***Cyberlaw & E-Commerce***

***Examination #1***

***Chapters 1, 2 and 13***

**For all questions, you must support your answer with analysis including cases and statutory language where appropriate. Explain all positions. Answer three of the first four questions and then either question 5 or 6. You thus will answer four total questions.**

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(**The following facts apply to questions 1-4**) Tom worked for Alliance Manufacturing, a company with manufacturing facilities in Jonesboro and across the country. For a variety of reasons, Tom was unhappy with upper management at Alliance. From his computer at work, Tom posted the following statement on a blog at Techdirt.com:

“Alliance Manufacturing may appear to be a well-managed company with a bright future. Do not be fooled! The Alliance CEO is the ethical equivalent of Adolf Hitler in a boardroom. The board of directors believes their oversight role involves nothing more than deciding the menu selections for the meals at board meetings. And the CFO would have a difficult time analyzing the financial statements at the local YMCA. The current credit crisis world-wide should bring down Alliance, considering Alliance’s reliance on short term borrowing.

Signed, ‘Someone who would know’”

Tom was not aware that Alliance Manufacturing had software that tracked the electronic message he sent and identified Tom as the author. Also, Alliance used hidden cameras monitoring all work areas, further providing support showing Tom was the author of the anonymous blog. Tom was fired for his comments.

Alliance Manufacturing also sued Tom and Techdirt.com for defamation. The lawsuit was filed in New York, the home state for Alliance.

1. Would New York courts have general **or** specific jurisdiction over Tom? In your analysis, compare this case to one or more of the following cases: *iAccess v. Webcard Tech*, *Verizon Online Services v. Ralsky,* and *Pavlovich v. The Superior Court of Santa Clara County*. Explain.
2. Did Alliance violate Tom’s US Constitutional privacy rights, **or** his common law privacy rights, in its monitoring activities? Explain.
3. Did Alliance violate federal law, the Electronic Communications Privacy Act, by monitoring and recording Tom’s electronic messages? Explain. In your analysis, compare this case to one or more of the following cases: *Smyth v. The Pillsbury Company, Fraser v. Nationwide Mutual Insurance,* or *Bailey v. Bailey (Pittman handout).*
4. Did Tom’s statements at Techdirt.com constitute defamation? If Tom’s statement did constitute defamation, would Techdirt.com be liable for the statements? Explain.
5. Scenario 3 (from Brian) - **Google Maps and Google Streetview show a married man leaving a restaurant with his paramour**. Does the posted picture violate the man's privacy rights?
6. Scenario 6 (from Aaron) – **Assume** **RFID tags are used by merchants to track customers’ movements within (and possibly outside) the retail outlet**. Is this legal?