

## Establishment of Rights Through Use of a Mark

**Problem:**

January: Company A creates anticipation in the market about the sale of “Blorq-Zlub” staplers.

March: Company B sells “Blorq-Zlub” binder clips.

June: Company B files an application to register “Blorq-Zlub” for binder clips.

July: Company A, gearing up to go to market with “Blorq-Zlub” staplers in August, opposes Company B’s application.

*If it is stipulated that Company A has yet to make a trademark use of “Blorq-Zlub” sufficient to permit Company A to register “Blorq-Zlub” for any goods or services, does it follow that Company B is not barred from registration based on Company A’s conduct?*

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**No.**