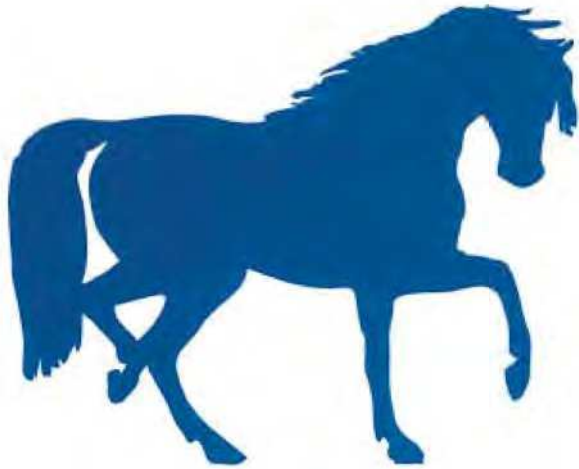
Immigration Law 101

10 Points

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Bailey v. West



Analyze all or a portion of **Bailey v. West**, 249 A. 2d 414, Rhode Island Supreme Court 1969, using the Issue, Rule, Application, and



REG NO

Original Application to Register a Service Mark

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1. APPLICANT NAME
RLP Ventures, LLC

2. ADDRESS NUMBER AND STREET CITY STATE ZIP
340 West 42nd Street Unit 2605; New York, NY 10036

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IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED

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5. DESCRIBE THE SERVICE MARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)
The mark - IRAC - is a word mark that consists of standard characters, without claim to any particular font, style, size, or color.

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED
Entertainment services, namely, providing on-line computer games.

7. DESCRIBE THE MODE OR MANNER IN WHICH THE MARK IS USED
The mark appears on appears on computer game.

8. CLASS NUMBER(S) 41	9. DATE OF FIRST USE 03/00/2013	(A) IN NEW YORK STATE 03/00/2013	(B) ANYWHERE 03/00/2013
--------------------------	------------------------------------	-------------------------------------	----------------------------

FOR OFFICE USE ONLY


The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive.

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RLP Ventures, LLC

(Corporation, Association, Firm, etc.)

By:


(Signature and Title of Officer)

01/23/2017

(Date)

Original Application to Register a Service Mark, Specimens

Applicant Name: RLP Ventures, LLC

Applicant Mark: IRAC

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The IRAC Challenge – A Framework for Analytical Success

CONTACT LESSON TEACHER



IRAC Challenge

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When does it start and



Levels



Newbie

5 Points

You've joined IRAC and you're on your way.

[Show Details](#) ▲▼



Immigration Law 101

10 Points

You've IRAC'd your first Immigration Law case. Yippee!



REG NO

Original Application to Register a Service Mark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME
RLP Ventures, LLC

2. ADDRESS NUMBER AND STREET CITY STATE ZIP
340 West 42nd Street Unit 2605; New York, NY 10036

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IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED

4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS

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The mark IRAC - is a word mark that consists of standard characters, without claim to any particular font, style, size, or color.

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED
See attached.

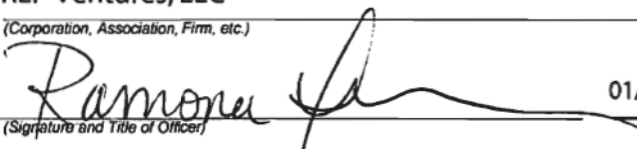
7. DESCRIBE THE MODE OR MANNER IN WHICH THE MARK IS USED
The mark appears on website, letterhead, business cards and all advertising materials.

8. CLASS NUMBER(S) 42	9. DATE OF FIRST USE (A) IN NEW YORK STATE (B) ANYWHERE 03/00/2013 03/00/2013
--------------------------	--

FOR OFFICE USE ONLY

The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive.

The undersigned applies to register the aforesaid mark pursuant to Article 24 of the General Business Law and affirms under the penalties of perjury that the statements herein made, including any attached papers, are true.

By: RLP Ventures, LLC
(Corporation, Association, Firm, etc.)

(Signature and Title of Officer) 01/23/2017
(Date)

Original Application to Register a Service Mark, Attachment 1

Applicant Name: **RLP Ventures, LLC**

Applicant Mark: **IRAC**

Mark Class: **42**

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED

Computer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form virtual communities and engage in social networking. Online social networking services provided through a community website, allowing registered users to share information, photos, audio and video content and engage in communication and collaboration between and among themselves, to form groups and engage in social networking.

Original Application to Register a Service Mark, Specimens
Applicant Name: **RLP Ventures, LLC**
Applicant Mark: **IRAC**

IRAC



[Read a Case. IRAC It. Get Rewards.](#) [My Profile](#) [Shop](#)

Q

Home / Caitlin Loewe

Caitlin Loewe

The profile banner features a large image of a stone archway under a blue sky. On the left side of the banner is a square profile picture of a person's face, rendered in a high-contrast, stylized red and blue color scheme. The text "@caitlinloewe" is overlaid on the banner in white. Below the banner are three buttons: "Add Friend", "Public Message", and "Private Message".

@caitlinloewe

[Add Friend](#) [Public Message](#) [Private Message](#)

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 11

REG NO

Original Application to Register a Service Mark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME				
RLP Ventures, LLC				
2. ADDRESS	NUMBER AND STREET	CITY	STATE	ZIP
340 West 42nd Street Unit 2605; New York, NY 10036				
3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED				
4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS				

5. DESCRIBE THE SERVICE MARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)
The mark IRAC Challenge - is a word mark that consists of standard characters, without claim to any particular font, style, size, or color.

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED
Education services, namely, providing instruction in the field of legal writing; Entertainment in the nature of competitions in the field of legal writing;

7. DESCRIBE THE MODE OR MANNER IN WHICH THE MARK IS USED
The mark appears on appears on website, letterhead, business cards and all advertising materials.

8. CLASS NUMBER(S)	9. DATE OF FIRST USE	(A) IN NEW YORK STATE	(B) ANYWHERE
41		03/00/2013	03/00/2013

FOR OFFICE USE ONLY

The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive.

The undersigned applies to register the aforesaid mark pursuant to Article 24 of the General Business Law and affirms under the penalties of perjury that the statements herein made, including any attached papers, are true.

RLP Ventures, LLC

(Corporation, Association, Firm, etc.)

By:

Ramona A
(Signature and Title of Officer)

01/23/17

(Date)

Original Application to Register a Service Mark, Specimens

Applicant Name: **RLP Ventures, LLC**

Applicant Mark: **IRAC Challenge**

IRAC Challenge

The IRAC Challenge – A Framework for Analytical Success is a course designed to help law students and practitioners sharpen their legal skills.



Whether you are studying for a class, preparing for an exam, creating a class outline or working on a matter for your employer,

analyzing and summarizing case law is an important component of that exercise. The IRAC Challenge course will provide you with an overview of the IRAC methodology – a time-



The IRAC Challenge – A Framework for Analytical Success

CONTACT LESSON TEACHER



IRAC Challenge

What is the IRAC Challenge?



The IRAC Challenge is a competition where you compete for points, badges and more against other lawyers, professors, law

librarians, and students. However, only law students that are residents of the United States are eligible to claim prizes.

When does it start and



Levels



Newbie

5 Points

You've joined IRAC and you're on your way.

[Show Details](#) ▲▼



Immigration Law 101

10 Points

You've IRAC'd your first Immigration Law case. Yippee!



REG NO

Original Application to Register a Service Mark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME
RLP Ventures, LLC

2. ADDRESS NUMBER AND STREET CITY STATE ZIP
340 West 42nd Street Unit 2605; New York, NY 10036

3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND
IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED

4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS

5. DESCRIBE THE SERVICE MARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)
The mark IRAC Challenge - is a word mark that consists of standard characters, without claim to any particular font, style, size, or color.

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED
Entertainment services, namely, providing on-line computer games.

7. DESCRIBE THE MODE OR MANNER IN WHICH THE MARK IS USED
The mark appears on appears on computer game.

8. CLASS NUMBER(S)	9. DATE OF FIRST USE	(A) IN NEW YORK STATE	(B) ANYWHERE
41		03/00/2013	03/00/2013

FOR OFFICE USE ONLY

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RLP Ventures, LLC
(Corporation, Association, Firm, etc.)

By:  01/23/17
(Signature and Title of Officer) *(Date)*

Original Application to Register a Service Mark, Specimens

Applicant Name: **RLP Ventures, LLC**

Applicant Mark: **IRAC Challenge**

IRAC Challenge

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CONTACT LESSON TEACHER



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When does it start and



Levels



Newbie

5 Points

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[Show Details](#) ▲▼



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REG NO

Original Application to Register a Trademark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME			
RLP Ventures, LLC			
2. ADDRESS NUMBER AND STREET	CITY	STATE	ZIP
340 West 42nd Street Unit 2605; New York, NY 10036			
3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED			
4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS			

5. DESCRIBE THE TRADEMARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)
The literal element of the mark is IRAC ME. Color is not claimed as a feature of the mark. The mark consists of the wording IRAC, preceded by a series of four designs in a quadrant. The design in the upper left quadrant consists of a silhouette of stylized scales of justice. The design in the lower left quadrant consists of a silhouette of four stylized figures, one figure atop a rectangle intersecting with a stylized polygon shape and three adjacent figures atop three intersecting rectangles. The design in the upper right quadrant consists of a silhouette of stylized triumphal arch. The design in the lower right quadrant consists of a silhouette of a stylized gavel and a silhouette of a stylized sound block. Following the word IRAC, in the far upper right, is the design of a stylized word ME appearing inside of a rectangle. In the far lower right, is the design of a circle.

6. DESCRIBE THE SPECIFIC GOODS BEING PRODUCED ON WHICH THE TRADEMARK IS USED
See attached

7. STATE THE MANNER IN WHICH THE TRADEMARK IS PLACED ON THE GOODS, CONTAINERS, ETC.
The mark appears on computer application software and computer e-commerce software.

8. CLASS NUMBER(S)	9. DATE OF FIRST USE	(A) IN NEWYORK STATE	(B) ANYWHERE
9		03/00/2013	03/00/2013

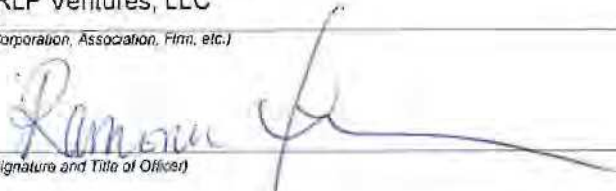
FOR OFFICE USE ONLY

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RLP Ventures, LLC

(Corporation, Association, Firm, etc.)

By:  _____
(Signature and Title of Officer)

01/23/17
(Date)

Original Application to Register a Trademark, Attachment 1

Applicant Name: **RLP Ventures, LLC**

Applicant Mark:  **IRAC!**
Mark Class: **9**

6. DESCRIBE THE SPECIFIC GOODS BEING PRODUCED ON WHICH THE TRADEMARK IS USED

Computer application software for consumer information, namely, software services for compilations, rankings, ratings, reviews, referrals and recommendations relating to governments, companies, non-profits and individuals; computer application software for desktop computers and mobile devices, namely, software for entering, accessing and tracking data related to governments, companies, non-profits, individuals and social networking; Computer application software for desktop computers and mobile devices, namely, software for uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network; Computer application software for desktop computers and mobile devices, namely, software for displaying and sharing a user's location and finding, locating, and interacting with other users and places; Computer software to enhance the audio-visual capabilities of multimedia applications, namely, for the integration of text, audio, graphics, still images and moving pictures; Computer e-commerce software to allow users to perform electronic business transactions via a global computer network.

Original Application to Register a Trademark, Specimens
Applicant Name: **RLP Ventures, LLC**

Applicant Mark:  **IRAC!**



IRAC!

The IRAC Challenge – A Framework for Analytical Success is a course designed to help law students and practitioners sharpen their legal skills.



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The IRAC Challenge – A Framework for Analytical Success

CONTACT LESSON TEACHER



IRAC Challenge

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When does it start and



Levels



Newbie

5 Points

You've joined IRAC and you're on your way.

[Show Details](#) ▲▼



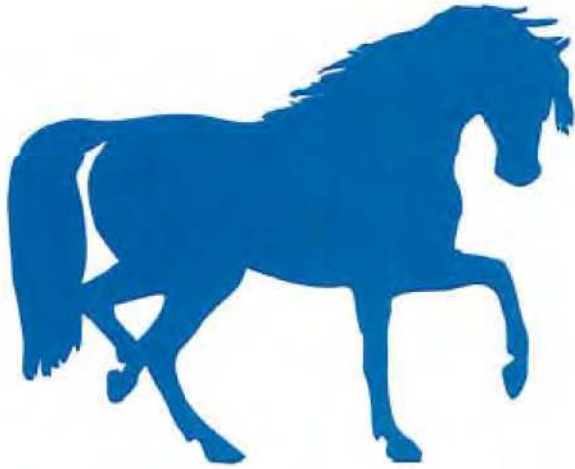
Immigration Law 101

10 Points

You've IRAC'd your first Immigration Law case. Yippee!



Bailey v. West



Analyze all or a portion of **Bailey v. West**, 249 A. 2d 414, Rhode Island Supreme Court 1969, using the Issue, Rule, Application, and



New York State Court of Appeals



Place Category: [Supreme Courts](#)

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q

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Caitlin Loewe

The profile banner shows a stone archway under a blue sky. The profile picture is a stylized red and blue face.

[@caitlinloewe](#)

[Add Friend](#) [Public Message](#) [Private Message](#)



White American Apparel Fine Jersey Short Sleeve



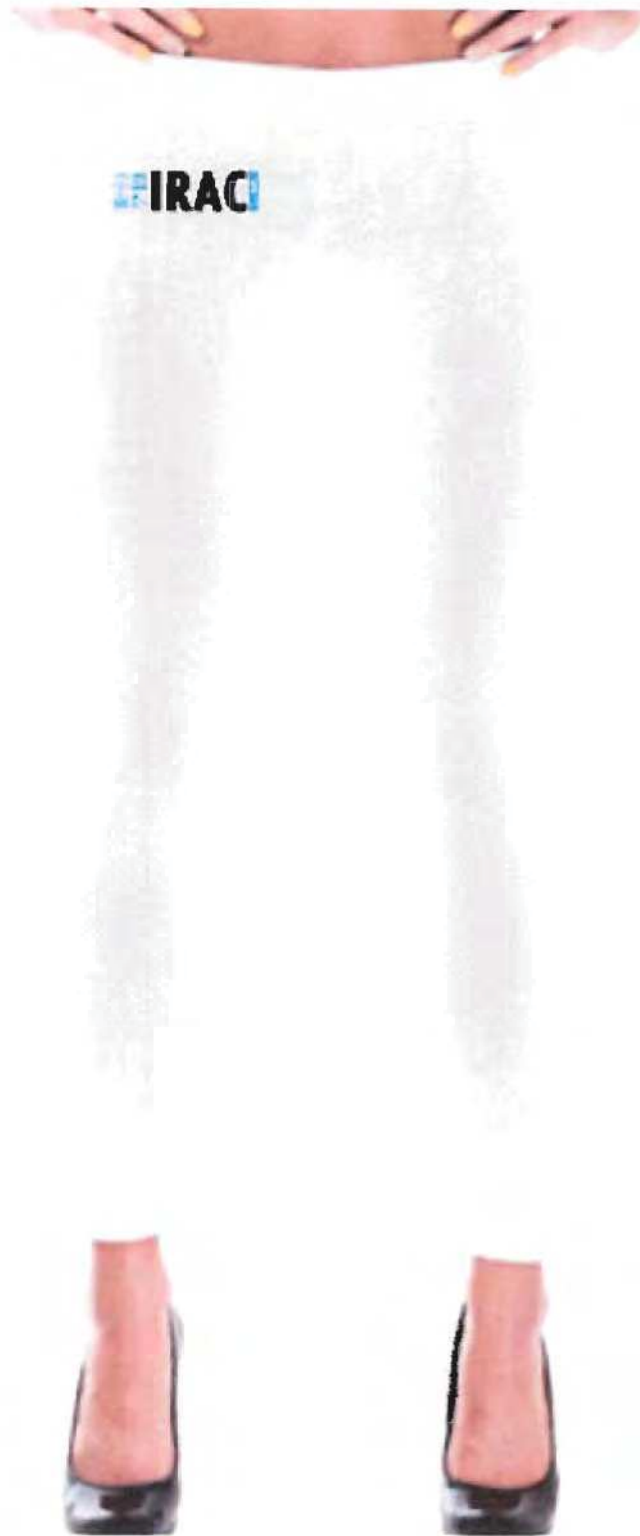


Embroidered Low Profile Hat

Color

Choose an option ▼





White Stretch



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Cotton Canvas Tote

\$25.00

1

Add to cart

SKU: 33ad0c9736bb

Categories: [Accessories](#), [Bags](#)

Share this:



Description

Additional Information

Product Description

- 12.0 oz., 100% cotton canvas
- Reinforced bottom
- 22" handles

REG NO

Original Application to Register a Trademark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME
RLP Ventures, LLC

2. ADDRESS NUMBER AND STREET CITY STATE ZIP
340 West 42nd Street Unit 2605; New York, NY 10036

3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND
IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED

4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS

5. DESCRIBE THE TRADEMARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)
The literal element of the mark is IRAC ME. Color is not claimed as a feature of the mark. The mark consists of the wording IRAC, preceded by a series of four designs in a quadrant. The design in the upper left quadrant consists of a silhouette of stylized scales of justice. The design in the lower left quadrant consists of a silhouette of four stylized figures, one figure atop a rectangle intersecting with a stylized polygon shape and three adjacent figures atop three intersecting rectangles. The design in the upper right quadrant consists of a silhouette of stylized triumphal arch. The design in the lower right quadrant consists of a silhouette of a stylized gavel and a silhouette of a stylized sound block. Following the word IRAC, in the far upper right, is the design of a stylized word ME appearing inside of a rectangle. In the far lower right, is the design of a circle.

6. DESCRIBE THE SPECIFIC GOODS BEING PRODUCED ON WHICH THE TRADEMARK IS USED
Hats, Pants, Shirts, Bags

7. STATE THE MANNER IN WHICH THE TRADEMARK IS PLACED ON THE GOODS, CONTAINERS, ETC.
The mark appears on a label printed on the inside collar of clothing and attached as a tag.

8. CLASS NUMBER(S) 18, 25	9. DATE OF FIRST USE (A) IN NEW YORK STATE 05/00/2014	(B) ANYWHERE 05/00/2014
------------------------------	--	----------------------------

FOR OFFICE USE ONLY

The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive.

The undersigned applies to register the aforesaid mark pursuant to Article 24 of the General Business Law and affirms under the penalties of perjury that the statements herein made, including any attached papers, are true.

RLP Ventures, LLC

(Corporation, Association, Firm, etc.)

By:  01/23/2017
(Signature and Title of Officer) (Date)

Original Application to Register a Trademark, Specimens
Applicant Name: RLP Ventures, LLC

Applicant Mark:  **IRAC!**



IRAC!



IRAC!

IRAC!
XL
Microfibre

IRAC!

XL USA

100%

IRAC

IRACI





White American Apparel Fine Jersey Short Sleeve





Embroidered Low Profile Hat

Color

Choose an option ▼





White Stretch



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🏠 [Home](#) / [Accessories](#) / [Bags](#) / Cotton Canvas Tote



Cotton Canvas Tote

\$25.00

1

Add to cart

SKU: 33ad0c9736bb

Categories: [Accessories](#), [Bags](#)

Share this:



Description >

Additional Information

Product Description

- 12.0 oz., 100% cotton canvas
- Reinforced bottom
- 22" handles

REG NO

Original Application to Register a Service Mark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME			
RLP Ventures, LLC			
2. ADDRESS NUMBER AND STREET	CITY	STATE	ZIP
340 West 42nd Street Unit 2605; New York, NY 10036			
3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED			
4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS			

5. DESCRIBE THE SERVICE MARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)

The literal element of the mark is IRAC ME. Color is not claimed as a feature of the mark. The mark consists of the wording IRAC, preceded by a series of four designs in a quadrant. The design in the upper left quadrant consists of a silhouette of stylized scales of justice. The design in the lower left quadrant consists of a silhouette of four stylized figures, one figure atop a rectangle intersecting with a stylized polygon shape and three adjacent figures atop three intersecting rectangles. The design in the upper right quadrant consists of a silhouette of stylized triumphal arch. The design in the lower right quadrant consists of a silhouette of a stylized gavel and a silhouette of a stylized sound block. Following the word IRAC, in the far upper right, is the design of a stylized word ME appearing inside of a rectangle. In the far lower right, is the design of a circle.

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED

Advertising, namely, promoting and marketing the goods and services of others through all communication means. Arranging and conducting incentive reward programs to promote the use of company's goods or services.

7. DESCRIBE THE MODE OR MANNER IN WHICH THE MARK IS USED

The mark appears on appears on website, letterhead, business cards and all advertising materials.

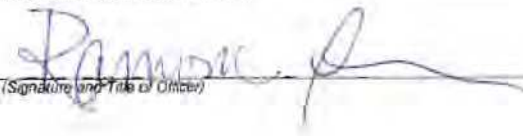
8. CLASS NUMBER(S)	9. DATE OF FIRST USE	(A) IN NEW YORK STATE	(B) ANYWHERE
35		03/00/2013	03/00/2013

FOR OFFICE USE ONLY

The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive.

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RLP Ventures, LLC
(Corporation, Association, Firm, etc.)

By:  01/23/2017
(Signature and Title of Officer) *(Date)*

Original Application to Register a Service Mark, Specimens
Applicant Name: RLP Ventures, LLC

Applicant Mark:  **IRAC!**



IRAC!



IRAC!

Search

[Home](#) / [Contract Law](#) / [Bailey v. West](#)

Bailey v. West



Analyze all or a portion of [Bailey v. West, 249 A. 2d 414, Rhode Island Supreme Court 1969](#), using the Issue, Rule, Application, and Conclusion methodology in your comments below. Remember to “[Blue Book](#)” where appropriate.

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Contract Law: Practice Area, Rhode Island, State, United States

Tags: [Bailey v. West](#)

Comments: [Leave a comment](#)

[Basic Inc. v. Levinson, 485 US 224 - Supreme Court 1988](#)

IRAC all or a portion of this case (Bluebook for extra points!)

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[Subscribe to Blog via Email](#)

Levels



Newbie

5 Points

You've joined IRAC and you're on your way.

[Show Details](#) ▲▼



Immigration Law 101

10 Points

You've IRAC'd your first Immigration Law case. Yippee!



REG NO

Original Application to Register a Service Mark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME			
RLP Ventures, LLC			
2. ADDRESS	NUMBER AND STREET	CITY	STATE ZIP
340 West 42nd Street Unit 2605; New York, NY 10036			
3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED			
4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS			

5. DESCRIBE THE SERVICE MARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)

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6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED

See attached.

7. DESCRIBE THE MOOE OR MANNER IN WHICH THE MARK IS USED

The mark appears on appears on website and telecommunications services.

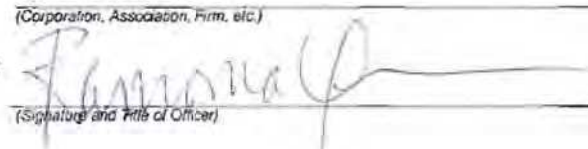
8. CLASS NUMBER(S)	9. DATE OF FIRST USE	(A) IN NEW YORK STATE	(B) ANYWHERE
38		03/00/2013	03/00/2013

FOR OFFICE USE ONLY

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RLP Ventures, LLC
(Corporation, Association, Firm, etc.)

By:  01/23/2017
(Signature and Title of Officer) *(Date)*

Original Application to Register a Service Mark, Attachment 1

Applicant Name: RLP Ventures, LLC

Applicant Mark:  **IRAC!**
Mark Class: 38

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED

Telecommunications services, namely, electronic transmission of data and digital messaging via mobile handheld devices and via wired and wireless communication devices; telecommunications services, namely, enabling users to electronically transmit messages, text, multimedia content, videos, photos, audio, animation and images via a global computer network; providing online communications links that transfer users to other websites; providing online forums, chat rooms and electronic bulletin boards for transmission of messages among users; providing access to computer, electronic and online databases; audio and video broadcasting services over the internet, namely, posting, displaying, and electronically transmitting data, audio and video; providing access to computer databases in the field of social networking.

Original Application to Register a Service Mark, Specimens
Applicant Name: RLP Ventures, LLC

Applicant Mark:  **IRAC!**



IRAC!



[Read a Case. IRAC It. Get Rewards.](#) — [My Profile](#) — [Shop](#) —

🔍

🏠 [Home](#) | [Caitlin Loewe](#)

Caitlin Loewe

The profile banner features a photograph of the Washington Square Arch in New York City under a clear blue sky. On the left side of the banner is a square profile picture of a person's face, rendered in a high-contrast, stylized red and blue color scheme. The text "@caitlinloewe" is overlaid on the banner in a white, sans-serif font.

[Add Friend](#) [Public Message](#) [Private Message](#)

REG NO

Original Application to Register a Service Mark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME			
RLP Ventures, LLC			
2. ADDRESS	NUMBER AND STREET	CITY	STATE ZIP
340 West 42nd Street Unit 2605; New York, NY 10036			
3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED			
New York (LLC)			
4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS			

5. DESCRIBE THE SERVICE MARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)

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6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED

Education services, namely, providing instruction in the fields of legal writing; Entertainment in the nature of competitions in the field of legal writing; Providing online non-downloadable journals in the field of law;

7. DESCRIBE THE MODE OR MANNER IN WHICH THE MARK IS USED

The mark appears on appears on website, letterhead, business cards and all advertising materials.

8. CLASS NUMBER(S)	9. DATE OF FIRST USE	(A) IN NEW YORK STATE	(B) ANYWHERE
41		03/00/2013	03/00/2013

FOR OFFICE USE ONLY

The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive.

The undersigned applies to register the aforesaid mark pursuant to Article 24 of the General Business Law and affirms under the penalties of perjury that the statements herein made, including any attached papers, are true.

RLP Ventures, LLC

(Corporation, Association, Firm, etc.)

By:

Pamona
(Signature and Title of Officer)

01/23/2017

(Date)

Original Application to Register a Service Mark, Specimens
Applicant Name: RLP Ventures, LLC

Applicant Mark:  **IRAC!**



IRAC!

ME

The IRAC Challenge – A Framework for Analytical Success is a course designed to help law students and practitioners sharpen their legal skills.



Whether you are studying for a class, preparing for an exam, creating a class outline or working on a matter for your employer,

analyzing and summarizing case law is an important component of that exercise. The IRAC Challenge course will provide you with an overview of the IRAC methodology – a time-



The IRAC Challenge – A Framework for Analytical Success

CONTACT LESSON TEACHER



IRAC Challenge

What is the IRAC Challenge?



The IRAC Challenge is a competition where you compete for points, badges and more against other lawyers, professors, law

librarians, and students. However, only law students that are residents of the United States are eligible to claim prizes.

When does it start and



Levels



Newbie

5 Points

You've joined IRAC and you're on your way.

[Show Details](#) ▲▼



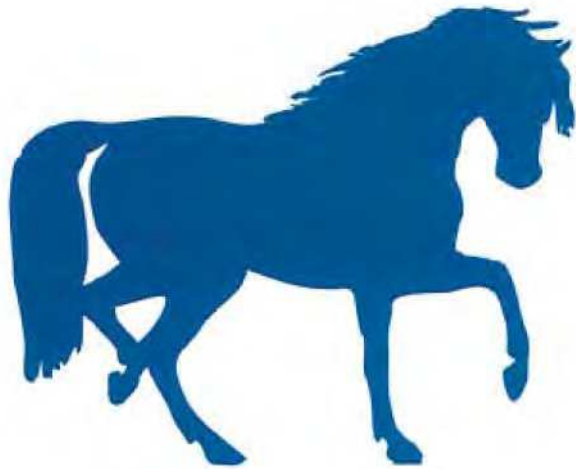
Immigration Law 101

10 Points

You've IRAC'd your first Immigration Law case. Yippee!



Bailey v. West



Analyze all or a portion of **Bailey v. West**, 249 A. 2d 414, Rhode Island Supreme Court 1969, using the Issue, Rule, Application, and



Original Application to Register a Service Mark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME
RLP Ventures, LLC

2. ADDRESS NUMBER AND STREET CITY STATE ZIP
340 West 42nd Street Unit 2605; New York, NY 10036

3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND
IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED
New York (LLC)

4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS

5. DESCRIBE THE SERVICE MARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)

The literal element of the mark is IRAC ME. Color is not claimed as a feature of the mark. The mark consists of the wording IRAC, preceded by a series of four designs in a quadrant. The design in the upper left quadrant consists of a silhouette of stylized scales of justice. The design in the lower left quadrant consists of a silhouette of four stylized figures, one figure atop a rectangle intersecting with a stylized polygon shape and three adjacent figures atop three intersecting rectangles. The design in the upper right quadrant consists of a silhouette of stylized triumphal arch. The design in the lower right quadrant consists of a silhouette of a stylized gavel and a silhouette of a stylized sound block. Following the word IRAC, in the far upper right, is the design of a stylized word ME appearing inside of a rectangle. In the far lower right, is the design of a circle.

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED
Entertainment services, namely, providing on-line computer games.

7. DESCRIBE THE MODE OR MANNER IN WHICH THE MARK IS USED
The mark appears on appears on computer game.

8. CLASS NUMBER(S)	9. DATE OF FIRST USE	(A) IN NEW YORK STATE	(B) ANYWHERE
41		03/00/2013	03/00/2013

FOR OFFICE USE ONLY

The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive.

The undersigned applies to register the aforesaid mark pursuant to Article 24 of the General Business Law and affirms under the penalties of perjury that the statements herein made, including any attached papers, are true.

RLP Ventures, LLC
(Corporation, Association, Firm, etc.)

By:


(Signature and Title of Officer)

01/23/2017

(Date)

Original Application to Register a Service Mark, Specimens
Applicant Name: RLP Ventures, LLC

Applicant Mark:  **IRAC!**



IRAC!

ME

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The IRAC Challenge – A Framework for Analytical Success

CONTACT LESSON TEACHER



IRAC Challenge

What is the IRAC Challenge?



The IRAC Challenge is a competition where you compete for points, badges and more against other lawyers, professors, law

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When does it start and



Levels



Newbie

5 Points

You've joined IRAC and you're on your way.

[Show Details](#) ▲▼



Immigration Law 101

10 Points

You've IRAC'd your first Immigration Law case. Yippee!



Original Application to Register a Service Mark

Please read the instructions prior to completing this form; attach additional sheets as needed.

1. APPLICANT NAME
RLP Ventures, LLC

2. ADDRESS NUMBER AND STREET CITY STATE ZIP
340 West 42nd Street Unit 2605; New York, NY 10036

3. IF A CORPORATION, ENTER STATE IN WHICH INCORPORATED AND
IF A PARTNERSHIP, ENTER STATE IN WHICH ORGANIZED

4. IF A PARTNERSHIP, LIST THE NAMES OF ALL GENERAL PARTNERS

5. DESCRIBE THE SERVICE MARK, INCLUDING A WRITTEN DESCRIPTION OF DESIGN FEATURES, IF ANY (DO NOT GLUE A FACSIMILE TO THIS FORM)

The literal element of the mark is IRAC ME. Color is not claimed as a feature of the mark. The mark consists of the wording IRAC, preceded by a series of four designs in a quadrant. The design in the upper left quadrant consists of a silhouette of stylized scales of justice. The design in the lower left quadrant consists of a silhouette of four stylized figures, one figure atop a rectangle intersecting with a stylized polygon shape and three adjacent figures atop three intersecting rectangles. The design in the upper right quadrant consists of a silhouette of stylized triumphal arch. The design in the lower right quadrant consists of a silhouette of a stylized gavel and a silhouette of a stylized sound block. Following the word IRAC, in the far upper right, is the design of a stylized word ME appearing inside of a rectangle. In the far lower right, is the design of a circle.

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED
See attached.

7. DESCRIBE THE MODE OR MANNER IN WHICH THE MARK IS USED
The mark appears on appears on website, letterhead, business cards and all advertising materials.

8. CLASS NUMBER(S)	9. DATE OF FIRST USE	(A) IN NEW YORK STATE	(B) ANYWHERE
42		03/00/2013	03/00/2013

FOR OFFICE USE ONLY

The applicant is the owner of the mark, the mark is in use, and, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form or in such near resemblance as to be likely, when applied to the services of such other person, to cause confusion, or to cause mistake, or to deceive.

The undersigned applies to register the aforesaid mark pursuant to Article 24 of the General Business Law and affirms under the penalties of perjury that the statements herein made, including any attached papers, are true.

RLP Ventures, LLC
(Corporation, Association, Firm, etc.)

By:  01/23/2017
(Signature and Title of Officer) (Date)

Original Application to Register a Service Mark, Attachment 1

Applicant Name: RLP Ventures, LLC

Applicant Mark:  **IRAC!**
The logo consists of a stylized icon on the left depicting a scale of justice, a gavel, and a person, followed by the text 'IRAC!' in a large, bold, sans-serif font. A small 'SM' trademark symbol is located at the top right of the 'I'.

Mark Class: 42

6. STATE THE SPECIFIC SERVICES FOR WHICH THE MARK IS USED

Computer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form virtual communities and engage in social networking. Online social networking services provided through a community website, allowing registered users to share information, photos, audio and video content and engage in communication and collaboration between and among themselves, to form groups and engage in social networking.

Original Application to Register a Service Mark, Specimens
Applicant Name: RLP Ventures, LLC

Applicant Mark: The logo for IRAC! features a stylized icon on the left consisting of a scale of justice, a classical building facade, and a gavel. To the right of the icon, the letters "IRAC!" are written in a large, bold, sans-serif font. A small vertical line is positioned to the right of the exclamation point.



IRAC!



[Read a Case. IRAC It. Get Rewards.](#) [My Profile](#) [Shop](#)



[Home](#) / [Caitlin Loewe](#)

Caitlin Loewe



@caitlinloewe

[Add Friend](#) [Public Message](#) [Private Message](#)

Exhibit B



IRAC

Home

About

Photos

Reviews

Likes

Posts

Create a Page

Like

Follow

Share

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Use App

Message

Posts

IRAC

IRAC

57 mins · 🌐

With the US President issuing an executive order that is essentially a #MuslimBan, immigration and civil rights lawyers will be working over time.

<http://irac.me/yick-wo-v-hopkins-118-us-356-supreme-court-.../>



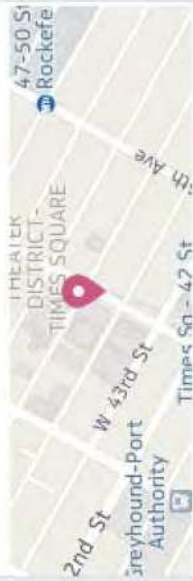
Yick Wo v. Hopkins, 118 US 356 - Supreme Court 1886 - IRAC.ME

Analyze all or a portion of Yick Wo v. Hopkins, using the Issue, Rule, Application, and Conclusion methodology in your comments below....

IRAC.ME

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See All



Times Square Station
New York, NY 10108

Message Now

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Education

VISITOR POSTS



Be the first to add a post

Create Post



IRAC!

irac

@irac_me

TWEETS 3

FOLLOWING 2

FOLLOWERS 1,820

Trends - Change

#MuslimBan 1.53M Tweets

#NHLAIStar 69.1K Tweets

AirTrain 4,887 Tweets

Cadman Plaza 9,991 Tweets

#NXTTakeOver 17.8K Tweets

#UFCDenver 20.9K Tweets

#NeverAgainisNow 5,282 Tweets

Terminal 4 159K Tweets

What's happening?

irac @irac_me · 56m

With @POTUS issuing what's essentially a #MuslimBan, immigration and civil rights lawyers will be working over time bit.ly/2KFNMztc



Who to follow - Refresh - View all



President Trump @POTUS

Follow



SportsCenter @SportsCenter

Follow



jimmy fallon @jimmyfallon

Follow



Find people you know

Import your contacts from Gmail

Connect other address books

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Advertise with Twitter

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 12

From: RLP Vent
To: [Elen Simpson](#)
Subject: Opposition Proceeding No. 91228593 - Opposer's First Set of Request for Admissions
Date: Monday, February 27, 2017 11:52:08 PM
Attachments: [Request for Admissions 02272017.pdf](#)

Dear Ms. Simpson:

Attached please find a courtesy copy of the Opposer's First Set of Request for Admissions, the original of which was sent today via USPS.

Separately, on February 10, 2017, I received your responses to the First Set of Interrogatories and the First Set of Document Requests. FYI, general objections are no longer allowed under the Federal Rules of Civil Procedure. Also, the Trademark Trial and Appeal Board Manual of Procedure has more guidance on the scope of permissible discovery and appropriate responses.

I look forward to the update to your previous discovery responses as well as your responses to the First Set of Request for Admissions.

Kind regards,

Ramona

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 13

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

*In the Matter of U.S. Service Mark Application Serial No. 86/554,989
Published in the Official Gazette on February 23, 2016*

RLP Ventures, LLC)	
)	
Opposer,)	
)	
v.)	Opposition No. 91228593
)	
Focus Approach, LLC)	
)	
Applicant.)	
_____)	

Commissioner for Trademarks
ATTN: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

**APPLICANT’S ANSWERS TO
OPPOSER’S FIRST SET OF REQUESTS FOR ADMISSION**

**SPECIFIC OBJECTION TO OPPOSER’S FIRST SET OF REQUESTS FOR
ADMISSION**

Applicant, Focus Approach, LLC (“Applicant”) specifically objects to each and every Request for Admission on the ground that Opposer’s First Set of Requests for Admission was untimely served on Applicant as, pursuant to 37 C.F.R. 2.120(a)(3), “Interrogatories, requests for production of documents and things, and requests for admission must be served early enough in the discovery period, as originally set or as may have been reset by the Board, so that responses will be due no later than the close of discovery”. As such, as Opposer served these Requests for Admission on counsel for Applicant on February 27, 2017 at 11:52 p.m., the last day of discovery, the Requests for Admission were clearly not timely served pursuant to 37 C.F.R. 2.120(a)(3). As such, any responses to these Requests for Admission should not be permitted to be used or entered into the record by Opposer as evidence in this opposition proceeding.

Subject to Applicant's objection as set forth above, Applicant, Focus Approach, LLC, pursuant to Rule 36 of the Federal Rules of Civil Procedure, hereby responds to each numbered paragraph of the Requests for Admission propounded by Opposer, RLP Ventures, LLC, ("Opposer") as follows:

REQUEST FOR ADMISSION NO. 1

Admit that you received the initial disclosures of Opposer sent to you on or about September 29, 2016.

Response to Request for Admission No. 1

Admitted.

REQUEST FOR ADMISSION NO. 2

Admit that you had constructive knowledge of the Opposer's use of the service mark IRAC at the time you filed the Pending Application for the Applicant's Mark.

Response to Request for Admission No. 2

Denied.

REQUEST FOR ADMISSION NO. 3

Admit that you had actual knowledge of the Opposer's use of the service mark IRAC at the time you filed the Pending Application for the Applicant's Mark.

Response to Request for Admission No. 3

Denied.

REQUEST FOR ADMISSION NO. 4

Admit that the Pending Application cites the services as "Educational services, namely, conducting classes for law school preparation tests" in International Class 41.

Response to Request for Admission No. 4

Admitted.

REQUEST FOR ADMISSION NO. 5

Admit that the Applicant's Mark contains the wording IRAC in a bold font style.

Response to Request for Admission No. 5

Admitted only as to the fact that Applicant's Mark contains the wording IRAC. Applicant objects to the remainder of the Request for Admission on the ground that the use of the term "bold font style" is ambiguous and renders this request vague and incapable of being admitted or denied.

REQUEST FOR ADMISSION NO. 6

Admit that the Applicant's Mark contains the wording IRAC in capital letters that are in a larger font size than the font sizes and letters of the wording "LAW SCHOOL" and the wording "THE FOCUS APPROACH", each a component of the Applicant's Mark.

Response to Interrogatory No. 6

Admitted.

REQUEST FOR ADMISSION NO. 7

Admit that the literal and design elements of the Applicant's Mark are arranged in the shape of a triumphal arch.

Response to Request for Admission No. 7

Denied.

REQUEST FOR ADMISSION NO. 8

Admit that the first use of Applicant's Mark in connection with any products, services, or activities was after March 2013.

Response to Request for Admission No. 8

Admitted.

REQUEST FOR ADMISSION NO. 9

Admit that, prior to calendar year 2015, the Applicant's Mark had been printed on brochures or flyers that were only distributed in New York State.

Response to Request for Admission No. 9

Denied.

REQUEST FOR ADMISSION NO. 10

Admit that, prior to July 2015, the Applicant's Mark had been used at trade shows, conferences or forums that were only located in New York State.

Response to Request for Admission No. 10

Applicant specifically objects to this request on the ground that it is vague, ambiguous, and misleading. Subject to this objection, to the extent that Opposer is referring only to the physical location of the trade shows, conferences or forums, and is not referring to the domiciles or principal places of business of the attendees of such trade shows, conferences or forums, Applicant admits such statement with the qualifier that the attendees at such trade shows were from across the United States and were not limited to persons only domiciled in New York or to entities with their principal places of business only in New York.

REQUEST FOR ADMISSION NO. 11

Admit that, prior to calendar year 2015, the Applicant's Mark had been used in advertising, brochures or flyers only targeted to users only in New York State.

Response to Request for Admission No. 11

Denied.

REQUEST FOR ADMISSION NO. 12

Admit that the Applicant's Mark had been used in advertising, brochures or flyers targeted to undergraduate students enrolled in a college or university.

Response to Request for Admission No. 12

Applicant specifically objects to the use of the word "targeted" as vague and ambiguous. Subject to this objection, to the extent that Opposer is asking whether Applicant markets or promotes its services to undergraduate students enrolled in a college or university, Applicant admits this request.

REQUEST FOR ADMISSION NO. 13

Admit that the Applicant's Mark has been used in advertising, brochures or flyers targeted to people preparing for the law school admission test.

Response to Request for Admission No. 13

Applicant specifically objects to the use of the word "targeted" as vague and ambiguous. Subject to this objection, to the extent that Opposer is asking whether Applicant markets or promotes its services to people preparing for the law school admission test, Applicant admits this request.

REQUEST FOR ADMISSION NO. 14

Admit that the Applicant's Mark had been used in advertising, brochures or flyers targeted to people employed as paralegals or legal assistants.

Response to Request for Admission No. 14

Applicant specifically objects to the use of the phrase "targeted to people employed as paralegals or legal assistants" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objection, Applicant denies this request as Applicant does not specifically market or promote its services to people employed as paralegals or legal assistants.

REQUEST FOR ADMISSION NO. 15

Admit that the Applicant's Mark had been used in advertising, brochures or flyers targeted to students enrolled in paralegal or legal assistant training.

Response to Request for Admission No. 15

Applicant specifically objects to the use of the phrase "targeted to students enrolled in paralegal or legal assistant training" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objection, Applicant denies this request as Applicant does not specifically market or promote its services to students enrolled in paralegal or legal assistant training.

REQUEST FOR ADMISSION NO. 16

Admit that the Applicant's Mark had been used in advertising, brochures or flyers targeted to students enrolled in law school.

Response to Request for Admission No. 16

Applicant specifically objects to the use of the phrase "targeted to students enrolled in law school" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objection, Applicant denies this request as Applicant does not specifically market or promote its services to students enrolled in law school.

REQUEST FOR ADMISSION NO. 17

Admit that the Applicant's Mark had been used in advertising, brochures or flyers targeted to law school graduates.

Response to Request for Admission No. 17

Applicant specifically objects to the use of the phrase "targeted to law school graduates" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objection, Applicant denies this request as Applicant does not specifically market or promote its services to law school graduates.

REQUEST FOR ADMISSION NO. 18

Admit that the Applicant's Mark had been used in advertising, brochures or flyers targeted to law school administrators.

Response to Request for Admission No. 18

Applicant specifically objects to the use of the phrase "targeted to law school administrators" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objection, to the extent that Opposer is asking whether Applicant markets or promotes its services to law school administrators who may have an interest in improving the LSAT scores of potential law school applicants, Applicant admits this request.

REQUEST FOR ADMISSION NO. 19

Admit that the Applicant's Mark had been used in advertising, brochures or flyers targeted to law school professors.

Response to Request for Admission No. 19

Applicant specifically objects to the use of the phrase "targeted to law school professors" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objection, Applicant denies this request as Applicant does not specifically market or promote its services to law school professors.

REQUEST FOR ADMISSION NO. 20

Admit that the Applicant's Mark had been used in advertising, brochures or flyers targeted to people working in law firms.

Response to Request for Admission No. 20

Applicant specifically objects to the use of the phrase "targeted to people working in law firms" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objection, Applicant denies this request as Applicant does not specifically market or promote its services to people working in law firms.

REQUEST FOR ADMISSION NO. 21

Admit that the Applicant's Mark had been used in advertising, brochures or flyers targeted to people working in law enforcement.

Response to Request for Admission No. 21

Applicant specifically objects to the use of the phrase "targeted to people working in law enforcement" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objection, Applicant admits this request to the extent that Applicant has a web page that is directed to police tutorial services and the law school admission test.

REQUEST FOR ADMISSION NO. 22

Admit that the Applicant's Mark had been used in advertising, brochures or flyers targeted to the general public.

Response to Request for Admission No. 22

Applicant specifically objects to the use of the phrase "targeted to the general public" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objection, Applicant admits this request to the extent that Applicant's website may be viewed by members of the general public.

REQUEST FOR ADMISSION NO. 23

Admit that you, through your website that displays the Applicant's Mark, provide "Educational services, namely, conducting classes for law school preparation tests".

Response to Request for Admission No. 23

Applicant specifically objects to the use of the word "you" as refers to Applicant as Applicant is a limited liability company and the word "you" may be construed to mean members of the limited liability company. Subject to this objection, Applicant admits this Request.

REQUEST FOR ADMISSION NO. 24

Admit that you, through your website that displays the Applicant's Mark, target undergraduate students enrolled in a college or university.

Response to Request for Admission No. 24

Applicant specifically objects to the use of the word "you" as refers to Applicant as Applicant is a limited liability company and the word "you" may be construed to mean members of the limited liability company. Applicant also specifically objects to the use of the phrase "target undergraduate students enrolled in a college or university" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objections, to the extent that Opposer is asking whether Applicant markets or promotes its services to undergraduate students enrolled in a college or university, Applicant admits this request.

REQUEST FOR ADMISSION NO. 25

Admit that you, through your website that displays the Applicant's Mark, target people preparing for the law school admission test.

Response to Request for Admission No. 25

Applicant specifically objects to the use of the word "you" as refers to Applicant as Applicant is a limited liability company and the word "you" may be construed to mean members of the limited liability company. Applicant also specifically objects to the use of the phrase "target people preparing for the law school admission test" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objections, to the extent that Opposer is asking whether Applicant markets or promotes its services to people preparing for the law school admission test, Applicant admits this request.

REQUEST FOR ADMISSION NO. 26

Admit that you, through your website that displays the Applicant's Mark, target people employed as paralegals or legal assistants.

Response to Request for Admission No. 26

Applicant specifically objects to the use of the word "you" as refers to Applicant as Applicant is a limited liability company and the word "you" may be construed to mean members of the limited liability company. Applicant also specifically objects to the use of the phrase "target people employed as paralegals or legal assistants" as such phrase is vague and ambiguous as

relates to Applicant's services. Subject to such objections, Applicant denies this request as Applicant does not specifically market or promote its services to people employed as paralegals or legal assistants.

REQUEST FOR ADMISSION NO. 27

Admit that you, through your website that displays the Applicant's Mark, target students enrolled in paralegal or legal assistant training.

Response to Request for Admission No. 27

Applicant specifically objects to the use of the word "you" as refers to Applicant as Applicant is a limited liability company and the word "you" may be construed to mean members of the limited liability company. Applicant also specifically objects to the use of the phrase "target students enrolled in paralegal or legal assistant training" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objections, Applicant denies this request as Applicant does not specifically market or promote its services to students enrolled in paralegal or legal assistant training.

REQUEST FOR ADMISSION NO. 28

Admit that you, through your website that displays the Applicant's Mark, target students enrolled in law school.

Response to Request for Admission No. 28

Applicant specifically objects to the use of the word "you" as refers to Applicant as Applicant is a limited liability company and the word "you" may be construed to mean members of the limited liability company. Applicant also specifically objects to the use of the phrase "target students enrolled in law school" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objections, Applicant denies this request as Applicant does not specifically market or promote its services to students enrolled in law school.

REQUEST FOR ADMISSION NO. 29

Admit that you, through your website that displays the Applicant's Mark, target law school graduates.

Response to Request for Admission No. 29

Applicant specifically objects to the use of the word “you” as refers to Applicant as Applicant is a limited liability company and the word “you” may be construed to mean members of the limited liability company. Applicant also specifically objects to the use of the phrase “target law school graduates” as such phrase is vague and ambiguous as relates to Applicant’s services. Subject to such objections, Applicant denies this request as Applicant does not specifically market or promote its services to law school graduates.

REQUEST FOR ADMISSION NO. 30

Admit that you, through your website that displays the Applicant’s Mark, target law school professors.

Response to Request for Admission No. 30

Applicant specifically objects to the use of the word “you” as refers to Applicant as Applicant is a limited liability company and the word “you” may be construed to mean members of the limited liability company. Applicant also specifically objects to the use of the phrase “target law school professors” as such phrase is vague and ambiguous as relates to Applicant’s services. Subject to such objections, Applicant denies this request as Applicant does not specifically market or promote its services to law school professors.

REQUEST FOR ADMISSION NO. 31

Admit that you, through your website that displays the Applicant’s Mark, target law school administrators.

Response to Request for Admission No. 31

Applicant specifically objects to the use of the word “you” as refers to Applicant as Applicant is a limited liability company and the word “you” may be construed to mean members of the limited liability company. Applicant also specifically objects to the use of the phrase “target law school administrators” as such phrase is vague and ambiguous as relates to Applicant’s services. Subject to such objections, to the extent that Opposer is asking whether Applicant, through its website, markets or promotes its services to law school administrators who may have an interest in improving the LSAT scores of potential law school applicants, Applicant admits this request.

REQUEST FOR ADMISSION NO. 32

Admit that you, through your website that displays the Applicant's Mark, target people working in law firms.

Response to Request for Admission No. 32

Applicant specifically objects to the use of the word "you" as refers to Applicant as Applicant is a limited liability company and the word "you" may be construed to mean members of the limited liability company. Applicant also specifically objects to the use of the phrase "target people working in law firms" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objections, Applicant denies this request as Applicant does not specifically market or promote its services to people working in law firms.

REQUEST FOR ADMISSION NO. 33

Admit that you, through your website that displays the Applicant's Mark, target people working in law enforcement.

Response to Request for Admission No. 33

Applicant specifically objects to the use of the word "you" as refers to Applicant as Applicant is a limited liability company and the word "you" may be construed to mean members of the limited liability company. Applicant also specifically objects to the use of the phrase "target people working in law enforcement" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objections, Applicant admits this request to the extent that Applicant has a web page that is directed to police tutorial services and the law school admission test.

REQUEST FOR ADMISSION NO. 34

Admit that you, through your website that displays the Applicant's Mark, target the general public.

Response to Request for Admission No. 34

Applicant specifically objects to the use of the word "you" as refers to Applicant as Applicant is a limited liability company and the word "you" may be construed to mean members of the limited liability company. Applicant specifically objects to the use of the phrase "targeted to the general public" as such phrase is vague and ambiguous as relates to Applicant's services. Subject to such objections, Applicant admits this request to the extent that Applicant's website may be viewed by members of the general public.

REQUEST FOR ADMISSION NO. 35

Admit that the Applicant's Mark is used in connection with services that are targeted to the group Applicant understands are targeted or are intended to be targeted by Opposer.

Response to Request for Admission No. 35

Applicant specifically objects to this Request for Admission on the ground that Applicant has no knowledge of what group is targeted or what groups are intended to be targeted by Opposer, and, as such, this request is vague and incapable of being admitted or denied.

REQUEST FOR ADMISSION NO. 36

Admit that, prior to calendar year 2015, the services in connection with which Applicant uses the Applicant's Mark were only used by users in New York State.

Response to Request for Admission No. 36

Denied.

REQUEST FOR ADMISSION NO. 37

Admit that, prior to calendar year 2015, the activities in connection with which Applicant uses the Applicant's Mark had not been conducted in interstate commerce.

Response to Request for Admission No. 37

Denied.

REQUEST FOR ADMISSION NO. 38

Admit that, prior to calendar year 2015, the services in connection with which Applicant uses the Applicant's Mark had not been offered in interstate commerce.

Response to Request for Admission No. 38

Denied.

REQUEST FOR ADMISSION NO. 39

Admit that, prior to calendar year 2015, any products in connection with which Applicant uses the Applicant's Mark had not been offered in interstate commerce.

Response to Request for Admission No. 39

Applicant objects to this Request as Applicant's Mark is not used in association with the sale of any products so this Request is incapable of being answered. Subject to this objection, Applicant denies this request.

REQUEST FOR ADMISSION NO. 40

Admit that the Applicant has only contacted New York State governmental organizations in connection with the services with which Applicant uses the Applicant's Mark.

Response to Request for Admission No. 40

Denied.

REQUEST FOR ADMISSION NO. 41

Admit that the Applicant has only contacted New York State political organizations in connection with the services with which Applicant uses the Applicant's Mark.

Response to Request for Admission No. 41

Applicant specifically objects to the use of the phrase "New York State political organizations" as such phrase is vague and ambiguous. Applicant also specifically objects to this Request for Admission on the ground that Applicant has no knowledge of what organizations Opposer is referring to and, as such, this request is vague and incapable of being admitted or denied.

REQUEST FOR ADMISSION NO. 42

Admit that the Applicant has contacted non-profit organizations seeking sales or offering use of the services in connection with which Applicant uses the Applicant's Mark.

Response to Request for Admission No. 42

Applicant specifically objects to the use of the phrase “non-profit organizations” as such phrase is vague and ambiguous. Applicant also specifically objects to this Request for Admission on the ground that Applicant has no knowledge of what organizations Opposer is referring to and, as such, this request is vague and incapable of being admitted or denied.

REQUEST FOR ADMISSION NO. 43

Admit that the Applicant has contacted undergraduate colleges or universities seeking sales or offering use of the services in connection with which Applicant uses the Applicant’s Mark.

Response to Request for Admission No. 43

Admitted.

REQUEST FOR ADMISSION NO. 44

Admit that the Applicant has contacted law schools seeking sales or offering use of the services in connection with which Applicant uses the Applicant’s Mark.

Response to Request for Admission No. 44

Admitted.

REQUEST FOR ADMISSION NO. 45

Admit that the Applicant has contacted for-profit organizations seeking sales or offering use of the services in connection with which Applicant uses the Applicant’s Mark.

Response to Request for Admission No. 45

Applicant specifically objects to the use of the phrase “for-profit organizations” as such phrase is vague and ambiguous. Applicant also specifically objects to this Request for Admission on the ground that Applicant has no knowledge of what organizations Opposer is referring to and, as such, this request is vague and incapable of being admitted or denied.

REQUEST FOR ADMISSION NO. 46

Admit that the Applicant has distributed goods under the Applicant's Mark.

Response to Request for Admission No. 46

Applicant admits this Request to the extent that Applicant has distributed promotional items which display Applicant's Mark. Applicant denies this Request to the extent that it asserts that Applicant sells or otherwise markets goods in association with Applicant's Mark.

REQUEST FOR ADMISSION NO. 47

Admit that, through the website that displays Applicant's Mark, users of the Applicant's services create online profiles with biographical data and post commentary.

Response to Request for Admission No. 47

Admitted as to the fact that users of Applicant's services may create online profiles when scheduling class or online visits. Applicant objects to the rest of this Request for Admission on the ground that Applicant has no knowledge of what the terms "biographical data" and "post commentary" refer to and, as such, this request is vague and incapable of being admitted or denied.

REQUEST FOR ADMISSION NO. 48

Admit that, through the website that displays Applicant's Mark, the Applicant promotes and markets the goods and services of others.

Response to Request for Admission No. 48

Applicant admits this request to the extent that Applicant promotes and has a link to the Police Tutorial Service website. Applicant denies this request as to the promotion and marketing of any other goods and services of others.

REQUEST FOR ADMISSION NO. 49

Admit that Applicant's attorney of record received from Opposer a cease and desist letter dated April 13, 2016.

Response to Request for Admission No. 49

Admitted.

REQUEST FOR ADMISSION NO. 50

Admit that Applicant's attorney of record received from Opposer a cease and desist letter dated May 31, 2016.

Response to Request for Admission No. 50


Admitted.

Sworn to before me this
28 day of March, 2017

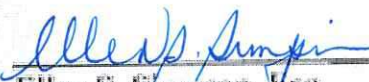

NOTARY PUBLIC

SCOTT G. SULLIVAN
Notary Public, State of New York
No. 02SU6032053
Qualified in Westchester County
Commission Expires October 18, 20 20

By:


Peter Gormanly, Esq., President
Focus Approach, LLC
56 Dingee Road
Pound Ridge, New York 10576

By:


Ellen S. Simpson, Esq.
Attorney for Focus Approach, LLC
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, New York 14221
Telephone: (716) 626-1564
Fax: (716) 626-0366

Dated: March 28, 2017

CERTIFICATE OF SERVICE

I certify that a true copy of APPLICANT'S ANSWERS TO OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION was served upon the Opposer by electronic mail pursuant to 37 CFR 2.119(a) and (b) directed to Opposer:

Ramona Prioleau
RLP Ventures, LLC
Times Square Station
P.O. Box 2605
New York, NY 10108-2605
(email) rlpvllc@gmail.com

By: 
Ellen S. Simpson
Attorney for Applicant
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, New York 14221
(tel): (716) 626-1564
(fax) (716) 626-0366

Dated: March 28, 2017

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 14

Tri-state area

There are a number of areas in the 48 contiguous United States known informally as **tri-state areas**. Often, a tri-state area is an area associated with a particular town or metropolis that lies across three states. Some, but not all, of these involve a state boundary **tripoint**. Other “tri-state” areas have a more diffuse population that shares a connected economy and geography, especially with respect to climate, such as the tri-state area of Indiana, Ohio and Michigan.

The New York metropolitan area, which covers parts of the states of New York, New Jersey, and Connecticut is perhaps the most commonly identified tri-state area. It is often referenced in New York radio, as well as through countless television commercials.

The Delaware Valley region, which includes eastern Pennsylvania, southern New Jersey, and northern Delaware, is also frequently referred to as a tri-state area in radio and TV advertising in the Philadelphia market.

Four other prominent areas that have been labeled tri-state areas are the Cincinnati tri-state area, including Ohio, Kentucky, and Indiana; the Pittsburgh tri-state area, covering parts of Pennsylvania, Ohio, and West Virginia; the Chicago tri-state area, also known as Chicagoland, which includes parts of Illinois, Indiana, and Wisconsin; and the Greater Memphis area or Mid-South consisting of West Tennessee, North Mississippi, and the Arkansas delta.

Smaller tri-state areas include those of Dubuque, Iowa, which spills over into Illinois and Wisconsin; of Quincy, Illinois, which includes parts of Missouri and Iowa; Evansville, Indiana, which includes parts of Illinois and Kentucky; the Chattanooga, Tennessee tri-state area which includes Alabama and Georgia; and the Huntington (W.V.)-Ashland (Ky.)-Ironton (Oh.) Tri-State region, which incorporates areas of Kentucky, Ohio, and West Virginia. The Quincy, Evansville, and Huntington-Ashland areas are noteworthy for the states included all being separated by rivers.

The area that includes Washington, D.C. and the nearby parts of Maryland and the Virginias is sometimes loosely referred to as a “tri-state area,” although the District of Columbia is not a state; however, with the presence of Jefferson County, West Virginia in the official Washington–Arlington–Alexandria Metropolitan Statistical Area, the region, as defined by the US Government, *does* in fact include three states. This area is more commonly/colloquially referred to as “the DMV” (DC, Maryland, Virginia).

The “Joplin District”, a lead and zinc mining region of Oklahoma, Kansas and Missouri, produced mineral specimens known as “tri-state” minerals, typically consisting mainly of **sphalerite**.

1 Tripoints

1.1 Land

Of the 62 points in the United States where three and only three states meet (each of which may be associated with its own tri-state area), 35 are on dry land and 27 are in water.^[1]



NY-MA-CT Tripoint Marker



CT-RI-MA Tripoint Marker



NJ-NY-PA Tripoint Marker



IN-MI-OH Tripoint Marker

1.2 Water

2 Regions with no Tripoint

The following tri-state areas are also notable, but have no tripoint:

3 See also

- Four Corners
- Four State Area
- Twin cities (geographical proximity), which includes tri-city

4 References

- [1] "Tri State Corners in the United States" (PDF). Jack Parsell.
- [2] Wheatley, Thomas. "Camak Stone, border marker between Tennessee and Georgia, is missing". *Creative Loafing*. Retrieved 7 May 2017.

- [3] Vardeman, Johnny. "Stolen stone returns home minus fanfare". *Gainesville Times*. Retrieved 7 May 2017.
- [4] <http://www.bjbssoftware.com/corners/pointdetail.php3?point=12> AZ-NV-UT Corner
- [5] <http://www.bjbssoftware.com/corners/pointdetail.php3?point=6> AR-MO-OK Corner
- [6] <http://www.bjbssoftware.com/corners/docs/canvor.pdf> CA-NV-OR Corner
- [7] <http://www.bjbssoftware.com/corners/docs/coksne.pdf> CO-KS-NE Corner
- [8] <http://www.bjbssoftware.com/corners/docs/conewy.pdf> CO-NE-WY Corner
- [9] <http://www.bjbssoftware.com/corners/docs/coutwy.pdf> CO-UT-WY Corner
- [10] <http://www.bjbssoftware.com/corners/pointdetail.php3?point=19> CT-MA-NY Corner
- [11] <http://www.bjbssoftware.com/corners/pointdetail.php3?point=20> CT-MA-RI Corner
- [12] <http://www.bjbssoftware.com/corners/pointdetail.php3?point=24> DE-MD-PA Corner
- [13] <http://www.bjbssoftware.com/corners/docs/ganctn.pdf> GA-NC-TN Corner
- [14] <http://www.bjbssoftware.com/corners/docs/idmtwy.pdf> ID-MT-WY Corner
- [15] <http://www.bjbssoftware.com/corners/docs/idnvor.pdf> ID-NV-OR Corner
- [16] <http://www.bjbssoftware.com/corners/docs/idnvut.pdf> ID-NV-UT Corner
- [17] <http://www.bjbssoftware.com/corners/docs/idutwy.pdf> ID-UT-WY Corner
- [18] <http://www.bjbssoftware.com/corners/docs/inmih.pdf> Jack Parsell's description of the IN-MI-OH tripoint
- [19] Geocaching. "Geocaching - The Official Global GPS Cache Hunt Site".
- [20] <http://www.bjbssoftware.com/corners/photos/IAMNSDBrian.jpg> Photo by Gregg A. Butler of the IA-MN-SD tripoint and its witness post
- [21] <http://www.bjbssoftware.com/corners/pointdetail.php3?point=46> KS-MO-OK Corner
- [22] KY-TN-VA Tri-State Peak at Cumberland Gap National Historical Park
- [23] <http://www.bjbssoftware.com/corners/docs/kyvawv.pdf> KY-VA-WV Corner
- [24] <http://www.bjbssoftware.com/corners/docs/mdpawv.pdf> MD-PA-WV Corner
- [25] Eric Jones. *New Hampshire Curiosities*. Globe Pequot, 2006. p114-5.

- [26] <http://www.bjbssoftware.com/corners/pointdetail.php3?point=54> MA-NY-VT Corner
- [27] <http://www.bjbssoftware.com/corners/docs/mtndsd.pdf> MT-ND-SD Corner
- [28] <http://www.bjbssoftware.com/corners/docs/mtsdwy.pdf> MT-SD-WY Corner
- [29] <http://www.bjbssoftware.com/corners/docs/nesdwy.pdf> NE-SD-WY Corner
- [30] <http://www.bjbssoftware.com/corners/pointdetail.php3?point=63> NJ-NY-PA Corner
- [31] <http://www.bjbssoftware.com/corners/docs/nctnva.pdf> NC-TN-VA Corner
- [32] "Iowa - Minnesota - Wisconsin Tri-state".

5 External links

- Tripoint Guide
- Clark, Patterson; Lu, Denise (2015-09-17). "Cornering America's tri-points". *The Washington Post*. Retrieved 2016-10-05.

6 Text and image sources, contributors, and licenses

6.1 Text

- **Tri-state area** *Source:* https://en.wikipedia.org/wiki/Tri-state_area?oldid=779168937 *Contributors:* Mulad, Rohan Jayasekera, Dale Arnett, Brenton, DocWatson42, Haeleth, Bkonrad, Chris24, Oknazevad, D6, WikiPediaAid, Jnestorius, EurekaLott, Dralwik, Zr40, Swift, BaronLarf, TShilo12, FPAtI, Daniel Case, Cbustapeck, Flyers13, Frank12, Jmbranum, BD2412, Klopek007, PHenry, Rangek, Tardis, Srleffler, Xcali, RussBot, Asarelah, ScrabbleShip, Ordinary Person, D Monack, Nationalparks, Khoule23, SmackBot, ShadowRanger, Reedy, Patrickneil, Ohnoitsjamie, Randella, Tamfang, Cybercobra, Mathmannix, LtPowers, Rory096, Lazylaces, Laeodritt, Flipperinu, Phatness7, Mapsax, The Font, Ravensfan5252, Ken Gallagher, AndrewHowse, Cydebot, Farzaneh, Kozuch, McGehee, Sidasta, Aufs klo, Cleverboy, Thomasmallen, Froid, JMyrleFuller, FMAFan1990, Zeete, Athaenara, RjCan, Speciate, Sapphic, Doug4422, Flyer22 Reborn, BobShair, Cguoft, ClueBot, C xong, EoGuy, Rhatsa26X, JeffBillman, Micha, Wedrawde, Staticshakedown, Good Olfactory, Startstop123, Morning277, Cnielsen1989, StarBP, Yobot, AnomieBOT, Ulric1313, Egull, Cavalier24601, Jbruin152, CMPunk2001, Ten-pint, Brandon5485, ShelbyBell, Hoppingalong, Slon02, Noahld, Thecheesykid, ClueBot NG, Helpful Pixie Bot, Regulov, BattyBot, CrunchySkies, Tahc, Frannietull, Kyleneumber1, Frosty, 6HooverGroover, Malikdahra, Ac2k, Snozzcumbers, Lannyrodellross, DrRC, Sgc7, Thebigbadwolf82, Lumastone, Blazkii, BD2412bot, Pinguinn, Marianna251, Iamamazingatlife, Devarim betelim, Bender the Bot, RonTheDowner, LionManatic2048, Superlolz123 and Anonymous: 121

6.2 Images

- **File:CT-RI-MA_TripoinT.JPG** *Source:* https://upload.wikimedia.org/wikipedia/en/7/77/CT-RI-MA_TripoinT.JPG *License:* PD *Contributors:* ? *Original artist:* ?
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- **File:NJ-NY-PA_TripoinT_Marker_-_2014-10-08_-_image_1.JPG** *Source:* https://upload.wikimedia.org/wikipedia/commons/c/c9/NJ-NY-PA_TripoinT_Marker_-_2014-10-08_-_image_1.JPG *License:* Attribution *Contributors:* Own work *Original artist:* Micha L. Rieser
- **File:NY-MA-CT_TripoinT_Marker.jpg** *Source:* https://upload.wikimedia.org/wikipedia/commons/d/d2/NY-MA-CT_TripoinT_Marker.jpg *License:* Public domain *Contributors:* Transferred from en.wikipedia to Commons by Daniel Case. *Original artist:* Khoule23 at English Wikipedia
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Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 15

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

Reg. No. 2,197,838

United States Patent and Trademark Office

Registered Oct. 20, 1998

**SERVICE MARK
PRINCIPAL REGISTER**

BOWDOIN COLLEGE

BOWDOIN COLLEGE (MAINE NONPROFIT
CORPORATION)
BRUNSWICK, ME 04011

FOR: EDUCATIONAL SERVICES, NAMELY,
PROVIDING COURSES OF INSTRUCTION AT
THE COLLEGE LEVEL, IN CLASS 41 (U.S.
CLS. 100, 101 AND 107).

FIRST USE 0-0-1794; IN COMMERCE
0-0-1794.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "COLLEGE", APART FROM
THE MARK AS SHOWN.

SEC. 2(F).

SER. NO. 75-335,668, FILED 7-15-1997.

ELIZABETH PASQUINE, EXAMINING ATTOR-
NEY

Int. Cls.: 6, 16, 21, 25 and 41

Prior U.S. Cls.: 2, 5, 12, 13, 14, 22, 23, 25, 29, 30,
33, 37, 38, 39, 40, 50, 100, 101 and 107

Reg. No. 2,233,342

United States Patent and Trademark Office

Registered Mar. 23, 1999

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

BRANDEIS UNIVERSITY

BRANDEIS UNIVERSITY (MASSACHUSETTS
CORPORATION)
415 SOUTH STREET
WALTHAM, MA 022549110

FOR: METAL KEY CHAINS, METAL MONEY
CLIPS, METAL LICENSE PLATES , IN CLASS
6 (U.S. CLS. 2, 12, 13, 14, 23, 25 AND 50).

FIRST USE 0-0-1979; IN COMMERCE
0-0-1979.

FOR: STATIONERY, STATIONERY TYPE
PORTFOLIOS, NOTE BOOKS, PENCILS AND
PENS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37,
38 AND 50).

FIRST USE 0-0-1979; IN COMMERCE
0-0-1979.

FOR: GLASSWARE, NAMELY, BEVER-
AGEWARE, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29,
30, 33, 40 AND 50).

FIRST USE 0-0-1979; IN COMMERCE
0-0-1979.

FOR: CLOTHING, NAMELY, SWEATSHIRTS,
SWEATPANTS, SHORTS, JACKETS, HATS,
JERSEYS AND T-SHIRTS, IN CLASS 25 (U.S.
CLS. 22 AND 39).

FIRST USE 0-0-1979; IN COMMERCE
0-0-1979.

FOR: EDUCATIONAL SERVICES, NAMELY,
PROVIDING COURSES OF INSTRUCTION AT
THE UNDERGRADUATE AND GRADUATE
COLLEGE LEVEL; ENTERTAINMENT SERV-
ICES IN THE NATURE OF COMPETITIONS IN
THE FIELD OF ATHLETICS; ENTERTAIN-
MENT SERVICES IN THE NATURE OF CON-
DUCTING EXHIBITIONS IN THE FIELDS OF
LIVE MUSIC CONCERTS, FINE ART EXHIBI-
TIONS, DANCE PERFORMANCES, THEATER
PRODUCTIONS AND FILM EXHIBITIONS , IN
CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 0-0-1948; IN COMMERCE
0-0-1948.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "UNIVERSITY", APART FROM
THE MARK AS SHOWN.

SEC. 2(F).

SER. NO. 75-288,262, FILED 5-7-1997.

KAREN M. STRYZ, EXAMINING ATTORNEY

Int. Cls.: 16, 25 and 41

Prior U.S. Cls.: 38, 39 and 107

United States Patent and Trademark Office

Reg. No. 1,229,771
Registered Mar. 8, 1983

**TRADEMARK
SERVICE MARK**
Principal Register

SKIDMORE COLLEGE

Skidmore College (New York not-for-profit corporation)
Saratoga Springs, N.Y. 12866

For: PUBLICATIONS—NAMELY, CATALOGS, BULLETINS, REPORTS, BROCHURES, BOOKS, DIRECTORIES, GENERAL INFORMATION AND OTHER PAMPHLETS FOR STUDENTS, in CLASS 16 (U.S. Cl. 38).

First use May 25, 1922; in commerce May 25, 1922.

For: CLOTHING—NAMELY, T-SHIRTS AND

SWEAT SHIRTS, in CLASS 25 (U.S. Cl. 39).

First use May 25, 1922; in commerce May 25, 1922.

For: PROVIDING EDUCATIONAL INSTRUCTION AND CLASSES ON THE COLLEGE LEVEL, in CLASS 41 (U.S. Cl. 107).

First use May 25, 1922; in commerce May 25, 1922.

Ser. No. 369,765, filed Jun. 15, 1982.

JAMES WALSH, Examining Attorney

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 16

Academics ▾

[Juris Doctor Program](#)

Graduate Programs

[Director's Welcome Message](#)[Environmental Law LLM](#)[Comparative Law LLM](#)[SJD in Environmental Law](#)[How to Apply](#)

Frequently Asked Questions

[Graduate Program Staff](#)[Contact the Graduate Program](#)[LLM Student Profiles](#)[Registrar](#)

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Frequently Asked Questions (FAQs)

What are the application deadlines for the Graduate Program?

What are the application requirements?

May I enter the program in the spring semester?

Is the LSAT required for admission to an LLM program?

Do I need work experience prior to entering an LLM program?

What are the tuition and fees?

What financial aid is available?

Is housing available?

How long does it take to complete an LLM degree?

Can I work while enrolled full-time in an LLM program?

Do credits from my JD transfer to the LLM program?

How can I schedule a visit to Pace Law?

For Non-U.S. Students

Do I have to take the TOEFL?

May I take the IELTS examination instead of the TOEFL?

What are the minimum scores required?

What information do I need to know about acquiring a visa?

I want to practice law in the United States. What do I need to do?

For any other questions, please contact the Graduate Program Office.

What are the application deadlines for the Graduate Program?

There is no official application deadline for LLM or SJD applicants.

However, candidates are urged to apply as early as possible in order to ensure a place is available in the class, as well as to ensure the best chance of scholarship and financial aid availability.

International candidates are especially encouraged to begin their application processes as early as possible, in order to have enough time to obtain a visa.

What are the application requirements?

An overview of the application requirements and procedure may be found on the page [How to Apply: LLM and SJD Applicants](#).

May I enter the program in the spring semester?

Yes. Pace Law offers a January intake for both the LLM in Environmental Law and the LLM in Comparative Legal Studies. Candidates may choose between the January intake and the traditional August intake to start their LLM programs.

Is the LSAT required for admission to an LLM program?

No, the LSAT is not required.

Do I need work experience prior to entering an LLM program?

No. Although work experience may be helpful, and most applicants at the graduate level do have some work experience, it is not a requirement for admission.

What are the tuition and fees?

(Academic Year 2016-2017, per semester unless otherwise noted)	Full-Time (12 credits or more)	Part-Time (12 credits or less)
Tuition	\$22,500	\$1,875 per credit
Institutional Fee	\$79	\$68
Health Insurance	\$1,224 per Academic Year (International Students) \$1,872 per Academic Year (Domestic Students)	Contact Allen J. Flood Ins. Co. for information (914) 834-9326 or (800) 972-7629
Activity Fee	\$45	\$30
Continuation Fee (For SJDs finishing	\$1,500	\$1,500

dissertation but not taking credits)		
--------------------------------------	--	--

What financial aid is available?

Each year, Pace Law makes a limited number of partial scholarships available to exceptionally qualified LLM and SJD students. A small number of research assistantships may also be available. Admitted candidates may apply for these scholarships or research assistantships by letter addressed to the Graduate Admissions Committee. As these resources are limited, candidates are encouraged to apply early for the best chance of availability.

LLM and SJD students are encouraged to explore all possibilities of financing their study, travel, living and other expenses with external scholarships, loans or grants. Some students are sponsored by their employers; others have received scholarships from the governments of their home countries.

Candidates with US citizenship or permanent residence should contact the Pace Law [Financial Aid Office](#) for detailed information.

Is housing available?

Pace Law is pleased to offer on-campus housing opportunities to its LLM and SJD students. [Dannat Hall](#) is located on the campus and houses up to 104 residents in single furnished rooms. Dannat Hall is equipped with wireless internet, a lounge on every floor, a kitchen, laundry room, recreation room, and fitness room. Free overnight parking is available to all resident students. For additional information about on-campus housing, please visit the [Office of Housing and Residential Life](#).

Students may also choose to live off campus. Houses and apartments in nearby White Plains offer convenient and pleasant alternatives. Many of our students decide to commute from New York City or the surrounding area. Pace maintains a [Shuttle Bus](#) that runs frequently throughout the school year from the White Plains train and bus transportation center to campus. Parking on campus is free, and many students drive from apartments located across the tri-state area of New York, New Jersey and Connecticut. Please contact the [Graduate Programs Office](#) for assistance with off-campus housing.

How long does it take to complete an LLM degree?

The LLM degree may be completed in two full-time semesters, although some students choose to take three semesters or more. Except with special permission of the Academic Dean, students must complete the LLM degree within three (3) years of matriculation.

Students interested in the New York bar examination must take into account the 24-month time limit from matriculation to award of the LLM degree, as established in Section 520.6 of the Rules of the Court of Appeals for the Admission of Attorneys and Counselors at Law (22 NYCRR 520.6). Exceeding this time limit will not affect award of the LLM degree. However, it may make the student ineligible to take the New York bar examination.

Can I work while enrolled full-time as an LLM?

While outside employment is not prohibited to full-time students, it is not recommended.

Every hour of class is going to require approximately three hours of reading and preparation outside of class. As a general rule, full-time students can expect to spend more than 48 hours per week reading and preparing outside of class and actually attending class sessions. Attempting to work at the same time would very likely be detrimental to success in the LLM program.

For this reason, students intending to work during the LLM program are strongly encouraged to consider part-time enrollment.

Do credits from my LLB or JD transfer to the LLM program?

Students may apply for transfer credits completed at another ABA-approved law school or equivalent institution outside the United States. If approved, transfer credits will allow them to count up to 12 credits of prior coursework toward the 24 credits required for the Pace LLM degree. Approval is at the sole discretion of the Academic Dean, whose decision is final.

Students with a JD from Pace Law, and who are subsequently admitted to the LLM in Environmental Law, may receive 'advanced standing' for up to 12 credits of environmental law coursework completed during their JD program.

How can I schedule a visit to Pace Law?

A campus visit is one of the best ways of deciding whether Pace Law is the right law school for you. Please contact the [Graduate Programs Office](#) to schedule your visit.

Do I have to take the TOEFL or IELTS?

If your native language is not English, you must submit evidence of English language proficiency. The Graduate Admissions Committee strongly prefers TOEFL scores of at least 90 or IELTS scores of at least 6.5. Candidates with lower scores will be considered by the Committee, although they may be required to complete a course of instruction at the [Pace University English Language Institute](#) before enrollment in the LLM or SJD.

Candidates choosing to fulfill the English proficiency requirement by studying at the [Pace English Language Institute](#) will be allowed to enroll in the LLM or SJD program upon completion of their English course to the satisfaction of the Institute's Director. The duration of such a course will vary depending on each candidate's initial level of English.

Candidates whose native language is not English, but who have completed university courses in which English was the language of instruction, may apply for a waiver of the English proficiency requirement.

May I take the IELTS examination instead of the TOEFL?

Yes, you may submit either TOEFL or IELTS scores as evidence of English proficiency.

What are the minimum scores required?

The Graduate Admissions Committee strongly prefers TOEFL scores of at least 90 or IELTS scores of at least 6.5. Candidates with lower scores will be considered by the Committee, although they may be required to complete a course of instruction at the [Pace University English Language Institute](#) before enrollment in the LLM or SJD.

Candidates choosing to fulfill the English proficiency requirement by studying at the [Pace English Language Institute](#) will be allowed to enroll in the LLM or SJD program upon completion of their English course to the satisfaction of the Institute's Director. The duration of such a course will vary depending on each candidate's initial level of English.

Candidates whose native language is not English, but who have completed university courses in which English was the language of instruction, may apply for a waiver of the English proficiency requirement.

What information do I need to know about acquiring a visa?

After you are admitted, Pace Law and the International Students Office at Pace University will provide you with the necessary documents to start the application process for a student visa from the United States embassy or consulate in your home country.

These initial documents include a Financial Affidavit, to be signed by you and/or your sponsors, showing acceptance of responsibility for the cost of your graduate law program, and an application for either Form I-20 or Form DS-2019.

Once you receive Form I-20 or Form DS-2019 from Pace University, you will need to obtain bank documentation showing availability of funds, and make a visa appointment with the United States embassy or consulate in your own country. When you go to this appointment, you must take your letter of acceptance, Form I-20 or Form DS-2019, bank documentation and any other documents the embassy or consulate may require.

When your visa is approved, the embassy or consular official will stamp your passport. This visa gives you permission to apply for entry into the United States. Finally, when you enter the United States the immigration officer will attach a Form I-94, which indicates your immigration status, date of entry, port of entry, and the length of time your visa is valid. Once you arrive in White Plains, please check in at the Graduate Program office in Preston Hall 216.

I want to practice law in the United States. What do I need to do?

The basic requirement to practice law in the United States is to pass the bar examination of the state in which you wish to practice. Depending on the state, you may also be required to pass the Multistate Professional Responsibility Examination (MPRE) and demonstrate compliance with that state's character and fitness requirements.

In New York, foreign-trained law graduates must submit their credentials for prior evaluation by the [Board of Law Examiners](#). If approved, you must then complete a 24-credit LLM degree in an accredited law school, completing certain courses specified by the Board of Law Examiners.

For more information, please review [Rule 520.6](#) of the Rules of the New York State Court of Appeals for the Admission of Attorneys and Counselors at Law.

If you are not a US citizen or a permanent resident, you must also become legally authorized to work in the United States.

APPLY

VISIT

REQUEST INFO



**Elisabeth Haub
School of Law**
PACE UNIVERSITY

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Academics
Centers & Institutes
Career Services

Student Life
Faculty & Scholarship
Library
News & Events

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Pace University
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ABA Required Disclosures

78 North Broadway, White Plains, New York 10603

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 17

THE MENTORS

Learn From Professionals



PETER D. GORMANLY, ESQ.

Founder and General Counsel, Peter is responsible for the company's overall operation. A former Westchester County assistant district attorney, Peter has prosecuted hundreds of felony trial and appellate cases. Peter is a graduate of Pace Law School, holds a Masters Degree in International Relations, serves as a pre law advisor/adjunct professor at Mercy College, and is a former campaign manager. Peter's better half, Vicky Gormanly, Esq, is an Associate at Reed Smith in Washington, D.C. with a practice focused on health care regulatory matters. Peter has two daughters, Colleen who is presently serving with the Peace Corps in Kazakhstan and Carolyn who is attending Siena College.



HONORABLE JAMES A. MONTAGNINO

Currently in his 16th year with Focus, Jim is Principal Court Attorney for the Family Court of Rensselaer County. In the judicial branch since 1995, Jim has been a Principal Law Clerk, Court Attorney/Referee and Special Referee. Prior to joining the judiciary, Jim served as an Assistant District Attorney in Westchester County and as Associate Counsel to the Legal Aid Society of Westchester County. A Princeton alumnus with a law degree from Pace Law School, Jim lives in Saratoga Springs with his wife Nancy and his children Alexandra and Maximilian. In his spare time he likes to fly his Piper Cherokee airplane and cruise on his Gulfstar trawler.

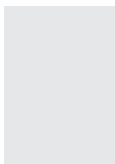


SCOTT SULLIVAN, ESQ.

Scott graduated Pace Law School in 1999 and is admitted to practice in New York and Connecticut. He is a decorated police lieutenant and a private practitioner specializing in corporate law, tort and civil rights litigation, and business/technology consulting. In addition, he is an adjunct professor at several universities. While at Pace School of Law he interned for Magistrate Judge Mark D. Fox in the U.S.D.C. for the Southern District of New York, and held the position of Dean's Scholar. He has been teaching with Focus since 2000.

STEPHANIE CHOW, ESQ.

Stephanie is currently the Assistant Director of Student Services at Pace Law School and is admitted to practice in New Jersey. She graduated cum laude from Pace University School of Law, where she was the President of the Student Bar Association, a Dean's Scholar and a Research Assistant. Stephanie received a Bachelor of Science in Hotel Administration from Cornell University.



JAMES BAVERO, ESQ.

Currently serving as a Westchester County Assistant District Attorney in the Local Court Bureau, James is responsible for vertical prosecution of criminal cases from arraignment to trial. A graduate of Pace Law School, James has been active in Focus since preparing with Focus in 2006.



FOCUS GRADUATE REPORTED RESULTS

Median Reported LSAT Score: 156

Students scoring at or above national median (151): 84%

Students scoring nationally in the top 25 percentile: 41%

Students scoring nationally in the lowest 25 percentile: nil

SIT IN ON A CLASS FOR FREE

Prospective students are invited to sit in on a full five hour class with no obligation. Just contact us, let us know when and where you want to observe and join us.

THE COST — SURPRISINGLY AFFORDABLE

60 hour Weekend Program:	\$1,850
30 hour Seminar Series:	\$1,250
Individual Tutoring:	\$250 per hour/ discounted packages available at www.focusapproach.com

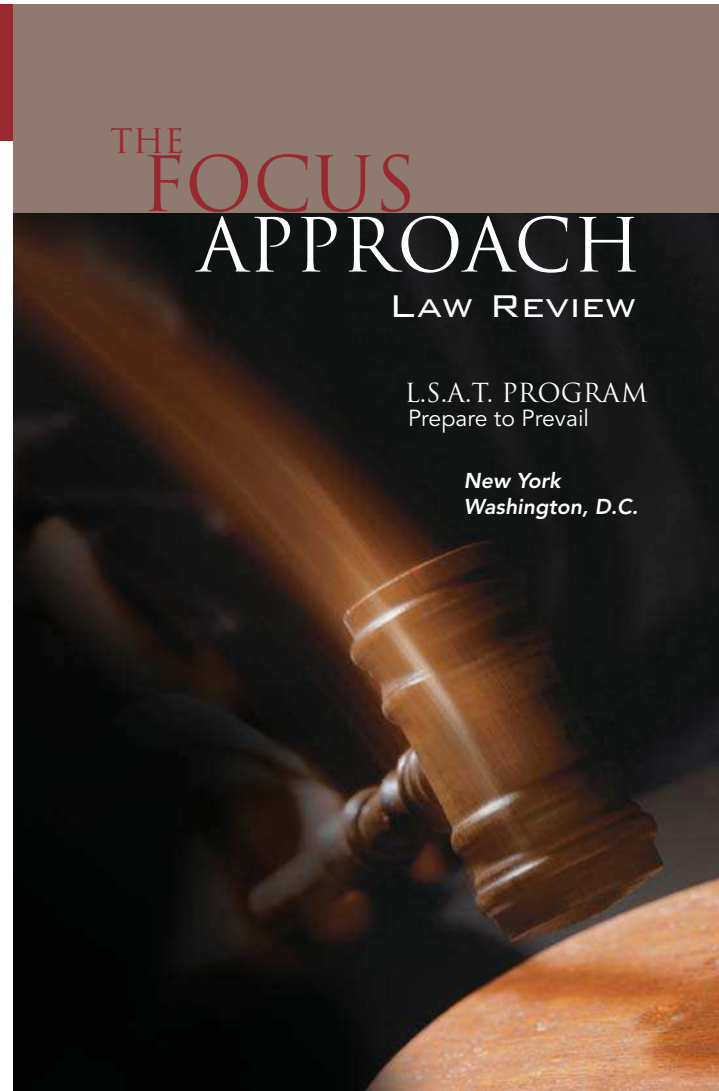
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We will help you get there. | www.focusapproach.com

THE FOCUS APPROACH LAW REVIEW

L.S.A.T. PROGRAM
Prepare to Prevail

New York
Washington, D.C.





LAW SCHOOL IN YOUR FUTURE?

We Will Help You Get There

THE FOCUS APPROACH LAW REVIEW

The Focus Approach Law Review has been preparing students for the LSAT since 1995. The strategy is simple.

THE LSAT IS AN AMBUSH; IT'S THAT SIMPLE

Unlike Law School, where a very slight percentage of students will be involuntarily dismissed for academic performance, or the Bar Exam, where the overwhelming majority of test takers will pass, the LSAT is designed to produce failure; it is our exclusionary test, analogous to the CPA exam in accounting.

In 2009-2010, approximately 170,000 LSAT's were administered; there are approximately 50,000 first year law school seats available in accredited law schools, those are daunting odds.

The LSAT is required, there is no escape. Every accredited law school requires that you report an LSAT score, and all but a few place greater weight on that score than on any other variable (including your GPA)

The LSAT measures how you reason, not just what you know. A successful attorney is wired to see what is missing whether by inference or deduction. Think for a moment. The LSAT, for instance, requires you to identify a flaw in someone else's argument approximately a dozen times.

When written, the argument was thought to be valid by its author. It's your job to see what evaded the original author, namely the nature of its invalidity.



Against this background how do students get ready for the LSAT? Many choose the traditional boilerplate programs, marketing giants perhaps but what do they deliver? Part time, poorly paid and prepared, ill equipped "instructors" who overwhelming have never practiced law, or even attended law school; crowded classrooms at a "discounted" price; and limited in class examination of actual LSAT exams.

Imagine attending a law school, or preparing for the Bar exam, with "instructors" who possessed no legal credentials; there is no way you would attend.

Take a fresh look at how you expect to prepare; focus on a new reality, those who are prepared cannot, and will not be ambushed. It's time for you to consider a more focused approach.

THE PROGRAM

Weekends:

- A minimum of three months and 60 hours of in class preparation
- Each class is a minimum of 5 hours long
- Every class is taught by an actual attorney
- In class material will consist of the 25 most recently released LSAT's
- Maximum of 20 students per class
- Study groups meet on a regular basis

THE FOCUS APPROACH

We Prepare You to Succeed

- Pre-Testing, you must produce evidence that you are likely to succeed before you take the LSAT, you must prove your case
- Attorney/Mentor Consultation, your mentor will advise you of exactly where you stand
- Law School Admissions advice

Weekday Seminar Series:

- 30 hour program consisting of 10 three hour sessions
- Every class is taught by an actual attorney
- In class material will consist of the 25 most recently released LSAT's
- Maximum of 8 students per seminar
- Held at New York and Washington, D.C. area schools
- Pre-Testing, you must produce evidence that you are likely to succeed before you take the LSAT, you must prove your case
- Attorney/Mentor Consultation, your mentor will advise you of exactly where you stand
- Law School Admissions advice

THE CHALLENGE

You must be physically, intellectually and psychologically prepared for this half-day exam in which you are given 90 seconds per question.

There is pathway of evidence you must follow to reason logically; it is the same pathway a trial attorney uses to prevail, you must reason now as you will when you are an attorney



LEARN FROM PROFESSIONALS

Only Licensed Attorneys with Hands on Court Room and Teaching Experience



HERE'S WHAT OUR FORMER STUDENTS HAVE TO SAY

"NINE POINT INCREASE. Guess who is going to law school in the fall ;) you are a freaking genius Peter Gormanly. A GENIUS! We have to talk! Maybe I'll stop by a class! OH MY GOD I AM SO HAPPY"

— Ivana Peric

"The Focus Approach taught me the skills necessary to conquer the LSAT. I began with some natural aptitude, but the Focus team helped me expand my abilities and strategically master the test. My work became faster and more consistent, and by the end of the course I felt more than prepared to take the LSAT. I walked into the test center with confidence and, more importantly, endurance. After weeks of lengthy class sessions, the test flew by. I was able to score a 170, giving me an abundance of choices for law school."

— Andrea Long

"Focus Approach raised my score by nearly fifteen point. Peter teaches you strategies you won't learn anywhere else. Taking the LSAT without taking this course is like driving with your eyes closed. Take this course and you will be prepared, you will score higher and you will get into law school."

— John D'Alessandro, Esq.

"Peter, wow—even now, when I think about it I am still amazed I was able to improve my score by so much – there is no way I could have done that without Focus. I was already successful in my field when I began this journey. I tried other methods without success. Then I tried Focus and my official score increased ten points as a direct result of your ability to impart the essence of the LSAT and how to tackle it."

— Diane Erickson

"The Focus Approach class gave me the confidence and knowledge I needed to excel on the LSAT. Peter and Jim understand this test on a level I have not seen in anyone else. Their insights and incredible teaching abilities helped me raise my official score from 155 to 168. Not only does this class teach you how to find patterns and identify strategies for each question type, It gives a comprehensive understanding of what to expect. I entered the test feeling 100% prepared and I know that if it had been for this class and Peter's dedication to each of his students I would have been nervous and unsure of my abilities. I recommend this class to anyone who is serious about law school; it's intense and it will get you results."

— Daksha Bhatia

ANCHOR LOCATIONS:

Pace Law School, White Plains, N.Y.

Touro Law Center, Central Islip, N.Y.

Siena College, Albany vicinity, N.Y.

VISIT OUR WEBSITE:

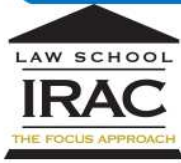
www.focusapproach.com for a complete listing of our New York and Washington D.C. locations.

CONTACT US:

(914) 763-0128
lsatfocus@aol.com

Opposition No. 91228593
RLP Ventures, LLC v. Focus Approach, LLC
U.S. Trademark Application Serial No. 86/554,989

EXHIBIT 18



The Focus Approach® Law Review / LSAT Program



Touro Law Center

Preparation for the September '17 LSAT begins July 2nd!

THE FOCUS APPROACH® LAW REVIEW

"PREPARE TO PREVAIL"

We are a team of successful, value driven lawyers -- passionate, intelligent, committed, prepared, and focused on your success. Our leadership of experienced litigators is trial - hardened and courtroom - strong. We understand what it takes to win.

Our classroom is a law school, our method Socratic.

We are convinced that teaching "tricks" and "short cuts" is naive; the LSAT is a sophisticated, nuanced, formidable adversary; it must be understood and respected before being conquered. As attorneys, we know that if the strategy is flawed, the outcome will be flawed.

We are leaders who think "outside the box", find creative approaches, and collaborate with one another. We are strategists to the core.

We break the mold.

Join us.

Videos & Testimonials

Focus Testimonial: Anya



Schedule a Class Visit

Do your due diligence. Attorneys gather and carefully examine evidence before acting; so must you. Schedule your free class visit now and come experience what real LSAT preparation looks like.

[More Information](#)

Schedule of Classes & Events

See when and where classes are scheduled to be held and join us at events and Focus Approach presentations.

[More Information](#)

Register for a Course

Join us! You are on the cusp of joining hundreds of successful attorneys who began their journey in a Focus Approach classroom.

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[TOURO LAW CENTER - CENTRAL ISLIP, NY](#)

[ALBANY LAW SCHOOL - ALBANY, NY](#)

AFFILIATIONS

[POLICE TUTORIAL SERVICE](#)

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