**MEMORANDUM**

**THOMAS, THOMAS, AND THOMAS, PLLP**

FROM: [Associate name]

TO: [Senior partner name]

DATE: [Submission date]

**RE: [Re line should include course (Copyright or Innovations) and matter]**

[\*\*\*\* *Regarding bracketed text*. The bracketed text provides guidance in preparing the memo. For your submitted work product, remove the bracketed text before submitting your case file. If necessary, substitute brackets with applicable text, such as in the header to this memo. \*\*\*\*]

[\*\*\*\* *Format, maximum length.* Regarding memo length, there is no minimum length. However, it is likely impossible to do a good job in less than five pages, not counting the certification form. *Do not go over ten pages*, not counting the certification or any attachments to the certification. \*\*\*\*]

[\*\*\*\* *This template is prepared for students in both the spring classes—Copyright/Content and Innovations.* Some of the sections below apply to one of the classes, some apply to both. If you have any questions, do not hesitate to ask. *You need only provide the portions relevant to your course.* For this project, your audience is the supervising attorney who is reviewing your lawyering and your work product. This is not a persuasive document, it is objective. Do not hide the ball. \*\*\*\*]

[\*\*\*\* *Retain formatting.* You must use this template and maintain the existing formatting (11 pt. Garamond, single-space within paragraphs, extra space between paragraphs. You must retain the headings provided in the order given. *You may, however, add subheadings.* \*\*\*\*]

**INTRODUCTION**

[\*\*\*\* *Purpose.* This section required for both courses.In this section, *briefly* identify the name of your client, explain what you have done so far, and what you would recommend to the firm’s client do next. You should also briefly summarize the client’s likelihood of succeeding on the merits. Be careful not to claim you’ve “done” things not yet done, such as drafting or filing a court complaint. That’s for your client to decide in consultation with your supervising attorney. \*\*\*\*]

**ENFORCEMENT**

[\*\*\*\* *What to do here.* In this section, explain the nature of the alleged infringement and who seems to be behind it. If you have theories as to why they are doing this and what they might want, share them here. Discuss the approach taken in your C&D letter and why you made the C&D choices you did. Regarding your correspondence and negotiation with your opponent, discuss what you did, and how it worked. If you’ve received responses from anyone besides the infringer, discuss those as well. Most importantly, if you have experienced *any* dilemmas—errors of fact, law, tactic, or professionalism—then you must discuss them as well, and you must do it honestly and reflectively. Remember, your supervising partner needs to know what’s going on, so do not hide the ball. **I expect you to be reflective and thoughtful: we learn from doing and we learn particularly well from our mistakes.** So if you’ve made any missteps (and all of you will), I want you to discuss what happened, what you learned, and how you’ll avoid such dilemmas in the future. \*\*\*\*]

**ANALYSIS OF MERITS**

[\*\*\*\* *Copyright class.* Discuss the merits of your client’s copyright claims and the likelihood that they will prevail in a copyright infringement suit. Address all relevant copyright issues (ownership of valid copyright; violation of one or more 106 rights via direct or secondary infringement; and the applicability of any plausible defenses, particularly fair use under 107). Further address what remedies, if any, your client may qualify for, and the client’s likelihood of obtaining them. *You can find guidance on copyright remedies in the casebook in chapter VIII, especially pages 586-609*. Although those pages have not been previously assigned, I would urge you to read those materials and statutes and be able to discuss applicable remedies in your memo. You should also consider pragmatic matters, such as costs of litigation, likelihood of executing a money judgment, and good/bad publicity for the client. \*\*\*\*]

[\*\*\*\* *Innovations students.* Discuss the merits of your client’s patent claim and the likelihood that they will prevail in a patent infringement suit. Address all relevant patent issues (ownership of an issued patent; violation of one or more 271 rights via direct or secondary infringement; and the applicability of any plausible defenses, which may or may not include: prior users, experimental use, exhaustion, etc.). This memo should also address any patent remedies you believe your client may qualify for, and why. You should also consider pragmatic matters, such as costs of litigation, likelihood of executing a money judgment, and good/bad publicity for the client. You need not, however, address the validity of *your* client’s patent because you did that in Project 1. \*\*\*\*]

**OTHER COMMENTS & INFORMATION**

[\*\*\*\* *Optional both classes:* This section is optional. If there are other issues you deem worthy of discussion, include it here. Otherwise omit this section. \*\*\*\*]

**CERTIFICATION OF ORIGINALITY,  
ATTRIBUTION, and DISCLOSURE,   
ALONG WITH PREERENCES FOR *EXCELLENCE IN IP* AWARD**

*[Instructions: fill this out completely and truthfully. Err on the side of disclosure. Add lines as needed.]*

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [name printed or typed] certify the following

Subject to the information in the disclosures below, my submission for this project is *original* to me. I have also fully complied with any restrictions or prohibitions contained in the assignment instructions.

*Copies of templates*. **I have attached copies** of any and all materials I relied upon in the Project, such as copyright/trademark registrations, C&D letters, complaints, memos, or contracts. Those materials are also cited below. *Use actual descriptive citations; do not merely provide a URL.*

1. [Fill out, even if N/A]
2. [Fill out, even if N/A]
3. [Add lines if needed]

*No outside assistance.* I have not obtained any assistance with this Project from anyone who is not a currently enrolled member of this class from this semester.

*Inside assistance.* I disclose and certify that I received or provided assistance to or from the persons named below **[add lines as needed]**.

|  |  |
| --- | --- |
| Persons providing  **assistance to me**: | Nature of assistance, listed in detail |
| [Fill out, even if N/A] | [Fill out, even if N/A] |
| [Add lines if needed] | [Add lines if needed] |

|  |  |
| --- | --- |
| I provided **assistance to**: | Nature of assistance, listed in detail |
| [Fill out, even if N/A] | [Fill out, even if N/A] |
| [Add lines if needed] | [Add lines if needed] |

I have not omitted from this certification any source, person, or any type of assistance, whether given or received. Nor have I changed any of the language from the certification as provided to me from the Professor.

I recognize that this certification is to be interpreted broadly and includes without limitation: forms and preexisting materials used, reading drafts, suggesting edits, discussing issues, sharing sources, and getting tips. I recognize that violation of this certification may lead to a reduced score, a lowered grade, and referral to the academic integrity committee.

**WAIVER: READ CAREFULLY BEFORE SELECTING OPTION**

Additionally, I am aware that work product from this course (projects 1 and 2) might qualify me for consideration for the *Innovations in Intellectual Property* award. By choosing “TO SUBMIT (Option 1), I acknowledge that I am affirmatively waiving my rights, without limitation, under the Family Educational Rights and Privacy Act (FERPA), any other applicable federal or state or other laws or regulations, as well as any university or law school policies that protect the privacy of student information. This waiver is required in order for my work product from this course (namely my submissions for projects 1 and 2) to be considered for the award because final determination of the winner is done by submission of the top work product to outside reviewers.

Accordingly:

\_\_\_\_\_ Option 1: I want to be considered for the award, and therefore choose TO SUBMIT my work product from this course for consideration for the *Excellence in Intellectual Property* award.

\_\_\_\_\_ Option 2: I decline to be considered for the award, and therefore choose NOT to submit my work product from this course for consideration for the *Excellence in Intellectual Property* award.

E-signature signature (put your name down, such as /s firstname lastname/:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_