

2008 Law Review

Write-on Competition

Problem Packet

2008 Write-On Competition Honor Pledge

Entrants must sign the Write-On Competition Honor Pledge when returning their entry for the Write-On Competition. By signing the Honor Pledge, the entrant represents as follows:

- 1) I, the undersigned, have not sought nor received any outside assistance with the Write-On Competition other than such assistance as allowed by the Write-On Competition Instructions. Such prohibited outside assistance includes, but is not limited to, any assistance from current law journal members, faculty members, other Write-On Competition entrants, attorneys, and other law students.

- 2) I, the undersigned, represent that I have acted in accordance with the Southern Methodist University School of Law Honor Code, of which I have accepted or am deemed to have accepted prior to admission to the Southern Methodist University School of Law.

- 3) I, the undersigned, agree that if I have breached any portion of this Honor Pledge, I will immediately notify Justin Thompson, the Director of the Write-On Competition, or Brooke Schieb, the President of the Southern Methodist University Law Review Association of such breach, and I will immediately withdraw my entry from consideration in the Write-On Competition.

- 4) I, the undersigned, understand the representations made in this Honor Pledge, and I agree to be bound by the provisions herein.

Signature of Entrant *

Date

Printed Name of Entrant

* If turning in electronically, type your name on this line.

2008 Write-On Competition Problem Packet ENTRY FORM

Name: _____

SMU School ID #: _____

Phone number* (with area code): _____

**You MUST give a number from which you can receive messages; once offers are made, they must be accepted/declined within a limited time. If you cannot be reached by phone (e.g., Oxford participants), give us a valid e-mail address that you WILL check: _____*

Class level for Fall 2008 (please circle): **2L** **3L** **3E** **4E**

Intended date of graduation (Month/Year): _____

Please circle/highlight those journals for which you would like to be considered:

SMU Law Review

International Law Review

Science and Technology Law Review

REMEMBER:

- If you are submitting your entry *via e-mail* (sharonj@smu.edu), please make sure ALL of the information required on this form is included in the e-mail message of your submission.
- By submitting your entry, you represent that you have not sought, nor received any outside assistance with the Write-On Competition. Such assistance includes, but is not limited to, any assistance from current law journal members, faculty members, other entrants, attorneys, or other law students.
- Only submit your entry *once* (i.e. do not email your submission and deliver a hardcopy).

For Office Use Only:

Method of Submission: _____ *Time submitted:* _____ *Number Issued:* _____

RULES AND REGULATIONS

The Write-On Problem Packet information will be available beginning at 9 am CST, Thursday, May 15, 2008.

There are a number of ways you may obtain a packet:

- (1) Download the Word or PDF files for the packet and sources located at:
<http://www.smu.edu/lra/About/CurrentCompetition.asp>
- (2) Pick up a Problem Packet at Alpha Graphics by the SMU Bookstore. Please note that you will be responsible for the copying expenses if you choose this option.

There are a number of ways you may submit your entry:

- (1) If you are in Dallas, return hardcopies and a disk of your entry to Sharon Johnson (or slide under her door if during non-business hours), Room 5 on the bottom floor of Storey Hall. Entries must be received by 9 am CST, Monday, May 19, 2008.
- (2) You may send your entry via “regular mail.” Your entry must be *marked for AM delivery* on Monday, May 19, 2008.
- (3) You may e-mail your entry to sharonj@smu.edu. Your message must be *received* by 9 am CST, Monday, May 19, 2008. We will NOT look at the time it was sent.

All Entries must be submitted by 9 am CST, Monday, May 19, 2008.

**Sharon Johnson
sharonj@smu.edu
SMU Dedman School of Law
3315 Daniel, Storey Hall, Room 5
Dallas, TX 75205**

NO LATE ENTRIES WILL BE ACCEPTED!

Format of Entry

(1) The Editing Exercise:

- a. If you are turning in a *hardcopy*, please make your edits by hand in red ink.
- b. If you are turning in an *electronic copy*, please make your edits by hand in red ink, scan your entry into a computer, and attach the file to your email. Alternatively, you can make your edits directly to the Word document by making the necessary changes in red font and highlighting the entire edited word, phrase, or punctuation mark. See below for an example. **YOU CANNOT USE THE “TRACK CHANGES” FEATURE IN MICROSOFT WORD TO MAKE YOUR EDITS.**
- c. Example of proper electronic edit:
 - i. Sentence in article: “I like the colour red.”
 - ii. Edited sentence: “I like the color red.”
 - A. If you add something that should be there (such as a comma), then use the above red font/highlight combination to denote the addition. If you delete something that shouldn’t be there (such as a comma), then highlight the space where the deleted item originally existed.
 - B. **Please don’t stress over how you are formatting this red font/highlight combination.** Above all, make sure your edits are accurate, clear, and well-marked. We had a huge problem with the “track changes” feature last year, so we are trying out a new system and will be reasonable.

(2) The Bluebooking Exercise:

- a. Please list the proper citation for each of the sources included in this closed memo packet. Although you will refer primarily to the Bluebook, you should also refer to the Texas Rules of Form (the “Greenbook”) when citing Texas cases. If there are discrepancies between the two, cite all Texas cases according to the rules found in the Greenbook. The subsequent history information for Texas appellate court cases has been provided for you below the citation.

(3) The Memo Exercise:

- a. Your entry may not exceed 6 pages (footnotes included), double-spaced, 12 point Times New Roman font, one inch margins on all sides. Please lay out the contents of this memo similar to that of your first year LRWA memo.
- b. All citations *must* be given in footnotes. Your footnotes must be in 12 point Times New Roman font, but should be single-spaced.

(4) Your entry must be an individual effort. By submitting your entry, you represent that you have not sought, nor received any outside assistance with the Write-On Competition. Such assistance includes, but is not limited to, any assistance from current law journal members, faculty members, other entrants, attorneys, or other law students.

(5) **Only include your name and SMU Student ID # on the Entry Form above. DO NOT place your name, student number, or any other identifying mark on any other page of your entry, or you will be automatically disqualified from the write-on competition.**

PART I: EDITING EXERCISE

Instructions: This is an exercise to determine your ability to edit text and citations. Please be sure that you correct all four article excerpts below. **You are only responsible for making format, punctuation, and grammatical changes.** *Please do not alter the style of the articles, for this will be counted as a mistake. Such prohibited stylistic changes include corrections made to the passive voice.* When editing the footnotes, please use the Bluebook rules specific to practitioners – the same rules you used in your first year legal writing class (italics and underlining are equivalent and may be used interchangeably).

If you are submitting a hard copy of this editing exercise, make all changes in red ink and make sure your edits are clear and easy to read. If you are submitting the editing exercise electronically, please make all edits on a hard copy as described above, then scan that copy into a computer, and attach the document with your e-mail submission. Alternatively, you can make your edits directly to this Word document by making the necessary changes in red font and highlighting the entire edited word, phrase, or punctuation mark (see example above). You **MAY NOT** use the “track changes” feature to make your edits.

Article Excerpt #1

Pursuant to the Securities Act, when a securities offering are issued by means of interstate commerce or use of the mails (which is almost a certainty), they must be registered by means of a registration statement.¹ The purpose of the registration statement is 2-fold: to provide information on the offering itself (e.g., underwriting and distribution arrangements, offering price, costs, intended use of proceeds, etc.) and to provide information on the issuer’s business (e.g., history, management, property, material contracts, financial condition, etc.).² There are 2 major exceptions to the registration requirement.³ If securities are issued via an

¹ 15 USC §77e(c) (West 2000).

² Milton Cohen, “Truth in Securities” Revisited 79 Harvard Law Review 1340, 1340 (Volume 7, 1966).

³ Such exceptions pertain to registration requirements promulgated under the Securities Act only.

Some securities fall under the supervisory and oversight umbrella of other statutory regimes,

exempted transaction, no registration is required.⁴ Examples of exempted transactions include those by “any person other than an issuer, underwriter, or dealer[,]”⁵ those not involving a public offering,⁶ or certain transactions by a dealer.⁷ Moreover certain classes of securities are exempted from registration.⁸ Examples include certain shortterm promissory notes, securities issued by local, state or federal governmental entities and securities issued by nonprofit and charitable organizations.⁹

Article Excerpt #2

The Transportation Security administration (TSA) is aware of the hassle of its current screening process and is committed to experimenting with new technologies that will increase

including, for example, the Comptroller of the Currency for securities issued by national banks.

See MARC I. STEINBERG, UNDERSTANDING SECURITIES LAW 37 (4th ED. 2007).

⁴ 15 USC §77d (West 2000).

⁵ 15 USC §77d(1) (West 2000); *Securities Exchange Commission v. Phan*, 500 F. 3d 895, 902 (9th Cir. 2007); see also *Gustafson v. Alloyd Co., Inc.*, 513 U. S. 561, 591 (S. Ct. 1995) (Justice Thomas dissenting).

⁶ *US v. Lindo*, 18 F. 3d 353, 357 (6th Cir. 1994); 15 USC §77d(2) (West 2000).

⁷ 15 USC § 77d(3) (West 2000).

⁸ 15 USC §77c(a) (West 2000); Sean M. O’ Connor, Strengthening Auditor Independence: Reestablishing Audits as Control and Premium Signaling Mechanisms, 81 *Washington Law Review* 525, 538–39, n. 85 (Summer 2006); *Lander v. Hartford Life & Annuity Insurance Co.*, 251 F. 3d 101, 111–12 (2nd Cir. 2001) (noting that “the 1933 Act provides a specific exemption for insurance products and annuities.”).

⁹ See STEINBERG supra note 1 at 37.

the effectiveness and efficiency of its security screening.¹⁰ The two newest technologies that have been put into use by the TSA are types of whole body imaging: backscatter X-ray and millimeter wave imaging.¹¹ Both types of imaging are already in their pilot phases at the Phoenix Sky Harbor Airport and the TSA has plans to extend the trials of these new technologies in the near future.¹² There is much debate surrounding the privacy implications of these two new technologies because of their ability to see much more in-depth than the security measures currently in place at airports across the nation, namely the magnetometer X-ray machine.¹³

¹⁰ Transportation Security Administration, TSA Tests Second Passenger Imaging Technology at Phoenix Sky Harbor Airport, Press Release (October 11, 2007). TSA administrator Kip Hawley asserted that the TSA is “Committed to testing technologies that improve security while protecting passenger privacy. Id

¹¹ See Press Release, TSA Tests Second Passenger Imaging Technology at Phoenix Sky Harbor Airport, *supra* note 1.

¹² The backscatter X-ray passenger imaging technology has been in place at Phoenix Sky Harbor International Airport since February 2007, and the millimeter wave technology testing began in October 2007 at the Phoenix Sky Harbor Airport as well. See Whole Body Imaging, Transportation Security Administration, http://www.tsa.gov/approach/tech/body_imaging.shtm (last visited Nov. 6, 2007). The TSA plans to further test these technologies at New York’s JFK International Airport and Los Angeles’ LAX International airport in the upcoming months. See Press Release, TSA Tests Second Passenger Imaging Technology at Phoenix Sky Harbor Airport, *supra* note 2.

¹³ See Principles for Evaluating Physical Screening Techniques and Technologies Consistent with Constitutional Norms: Hearing Regarding the U.S. Transportation Security

Backscatter technology uses low energy x-rays that penetrate one quarter of an inch of the body and scatter back to create a digitized high-contrast display on a monitor viewed by TSA agents.¹⁴ The millimeter wave machines may be considered even more intrusive since, they use reflections of beams of radio frequency that are projected over the body's surface to create a three-dimensional image of the body for agents to monitor.¹⁵ Both machines are currently being used as voluntary alternatives to pat-down searches to help detect the presence of both metallic and non-metallic devices that could pose a security threat.¹⁶

Courts have generally “upheld the right of the [Fed. Aviation Administration] to institute airline passenger screening procedures, even when those procedures reveal more than just the presence or absence of dangerous materials or threat objects” under the U.S. constitution, federal

Administration's Physical Screening of Airline Passengers and Related Cargo Screening Before the U.S. Senate Committee on Commerce, Science, and Transportation, 109th Cong. (2006) (statement of Timothy D. Sparapani, Legislative Council, American Civil Liberties Union) (who expressed concerns that the x-ray backscatter is too invasive of personal privacy)

¹⁴ See CastScope, Transportation Security Administration, <http://www.tsa.gov/approach/tech/castscope.shtm> (last visited Nov. 6, 2007)

¹⁵ See Millimeter Wave Whole Body Imaging, Transportation Security Administration, <http://www.tsa.gov/approach/tech/mwave.shtm> (last visited Nov. 6, 2007)

¹⁶ Id.

law, and state law.¹⁷ The ninth circuit has held that “airport screening searches...are constitutionally reasonable administrative searches”¹⁸ because they are

“conducted as part of a general regulatory scheme in furtherance of an administrative purpose, namely, to prevent the carrying of weapons or explosives aboard aircraft, and thereby to prevent hijackings.”¹⁹

Article Excerpt #3

The disappropriation of foreign companies in Bolivia has violated contracts signed in light of the Bolivian law then in force.²⁰ The State took over the shares control of Petrobras Bolivia Refinación. Additionally, YPFB, representing the Bolivian State, took over the commercialization of hydrocarbons, defining the conditions, volumes and prices of their industrialization and export.²¹ The rise in the government take from 50% to 82% rendered

¹⁷ Airline Passenger Security Screening: New Technologies and Implementation Issues, Legal Issues, The National Academy of Sciences (1996) at 34, available at <http://www.nap.edu/openbook/0309054397/html/34.html>.

¹⁸ U.S. v. Aukai, 497 F.3rd 955, 960 (9th Cir. 2007) (en banc).

¹⁹ US v. Davis, 482 F.2nd 893, 908 (9th Cir 1973)

²⁰ Bolivian Civil Code, Section 549:

²¹ Resolution 1803 (XVII) of the United Nations General Assembly, of December 14th 1962, "Permanent Sovereignty over Natural Resources", Section 2: "[S]uch resources, as well as the import of the foreign capital required for these purposes, should be in conformity with the rules and conditions which the peoples and nations freely consider to be necessary or desirable with regard to the authorization, restriction or prohibition of such activities". Id.

inviably Petrobras operations in Bolivia.²² This increase would be temporary, but 50% would already be a confiscation.²³ Companies that did not agree with the “complete recovery” of gas and oil had only 180 days to revise the contracts from the enacting of Supreme Decree 28.701, of May 1st 2006.²⁴ Petrobras was the most hit foreign company, since it had the broadest presence in Bolivia.²⁵ The “complete recovery” of gas and oil was announced by the president Evo Morales in the field of San Alberto, the most important in Bolivian, then operated by Petrobras.

In the dispute involving the disappropriation of Petrobras facilities in Bolivia, the best choice was a friendly solution between the parties.²⁶ The recourse to the Bolivian Judiciary Branch was thought about. The Bolivian Judiciary Branch, notwithstanding, would have trouble in contradiction the guidelines set up by the Executive Branch of that country.²⁷ The recourse to arbitration, according to the procedures and rules of the American Arbitration Association

²² Resolution 1803 (XVII) of the United Nations General Assembly, of December 14th 1962, "Permanent Sovereignty over Natural Resources", Section 4.

²³ Castro Warns He Might Sever U.S. Ties, CNN, June 26, 2002, <http://archives.cnn.com/2002/WORLD/americas/06/26/castro.cuba/index.html>.

²⁴ Id.

²⁵ Warren Richey, How Should US Prepare for a Post-Castro Cuba?, Christian Science Monitor, Nov. 23, 2005 at 1.

²⁶ Lauren Villagran, *Even Post-Castro, U.S. Trade with Cuba Not a Sure Thing*, Merrillville Post-Trib., Aug. 13, 2006 at E1.

²⁷ 22 USCA § 6003 (2000 & Supp. IV).

(AAA), in order to fix the controversies around the price of gas, was also cogitated.²⁸ If no agreement had been reached in the framework of the original contract, the right to recover Petrobras investments through the application of the Agreement on Encouragement and Reciprocal Protection of Investments between the Kingdom of the Netherlands and the Republic of Bolivia could have been a choice.²⁹ This agreement sets forth the possibility of recourse to the International Center for the Settlement of Investment Disputes (ICSID). The best possible choice to this conflict was precisely, nonetheless, to avoid, by means of diplomatic and political negotiations, a scenario that would justify the search for an unfriendly solution.

Article Excerpt #4

An adequate discussion regarding the solution this article proposes require explaining how both blocking and filtering software works. At the most basic level, filtering software “allow[s] material or activities that are deemed inappropriate to be blocked, so that the individual using that filtered computer cannot gain access to that material or participate in those activities.”³⁰ Virtually all software companies use a combination of technology and human

²⁸ See Sanchez, Ignacio E., “Constitutional Protection of Cuban Property Rights,” *Cuba in Transition*: Volume 6, 398, 402-03, (Association for the Study of the Cuban Economy ed., 1996), available at <http://lanic.utexas.edu/la/cb/cuba/asce/cuba6/50Sanchez.fm.pdf>; Kern Alexander and Jon Mills, *Resolving Property Claims in a Post Socialist Cuba*, 27 *Law & Pol’y Int’l Bus.* 137, 142 (Fall 1995).

²⁹ *Perry v. United States*, 294 U. S. 330 (1935) and *U.S. v. Bankers Trust Co.*, 294 U. S. 240 (1935).

³⁰ Comm. to Study Tools and Strategies For Protecting Kids from Pornography, Nati’l Research Council, *Youth, Pornography and The Internet* 2.3.1 (Dick Thornburgh & Herbert S. Lin eds.,

judgement to determine what constitutes unappropriate content.³¹ The process generally involves 3 steps. First websites are classified into pre-determined categories, such as “Adults Only,” “Drugs” “Religion,” and “Violence.”³² Software Companies create pre-determined categories, by compiling “huge lists of Web addresses by following links from online directories . . . , by doing key word searches on ordinary search engines, and by reviewing reports of newly-registered domain names.”³³ In the second step, each flagged website is examined with automated systems that utilize keyword analysis.³⁴ Based on this analysis, websites are recommended for inclusion in particular categoris.³⁵ Third, “a human receiver, at least in some

2002), available at <http://www.nap.edu/html/youth/internet> (last visited 12 Feb. 2007)

[hereinafter Youth, Pornography, and The Internet].

³¹ *Id.*, 2.1.

³² See Bernfeld, Betsy A., *Free Speech and Sex on the Internet: Court Clips COPA's Wings, but Filtering May Still Fly*, 6 Wyoming Law Review 223, 237 (2004) (discussing Benjamin Edelman, Expert Report of Benjamin Edelman, available at <http://cyber.law.harvard.edu/people/edelman/pubs/aclu-101501.pdf> (last visited 25 Sept. 2007)).

According to Bernfeld, “the programs include one or more categories for sexually explicit materials, such as “Extreme/Obscene/Violence,” “Mature,” “Nudity,” and “Sex.” See Benjamin Edelman, Expert Report of Benjamin Edelman, available at <http://cyber.law.harvard.edu/people/edelman/pubs/aclu-101501.pdf> (last visited 25 Sept. 2007).

³³ *Bernfeld*, *supra* note 128, at 237 N.15.

³⁴ *Id.*

³⁵ *Id.*

companies . . . , makes the final decision[,]” regarding how a website should be categorized.³⁶

Unless requested to do so, most filtering companies do not “re-review the contents” of websites after they have been categorize.³⁷

END OF PART I

³⁶ Id.

³⁷ *American Library Association v. U.S.*, 201 F.Supp. 2d 401, 430 (E.D. Penn. 2002). With respect to requests to re-review particular categorizations, there is no guarantee that filtering companies do so in an accurate or timely fashion. While this is problematic, it does not directly effect the proposal made in this article. For the purposes of the proposal made in this article, the only thing that matters is that websites that are filtered as a result of their categorization have some method of requesting that that categorization be re-reviewed.

PART II: BLUEBOOKING EXERCISE

Included in the separate source packet, you will find 16 sources (numbered in the upper left-hand corner). Please list them *in order* and in proper Bluebook/Greenbook form. For example:

1. *Sharp v. Stacy*, 535 S.W.2d 345 (Tex. 1976).
2. *Thornton v. Cent. Loan Co.*, 164 S.W.2d 248 (Tex. Civ. App.—Austin 1942, writ ref'd).
3. Tex. Loc. Gov't Code Ann. § 374.003(3) (Vernon 2007).

Although you will refer primarily to the Bluebook, you should also refer to the Greenbook when citing Texas cases. If there are discrepancies between the two, cite all Texas cases according to the rules found in the Greenbook. The petition/writ status and history has been provided for the Texas appellate court cases just as it appears in the Texas Subsequent History Table. When using the Bluebook, please use the rules specific to practitioners – the same rules you used in your first year legal writing class (i.e., you may use either underlining or italics, but NO large and small caps). You may list the sources/cites below or you may create your own list – just make sure they are in order.

- 1.
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- 16.

END OF PART II

PART III: THE MEMO

1. Use the included sources, and ONLY the included sources, to address the italicized issue(s) below (it is not necessary to use all of the included sources though). **DO NOT do any additional research or your entry will be disqualified.**
2. Your memo should be no more than 6 pages, double-spaced, 12-point Times New Roman font, one-inch margins on all sides. Please lay out the contents of this memo similar to that of your first year LRWA memo (meaning some combination of Issue(s), Brief Answer, Facts, and Discussion/Analysis).
3. You *must* use footnotes for all citations. Your footnotes should also be in 12-point Times New Roman font, but should be single-spaced. Footnotes are *included* in the page limit.
4. You may download a sample memo at: www.smu.edu/lra/About/PriorCompetition.asp Please remember that there are many ways to approach a memo and this is only one example – please do not use it as a template for your memo if the format is not the best one for this question.

The Little Guy Law Firm

Memo

To: Junior Associate
From: Senior Partner
Date: May 15, 2008
RE: Tanks 'R' Us v. Greed E. Worker

Our client, Tanks 'R' Us, would like to sue a former employee, Greed E. Worker. Tanks 'R' Us claims that, among other things, Mr. Worker misappropriated certain company trade secrets when he went to work for a leading competitor. Tanks 'R' Us is a small, visionary company that was started in 1999 by a pair of young entrepreneurs, Bill and Ted. The company is based in Texas and manufactures underground fuel storage tanks for installation at gas stations statewide. In 2002, the Texas Legislature passed the Save Our Water Act in response to the alarming discovery of water contamination caused by fuel leakage from outdated tanks. The law requires leak monitoring systems to be installed on all newly manufactured tanks. In addition, older tanks already in use are to be equipped with such systems by 2012. The leak monitoring systems on the market at the time the law took effect were rudimentary at best. Seizing this business opportunity, Bill and Ted developed a revolutionary monitoring system called The Hawk and began installing it on all Tanks 'R' Us tanks soon thereafter. The pair filed a patent application for The Hawk that was granted on March 15, 2004.

In addition to its own tanks, Tanks 'R' Us began equipping preexisting tanks with The Hawk in late 2004 using a method known as tank retrofitting. The lengthy retrofitting process entails digging up, draining, and venting the old tank prior to installation. From there, the tank is equipped with a monitoring system before being refilled and reburied. It takes most companies in the industry eight days to complete the retrofitting process, but due to an ingenious venting technique derived from a highly-modified, yet commercially-available vacuum, Tanks 'R' Us can fully retrofit a tank with The Hawk in only five days. Since this saves customers a large amount of time and money, Tanks 'R' Us has seen its retrofitting operation take off. The company now performs nearly 70% of all tank retrofitting jobs in Texas. In response to the overflow of work orders, Greed E. Worker was hired as the new Vice President of Tank Retrofitting in January of 2005. Mr. Worker was hastily thrust into his new role and the owners of Tanks 'R' Us inadvertently forgot to have him sign any type of employment agreement.

Over the next three years, business boomed at Tanks 'R' Us and everyone seemed happy. Greed E. Worker, however, felt as though he was not being adequately compensated and eventually undertook private employment negotiations with the company's biggest competitor, Tank-Mart. Tank-Mart is a huge, multinational corporation and its Chief Executive Officer, T.H.E. Mann, promised to double Mr. Worker's salary if and when he came on board. On April 14, 2008, Mr. Worker resigned from Tanks 'R' Us to take a new position at Tank-Mart.

Tanks 'R' Us suspects that Mr. Worker may have misappropriated certain equipment designs and processes that the company believes are protectable trade secrets. In fact, Ted discovered an incriminating email in which Mr. Worker promised to provide his new employer with blueprints for The Hawk and knowledge of the aforementioned venting technique. Since Bill and Ted spent two years and nearly \$100,000 developing The Hawk and the special venting technique, they always sought to maintain some sense of secrecy about these two items, at least with respect to company outsiders. They even implemented a policy of securing their job sites with opaque fences, although employees were lax about keeping the fences up all the time. To attract new clients, the pair frequently attended trade shows where they displayed a power point presentation about their company. Although a few slides portrayed the venting technique, they did so in only an abstract way. Most company employees, however, had unlimited access to blueprints and specialized knowledge about both the monitoring system and venting technique.

We will soon file a Petition on behalf of Tanks 'R' Us in which we will assert numerous claims against Mr. Worker. I would like you to evaluate the strength of our claim against him for misappropriation of trade secrets. *Specifically, please write a memo which focuses **solely** on whether The Hawk monitoring system and the venting technique described herein are trade secrets under Texas law.* It is not necessary for you to address the other elements of trade secret misappropriation because we already know that if either item is a trade secret, then Mr. Worker has misappropriated that secret (i.e., he has breached a confidential relationship by commercially using the trade secret without authorization and has thereby damaged Tanks 'R' Us). I had another associate pull all the relevant sources, but I would like you to prepare a memo answering this question. I am an extremely busy person, so answer only the question presented and do not discuss any other issues. Prepare the memo using **only** the sources provided and format it according to the instructions given above.

END OF PART III