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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

MARCUS GRAY; ET AL.,

Plaintiff,

vs.

KATY PERRY; ET AL.,

Defendants.

Case No. 2:15-CV-05642-CAS(JCx)
JURY INSTRUCTIONS
(PHASE II)

Date: July 31, 2019



CHRISTINA A. SNYDER
UNITED STATES DISTRICT JUDGE

JURY INSTRUCTION NO. 1

Members of the Jury: You have returned a verdict of liability against the defendants. It is now my duty to instruct you as to the law regarding an award of damages.

All of the general and closing instructions provided to you before you deliberated regarding the defendants' liability remain in effect for this second phase of your deliberations, including issues such as the burden of proof, guidelines for considering evidence, witness credibility, and your duties as jurors.

A copy of the following instructions will be sent with you to the jury room when you deliberate.

It is your duty to find the facts from all the evidence in the case. To those facts you will apply the law as I give it to you. You must follow the law as I give it to you whether you agree with it or not. And you must not be influenced by any personal likes or dislikes, opinions, prejudices, or sympathy. That means that you must decide the case solely on the evidence before you. You will recall that you took an oath to do so.

Please do not read into these instructions or anything that I may say or do or have said or done that I have an opinion regarding the evidence or what damages should be.

JURY INSTRUCTION NO. 2

Having found for the plaintiffs on their claim for copyright infringement, you must now determine the plaintiffs' damages. The plaintiffs are entitled to recover any profits of the defendants attributable to the infringement. The plaintiffs must prove damages by a preponderance of the evidence.

JURY INSTRUCTION NO. 3

You may make an award of a defendant's profits only if you find that the plaintiffs showed a causal nexus between the infringement and defendants' gross revenue. You must determine the profits of each defendant attributable to the infringement separately.

If you find that the plaintiffs have shown that there is a causal nexus between the infringement and defendant's gross revenue, you must determine each defendant's profits. A defendant's profit is determined by deducting all appropriate expenses incurred by that defendant from that defendant's gross revenue. Here, the parties have stipulated to the amounts of gross revenues and costs of certain defendants.

A defendant's gross revenue is all of the defendant's receipts from the sale or use of a work containing or using copyrighted work associated with the infringement. The plaintiffs have the burden of proving the defendant's gross revenue by a preponderance of the evidence.

Expenses are all appropriate costs, including but not necessarily limited to, appropriate operating costs, overhead costs, and production costs incurred in producing a defendant's gross revenue. The defendants have the burden of proving their respective expenses by a preponderance of the evidence.

After determining each defendant's profit, you must then determine whether any portion of the profit from the sale of a work containing or using copyrighted work from "Joyful Noise" is attributable to factors other than the use of ostinato #2

in “Dark Horse.” The defendants have the burden of proving the percentage of their profits, if any, attributable to factors other than infringing the copyrighted work.

JURY INSTRUCTION NO. 4

The parties have agreed to certain facts that have been read to you and were placed in evidence as an exhibit. You must therefore treat these facts as having been proved.

JURY INSTRUCTION NO. 5

The same person who served as presiding juror during the liability phase of trial will be the presiding juror for this phase. As in the liability phase, the presiding juror will preside over the deliberations and serve as the spokesperson for the jury in court.

You shall diligently strive to reach agreement with all of the other jurors if you can do so. Your verdict must be unanimous.

Each of you must decide the case for yourself, but you should do so only after you have considered all of the evidence, discussed it fully with the other jurors, and listened to their views.

It is important that you attempt to reach a unanimous verdict but, of course, only if each of you can do so after having made your own conscientious decision. Do not be unwilling to change your opinion if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right, or change an honest belief about the weight and effect of the evidence simply to reach a verdict.

JURY INSTRUCTION NO. 6

As in the liability phase, a verdict form has been prepared for you. After you have reached unanimous agreement on a verdict, your presiding juror will fill in the form that has been given to you, sign and date it, and advise the bailiff that you are ready to return to the courtroom.