**ANNOTATIONS AND COMMENTS**

This jury instruction applies when the claim is that a copyrighted computer program has been infringed. It is meant to take into account that copyrighted software is functional and may incorporate wholly unprotectable elements relating to efficiency, hardware requirements, industry standards and the like. This analysis should be applied to all the components that the plaintiff claims were infringed whether the similarity is literal or non-literal. *Bateman v. Mnemonics, Inc*, 79 F.3d 1532, 1543-49 (11th Cir. 1996).