REMEDIES MIDTERM EXAM  
PROFESSOR COYNE  
SPRING 2010

He who seeks equity must do so with equity.

Use your ID number on the blue book (which is the last six digits of your Social Security number plus the numbers "59"). Write legibly and coherently.

Your knowledge and ability to analyze the issues should be clear from the manner you express those thoughts on this test.

Write no more than six (6) handwritten pages using only one side of each paper or four (4) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

Question One

Nine handicapped members of the Bliss Golf and Country Club, Inc. consult you regarding what they think are claims involving discrimination, and breach of contract claims. They allege that the Club, a place of public accommodation, discriminated unfairly against them because of their disabilities and breached their contractual agreements.

There were two major membership categories at the Club: primary and limited. Primary members had the broadest range of access to the golf course and facilities. The access of limited members was, well, limited. In 2009, there were 325 primary members, of who seven were handicapped. Among the ninety limited members, twenty-four had some form of disability. As those with disabilities lobbyed to change their memberships to primary, the Club rules for making such a change, such as what payment needed to be made with an application, underwent frequent revision, and places on the waiting list for primary membership fluctuated without explanation. For example, one limited member with disabilities seeking primary status began the process as number nine on the waiting list but after some additional months had fallen to number eighteen. Some candidates unaccountably disappeared altogether from the waiting list for primary membership. The
able-bodied leapfrogged to primary membership while those with disabilities waited forever.

For limited members, starting time on the golf course—referred to in the record generally as “tee time”—was restricted. On Wednesdays, limited members could not tee off from 10 A.M. to 2 P.M.; on Saturdays and Sundays limited members could not play until after 1:30 P.M.; limited members could book tee times only twenty-four hours in advance and, as a practical matter, were, therefore, often frozen out. They often received far less in value from their $2,500 per year memberships because of the limited tee times.

In the spring of 2010, Karen Richardson organized a “Civil Rights for the Disabled” tournament. The tournament quickly enrolled a field of 40 people with 72 people being the full complement of players. Robert Hanagan, the golf chair of the Club, told Richardson to fill out the field with “anyone you can get, forget those people they slow the course down anyway”. For failure to comply with Hanagan’s edict, Richardson was summoned to appear before the Club rules committee. When the committee met in judgment of Richardson, Scott Gleason, a member of the committee, referred to Hanagan as “God when it came to golf at the Bliss Country Club and we do not defy God.” Punishment meted out to Richardson, an avid golfer preparing for the tournament, was biblically stern: she was suspended from play for twenty-one days and the tournament was threatened with cancellation. Richardson and Gleason are now scheduling another golf tournament for the same date.

On the other hand, when two long-term primary membership male members, one of whom was a member of the board of governors, cavorted in the buff with two servers in the Club swimming pool—an infraction of the rules—the response was indulgent. Volker Wrampe, the general manager was, upon inquiry, told by the Club president, “Not to worry about it. We do it all the time.”

Richardson and the 8 others are now in your office requesting your help. The tournament is 8 days away. How would you proceed and why?

PART 2

Define the following terms and then, if applicable, apply the terms to the fact pattern on the first page.
93A and 176D actions

Wang Test

Evidentiary Hearing
Expectancy and Reliance Damages

Bond
He who seeks equity must do so with equity.

Use your social security number on the blue book. Write legibly and coherently.

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Write no more than six (6) handwritten pages using only one side of each paper or four (4) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART I

FIRSTYEARSUCCESS, Inc., a Massachusetts corporation located on Washington Avenue in Plymouth, Massachusetts, produces study review materials for law students and runs a website called FIRSTYEARSUCCESS.COM. All of FIRSTYEARSUCCESS’ employees have signed non-compete/non-disclosure agreements precluding them from using any of the proprietary information belonging to the company and from working for any company in the same business in the United States for one year after they leave FIRSTYEARSUCCESS, Inc.

For an initial fee of $500.00 and for $10.00 per month, law graduates/students can sign up online with FIRSTYEARSUCCESS.COM to study for their examinations over the internet and place a description of themselves on the website to find suitable dates. The description provides their educational background and standards for dating. The contract that students execute online requires all disputes be resolved by binding arbitration in Omaha, Nebraska.

In a short period, its proprietary and copyrighted study review materials and software has allowed FIRSTYEARSUCCESS, Inc. to become a leader in the field of study review materials. Unfortunately, its dating service has not been nearly as successful and there are many dissatisfied students who claim it is a scam. Two students have even been raped by their dates who were not law students but exconvicts who enrolled in the program while in prison. The students were badly beaten and suffered significant damages including medical expenses and lost wages. FIRSTYEARSUCCESS.COM’s insurer has denied their claim for damages saying that the policy precludes claims for criminal activity.

Recently, Peter Peters, one of the founders of FIRSTYEARSUCCESS, Inc., left and started a competing company at 10 Franklin Pierce Place in Salem New Hampshire. Peters took customer lists, software and other proprietary material from
FIRSTYEARSUCCESS when he quit. He has also been encouraging a number of employees to leave FIRSTYEARSUCCESS, Inc. and join him at LawschoolU.com.Inc. Two of these employees, Sally Stone and Natasha Dean, recently left and joined LawschoolU.com.Inc.

Malguti, Stone and Dean, a real star of the study preparation business, reside in Salem New Hampshire. Peters encouraged Stone to break her contract and agreement with FIRSTYEARSUCCESS by giving her a salary of $75,000 per year, allowing her to continue to work from home and submit her study examination questions, material and software programs through the Internet, as she had done with FIRSTYEARSUCCESS. Stone and Dean deny having any written agreement with FIRSTYEARSUCCESS.

FIRSTYEARSUCCESS, Inc.’s revenues have recently started to decline significantly because of the loss of the employees and the poor performance of its dating business. FIRSTYEARSUCCESS, Inc. consults with you and asks you to help. They want you to drive LawschoolU.com.Inc out of business at whatever cost.

Please discuss how you would proceed and why. Discuss what you expect is likely to happen and explain the procedural steps you would expect on this matter.

PART 2

Define the following terms and then, if applicable, apply the terms to the fact pattern on the first page.

93A and 176D actions

WangTest
Evidentiary Hearing


Expectancy and Reliance Damages


Bond


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To begin, I would decide which menta\umom claims to bring in accordance with Federal Rule of Civil Procedure 11. According to this rule, I have to make a good faith investigation into the action and by signing the pleadings, I have ensured that 1) they are based on good law, 2) based on reversing good law, and 3) not brought to waste the court's time or be frivolous.

First, I would determine whether to bring causes of action against Malaguti, Stone, and Dean for violating the contractual non-compete agreements. In order for these to be enforceable, they must be reasonable in 1) scope of business, 2) area (geographic), and 3) duration that they limit to former employees. Although they are reasonable on the part of First Year Success to limit an ex-employee's ability to act within a year in the same business, it may be overbroad and unenforceable to compel these clauses to be enforced. I therefore, would not bring causes of action against Dean and Stone for violation of non-compete or non-disclosure of proprietary information.

Where, however, I would bring a cause of action against Peteri, who as one of the founders of First Year Success has started a new competing company called La\umom School U. To begin, I would draft a complaint in accordance with Fed.R.Civ.P. 8 and state clear and concise statements of fact that warrant relief for my client. In order to avoid dismissal, I would add all indispensable parties pursuant to Rule 19 so that the action does not get dismissed. Next, I would, in accordance with Fed.R.Civ.P. 4, serve a copy of the complaint along with the summons on all defendants through a sheriff or
a notice pleading system. I would be careful and make sure that I plead all damages both equitable and monetary so that, if the case were to proceed, I would not be precluded to do so by either res judicata (claim preclusion) or collateral estoppel (issue preclusion).

I would bring an injunction against Peters and Lanschooly.com because this necessitates an equitable remedy. In order to get an injunction I must prove that: 1) my client has no adequate remedy at law, 2) likelihood of success on the merits, 3) immediate irreparable harm, 4) public policy issues are at stake and the balance of the harms lean toward granting an injunction. Firstyearsuccess has no adequate remedy at law because money damages will not make them whole as the amount of damages by starting this competitive company cannot be reasonably calculated, but revenues have recently declined. Likely that my client will prevail as to enjoining the company since, with more discovery, it is likely that Lanschooly took off itching as a result of Firstyear’s proprietary information.

There is immediate irreparable harm because Firstyear is losing revenues from its study service daily. Additionally, public policy is against stealing of proprietary information and using it for deceptive gain. Similarly, Firstyear bears a severely greater burden for loss of proprietary information and employee since they are an already established business.

In getting an injunction, I would first move for a temporary restraining order exparte. This is the earliest stage to get an injunction and I do not have to give notice
During ex parte injunction, I would also move for an ex parte injunction of the proprietary information because exigent circumstances exist that place in the future of first year on the line.

give formal notice; however, I do have to make a sufficient attempt. In moving for an injunction, I would have to support the motion with a verified complaint or affidavit. Since Troj only last for 10 days or until an evidentiary hearing, I would move for a preliminary injunction. Courts are willing to preserve the status quo - or leave parties in the last contacted position they were in prior to suit - through a preliminary injunction. During the preliminary injunction stage, opposing counsel and I will have to present evidence at an evidentiary hearing. This is where evidence is presented under oath when either the credibility of witness is in dispute, or there are evidentiary issues in dispute. Here, the dispute would be over the proprietary information. The injunction will probably be upheld, but afterward I may move for a permanent injunction to enjoin law schools, forever, or until circumstances change, from using First year’s proprietary information and employees from them. In moving for an injunction, I could either request a prohibitory or mandate injunction. Here, it would be a prohibitory injunction to prohibit law schools from using my clients’ information. The parties would have to request the evidentiary hearing during for preliminary injunction because they are not presumed or indispensable.

When I move for an injunction, counsel for law schools may request that I give a security bond. The bond is to protect law schools in the situation that the injunction is improvidently given and needed for compensation. The
Fed R Civ Pro 65 states that a bond is necessary, some jurisdiction have found that the court has such broad latitude and discretion that they can determine a bond is unnecessary.

For this case, I would bring it to Massachusetts State Court. I would do so because MA has subject matter jurisdiction over the controversy in this proprietary case. Most likely, the claims in this case will bypass $75,000 because the company, First Year, has had a drastic crash in its revenues.

Additionally, there is complete diversity on the Plaintiff, First Year, has complete diversity on a MA corporation, with Peter and Laura Scholl, which live and are based in NH. In bringing these defendants, I would check with a long arm statute to personally serve them. Personal jurisdiction has been established over defendants because they all have sufficient minimum contacts with First Year by working in MA. Venue is established because it is a convenient place to bring suit. If the statute governing the case gave concurrent jurisdiction to both state and federal courts, the defendant could, through removal jurisdiction, remove the case to federal court since diversity exists and none of them are from MA.

The students who manage the claim the website for dating W a scam could bring a class action suit for against my client under 93A, the Consumer Protection Statute for unfair and deceptive practices. To bring a class action, they all must have been injured by the common law or fact and be too numerous for joinder. To be certified as a class, they must
Adequacy of representation by named plaintiff: once certified, all settlements have to be accepted by the court because some people may not have adequate representation. True individually and the two that got raped may all sue. However, I would bring in the insurance company to cover our liability under the D Unfair Claims Settlement Practice Act. It created a duty of insurance company to defend employees under insured against insurance policy. In order to do this, the acts must be done under & fulfill the Wang Test: 1) employee act was in scope of employment, 2) in time and space of employment, and 3) to advance motive of employee. Since true criminal activity is that of outside individual, I would file a cross claim against the rapists and bring them into indemnity my entity company of liability.

As to the arbitration agreements, although they were part of an adhesion contract, they are enforceable if reasonable and no sign of coercion, duress, or fraud. Since the students could have rejected the contract, I would try to enforce the agreement. Although they have to travel, we are on the internet and readily available all over the web. In UK, I would also file for 93(A) damages against Lanzschoo. If for first year because Lanzschool acted with raciality.
REMEDIES MIDTERM EXAM
PROFESSOR COYNE
SPRING 2007

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Write no more than six (6) handwritten pages using only one side of each paper or four (4) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART I

BAREXAMBOOTCAMP, Inc., a Connecticut corporation located on Washington Avenue in Hartford, Connecticut, produces bar review materials for law students and runs a website called BAREXAMBOOTCAMP.COM. All of BAREXAMBOOTCAMP’s employees have signed non-compete/non-disclosure agreements precluding them from using any of the proprietary information belonging to the company and from working for any company in the same business in the United States for one year after they leave BAREXAMBOOTCAMP, Inc.

For an initial fee of $1000.00 and for $10.00 per month, law graduates/students can sign up online with BAREXAMBOOTCAMP.COM to study for the bar examination over the internet and place a description of themselves on the website. The description provides their educational background and qualifications for employment in the hopes that they will find employment. The contract that students/graduates execute online requires all disputes be resolved by binding arbitration in Washington D.C.

In a short period, its proprietary and copyrighted bar review materials and software has allowed BAREXAMBOOTCAMP, Inc. to become a leader in the field of bar review materials. Unfortunately, its law placement service has not been nearly as successful and there are many dissatisfied graduates who claim it’s a scam.

Recently, Peter Malaguti, one of the founders of BAREXAMBOOTCAMP, Inc., left and started a competing company at 10 Franklin Pierce Place in Salem New Hampshire. Malaguti took customer lists, software and other proprietary material from BAREXAMBOOTCAMP when he quit. He has also been encouraging a number of employees to leave BAREXAMBOOTCAMP, Inc. and join him at BOOTCAMPU.com.Inc. Two of these employees, Sally Ramirez and Natasha Lucien, recently left and joined BOOTCAMPU.com.Inc.
Malguti, Ramirez and Lucien, a real star of the bar preparation business, reside in Lawrence, Massachusetts. Malaguti encouraged Lucien to break her contract and agreement with BAREXAMBOOTCAMP by giving her a salary of $750,000 per year, allowing her to continue to work from home and submit her bar examination questions, material and software programs through the Internet, as she had done with BAREXAMBOOTCAMP. Ramirez and Lucien deny having any contract with BAREXAMBOOTCAMP.

BAREXAMBOOTCAMP, Inc.’s revenues have recently started to decline significantly because of the loss of the employees and the poor performance of its placement business. BAREXAMBOOTCAMP, Inc. consults with you and asks you to help. They want you to drive BOOTCAMPU out of business at whatever cost.

Please discuss how you would proceed and why. Discuss what you expect is likely to happen and explain the procedural steps you would expect on this matter.

**PART 2**

Define the following terms and then, if applicable, apply the terms to the fact pattern on the first page.

**93A and 1/6D actions**

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Evidentiary Hearing


Expectancy and Reliance Damages


Bond


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SAMPLE ANSWER REMEDIES

The first issue to be examined is whether there is a cause of action which can be pursued in compliance with the requirements of Federal Rule of Procedure II. I would examine the noncompete and nondisclosure agreements to ensure they can be enforced. I would also carefully examine the facts of the case concerning the employees’ actions to determine if we can proceed with a complaint based on existing law or the good faith belief that we would overturn existing law. The case on nondisclosure seems to be very strong assuming we can prove the theft of proprietary company property. The noncompete contracts are somewhat more problematic as they must be reasonable in terms of duration and geographic limitations. The one year time frame is not completely unreasonable however the prohibition on working in the United States will result in a significant preclusion of the employees’ ability to earn a living. Courts are reluctant to enforce an agreement that is not reasonable limited and this one will be difficult to enforce particularly since it is unclear that any of their skills or products would be protected as intellectual property. I would not recommend action against Lucien and Ramirez as their agreements appear too broad to be enforceable.

I would however pursue a cause of action against Mr. Malaguti. I would draft a complaint, clearly stating the facts, and requesting the proper relief of expectancy damages based on the revenues that the company would have earned but for the actions of Mr. Malaguti in breaching his contract to not use proprietary information owned by BAREXAMBOOTCAMP.COM and injunctive relief. The amount of damages would have to be exclusive of the losses suffered as a result of the placement service as it was already in financial difficulty making causation harder to prove. I would seek a
temporary restraining order to prevent BOOTCAMPU from operating and requesting the seizure of software, customer lists and other proprietary materials. The temporary restraining order is needed ex parte to prevent the defendants from destroying any evidence. The evidence gathered could then be used in the evidentiary hearing that will be required to get a preliminary injunction, since it is likely that the facts are in sharp dispute. Temporary restraining orders is only good for ten days and at that point I will have a hearing on the preliminary injunction.

To obtain the injunction, we will need to show that there is (1) no adequate remedy at law, (2) we are likely to succeed on the merits, (3) the balance of harm favors granting our request, (4) my client will suffer immediate, irreparable harm if the injunction is not granted, (5) any public policy issues from granting the injunction. On the first factor, money alone will not make my client whole. He has lost his intellectual advantage in the market as well as the loss of value to his business. Without relief, his business will likely suffer irreparable damage and perhaps go out of business. Those damages will be difficult if not impossible to quantify and therefore justify equitable relief.

Factor number two is not based on the fact that the defendants knowingly violated the contract, the nondisclosure agreement and took company material. This can be seen in the speed by which they are able to establish the competing business and will be shown by the evidence seized. As to the balance of the harms, my client has lost revenues, expenses caused by the employees leaving and loss of the goodwill of his business. The defendants on the other hand have not are just beginning to do business and it is likely they have done so with intellectual property belonging to my client. Public policy issues
also weigh in my client’s favor. The economy cannot function smoothly and efficiently
if contracts are not honored, therefore public policy weighs on the side of enforcing the
contract.

Finally, my client has already suffered significant harm to his business, his
employees and property. This harm can not be undone.

While the defendants will insist they will be harmed if the injunction is issued, we
will be required to post a bond to indemnify them from damages, should the court later
determine the injunction should not have been granted. However, if the injunction is
granted after the evidentiary hearing, it is unlikely that the injunction will be later found
to be granted in error.

The disgruntled customers of the placement service will probably have to arbitrate
if they were aware of the arbitration clause before purchasing the service arguably even
though this was an adhesion contract. There was no bargaining and the parties were in on
unequal position but if the buyer was notified he nonetheless had a choice, either to enter
the contract as clearly there are many choices for placement services.

I would file my action in Connecticut State Court, as it has subject matter
jurisdiction and provides the home court advantage. I would use the state long arm
statutes and comply with FRCP 4 to issue a summons to defendants in other states.
Being sure to name all necessary parties to avoid dismissal under rule 19. Since Federal
courts have concurrent jurisdiction and because all plaintiffs and defendants are from
different states, there is complete diversity. If the amount in controversy exceeds
$75000, then a defendant could remove any action file din state court to Federal Court, as
long as none of the defendants are from the state which the Federal court sits. Venue
would be a reasonable venue as it is close to the plaintiff location, near where the cause
of action occurred and arguably not pose a hardship on most defendants.

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Lost Maxims of Equity
(For good reason)

Equity delights in a good practical joke.
He who seeks equity must do so with full pockets.
Equity is not for the squeamish. Equity, schmequity.
Equity, like all of us, prefers the rich and good-looking.

Uncovered by Eugene Volokh

Use your social security number on the blue book. Write legibly and coherently.

Your knowledge and ability to analyze the issues should be clear from the manner you express those thoughts on this test.

Write no more than six (6) handwritten pages using only one side of each paper or four (4) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

PASSBAR, Inc., a Rhode Island corporation located on Atwell Avenue in Providence, Rhode Island, produces bar review materials for law students and runs a website called PASSBAR.COM. All of PASSBAR’s employees have signed non-compete/non-disclosure agreements precluding them from using any of the proprietary information belonging to the company and from working for any company in the same business in New England for one year after they leave PASSBAR, Inc.

For an initial fee of $500 and for $200.00 per month, law graduates/students can sign up online with PASSBAR.COM to study for the bar examination over the internet and place a description of themselves on the website. The description provides their educational background and qualifications for employment in the hopes that they will find employment. The contract that students/graduates execute online requires all disputes be resolved by binding arbitration in Key West, Florida.

In a short period, its proprietary and copyrighted bar review materials has allowed PASSBAR, Inc. to become a leader in the field of bar review materials. Unfortunately, its
law placement service has not been nearly as successful and there are many graduates who feel cheated out of the money they paid for that service.

Recently, Joe Jujitsu, one of the founders of PASSBAR, Inc., left and started a competing company at 1 Wollaston Boulevard in Quincy, Massachusetts. Jujitsu has been encouraging a number of key employees to leave PASSBAR, Inc. and join him at PASStheBAR.com.Inc. Two of these employees, Anthony Ramirez and Douglas Dean, recently left and joined PASStheBAR.com.Inc.

Dean resides in Andover, MA. Ramirez, is a real star of the bar preparation business. Jujitsu encouraged Ramirez to break his contract and agreement with PASSBAR by giving him a salary of $750,000 per year, allowing him to continue to work from New London, Connecticut and submit his bar examination questions, material and software programs through the Internet, as he had done with PASSBAR. Ramirez denies having any contract with PASSBAR.

PASSBAR, Inc.'s revenues have recently started to decline significantly because of the loss of the employees and the poor performance of its placement business. PASSBAR, Inc. consults with you and asks you to help.

Please discuss how you would proceed and why. Discuss what you expect is likely to happen and explain the procedural steps you would expect on this matter.

PART 2

Define the following terms and then, if applicable, apply the terms to the fact pattern on the first page.

Common Law Fraud Action
Expectancy and Reliance Damages

Receiver
Lost Maxims of Equity
(For good reason)
Equity delights in a good practical joke.
He who seeks equity must do so with full pockets.
Equity is not for the squeamish. Equity, schmequity.
Equity, like all of us, prefers the rich and good-looking.

Uncovered by Eugene Volokh

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than six (6) pages handwritten, one side only or three (3) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

A and C Media, Inc., a Massachusetts corporation located on Essex Street, Lawrence, Massachusetts, produces software for attorneys and runs a website called AttorneyandCounselor.com. All of its employees have signed non-compete/non-disclosure agreements which preclude them from using any of the proprietary information belonging to the company and from working for any company in the same business in New England for one year after they leave A and C Media, Inc. For two hundred dollars ($200.00) per month, AttorneyandCounselor.com allows attorneys to place a description of their law firm on the website, describing the educational background, clients, specialties, qualifications and rates of the members of the firm. In a short period of time, its proprietary and federally copyrighted software has allowed A and C Media, Inc. to become a leader in its field with revenues of over a million dollars per year.

Recently, Joe Cropani, one of the founders of A and C Media, Inc., left and started a competing company at 60 State Street in Boston, Massachusetts. Cropani has been encouraging a number of key employees to leave A and C Media, Inc. and join him at

Beverly Anthony, is a real star of the web design business who rarely leaves her home in Greenwich, Connecticut. Cropani encouraged Anthony to break her contract and agreement with A and C Media by giving her a salary of $550,000 per year, allowing her to continue to work from Greenwich, Connecticut and submit her completed work through the Internet, as she had done with A and C Media. Anthony denies having any contract with A and C Media.

A and C Media, Inc.'s revenues have recently started to decline significantly. A and C Media, Inc. consults with you and asks you to file suit to stop this damage to its business.

Federal law forbids the use of copyrighted software belonging to another for competitive advantage.

Please discuss how you would proceed and why. Please also explain the procedural steps involved in this matter.

**PART 2**

Define the following terms and then, if applicable, apply the terms to the fact pattern on the first page.

Findings of Fact and Conclusions of Law

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Wang Test


Evidentiary Hearing


Expectancy and Reliance Damages


Injunctive Relief


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REMEDIES MIDTERM EXAM
PROFESSOR COYNE
SPRING 2004

*I know what is legal, not what is right.
And I'll stick to what is legal . . . I'm not God.*
Sir Thomas More

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No more than five (5) pages handwritten, one side only, three (3) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

Pete Peters of Kittery, Maine was the chief academic officer for PassBar.Com Inc., a Delaware corporation with offices in Orlando, Florida and Providence, Rhode Island. PassBar.Com’s proprietary software allows for students to prepare to pass the bar examination by taking classes over the internet. All of its employees sign Confidentiality/Nondisclosure/Noncompete Agreements, preventing them from disclosing proprietary company information to anyone and prohibiting them from working for any competing online company for one year after departing the company. PassBar.Com has an insurance policy with New Bahama’s Insurance headquartered in Nassau, Bahamas, providing for protection against the theft of company property.

Last month Peters, along with eight other employees, left PassBar.Com to create PassTheBar.Com and formed a New York corporation with offices in New York City. Two week ago, PassBar.Com discovered that its new testing software, course, customer lists, designs and other proprietary information was missing. The company also discovered that Peters had recently registered the domain name PassTheBar.com and is now attempting to lure students and other employees to the new company.

The company is irate with Peters and the others and demands that you “drive them out of business anyway you can as they are killing us.” The company feels that it has already been significantly damaged, as it has lost a few customers to this new company.
Please write an essay describing what steps you would take to remedy this problem, and how you would expect the Court to deal with the procedural issues necessary to resolve this matter.

PART 2

Define the following terms and then apply the terms, if applicable, to the fact pattern on the first page.

Choice of Forum Clause

Rascality

176D

Injunctive Relief
Findings of Fact and Conclusions of Law

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**REMEDI ES MIDTERM EXAM**
**PROFESSOR COYNE**
**SPRING 2003**

*Convention is like a shell to the chick, a protection till he is strong enough to break it through.*

*Learned Hand*

Use your social security number on the blue book. Write legibly and coherently.

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Peter Devlin of Salem, New Hampshire was the chief software designer for EsportsInfo.com, Inc., a Florida corporation with offices in Orlando, Florida and Andover, Massachusetts. EsportsInfo.com's proprietary software allows for the high quality transmission of live sporting events over the internet. EsportsInfo.com is an online sports website which requires its employees to sign Confidentiality/Nondisclosure/Noncompete Agreements, preventing their employees from disclosing proprietary company information to anyone and prohibiting these employees from working for any competing online company for one year after departing the company. EsportsInfo.com has an insurance policy with New York Insurance, a corporation, providing for protection against the theft of company property.

Last month Devlin informed EsportsInfo.com, Inc. that he would no longer be working at EsportsInfo.com and along with eight other employees would be leaving to create Esports.net, a division of P.D., Inc., a Maine corporation with offices in Portland, Maine. Two weekends ago, EsportsInfo.com discovered that its new marketing plan, software designs and other proprietary information was missing. The company also discovered that Devlin had recently registered the domain name Esports.net and is marketing a product similar to EsportsInfo.com's advanced design for transmission of sporting events over the internet that Devlin helped design.

The company is livid with Devlin and the others and demands that you "drive Devlin into the ground and bury those clowns," before they can ruin its business. The company feels
that it has already been significantly damaged, as it has lost a few customers to P.D., Inc., d/b/a Esports.net and wants you to help rectify the situation.

Please describe what steps you would take to remedy this problem, and how you would expect the Court to deal with this situation.

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The only thing necessary for the triumph of evil is for good men to do nothing.

Emmendunm Burke

No more than five (6) pages handwritten, one side only, five (5) typed double spaced pages. I will not read anything that exceeds the page limitation.

QUESTION ONE

A and C Media, Inc., a Massachusetts corporation located in Lawrence, Massachusetts, produces software for attorneys and runs a website called AttorneyandCounselor.com. For two hundred dollars ($200.00) per month, AttorneyandCounselor.com allows attorneys to place a description of their law firm on the website, describing the educational background, clients, specialties, qualifications and rates of the members of the firm. In a short period of time, A and C Media, Inc. has become a leader in its field with revenues of over 13 million dollars per year. Recently, Joe Cropani, one of the founders of A and C Media, Inc., left and started a competing company in Boston, Massachusetts. Cropani has been encouraging a number of key employees to leave A and C Media, Inc. and join him at GreatLawyers.com, Inc. Two of these employees, Beverly Anthony and Charlie Douglas, recently joined Cropani’s new company and A and C Media, Inc.’s revenues have recently started to decline significantly.

One of the employees, Beverly Anthony, is a real star of the web design business who rarely leaves her home in Stanford, California. Cropani encouraged Anthony to break her contract with A and C Media by giving her a salary of $250,000 per year and by allowing her to continue to work from Stanford, California and submit her completed work through the Internet, as she had done with A and C Media. Douglas had recently been let go by A and C Media.

When Cropani announced the opening of GreatLawyers.com, Inc., all of his new employees, including Ms. Anthony and Mr. Douglas were pictured on the front page of The Boston Globe at their world headquarters in Boston.

A and C Media, Inc. has now entered suit against GreatLawyers.com, Inc., Cropani, Anthony and Douglas in Essex Superior Court seeking, among other things, injunctive relief. You have been asked to defend this matter. What steps would you take to protect your client’s rights.
Unjust laws exist: shall we be content to obey them . . . .

Henry David Thoreau (1849)

Use your social security number on the blue book. Write legibly and coherently.

You will be graded on your knowledge, ability to analyze the issues and your treatment of the issues.

No more than five (5) pages handwritten, one side only, three (3) typed double spaced pages. I will not read anything that exceeds the page limitation.

Stephen Shuttoff of Salem, New Hampshire is a hotshot website designer for CyberU.com, a California corporation with offices in Santa Monica, California and Andover, Massachusetts. CyberU.com is an online educational website which requires its employees to sign Confidentiality/Nondisclosure /Noncompete Agreements, preventing its employees from disclosing proprietary company information to anyone and prohibiting employees from working for any competing educational institution for one year after departing CyberU. CyberU’s employees are also bonded and insured by BigInsurance of America, a Connecticut corporation, which provides for protection against the theft of company property.

Last Friday Shuttoff informed CyberU that he would no longer be working at CyberU and along with three other employees would be leaving to join College 247.com, Inc. which calls itself the Internet’s leading educational portal. Over the weekend, CyberU discovered that its new marketing plan, website design and other proprietary information was missing. The company also discovered that Shuttoff had recently registered the domain name CyberU.net. College 247.com was now using the name CyberU.net to redirect mistaken CyberU.com visitors to its site.

The company is livid with Shuttoff and the others and demands that you “cripple” Shuttoff before he can ruin its business. The company feels that it has already been significantly damaged and wants you to help rectify the situation.

Please describe what steps you would take to remedy this problem, and how you would expect the Court to deal with this situation.