Exam No. _____

INFOLIBERTIES
Final Exam—Spring 2001
Professor Susan M. Richey

General Instructions:

This exam has three essay questions--two of which have subparts--worth a total of 80 points. The questions are not evenly-weighted so allocate your time accordingly.

The exam is open-book and you may take any written material that you wish into the exam with you. **Do not work with any of your classmates during the exam.**

Do not use a blue book. Please confine your responses to the lined area of this exam but do not feel compelled to fill the entire lined area.

You have 2 hours to complete the exam unless otherwise stated by the proctor.

1. Ralph Nader, outspoken liberal, consumer advocate, and Green Party candidate for U. S. President in the 2000 election, is a strong critic of the United States' two-party political system. His campaign as a third party candidate is widely regarded as the reason that the Democratic candidate, then Vice President Al Gore, lost the presidential election to the Republican candidate, George W. Bush. Specifically, many commentators believe that Nader acted as "a spoiler," that is, that he diverted votes to himself that otherwise would have been cast for Gore, causing Gore to lose a remarkably close election. As election day came to a close, the State of Florida proved to be pivotal, with the results of the national election hanging on which of the two major party candidates--Gore or Bush--received the majority of the votes in that state. Because Florida voters appeared to be almost evenly split in their votes for the two men, recounting their votes became the subject of considerable media coverage as well as litigation, and the ultimate outcome of the election remained undecided until a month after the election had been held.

a. (8 pts.) Identify one way in which an online voting system might eliminate the "spoiler" effect of a third party candidate in such a close election.

b. (8 pts.) What effect might an online voting system have on the recount of votes in any given election and is the recount of such an election likely to be more or less reliable than a hand recount of paper ballots?

c. (13 pts.) One of the greatest problems experienced by Florida and other states in the past has been fraudulent voter registration, e.g., registration of deceased individuals or fictitious characters. Online voter registration offers a convenient option to other forms of registration but raises a high risk of automated fraud. The March 2001 Report of the National Workshop on Internet Voting suggests that online registration along with transmission of some unique biometric data would establish the identity of the registrant and, hence, his or her eligibility to vote. Although such a scheme might address one of the four attributes of a reliable voter system, i.e., accurate voter registration, it might endanger one of the other attributes of a reliable voter system. Which attribute could be at risk with the identification of voters by biometric means and why?

2. (25 pts.) VitalLink, Inc., a Michigan corporation, recently developed a beverage tracking system for use in restaurants, hotels, bars, and any other establishment that sells alcoholic beverages by the drink. The system utilizes a high-tech pour spout that keeps track of every drink poured for purposes of monitoring the bar's liquor activities. Each pour spout is assigned its own serial number that, in turn, is attributed to a specific brand of liquor. When the bottle is inverted, an embedded microchip records the length of pour time, factors in the viscosity of the liquor, and calculates the pour quantity. The pour quantity is recorded with a time and date stamp and transmitted by an embedded wireless radio transmitter to a small receiver kept behind the bar. Data from the receiver can be accessed by each establishment through a password-protected account on the VitalLink website and a printout of an evening's activities at the bar can be scrutinized in a formatted report. The high tech pour spout replaces the current method of tracking a bar's liquor activities--counting the empty bottles--which is time consuming and inaccurate. VitalLink's spout takes the guesswork out of the inventory.

Robert Osgood is an accountant working in Detroit, Michigan. On the evening of April 13, 2001, after spending a stressful week preparing federal income tax returns for his clients, Osgood visited Polly's Pub in Detroit and spent 3 hours drinking too much crème de menthe liquor. Earlier that week, Polly's Pub had contracted with VitalLink to become its 19th customer for beverage tracking services, and the Pub had installed the high tech pour spout in all of its liquor bottles. During the evening, Polly, the Pub's owner, acted as the bartender and served Osgood drinks. Driving home in a drunken stupor, Osgood collided with an elderly woman in a crosswalk and, without checking her condition, left the scene. The unfortunate woman died from her injuries and, several days later, acting on a tip from an anonymous informant, police officers arrested Osgood at his home, and they arrested Polly at the Pub.

Osgood admitted to authorities that he had visited Polly's Pub early on the evening of the accident but denied drinking anything other than one small glass of crème de menthe. Polly admitted that she had served Osgood crème de menthe that night and remarked that she could not remember the last time that a customer had ordered that particular type of liquor. However, Polly claimed not to remember how much of the drink Osgood had consumed on the night in question. Osgood was charged with negligent homicide and Polly was charged as an accessory to the crime because, allegedly, she had served alcohol to an intoxicated person in violation of state statute.

After placing Polly in the police car for transport to jail, the arresting officers reentered the Pub and noticed the VitalLink receiver behind the bar. The officers, who had heard about the new tracking system, decided to sit down at Polly's office computer located at the end of the bar and guess at her VitalLink password. When they typed in "PollysPub" they were able to access her account and obtain a printout of the information that 28 drinks of crème de menthe had been poured on the evening in question.

Will Polly be able to exclude evidence that she served 28 drinks of crème de menthe on the evening in question from her criminal trial on the ground that seizure of the evidence constituted a violation of her Fourth Amendment rights and why or why not?

3. One week ago, Metro, an ambulance company in Scottsdale, Arizona, filed suit in Arizona federal district court for libel and trade secret misappropriation against four individuals who had posted messages on the company's electronic bulletin board, maintained by Yahoo. The messages asserted that Metro hires drug addicts as ambulance drivers and threatened to disclose trade secret information—i.e., how Metro managed to be the first ambulance on the scene of any accident—in future messages. Immediately after filing the complaint against the four defendants, known only as Does 1 through 4, Metro requested that the court issue a subpoena to Yahoo requiring it to divulge the identities of the four anonymous speakers. At the same time, Metro filed a motion for a preliminary injunction against the posting of any additional messages by the four individuals, to be decided immediately upon disclosure of their identities. Assume that you are the judge who must decide whether or not to issue the subpoena.

a. (12 pts.) What considerations weigh in favor of issuing the subpoena immediately?

b. (14 pts.) What considerations weigh in favor of declining to issue the subpoena until the plaintiff has come forward with some evidence in support of its claims?