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Professional Legal & Ethical Issues

(Professional Practice 2)

Assignment 3

Due Date: 14/6/2015

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# Introduction

## Q1

Alex and Kim graduate from the CIT/AIE Bachelor of Games and Virtual Worlds (Programming) Degree and start working at HEATWAVE Ltd in the gaming industry in Sydney. During the semesters of study they bonded over online discussions and decide to share a flat and move in together in Sydney.

### Q1.1

Describe the ethical conflicts or issues apparent from their perspective

#### Trademarks

Not suitable for this question

#### Copyright

Not suitable for this question

#### Design

Not suitable for this question

#### Patent

Not suitable for this question

### Q1.2

Any legal challenges that could be mounted to disrupt the release of the indie game

#### Trademarks

If we apply unregistered.

#### Copyright

Not suitable for this question

#### Design

Not suitable for this question

#### Patent

Not suitable for this question

## Q2

Alex is working in the graphics area of HEATWAVE Ltd (designs characters, environmental landscapes and levels). Alex is known for creativity at HEATWAVE due to the suite of characters that has been developed with the team. There is specific excitement surrounding two of the characters ‘FIREFOX’ and ‘SILVER SLUG’ which are going to be registered as trademarks. They are testing well with target market consumer groups.

### Q1.1

Describe the ethical conflicts or issues apparent from their perspective

#### Trademarks

Issues 1:

A third party can apply to have our trade mark removed from the Register. If you haven’t used it for three years or if you had no intention of using it when the application was filed.

Issue 2:

Trademark does not apply to overseas unless you fill in an application.

Issue 3:

The period of time taken between filing and examination of applications can vary considerably

Due to significant fluctuations in the workload of IP Australia. But if you believe that you will be seriously disadvantaged because of the time taken between filing and examination, you have to request early examination of our application. There are no fee associated with lodging such a request but it must be accompanied by a declaration detailing the reasons for our request.

Issue 4:

If not accepted for registration, you will be sent a report detailing issues that need to be addressed to which you should reply in writing.

Issue 5:

The *Trade Marks Act 1995* allows you 15 months from the date of the examiner’s first report to meet any requirements and to have our application accepted by the Registrar. If you need additional time, you may request and pay for extensions of time.

Issue 6:

Another person can apply directly to a court for a court order to remove or cancel our trade mark registration. And defenceis our responsibility.

Issue 7:

The earliest date our trade mark can be registered is seven and a half months after an

Application is filed.

Issue 8:

Unsolicited mail from unknown sources on the subject of patent and trade mark registration should be treated with caution. In cases where the credibility of correspondence is questionable, it would be prudent to seek professional advice.

Companies reported to have sent unsolicited material to trade mark owners include:

• **TMP, Trade Mark Publishers, Austria but with a street address in Sydney**

• **Commercial Centre for Industry and Trade (based in Switzerland)**

• **Company for Economic Publications Ltd (based in Austria)**

• **Company for Publications and Information Anstalt (based in Liechtenstein)**

• **Edition The Marks KFT**

• **European Institute for Economy and Commerce – EIEC (based in Belgium)**

• **Globus Edition SL (based in Spain)**

• **INFOCOM (based in Switzerland)**

• **Institute of Commerce, Trade and Commerce (based in Switzerland)**

• **IT & TAG (based in Switzerland)**

• **TM Collection (based in Hungary)**

• **ZDR-Datenregister GmbH (based in Germany)**

• **I.B.F.T.P.R – International Bureau for Federated Trademark & Patent Register**

• **RIPT – Register of International Patents and Trademarks**

• **Gaia Almanach LTD**

• **International Patent and Trademark Register based in Nurnberg, Germany**

• **TM Worldwide (based in Hungary)**

• **Federated Institute of Patent and Trademark Registry, based in Florida, USA**

Note that the above list is not comprehensive, and it is possible that correspondence will

Come from other companies.

Issue 9:

A trade mark does not have to be registered. However if we use an unregistered trade mark, we would need to search their database of registered and pending trademarks.

This will help ensure that we don’t inadvertently infringe the rights of registered trade mark owners.

Issue 10:

Although ™ can be used with our trade mark at any time, ® can be used only with a registered trade mark.

Issue 11:

An application for a trade mark must be examined before the trade mark can be registered. We cannot claim that the trade mark is registered until we receive the Certificate of Registration.

Issue 12

If our trademark is registered, it is protected from the date we filed our application — not from when it was examined or accepted.

#### Copyright

Not suitable for this question

#### Design

Not suitable for this question

#### Patent

Not suitable for this question

### Q1.2

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Not suitable for this question

Going to be reg8isted as trademarks does that mean they are, or other companies going to be resisted as trakmark? , after register as trademark they have reasonability to be that correct what to conform.

When working at AI will there have idea that already have been covered and also do you need to registered the library if yes you would need to do trademark

When testing well with target market cusumer groups, how are they going to test? if they are going to … that would need be a good idea is that correct ? and Firefox has been use as brower name so will that have any effect ?

Apply the trademark it will allow people

However people can make similar things , which means poele can using differnet way to create the same charthers

## Q3

Kim is working in the Artificial Intelligence (AI) area which simulates learning and enhancing the interaction with the opposition in game play. Kim has created a complex library of algorithms which fuses and synthesises data from multiple sources to provide decision support in the game environment, HEATWAVE has named this library ‘TERRAWESOME’.

## Q4

Although they love what they are doing and talk about it at home as well as with friends, their true passion lies in indie game development.

### Q1.1

Describe the ethical conflicts or issues apparent from their perspective

#### Trademarks

Not suitable for this question

#### Copyright

Not suitable for this question

#### Design

Issue 1:

If it is for applying a new design. Be aware of the publicity trap. If you’ve publicly disclosed your design before applying for registration you may have lost your ability to protect it.

#### Patent

Issue 2:

If we are applying for invention. Be aware if you demonstrate, sell or discuss your invention in public before filing an application, you can lose your rights to a patent.

## Q5

HEATWAVE has a culture of active development and innovation in the work environment and encourage steams to design and develop prototypes which the company can explore in the future. Developments are presented at a quarterly forum run by the senior executives in a ‘dragons den’ environment.

Although they love what they are doing and talk about it at home as well as with friends, their true passion lies in indie game development.

### Q1.1

Describe the ethical conflicts or issues apparent from their perspective.

#### Trademarks

Not suitable for this question

#### Copyright

Not suitable for this question

#### PaTENT

**Issue 1:**

You don’t want to apply for a patent for an invention that isn’t **new**. Before investing large amounts of time and money, search patent databases, sales brochures and the internet. This will help you determine if your invention has already been thought of by someone else.

**Issue 2:**

If applying overseas IPAustralia website provides links to a range of patent databases, including those of the major overseas IP offices. Most of these databases are free to search, but using them effectively is a specialized skill. You may want to contact a patent attorney or professional searcher to search for you.

**Issue 3:**

Be a manner of manufacture. A patent may be granted only for a tangible invention. No matter how ingenious or unusual they may be, you cannot patent artistic creations, mathematical models, theories, ideas or purely mental processes.

**Issue 4:**

Involve an inventive step for a standard patent. The invention must not be obvious to someone

with knowledge and experience in the technological field of the invention.

**Issue 5:**

• involve an innovative step for an innovation patent. There must be a difference between the invention and what is known about that technology, and this difference must make a substantial contribution to the working of the invention.

**Issue 6:**

• be useful, your invention should do what you say it will do

###### When patent my

• the possibility of commercial returns outweighs the time, effort and money required to

acquire and maintain a patent

• the limited monopoly a patent offers would help mitigate the risks of IP theft in the

markets you are interested in

• you have the resources to manage your intellectual property

• a thorough search reveals no other similar technology

• you own the invention and have kept it a secret.

#### Design

### Q1.2

Describe the ethical conflicts or issues apparent from their perspective

#### Trademarks

Not suitable for this question

#### Copyright

Not suitable for this question

#### Design

#### Patent

Can these innovation be resignted or is it benefits to do that

## Q6

HEATWAVE has announced it is in negotiations with PasiVision around a possible merger, and that development will be slowed to allow the media team time to co brand a new release. This has led to consider able free time in the working day for Alex and Kim to progress a concept utilizing HEATWAVES systems, infrastructure and staff.

## Q7

Earlier in the month PasiVision communicated a proposal to shelve all planned releases for 8 months to ensure that the elements of their current go to market strategy are delivered. (don’t know )

Sam who has been a part of their conversations at home, is excited about the possibility to get involved and starts a hype campaign around a new indie game on the horizon, supported by leaked pics and screen grabs of some of the scenes.(don’t know)

### Q1.1

Describe the ethical conflicts or issues apparent from their perspective

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#### Patent

Not suitable for this question

### Q1.2

Any legal challenges that could be mounted to disrupt the release of the indie game

#### Trademarks

How about the application that we submit does that effect at all.

#### Copyright

Not suitable for this question

#### Design

Not suitable for this question

#### Patent

Not suitable for this question

## Q8

Both Kim and Alex are disappointed at the delay and see an opportunity to be first to market with their concept outside of HEATWAVE and capitalize on the development they have been undertaking over the last months.(there is so thing we can stop other to release this concept outside)

## Q9

They reach out to an acquaintance Sam, a games developer, who publishes a weekly column in ‘Game Programmer’, to get a sense of the market and gain advice on progressing their indie game to market(don’t know)

## Q10

Sam who has been a part of their conversations at home, is excited about the possibility to get involved and starts a hype campaign around a new indie game on the horizon, supported by leaked pics and screen grabs of some of the scenes. (don’t know)

#### Trademarks

Not suitable for this question

#### Copyright

Not suitable for this question

#### Design

Issue 1:

If it is for applying a new design. Be aware of the publicity trap. If you’ve publicly disclosed your design before applying for registration you may have lost your ability to protect it.

#### Patent

Issue 2:

If we are applying for invention. Be aware if you demonstrate, sell or discuss your invention in public before filing an application, you can lose your rights to a patent.

## Q11

Some staff at HEATWAVE begin talking in the staffroom about the article in “Game Programmer “; and Kim gets worried and tells Alex that they need to act on this game quickly, as the feeling is uncomfortable at work.(WTF there are talking about , I need to know)

## Q12

• Alex approaches Sam’s connections at a marketing strategy firm; they estimate that the capital injection that is required is $100,000 to get the game to market.(?????)

## Q13

Upon hearing the size of the sum involved, Alex connects with you, knowing that your Uncle died earlier in the year and left you $150,000, with the idea to finance them working full-time on their indie game for a year.(Am I’m allow to do that , and how long will it take ?)(How does that related)

(so if I payed it does that mean I own all the things)

## Q14

Alex and Kim offer you a 35% share of all profits, and full ownership of the IP they have developed.(what things are include , is there any overlap)

## Q15

Noting that the characters are substantially based on the HEATWAVE concepts and the AI leverages TERRAWESOME, and Sam has put together the games soundtrack through cutting and dicing other questionably sourced materials on ‘borrowed’ software platforms, you decide to brief an IP Lawyer before making your decision.(what software and is it free.)

IS “borrowed” software legy

Some words are subject to other legislation. For example, the use of the word CHAMPAGNE is governed by provisions of the *Wine Australia Corporation Act 1980*

Design

Patent

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