**9.3: Copyright – Validity – Copyright Notice – Pre-Berne**

**Convention Implementation Act – Alternate Version**

[Name of plaintiff] owns a valid copyright in the claimed work if (among other requirements) [he/she/it] proves by a preponderance of the evidence that [he/she/it] complied with copyright notice requirements by placing a copyright notice on publicly distributed copies of the claimed work.

If you find that [name of plaintiff] didn’t comply with the copyright notice requirement by placing a copyright notice on publicly distributed copies of the claimed work, you may still find that [he/she/it] has a valid copyright, if you find that [he/she/it] has proved by a preponderance of the evidence that:

First, the notice was omitted from only a relatively small number of copies distributed to the public.

Second, registration for the work was made within five years after the publication without notice, and a reasonable effort was made to add notice to all publicly distributed copies in the United States after the omission of notice was discovered.

Or third, the notice was omitted in violation of an express written requirement that, as a condition of the copyright owner’s authorization of the public distribution, copies of the work bear the prescribed notice.

**Special Interrogatories to the Jury**

 Do you find that [name of plaintiff] attached a notice of copyright to the claimed work on all copies that were publicly distributed?

Answer Yes or No \_\_\_\_\_\_\_\_\_\_\_\_\_

 If your answer to this question is “Yes,” there’s no need to answer the following questions for this issue.

 Do you find from a preponderance of the evidence that the notice was omitted from only a relatively small number of copies that were distributed to the public?

Answer Yes or No \_\_\_\_\_\_\_\_\_\_\_\_\_

 If your answer to this question is “Yes,” there’s no need to answer the following questions for this issue.

 Do you find from a preponderance of the evidence that registration for the work was made within five years after the publication without notice, and reasonable effort was made to add notice to all publicly distributed copies in the United States after the omission of notice was discovered?

Answer Yes or No \_\_\_\_\_\_\_\_\_\_\_\_\_

 If your answer to this question is “Yes,” there’s no need to answer the following question for this issue.

 Do you find from a preponderance of the evidence that the notice was omitted in violation of an express written requirement that, as a condition of the copyright owner’s authorization of the public distribution, copies of the work bear the prescribed notice?

Answer Yes or No \_\_\_\_\_\_\_\_\_\_\_\_\_

 If your answer to this question is “No,” don’t continue with your analysis of [name of plaintiff]’s claim for infringement. If the answer is “Yes,” continue your consideration of the other issues in this case.