**ANNOTATIONS AND COMMENTS**

This jury instruction applies when a Defendant raises as a defense that his work’s origin was of independent creation. A Defendant can fully negate any infringement claim if he can prove by a preponderance of the evidence that he independently created his work. *See Calhoun v. Lillenas Publ’g*, 298 F.3d 1228, 1233 (11th Cir. 2002) (affirming district court’s grant of summary judgment in favor of Defendant where Defendant presented uncontradicted evidence of independent creation, even though Plaintiff’s and Defendant’s works were “practically identical”) (citing *Benson v. Coca-Cola Co.*, 795 F.2d 973, 975 (11th Cir. 1986) (“[U]ncontradicted evidence of independent creation… fully negat[es] any claim of infringement.”)).