

Exam Number: _____

**VILLANOVA UNIVERSITY SCHOOL OF
LAW**

**Patent Law
Risch
Spring 2017**

Final Exam

Exam Number: _____

**VILLANOVA SCHOOL OF LAW
EXAMINATION IN PATENT LAW
8 HOURS**

Professor Risch

Spring 2017

INSTRUCTIONS (READ THEM ALL)

1. **Materials Permitted:** This is an OPEN book exam, with OPEN HARD DRIVE/OPEN NETWORK. **You may not receive help from any person.**
2. This exam consists of 9 pages, including the cover page. Please check to be sure your exam is complete and contains all pages.
3. Time allotted for the entire examination is 8 hours. This is a take-home exam. Thus, you have eight (8) hours from the time you download the exam to complete and upload the answer. If you experience technical difficulties, please follow registrar office directions or contact the registrar.
4. I recommend that you do not download the exam at a time when the due time will be outside of business hours of the law school.
5. **Note that the exam will be held until the 3L cutoff, but there may be make-up exam days. You must be careful not to disclose any details of the exam to your classmates, or discuss any aspect of the exam (or your answer!) until after I post a Blackboard announcement notifying you that you may do so.**
6. **Page three of this exam is a confirmation that you understand this – please print, sign, and turn in to Patty Trask at some point before May 11.**
7. **THIS EXAM INCLUDES A STRICT WORD LIMIT OF 4200 WORDS.** I am grading each exam all at once, so feel free to refer to a prior answer if relevant. NOTE: You do not have to use all of the words available – the questions can be answered in less space than allotted. **I will stop reading after the word limit is reached.**
8. Do not rely on page counts; you should count words using your word processor's "properties" menu item or in the bottom bar of your word processor. You may divide the word limit among the different questions however you wish.
9. Your exam must be typed, double spaced, in legible font, and on 8.5 x 11 paper size.
10. Use **only** your exam number. You may not use your name or anything else that might identify you on these materials, so check your document properties. You may not identify yourself in any way to the professor as the author of an exam until the grades are published. Make sure that your exam number appears on each page, which is most easily done with a header or footer.

Have a great summer!

Patent Law Final Exam, Spring 2017.

I _____, confirm that I abided by the instructions of this exam and have obeyed and will obey the Villanova University School of Law Code of Conduct with respect to the above exam, and that I have not discussed and will not discuss any part of the exam, its contents, or my answer with any of my classmates until after I am notified that I may do so.

Dated: _____ Signed: _____

Please return to Patty Trask in Room 260 by 5PM on May 11, 2016. I cannot give you a grade without it.

Patent Law Final Exam
Spring 2017

The questions are weighted as follows: Question 1, 8 points, Question 2, 57 points, Question 3, 27 points, and Question 4, 8 points for a total of 100. If any of your answers depend on facts not stated in the problem, feel free to identify which facts would be helpful, and how they would affect resolution of the issue. You may refer to answers to prior questions. Remember your word limit. **I WILL STOP READING WHEN I REACH THE LIMIT.**

ALL PEOPLE, WEBSITES, AND EVENTS ARE FICTIONAL, EXCEPT THOSE THAT ARE REAL, BUT EVEN THEN DO NOT LOOK OUTSIDE THE FACT PATTERN GIVEN. DO NOT RELY ON ANY CASES, STATUTES, CLAIMS OR OTHER ARGUMENTS THAT ARE NOT BASED ON ASSIGNED READINGS OR CLASS DISCUSSION – YOU DO NOT NEED TO DO RESEARCH TO COMPLETE THIS EXAM.

DO NOT ASSUME THERE IS ANY PRIOR ART OTHER THAN THAT DISCLOSED (IF ANY) IN THIS EXAM.

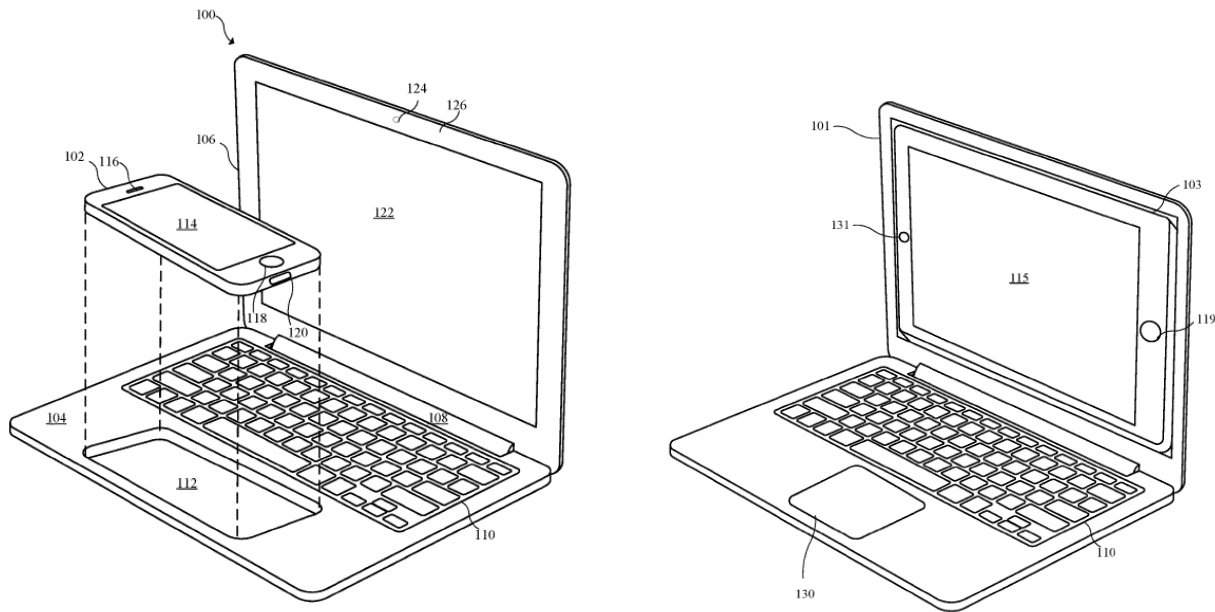
Pat Holder

Patent “Pat” Holder is a computer nerd and amateur tinkerer. Pat has a phone and a computer, but finds them too heavy to carry around. On June 1, 2011, Pat started playing around with the new iPhone, to see if there were a way to connect it to a computer. Pat’s idea was simple: take the iPhone (or an iPad) and embed it into a laptop like dock. That dock would have a slot specially made to hold the phone or tablet. That way, the dock could hold a keyboard and maybe a battery, but all of the processing power would come from the mobile device. People typing on the keyboard would actually be typing into programs running on the phone or tablet. And the output of those programs would be displayed on the dock’s screen.

Furthermore, the mobile screen of the mobile device could be multipurposed. For example, the tablet screen could become the laptop screen. Or the phone screen could become the touchpad for pointing the mouse (while showing the same image that was displayed on the larger screen).

Pat went home and worked on a design, but simply did not have the proper equipment to build the invention that had been envisioned. Never one to give up, on Oct. 1, 2012, Pat filed for a patent, which was granted on July 1, 2014.

The '123 patent is reproduced (in relevant parts) below.



The appearance of a portable computing device 102 (all numbers refer to the figures above) such as a phone or tablet, including its design and its heft, is important to a user. However, due to restrictive amount of available space, the portable computing device can require additional resources to provide extended functionality.

This invention is an accessory that can be used to expand a suite of functions and operational resources available to a portable computing device.

The accessory device 100 can have limited or no data processing resources (that is, no CPU), as it obtains those resources from the portable computing device. The accessory device 100 can have a form factor corresponding to a laptop computer. Thus it can include a visual display and a keyboard. The accessory device includes a communication channel, which is a connection mechanism arranged to facilitate communication between the accessory device and a portable computing device. In this way, the portable computing device utilizes resources (e.g. keyboard and display) provided by the accessory device.

In one embodiment, the portable computing device 102 can include a touch screen that can receive user input and control aspects

of the laptop accessory device, much like a trackpad of a laptop device. In another embodiment, the portable computing device 103 can be a tablet computer, which is coupled to an alternative accessory device 101. As will be readily appreciated, host device in the form of a tablet computer can have a relatively large display, which may function as a touchscreen. Such a devices are shown in the figures.

Implementation of such an accessory device, including different configurations, is well within the skills of one having skill in the art.

I claim:

1. An electronic accessory device, comprising:
 - a. Means for receiving input from or providing output (display) to the user;
 - b. a housing carrying the portable computing device, the housing having a recess; and
 - c. a communications channel configured to receive a control signal from the portable computing device,
 - i. wherein the electronic accessory device is inoperable without the portable computing device being coupled to the communications channel.

2. A method of enhancing a portable computing device, the method comprising:
 - a. receiving the portable computing device at an electronic accessory device;
 - b. forming a communication channel between the portable computing device and the electronic accessory device; and
 - c. controlling an operation of the electronic accessory device by the portable computing device using the communication channel,
 - i. wherein the electronic accessory device is inoperable until the communication channel is formed.

Wii U

On November 1, 2012, just in time for the holiday season, Nintendo released the Wii U. The Wii U's big selling point (if you can call it that, sales were abysmal) was the new handheld gamepad. In this gamepad, pictured below, users could control the game play on the television screen by touching the remote screen.

This had several applications. One was remote control – as shown in the picture, touching the handheld screen would cause movement on the big screen. But the handheld screen

could also mirror the large TV. That is, the same game would be shown on both the handheld and television screens, and when a parent wanted to watch TV, the game player could “detach” the handheld from the TV and continue to play the game on the handheld controller.

Note, however, that gameplay was all on the main Wii unit. If the gamepad left wireless range, it would lose contact with the main game console and gameplay would cease.



Though the Wii U released on Nov. 1, it had been developed prior to that (obviously). Starting in June of 2010, engineers worked diligently to create the product, including testing it with user groups. In September 2011, Nintendo released photos of the system and tech websites everywhere speculated how the new system might work until it was released.

The Surface Tablet

On July 1, 2012, Microsoft released the Surface tablet to much fanfare. Reviews with pictures were everywhere, and Microsoft launched with a full tech support website. However, unlike the Wii, the device was created in complete secrecy.

The Surface is a tablet, like the iPad, but it includes exposed connectors at the bottom that allow it to connect to a keyboard. The keyboard has no function until connected to the Surface tablet. But once connected, the user can type and provide touchpad (mouse) input on the keyboard in order to control what is on the tablet screen. What made the device really appealing was the groove and tabs in the keyboard base that held the tablet in place. This allowed the tablet to rest in the keyboard base so that the combined unit had the form factor of a laptop.



The HP Lap Dock

In early 2016, HP released the Lap Dock, designed to leverage the dual use nature of the Windows mobile operating system. One can connect a Windows Mobile Phone to the Lap Dock using a wire. Once the wire is connected, the phone powers the display, showing the Windows operating system, and the keyboard/trackpad are used to receive input. The Dock is inoperable without the phone, though it does include a graphics processor to speed up graphics display and save phone battery life (by not making the mobile phone CPU do the graphics processing).

A picture of the Lap Dock is below. Not shown is a pocket on the back designed to hold the mobile phone in place. The pocket is non-functional – it just holds the device. One must still connect the phone using the cable.



HP filed for a patent on the Lap Dock on Sept. 30, 2012. The claims made no mention of a recess in the housing nor a requirement of inoperability without the phone connected. That patent application has not yet issued as a patent.

On June 1, 2016, Pat sues HP for patent infringement of claims 1 and 2 by the Lap Dock.

ASSUME THAT THE 1952 ACT APPLIES UNLESS THE QUESTION STATES OTHERWISE

QUESTIONS:

Q1: HP files a motion to dismiss based on invalid patentable subject matter (Section 101). Please write a memo to the judge assessing the substantive merits (and drawbacks) of this motion. You may skip procedural issues (e.g. whether a motion dismiss is the right time to decide the issue). Answer in 10 sentences or less. (8 points)

Q2: You are counsel for Pat Holder. Please draft a memo describing the challenges to the validity of the '123 Patent that Holder might see, and the responses Holder has to such challenges. There is no need to address any issues you considered in Q1. (57 points)

Q3: You are counsel for HP. Please draft a memo describing the infringement claims by Pat that HP will likely see on the Lap Dock, and the responses HP has to such claims. There is no need to address liability for contributory or induced infringement (see next question). There is no need to address any defense of invalidity from Q1. (27 points)

Q4: What are the claims that Pat might make regarding contributory or induced infringement, and what are their merits? There is no need to discuss any infringement issue you have already considered. Answer in 10 sentences or less. (8 points)