

Intellectual Property Fall 2016 Writing Assignment #1

*This assignment is 2 pages long. As discussed in class, your groups of 3-4 students are responsible for preparing a **single** answer that reflects your joint work. You can confine your answer to the areas we've discussed so far in class: undeveloped ideas, trade secret, and patent. You are allowed – and expected – to consult written and electronic sources beyond those presented in class and in the coursepack. (Do not discuss this assignment with anyone outside your group until after the due date.) Your answer should provide a reasonable opinion about the actual state of the law, keeping in mind the limits of your client's budget for legal research and the time available to complete the assignment.*

Your client, Inga Christiansen, is developing a range of modular flat-pack furniture that she hopes will do for furniture what Dollar Shave Club is doing for razors, Casper for mattresses, Soylent for food, etc. She was initially inspired by the convenience and low price of Ikea flat-pack furniture and by the convenience of online ordering for flat-pack furniture made by companies like Sauder and Bush. But she was frustrated by the long-term performance of these items in two ways. First, the wood is often flimsy and prone to breaking easily. Second, once part of an item – like a single chair leg – breaks, one typically needs to throw out the entire item because there is no reasonable way to get replacement parts.

Christiansen's furniture designs feature three kinds of pieces: flat wooden sections (for things like tabletops and chair seats), cylindrical wooden sections (for chair legs, bedposts, and so on), and plastic connectors in various shapes. At the moment, there are four types of flat pieces, three types of thin pieces, and five types of connectors, although the number and specific designs might change a bit as she works on designing new configurations. The wooden pieces have various grooves and slots cut in their exteriors to connect with the connectors. In addition, portions of their interiors have been cut in a honeycomb pattern by a computer-controlled milling machine to reduce their weight without compromising strength. These twelve pieces suffice to make the whole of range of Christiansen's current range of furniture, including dining chairs, side tables,

coffee tables, dining tables, bed frames, bookshelves, and media consoles. When you buy a chair, for example, you get a square base for the seat, a rectangle for the back, four legs, and six connectors. A small dining table uses six rectangular elements for the tabletop, eight straight elements for the legs, and twenty-two connectors. If one of the pieces breaks, replacements are easy to order and snap into place. Christiansen also plans to sell a wide range of cushions and covers for chairs and couches.

Now that she is convinced the furniture will work, Christiansen is interested in scaling up the business. First, she needs more money and will be talking to investors. Second, she needs manufacturing capacity. The machine shop she has been working with, Kemper's Creations, is fine for prototyping, but for a competitively-priced line of furniture, Christiansen needs either to build her own facility or place bulk orders with overseas factories. Third, she needs to build out a brand, website, customer-service organization, and everything else needed to take and fulfill orders.

(1) Contact me to schedule a time to interview "Christiansen" for up to half an hour. You should use the time to elicit any additional information you think you need to know in order to advise her effectively.

(2) Write a memo of about 2000 words to Christiansen explaining the intellectual property considerations that should inform her strategy going forward. Remember that she does not have a law degree and is not familiar with intellectual property law. She is also very smart and exceedingly busy. It is fine to tell her you will provide her with appropriate legal instruments – patent applications, NDAs, etc. – without going into the details as long as you flag for her review the strategic choices they involve and the reasons for your recommendations.

(3) Attach a one-page "bibliography" listing any statutes, regulations, Restatement sections, cases, etc. that you substantially relied on in preparing your answer. Add short notes – at most one or two sentences each – that explain the point you're relying on them for. I don't have a set list of things I'm looking for. Instead, this is so that I'm on the same page as you in understanding your advice to Christiansen, since your memo to her should avoid getting too deeply into discussing specific sources.

Your answers are due by noon on Wednesday, October 12.