**Alternate Case Problems**

*Chapter 5*

**Internet Law,**

**Social Media, and Privacy**

**5–1. Domain Names.** In 1999, Steve and Pierce Thumann and their father, Fred, created Spider Webs, Ltd., a partnership, to, according to Steve, “develop Internet address names.” Spider Webs registered nearly two thousand Internet domain names at an average cost of $70 each, including the names of cities, the names of buildings, names related to a business or trade (such as air conditioning or plumbing), and the names of famous companies. It offered many of the names for sale on its Web site and through eBay.com. Spider Webs registered the domain name “ERNESTANDJULIOGALLO.COM” in Spider Webs’ name. E. & J. Gallo Winery filed a suit against Spider Webs, alleging, in part, violations of the Anticybersquatting Consumer Protection Act (ACPA). Gallo asked the court for, among other things, statutory damages. Gallo also sought to have the domain name at issue transferred to Gallo. During the suit, Spider Webs published anticorporate articles and negative opinions about Gallo, as well as discussions of the suit and of the risks associated with alcohol use, at the URL ERNESTANDJULIOGALLO.COM. Should the court rule in Gallo’s favor? Why or why not? [*E. & J. Gallo Winery v. Spider Webs, Ltd.,* 129 F.Supp.2d 1033 (S.D.Tex. 2001)]

**5-2. Copyrights in Digital Information.** Nintendo of America, Inc., manufactures a home video game system, the Nintendo Entertainment System (NES). Nintendo designed the NES to prevent it from accepting unauthorized video game cartridges. Microprocessor chips in the NES consoles were coded to accept only Nintendo cartridges. Atari Games Corp. wanted to sell video game cartridges that could be used in the NES consoles. Atari at­tempted to analyze the NES lockout program through reverse engineering. Unable to do so successfully, Atari obtained a copy of the human-readable source code of the NES pro­gram from the U.S. Copyright Office by means of false representations. Atari was then able to decode the NES lockout program through reverse engineering and develop a pro­gram to place in its cartridges to allow its games to be played on the NES. Nintendo filed a lawsuit against Atari, alleging that Atari had infringed Nintendo’s copyright in the NES program when it made copies of the program code during the course of its reverse engineering. Atari argued that copying for the purposes of reverse engineering is a fair use. What will result in court? Discuss. [*Atari Games Corp. v. Nintendo of America, Inc.,* 975 F.2d 832 (Fed. Cir. 1992)]

**5-3. Copyrights in Digital Information.**  Sega Enterprises, Ltd., develops and markets video enter­tainment systems, including the “Genesis” console and video game cartridges. Accolade, Inc., is an independent developer, manufacturer, and marketer of computer entertain­ment software, including game cartridges that are compatible with Genesis and other computer systems. Sega licenses its copyrighted computer code and its trademark to de­velopers of Genesis-compatible games in competition with Sega. Accolade chose not to purchase a license from Sega, however, but to reverse engineer Sega’s games to discover the requirements of the code that would make Accolade’s games compatible with Genesis. As part of the reverse engineering, Accolade transformed the machine-read­able object code contained in Sega’s game cartridges into human-readable source code us­ing a process called “disassembly.” At the end of the process, Accolade created a manual that incorporated the information it had discovered about the requirements for a Genesis-compatible game. The manual did not include any of Sega’s code. With the manual, Accolade created a new computer code; with this code, Accolade developed Genesis-com­patible games. Sega sued Accolade, claiming, among other things, that Accolade’s dis­assembly of its computer program constituted copyright infringement. Accolade con­tended that its disassembly of the code was a fair use. How should the court rule? Dis­cuss fully. [*Sega Enterprises, Ltd. v. Accolade, Inc.,* 977 F.2d 1510 (9th Cir. 1992)]

**5–4. Copyrights in Digital Information.**Jiri Klimecek was a member of a group that overrode copyright protection in movies and music to make them available for download online. Klimecek bought and installed a server and paid to connect it to the Internet. He knew that users could access the server to upload and download copyrighted works. He obtained access to movies and music to make them available. When charged with copyright infringement, he claimed that he had not understood the full scope of the operation. Did Klimecek commit a crime? Explain. [*United States v. Klimecek,* \_\_ F.3d \_\_, 2009 WL 102128 (7th Cir. 2009)]