

**Intellectual Property**  
**Fall 2021**  
**Midterm Assignment**

This assignment consists of **one question** and **four pages**, including this cover page. It is due by **11:59 PM on Monday, November 1**.

You may work on this assignment in groups of **up to four members**. Each group must submit a single answer and will receive a single collective grade.

This is an **open-book** assignment. You should not need to consult anything beyond the textbook and your notes, but you can if you wish. Do not discuss this question or your answer with anyone except for other members of your group until after the deadline. (You are always free to discuss the legal principles we have covered in class with anyone, including each other.) Your work on this assignment is subject to the Cornell Code of Academic Integrity, the Law School Code of Academic Integrity, and the Campus Code of Conduct.

Assume for purposes of the question that present-day law has been fully in effect at all relevant times. Unless otherwise noted, all names are fictitious. Please disregard any resemblance to actual persons, places, or institutions, unless they are specifically incorporated into the question.

*You can limit your answer to the material we've discussed so far in class: undeveloped ideas, trade secret, patent, and copyright.*

Please **submit your answers** by emailing a PDF to my assistant, Angy Altamirano ([aaltamirano@cornell.edu](mailto:aaltamirano@cornell.edu)). The PDF should not contain your name or any other identifying information. The email should identify all members of the group who worked on the answer together, and they should all be cc:ed. Angy will anonymize the files for my grading.

## **Bad Cart Friend**

Your client is Gears of Change, a nonprofit dedicated to developing technological solutions to physical-resource challenges in developing countries. It is supported by multi-million-dollar donations from wealthy philanthropists, and by licensing revenue. When Gears of Change develops a new innovation, it typically provides it for free in developing countries (with donor support) and obtains patent protection in developed countries. Past projects have included village-scale water filtration equipment, and automated drones for monitoring cropfields for intruding wildlife.

Gears of Change is controversial in the development community. Its critics accuse it of pursuing “technological solutionism” that prioritizes donors’ interests in flashy technologies over the actual needs of the populations it attempts to serve. While its water-filtration design was innovative and is now used worldwide, the drone project was an expensive failure. The image-recognition algorithms used in the drones were trained on American wildlife and proved completely unfit for task in Asia, Africa, and South America. Gears of Change received extensive positive press coverage at the project’s launch, and extensive negative coverage over the next few years.

For the last three years, Gears of Change has been developing a self-driving solar cart for small-scale transport in rural Africa. Many farmers, craftspeople, and merchants frequently have to haul moderate quantities (between 50 and 500 pounds) of crops, supplies, or goods over distances of a few hundred feet to a few dozen miles, over mostly flat but unpaved and uneven terrain. Gears of Change believes that an autonomous solar vehicle would be an attractive and economical alternative to draft animals and gasoline-powered trucks.

The cart design is nearly finalized and is in the final stages of testing. Key technical advances include a ruggedized solar panel that can serve as the cartbed without breaking, a six-wheel design with three independent axles that can adapt to uneven terrain, and a multiply-hinged control yoke that lets the driver either ride in the cart or walk in front of or alongside it. You have prepared draft patent applications for these three inventions, and are waiting for any final tweaks before you file them. Gears of Change

has invited several large donors to view the testing and prepared slide decks to explain the project and its goals. It has described these three technologies to donors only in general terms, explaining that the cart incorporates “multiple patentable advances with broad applications.”

Last night, the *San Francisco Review*, a prestigious literary magazine, published on its website a short story by Tessa Weisz, an author of two novels and a collection of poems. The story was titled “The Cart Before.” It takes the form of an exchange of emails between an engineer and an executive at Gear Shift, a nonprofit supported by large individual donations, that is developing a self-driving solar cart. No one in the story comes off well. The engineer, Hubert Bluhm, is arrogant, greedy, and indifferent to the people the cart is supposed to help. The executive, Rachel Pellegrin, is interested in the project primarily as a way to gain personal recognition and be invited to exclusive TED-style conferences. Of course, no one at Gears of Change has been able to talk about anything else today.

When you read the story, you noted two alarming facts. First, the emails in the story draw heavily on the text of an internal memo overviewing the state of the project, circulated six months ago by Ralph Quayle, the cart’s lead designer. Entire paragraphs are copied verbatim. You personally think that Quayle is a nice person and has been nothing but supportive to the people who work with him, but reading the memo again, you can’t help but notice that the language describing the team’s accomplishments is over the top. You can easily see how someone who didn’t know Quayle would think that the author of the memo was a raging egomaniac.

Second, the emails in the story also describe in detail the ruggedized solar panel and the control yoke. There are phrases taken directly from the internal memo that explain the process used to laminate the panels with a rigid and durable plastic, and there is an informal description of the hinges in the control yoke that would allow any skilled mechanical engineer to reconstruct it.

You immediately called the head of Human Resources to describe your findings, who agreed to launch an internal investigation. Three hours later, they called you back and asked you to come to a meeting with Quayle.

When you arrived, Quayle explained that he and Weisz had been Facebook friends for several years after meeting at a party. They were both

members of a private Facebook group with about 40 members where people asked each other for advice on work and personal challenges. Quayle had posted the internal memo to the group, asking for writing suggestions. Weisz had followed up with some ideas, and they had exchanged messages for several weeks, during which Quayle had used Weisz as a sounding board to see whether he could explain the control yoke to a non-technical audience. Quayle was grateful to have a nationally recognized author's advice, and had also complained to her about not receiving enough recognition at work given the amount of effort he was putting in.

It is 2:30 PM. You have just returned to your office. The CEO of Gears of Change, Juana Meirelles, is currently on a plane back from Davos. You will be meeting with her first thing tomorrow morning. Before you leave the office today, you need to write and email her a memorandum to bring them up to speed on the legal issues.

*Write a memorandum to your client of 2000±250 words explaining the IP considerations that should inform Gears of Change's response to this situation. Describe the relevant types of IP rights that Gears of Change has, how they apply here, and what it should do in light of them.*