INTELLECTUAL PROPERTY MANAGEMENT
FINAL EXAM
SPRING '07

Professor Jorda May, 2007

Instructions:
This is a two-hour (more for certain foreign students) open-book exam. You may consult the course materials as well as any other materials.

Write your answers in the blue books supplied, but please use only one side of the page and observe the margins. Please print or write as legibly as possible.

Grading will be anonymous; please do not put your name on anything you turn in. BE SURE YOUR EXAM NUMBER IS ON EACH BLUE BOOK YOU TURN IN.

PROBLEM I

A. Facts

Balloon angioplasty is a popular procedure for opening clogged arteries in treating cardiovascular disease. Inventors Doe and Dunn in the late 1990s decided to develop their own catheter and balloon device to be used in balloon angioplasty. Seeking a suitable material for the balloon, they contacted ABC Corp. engineer Smart, who suggested ABC's heat shrinkable irradiated modified polyolefin tubing, as well as an adhesive-free seal to attach it to the catheter. Smart provided multiple samples of tubing and described how one end could be shrunk to fit onto the central shaft of the catheter without the use of any potentially-toxic adhesive chemicals. After much experimentation and difficulty, Doe and Dunn developed an acceptable adhesive-free seal and in 2002 were issued a patent on their catheter. The patent was assigned to XYZ Inc. which began making the catheters with tubing supplied by ABC. In infringement litigation against a third party, Smart intervened by filing a cross-complaint against XYZ for joint inventorship.

B. Questions

How should the court rule on Smart's cross-complaint and why? **[20 points]**

PROBLEM II

A. Facts

A consultant was hired by Pinnacle Corp. to design a level detector for determining the level of fly ash in hoppers in which fly ash from coal-fired boilers was accumulated. On the job, the consultant developed a successful level detector and assisted in installing the detectors in a number of hoppers at two different plants of Pinnacle. At no time during this period did the inventor convey the impression that Pinnacle did not have the right to have the detectors made, installed and used in these plants. No consultant agreement had been concluded.

Later, the consultant formed a company, filed for and received a patent and sued Pinnacle. His argument was that the company had no shop right that permitted it to *purchase detectors from anyone other than the consultant's new company.*

B. Questions

Who prevails and why? **[20 points]**

PROBLEM III

Miscellaneous Questions

1. What is the legal and commercial significance of so-called "housemarks"? **[6 points]**
2. In what sense and to what extent do patents and trade secret dovetail? **[6 points]**
3. What legal and operational functions do laboratory notebooks serve? **[6 points]**
4. What legal and operational functions do invention disclosures serve? **[6 points]**
5. What is meant by "harvesting inventions" and which five policies and practices would in your view be the most conducive ones to accomplishing invention harvesting and why? **[6 points]**

--END OF EXAMINATION--

KFJ/Ruh/4.26.07