

## CL820 Intellectual Property

### Module 7 Assignment

#### Instructions:

This assignment will serve to reinforce what you have learned in Modules 4-7 about patent law.

In this assignment you will analyze a patent-related fact pattern to determine a best course of action. This assignment will not only give you a chance to apply what you have learned, you will also practice your research and writing skills.

Time: It is estimated this assignment will take about eight hours. However, you are not limited to that amount of time and there is no penalty for taking a longer or shorter period of time. The amount of time the assignment takes may vary greatly between students.

Student Conduct: This assignment must be solely your work. You may contact administration for technical support, i.e., non-working websites for research, but may not contact anyone for assistance with researching or writing the assignment. If the assignment is not clear to you, declare any reasonable assumptions or interpretations you are making within the assignment and proceed. You may not contact the professor for assistance with the assignment as it must be your own work and to receive assistance would constitute an unfair advantage. You may not delegate responsibility for complying with the Student Conduct Code to others. Telling someone to disregard your asking for assistance if it is a violation is not effective. If the communication is a violation, it is a violation. You may not discuss the contents of the assignment with other students either in the course or not. Plagiarism is not acceptable. The University uses Turnitin or similar software to detect plagiarism. You must properly attribute any material you use.

Format: Microsoft Word, double spaced (except the notice may be single spaced if appropriate), one inch margins, 12 point Times Roman font, and Bluebook citation. You must support your statements of law with citations. It is estimated that this will result in a 5-7-page answer. However, the length may vary depending on your style. The important focus is on producing a quality, on-point response. **Do not cite to the assigned textbook**, nor to videos nor transcripts in the courses.

Grading: The evaluation of the assignment will be guided by the rubric below. Additional factors which may impact grading will be timely submission, quality of writing, and Bluebook citation.

#### Background:

You are a lawyer for Westeros, Inc., a California-based company that produces sensitive, highly volatile chemicals used to facilitate mining operations for Dragonglass and related industrial refining processes. Dragonglass is a form of volcanic glass, also known as obsidian, which has existed for millennia. It is extremely rare and difficult to mine.

Your scientific staff in California have recently discovered a process for producing synthetic Dragonglass. The process is significantly safer than the current mining operations, and does not require your company's sensitive, highly volatile chemicals. The resulting synthetic Dragonglass is virtually indistinguishable from the naturally-occurring product. Although the availability of synthetic

Dragonglass could destroy your company's current market in the mining related chemicals, it has the potential to create an even more lucrative market going forward.

You have been asked to advise Westeros, Inc. on how to best exploit this new market. For each question, be sure to identify the potential risks and benefits. Regarding the risks, advise your CEO how you might minimize those risks and what legal action you would take in a worst-case scenario.

**Questions:**

First, should you maintain the discovery as a **trade secret or seek patent protection**? What are the **benefits** and detriments of each option?

Second, if you were to seek patent protection, would the discovery be **patentable under the American Invents Act**? Why or why not?

Third, if one or more of your competitors start to use your discovery in competition with Westeros, how will your company seek to stop them?

Be sure to use the facts and law to justify your conclusions. You are expected to conduct legal research to complete this assignment. You should not make up facts. If you are missing any facts that are important to completing your analysis, please identify those and what impact they would likely have. Identify any assumptions you are making from the facts given.

Put your answer in objective memorandum format with the following headings:

QUESTION PRESENTED

BRIEF ANSWER

STATEMENT OF RELEVANT FACTS

DISCUSSION

CONCLUSION

**Submit your completed assignment to the Module 7 Assignment Dropbox.**