CIVIL PROCEDURE AND CONFLICT RESOLUTION

Fall 2008 Final Examination
Professor Coyne

Where law ends, there tyranny begins.
William Pitt

Please answer the short answer questions on page two first.

Please review this question, reflect on it and consider solutions to the problem. Please address the issues and propose a solution to this problem.

Use only your social security number on this examination and blue book. Please answer this problem in no more than five handwritten pages. I will evaluate your answer on your knowledge of the law, ability to recognize issues and your analysis of these issues.

Internet Law Student Aids, Inc., a corporation headquartered and incorporated under Delaware law is a company that promises law students a one stop fix for getting through law school and passing the bar examination. Its two biggest products are Law School Flash and Studenttutors Keyz. It manufactures the Studenttutors in hard copy at its plant in Tampa, Florida. It calls itself the biggest tutoring service in the United States and it claims the Studenttutors will ensure that you successfully complete law school and pass the bar.

Internet Law Student Aids sells its products, including the Studenttutors, over the Internet at www.InternetStudenttutors.com through a distributor called Internet Studenttutors.com, Inc., an Alaska corporation founded by Sarah Parker and Alex Bissell and at the outlet store at its plant in Tampa, Florida. Parker and Bissell were first year law students at the University of Alaska when they founded the companies 5 years ago. Parker and Bissell never
completed law school. The companies do no print or other traditional media advertising and instead rely on chat groups, online postings and word of mouth marketing to spread their story over the internet. Sales have grown dramatically and last year the companies grossed in excess of $3,000,000.

On December 1, 2007, Peter Putz and his study group partners, Mitch and Kathy Martin were at their condominium near Lazy U Law School in Boston, Massachusetts. Lazy U boasts that it is the first law school in the country with an annual tuition of $50,000. The study partners visited a few websites offering various “student services” while desperately hoping to make up for a semester of too much alcohol and too little studying. At that time, they stumbled across information about Internet Law Student Aids, www.InternetStudenttutors.com and Internet Studenttutors.com, Inc.

Knowing that they were in deep trouble on their final examinations, Putz ordered the DELUXE A+ Studenttutors Keyz for $2700 online using his credit card with the study partners agreeing to copy the materials and share the cost equally. Studenttutors Keyz is copyrighted material and under the terms of the electronic contract, any individual violating that copyright agrees to pay the company $10,000 for each known copyright violation. Putz downloaded the material onto his computer and then made DVDs for his study group.

Peter Putz, Mitch Martin, Kathy Martin and their friend Caleb James all started using the materials immediately. Despite their efforts, they did miserably on almost all their examinations. As it turned out, there were numerous misstatements of the law in the poorly written materials. The school placed Putz and Caleb James on academic probation. They also had to repeat their first year of law school. Mitch Martin was able to save his semester with an outstanding performance on his Civil Procedure examination. Kathy Martin was asked to leave law school.
Kathy Martin grew despondent and died 6 months later. Her death is under investigation.

In early 2007, law students in Texas, Missouri and California filed complaints with the Federal Trade Commission complaining that the study materials were in violation of Federal Law, specifically 28 United States Code section 1339. 28 USC 1339 prohibits the electronic distribution of false and misleading information over the internet for profit. After an emergency hearing, the Federal Trade Commission issued a cease and desist order forbidding Internet Law Student Aids, www.InternetStudentTutors.com and Internet StudentTutors.com, Inc. from making any further false claims about the success of its products or distributing false and misleading information over the internet. It fined Parker and Bissell $100,000 each.

Putz, Martin and James visit you to discuss this matter. What is your advice? How would you proceed and why? What discovery steps would you take and why.

Fact Pattern for Short Answer Questions


On April 1, 2005, Brianna Blakely purchased a Message Pilot organizer for $2,500 at www.EMessagePilot.com. She had it delivered to her home in Massachusetts. She used the Message Pilot for a brief period of time before it exploded sending pieces of metal throughout the room in which she was working. Blakely lost her right eye and her dog Rover was killed instantly when the organizer exploded. Her mother and sister, Nikita and Swon, were slightly injured when they cut themselves on the pieces of the metal as they rushed to her aid.

As a result of its informal investigation of this incident, the Massachusetts State Police believe that the Message Pilot organizer was poorly designed and a dangerous product. Their investigation also revealed that many others who purchased these Message Pilot organizers also have been injured, although none as seriously as Blakely. They ordered a recall of the product.

In the space provided, please explain the following and describe how, if at all, it applies
to the fact pattern:

The Three Testing Motions

Well Pled Complaint Rule

Collateral Estoppel and ResJudicata
Class Actions

The Erie Doctrine/Outcome Determinative Test
Counter Claims


Equitable Remedies


Specific and General Jurisdiction


Standards of Proof

Amended Pleadings