**9.31 Copyright – Damages – Actual Damages**

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

a reasonable license fee that [name of defendant] should have paid for the use found to be an infringement;

2. the profits [name of plaintiff] should have received for sales lost because of the infringement; or

3. other measure specific to the case.

[Name of plaintiff] has the burden of first proving to a reasonable probability a causal connection between [name of defendant]’s alleged act(s) of infringement and any loss claimed. If [name of plaintiff] does so, [name of defendant] must show that the claimed loss 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 a loss?

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 loss suffered by [name of plaintiff] 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 loss 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 actual damages caused by the infringement?

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_