**9.30 Copyright – Damages – General Charge**

If you find that [name of plaintiff] has failed to prove [his/her/its] copyright-infringement claim or that [name of defendant] has proved its affirmative defense[s] by a preponderance of the evidence, you won’t consider the question of damages. If you find that [name of plaintiff] has proved by a preponderance of evidence that [name of defendant] has infringed [name of plaintiff]’s copyright, and [name of defendant] has not proved a defense, you must determine whether [name of plaintiff] is entitled to recover damages.

[Read one of the alternatives below, depending on [name of plaintiff]’s election of remedies. See Annotation.]

[Alternative 1. If [name of plaintiff] elects to recover only actual damages plus profits or elects to recover only statutory damages before the jury is instructed: In the next instruction, I’ll define how you must determine the amount of damages, if any, to award to [name of plaintiff].]

[Alternative 2. If [name of plaintiff] seeks to have the jury make findings on both actual damages plus profits and statutory damages: [Name of plaintiff] may recover actual or statutory damages. I’ll define these terms in the following instructions.]

**Special Interrogatories to the Jury**

Do you find by a preponderance of the evidence that [name of defendant] infringed [name of plaintiff]’s copyright?

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

If you answered “Yes,” proceed to the next question. If you answered “No,” sign the form and don’t answer any additional questions.