

CIVIL JURY INSTRUCTION CHART

Case No. 18-966

Case Name: *Catherine Alexander v. Take-Two Interactive Software, Inc., et al.*

C# = Court's instruction number

J# = Joint instruction number

P# = Plaintiff's instruction number

D# = Defendants' instruction number

COURT'S PROPOSED INSTRUCTIONS

Court's	#	Source	Objection	Given
Functions of Court & jury	C1	1.01	none	given
What is evidence	C2	1.04	none	given
What is not evidence	C3	1.06	none	given
Notes	C4	1.07	none	given
Determining facts	C5	1.08	none	given
Weighing evidence – reasonable inferences	C6	1.11	none	given
Direct/circumstantial evidence	C7	1.12	none	given
Testimony of witnesses	C8	1.13	none	given
Number of witnesses	C9	1.17	none	given
Use of witnesses or exhibits	C10	1.18	none	given
Burden of proof – preponderance of the evidence	C11	1.27	none	given
Presiding juror selection	C12	1.32	none	given
Communicating with court	C13	1.33	none	given
No outside communication	C14	AO recommendation	none	given
Judge's comments to lawyer	C15	2.14	none	given
Stipulated facts	C16	2.05	none	given

Inconsistent statements	C17	1.14	none	given
Corporations	C18	1.03	none	given
Copyright – allegation defined	C19	12.1.1	D objects	given
Copyright infringement	C20	12.2.1	D objects	given
Damages – general	C21	12.8.1	D objects	given
Unanimous verdict	C22	1.34	none	given

JOINT PROPOSED INSTRUCTIONS

Joint	#	Source	Objection	Given
Waiver	J1	<i>Soos & Assocs., Inc. v. Five Guys Enters., LLC</i> , 425 F.Supp.3d 1004, 1012 (N.D. Ill. 2019); <i>Design Basics LLC v. Campbellsport Bldg. Supply, Inc.</i> , No. 13 Civ. 560, 2016 WL 3189202, at *9 (E.D. Wis. June 7, 2016); <i>Ocean Atl. Woodland Corp. v. DRH Cambridge Homes, Inc.</i> , No. 02 Civ. 2523, 2003 WL 1720073, at *8 (N.D. Ill. Mar. 31, 2003); <i>Myers v. Harold</i> , 279 F. Supp. 3d 778, 799 (N.D. Ill. 2017)	none	refused
Damages	J2	17 U.S.C. § 504; 7 th Cir. 12.8.1	D objects	refused
Demonstrative evidence	J3	1.24	none	given

PLAINTIFF’S PROPOSED INSTRUCTIONS

Plaintiff’s	#	Source	Objection	Given
Affirmative defenses - intro	P1		none	refused

Plaintiff's	#	Source	Objection	Given
Affirmative defenses – implied license	P2	17 U.S.C. §§ 101, 106, 204(a); <i>Muhammad-Ali v. Final Call, Inc.</i> , 832 F.3d 755, 762 (7th Cir. 2016); <i>LimeCoral, Ltd. v. CareerBuilder, LLC</i> , 889 F.3d 847, 851 (7th Cir. 2018);	none	refused
Affirmative defense – fair use	P3	7 th Cir. 12.7.1; 17 U.S.C. § 107; Ct. Order (Doc. 228); 17 U.S.C. § 107; <i>Google LLC v. Oracle America, Inc.</i> , 141 S. Ct. 1183 (2021);	D objects	given as modified
Actual damages	P4	7 th Cir. 12.8.2 and 3.12; <i>McRoberts Software, Inc. v. Media 100, Inc.</i> , 329 F.3d 557, 569 (7th Cir. 2003)	D objects	given as modified
Defendants' profits	P5	7 th Cir. 12.8.3; 17 U.S.C. § 504(b); <i>Taylor v. Meirick</i> , 712 F.2d 1112, 1120 (7th Cir. 1983); <i>Petrella v. Metro-Goldwyn-Mayer, Inc.</i> , 572 U.S. 663, 685–88 (2014);	D objects	given
Purpose of awarding damages and disgorgement of profits	P6	<i>Deltak, Inc. v. Advanced Systems, Inc.</i> , 767 F.2d 357, 362-363 n.5. (7th Cir. 1985); <i>McRoberts Software, Inc. v. Media 100, Inc.</i> , 329 F.3d. 557, 567 (7th Cir. 2003); <i>Taylor v. Meirick</i> , 712 F. 2d 1112, 1120 (7th Cir. 1983).		refused
Verdict Form				refused

DEFENDANTS' PROPOSED INSTRUCTIONS

Defendants'	#	Source	Objection	Given
Affirmative defenses - intro	D1		D objects	refused
Affirmative defense – implied license	D2	Ct. Order (Doc. 228 at 6–7); 17 U.S.C. §§ 101, 106, 204(a); <i>LimeCoral, Ltd. v. CareerBuilder, LLC</i> , 889 F.3d 847, 851 (7th Cir. 2018); <i>ITOFCA, Inc. v. MegaTrans Logistics, Inc.</i> , 322 F.3d 928, 940 (7th Cir. 2003)	D objects	refused
Affirmative defense – license – scope	D3	Ct. Order (Doc. 228 at 6–7); 17 U.S.C. §§ 101, 106, 204(a); <i>LimeCoral, Ltd. v. CareerBuilder, LLC</i> , 889 F.3d 847, 851 (7th Cir. 2018); <i>ITOFCA, Inc. v. MegaTrans Logistics, Inc.</i> , 322 F.3d 928, 940 (7th Cir. 2003)	D objects	refused
Affirmative defense – fair use	D4	7th Cir. 12.7.1; 17 U.S.C. § 107; Ct. Order (Doc. 228); 17 U.S.C. § 107; <i>Google LLC v. Oracle America, Inc.</i> , 141 S. Ct. 1183 (2021); <i>Campbell v. Acuff-Rose Music, Inc.</i> , 510 U.S. 569, 583–84 (1994).	D objects	refused
Affirmative defense – fair use – considerations	D5	17 U.S.C. § 107; Ct. and Order (Doc. 228); 17 U.S.C. § 107; <i>Google LLC v. Oracle America, Inc.</i> , 141 S. Ct. 1183 (2021); <i>Campbell v. Acuff-Rose Music, Inc.</i> , 510 U.S. 569, 583–84 (1994); <i>Kienitz v. Sconnie Nation LLC</i> , 766 F.3d 756, 758 (7th Cir. 2014)	D objects	refused

Actual damages	D6	7 th Cir. 12.8.2 and 3.12; <i>Polar Bear Prods., Inc. v. Timex Corp.</i> , 384 F.3d 700, 708 (9th Cir. 2004); <i>Dash v. Mayweather</i> , 731 F.3d 303, 317 (4th Cir. 2013); 17 U.S.C. § 504(b).	D objects	refused
Defendants' profits	D7	7 th Cir. 12.8.3; 17 U.S.C. § 504(b); <i>Taylor v. Meirick</i> , 712 F.2d 1112, 1120 (7th Cir. 1983); <i>Petrella v. Metro-Goldwyn-Mayer, Inc.</i> , 572 U.S. 663, 685–88 (2014).	D objects	refused
Verdict Form			D objects	given as modified