**9.31 Copyright – Damages – Actual Damages**

[Name of plaintiff] is entitled to recover any actual damages suffered because of the infringement. “Actual damages” means the amount of money adequate to compensate [name of plaintiff] for the injury to the market value of the copyrighted work caused by the infringement. In this case, [name of plaintiff] claims that the injury to the market value of [his/her/its] copyrighted work is measured by:

licensing revenue lost because of the infringement; profits on sales lost because of the infringement; or

other measure specific to the case.

[Name of plaintiff] has the burden of first proving to a reasonable probability a causal connection between the [name of defendant]’s alleged act(s) of infringement and any injury to the market value of the copyrighted work at the time of infringement. If the [name of plaintiff] does so, [name of defendant] must show that this injury to the market value of [name of plaintiff]’s copyrighted work would have occurred even if there had been no infringement by [name of defendant].

**Special Interrogatories to the Jury**

Do you find to a reasonable probability that [name of plaintiff] suffered an injury to the market value of the copyrighted work?

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

If you answered “No,” you don’t need to answer the remaining questions.

Do you find to a reasonable probability that the injury to the market value of the copyrighted work was caused by [name of defendant]’s alleged act[s] of infringement?

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

If you answered “No,” you don’t need to answer the remaining questions.

Do you find to a reasonable probability that this injury to the market value of [name of plaintiff]’s copyrighted work would have occurred even if there had been no infringement by [name of defendant]?

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

If you answered “Yes,” you don’t need to answer the following question.

What amount of money do you determine is adequate to compensate [name of plaintiff] for the injury to the market value of the copyrighted work caused by the infringement?

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