

### **Question No. 1 (37.5 Points)**

Columbia Records, a New York based record company, maintains an internal web site (an intranet site) which it uses to post sound recordings it plans to release in the future, to allow its employees to hear the latest music, and offer ideas to improve the recordings before they are released to the public. Access to this intranet site is protected by a password system. Once on the site, the music available is also protected by a copyright protection system that prevents unauthorized copying and/or downloads of the music.

Rose is a young computer science major at New York University. She likes many of the artists on the Columbia records label, and through surfing the Net, has discovered the existence of the Columbia Records intranet site. Seeing it as a challenge, she decides to see if her skills as a computer scientist will allow her to access the site. She writes a password testing program, which creates millions of passwords, and tries them on the Columbia intranet site. She doesn't plan to do any harm in seeking this access – she just wants to see if she can get into the site. After two weeks of effort, her program pays off and she is granted access to the Columbia intranet site.

Once there, she hears new, unreleased songs by Coldplay, her favorite band. When she tries to download and save a copy of the songs, she finds that the copyright protection system prevents her from downloading or copying the work. She again applies her talents to this challenge, and within a day, has written a new program that allows her to get around the copyright protection system and to download and copy the Coldplay songs. Thrilled by her success, she sends a copy of the songs to her two best friends in town, Scarlet and Max, telling them where she found the songs, and instructing them not to make or distribute any copies of the songs to anyone else. She gives this instruction because she doesn't want to profit from her efforts, just share her success with her close friends. Scarlet and Max ignore her instructions, and post the new, unreleased Coldplay songs to YouTube, along with a video of themselves dancing to the songs. Within two days, the video is viewed and copied by 500,000 people.

Columbia hires you to take action against Rose, Scarlet and Max for their conduct. What claims can you bring and what defenses can each of these defendants assert, and what is the likely outcome of this litigation?

**END OF QUESTION 1**

**Question No. 2 (37.5 Points)**

Caprica6 is a web-based company located in Poland. The company, which creates and hosts web sites about popular movies, has decided to expand its business activities into the adult entertainment market. It creates a new website which features nude photos of what appear to be underage (i.e.: under 18 years) young boys and girls. In fact, the photos feature the faces of underage boys and girls, which have been attached (using the computer image program Photoshop) to the bodies of 19 year old young men and women. Caprica6 buys advertising on U.S. ISP's Yahoo, Google, and MSN, offering discounted site memberships to U.S. citizens. Caprica6, aware of a popular adult entertainment site known as Perfect 10, call their new site Perfect10.5.

You are an attorney for the U.S. Justice Department. You have been contacted by various citizen groups who want the Justice Department to shut the site down, on the grounds that the material on the site violates child pornography laws. You have also received a complaint from the owners of the Perfect 10 site, whose complaint is that the Caprica6 site violates their trademark in the words Perfect 10, and that the Caprica6 website also violates their rights to the web name Perfect 10, which they have previously registered with ICANN.

Can any actions be brought against Caprica6 in this case? If so, who can bring what actions, and in what venues and before what judicial entities? What defenses does Caprica6 have, and what is the likely outcome of each action.?

**END OF QUESTION 2**

**END OF EXAM**