**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 external factors can dictate the composition of the software program and thereby may negate copyright infringement. *Bateman v. Mnemonics, Inc.*, 79 F.3d 1532, 1547 n.33 (11th Cir. 1996).