

Question I (Northeast News trademark infringement) (75 points)

in personam jurisdiction in NE - gen'l vs. specific jurisdiction-here no general jur-----(1)\_\_\_\_  
min contacts-fair play, subst'l justice-min contacts, arise out of, reasonable, purp availmt(2)\_\_\_\_  
NN-site reaches NE, residents post comments, subscribe to newsletter? comments re NN(4)\_\_\_\_  
PP-no presence, no NE eco benefits, only interactivity is comments, random, attenuated-(4)\_\_\_\_  
active vs. passive site - level of interactivity-comments, newsletter, links------(3)\_\_\_\_  
targeting-redirecting using NN in domain name, targeted at residents of NE, site content(4)\_\_\_\_  
Caldor effects test- conduct aimed at forum knowing would cause harm there to NN-----(3)\_\_\_\_  
reasonableness factors------(1)\_\_\_\_  
discovery-ask def if NE subscribers, 1<sup>st</sup> Amend limits on discovery------(2)\_\_\_\_  
If no in personam in NE-alts - ACPA in rem jur- registrar in France, but registry in VA--(4)\_\_\_\_  
only if no in personam jur over person who would be def, but in personam in SW------(3)\_\_\_\_  
remedy limited-registry may only be able to disable not cancel or transfer-enough for NN(3)\_\_\_\_  
file suit in SW where jur. over PP-could sue for all trademark infringement claims-likelihood of  
confusion, dilution (commercial use in commerce) and ACPA------(5)\_\_\_\_  
UDRP- online arbitration by service chosen by French registrar since ICANN affiliated--(3)\_\_\_\_  
standards under UDRP-identical or confusingly similar, no rts, used in bad faith, remedy(5)\_\_\_\_  
legitimate noncommercial or fair use of the domain name------(1)\_\_\_\_  
ACPA if jur.-identical or confusingly similar to famous mark, bad faith intent to profit---(2)\_\_\_\_  
confusingly similar-entire mark at beginning, but also includes non-trademarked words--(4)\_\_\_\_  
create or take advantage of confusion? disclaimer, but after reach site------(3)\_\_\_\_  
Bad faith intent to profit-apply BF factors-intent to divert, register multiple names, etc--- (5)\_\_\_\_  
intent to profit-no donations or sales, but link, but no \$ from link, profit in other ways?---(3)\_\_\_\_  
safe harbor-reasonable grounds to believe use was a fair use or otherwise lawful------(2)\_\_\_\_  
First Amendmt-NN can't object to content of site since protected expression re abortion-(2)\_\_\_\_  
PP-domain names protected speech, but source identifier no communicative message-----(3)\_\_\_\_  
Miscellaneous(1 pt for each issue)\_\_\_\_\_ (3)\_\_\_\_\_

Question II (RSS feed copyright infringement) (75 points)

no direct infringement by LL and MM, but direct infringement by linked to sites------(1)\_\_\_\_  
contributory infringement - knew or had reason to know and material contribution------(3)\_\_\_\_  
is there substantial noninfringing use-if so, can't presume knowledge of infringement-----(5)\_\_\_\_  
LL-knew or had reason to know of infringement - didn't review or receive notice------(5)\_\_\_\_  
MM-actual knowledge of 2 acts of infringement, review of posts? obvious from content?(5)\_\_\_\_  
mat contrib(LL)-provide software, but can get elsewhere, provide server,dont store  
music(5)\_\_\_\_  
mat contrib(MM)-inform re infringing music, find music w/o RSS feed, link like index?(5)\_\_\_\_  
vicarious infringement-rt and ability to control & direct financial interest in infringement(3)\_\_\_\_  
right and ability to control(LL)-doesn't censor, but might have right to, terms of service?(5)\_\_\_\_  
right and ability to control(MM)-doesn't censor, but might have right, took down 1 post-(5)\_\_\_\_  
direct financial interest in infringent (LL) - ad revenue, but any increase from postings?-(4)\_\_\_\_  
direct financial int(MM)- inc in blog popularity?, but any evid of \$ benefit from posting?(4)\_\_\_\_  
Sect 512 immunity (LL)-512(c)-service provider-storage, notice& takedown;512(a),(b)?(5)\_\_\_\_  
Sect 512 (MM)-512(d)-link-RSS feed as info location tool;512(b)-transitory storage,(a)?(5)\_\_\_\_  
upon notification - removed or disabled if still on feed, must also notify?------(4)\_\_\_\_  
not very useful process for plaintiffs presence is so transitory unless repeat offenders-----(4)\_\_\_\_  
First Amendment protection for postings on blog RSS feed including links-pol speech---(4)\_\_\_\_  
Miscellaneous\_\_\_\_\_ (3)\_\_\_\_\_