

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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|                       |   |                          |
|-----------------------|---|--------------------------|
| WCM INDUSTRIES, INC., | ) |                          |
|                       | ) |                          |
| Plaintiff,            | ) |                          |
| v.                    | ) | No. 2:13-cv-2019-JPM-tmp |
|                       | ) |                          |
| IPS CORPORATION,      | ) |                          |
|                       | ) |                          |
| Defendant.            | ) |                          |

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**SUPPLEMENTAL INSTRUCTION NO. 3  
RESPONSE TO JURY QUESTIONS**

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The jury has submitted the following questions to the Court:

Question (1): Do we use Georgia-Pacific construct as the basis to determine royalty?

Answer: If you find infringement, you are to use the instructions and evidence submitted in this case to determine an amount that would constitute a reasonable royalty. The Georgia-Pacific factors are part of this analysis and are listed on pages 90-93 of the instructions.

Question (2): On page 87, please clarify the statement regarding the damage award putting WCM in approx. the financial position it would have been in had the infringement not occurred.

Answer: You should consider all the Court's instructions on damages in making your decision. Any damage award you determine should adequately compensate the plaintiff for any infringement you have found. The calculation of damages is peculiarly within the purview of the Jury.

Question (3): Can we make an assumption that with no infringement occurring that WCM would have sold the units IPS/AB&A shows they sold at issue during the time frame to be established?

Answer: It is for the Jury alone to determine the amount of damages based on all of the evidence submitted. You may draw those inferences that you believe are supported by the evidence, but it remains entirely with you, considering all of the evidence, to assess those damages that you believe are necessary to place the plaintiff in the position the plaintiff would have been in had no infringement occurred. Remember that any damage award may not be less than what a reasonable royalty would be for the use made of the invention.

Also remember, you are not to single out any particular part of the instructions and ignore the rest, but you are to consider all the instructions as a whole and regard each in the light of all the others.