**11.4 Trade Secrets – Damages – Compensatory**

If [name of plaintiff] has not proved [his/her/its] claim for misappropriation of trade secrets, your verdict must be for [name of defendant] on this claim, and you do not consider damages.

If [name of plaintiff] has proved [his/her/its] claim for misappropriation of trade secrets, you must decide the issue of damages.

To the extent that it is not duplicative (that is, double counting), you may award either:

(1) the amount

(i) of [name of plaintiff]’s actual damages suffered as a result of [name of defendant]’s misappropriation of [name of trade secret]; and (ii) [name of defendant]’s unjust enrichment that is a result of [his/her/its] misappropriation of [name of trade secret], even if that amount is more than the actual damages suffered by [name of plaintiff]

 OR

(2) the amount of a reasonable royalty for [name of plaintiff]’s unauthorized disclosure or use of [name of trade secret].

If you choose to award [name of plaintiff] damages, you must choose to award damages based on either (1) actual damages plus unjust enrichment or (2) a reasonable royalty.

**Special Interrogatories to the Jury**

1. Actual Damages and Unjust Enrichment

What, if anything, do you the Jury award in actual damages suffered by [name of plaintiff] as a result of [name of defendant]’s misappropriation of [name of trade secret]?

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 What, if anything, do you the Jury award [name of plaintiff] for [name defendant]’s unjust enrichment that is a result of [name of defendant]’s misappropriation of [name of trade secret]?

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2. Reasonable Royalty

Instead of awarding damages to [name of plaintiff] for actual damages or unjust enrichment, you may award a reasonable royalty to [name of plaintiff] for [name of defendant]’s unauthorized disclosure or use of [name of trade secret]. What, if anything, do you the Jury award [name of plaintiff] as a reasonable royalty against [name of defendant]?

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