**15.20 Derivative Liability—Inducing Infringement**

A person is liable for trademark infringement by another if the person intentionally induced another to infringe the trademark.

The plaintiff has the burden of proving each of the following by a preponderance of the evidence:

First, [*name of direct infringer*] infringed the plaintiff’s trademark;

Second, the defendant intentionally induced [*name of direct infringer*] to infringe plaintiff’s trademark; and

Third, the plaintiff was damaged by the infringement.

If you find that the plaintiff has proved all these elements, your verdict should be for the plaintiff. If, on the other hand, the plaintiff has failed to prove any of these elements, your verdict should be for the defendant.

**Comment**

Regarding liability for inducing another to infringe a trademark, *see Inwood Labs., Inc. v. Ives Labs., Inc.*, 456 U.S. 844, 853-54 (1982) (“[I]f a manufacturer or distributor intentionally induces another to infringe a trademark, or if it continues to supply its product to one whom it knows or has reason to know is engaging in trademark infringement, the manufacturer is contributorily responsible for any harm done as a result of the deceit [by the direct infringer].”). *See also Lockheed Martin Corp. v. Network Sols., Inc.*, 194 F.3d 980, 983-84 (9th Cir. 1999) (noting that one branch of contributory infringement occurs when defendant “intentionally induces a third party to infringe the plaintiff’s mark”).

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