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9 **UNITED STATES DISTRICT COURT**
 10 **CENTRAL DISTRICT OF CALIFORNIA**

11 DON HENLEY, MIKE CAMPBELL, and
 12 DANNY KORTCHMAR

13 Plaintiffs,

14 v.

15 CHARLES S. DEVORE and JUSTIN
 HART,

16 Defendants.
 17

Case No. SACV09-0481 JVS (RNBx)

**DEFENDANTS’ OPPOSITION (OR
 RATHER REQUEST FOR
 CLARIFICATION) TO PLAINTIFFS’
 MOTION IN LIMINE NO. 2**

18 AND RELATED COUNTERCLAIMS
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 21 Defendants do not intend to rely on an “advice of counsel” defense. They will not
 22 ask for a jury instruction on that point. Thus, they do not oppose Plaintiffs’ second motion
 23 in limine. But Defendants to ask the Court to clarify in its order that (1) if Plaintiffs elicit
 24 testimony regarding Justin Hart’s discussion with a lawyer—a discussion that came up in
 25 his deposition from pages 107 to 113—that the door will be open to Defendants using the
 26 discussion in their defense; and (2) that if Plaintiffs argue that Defendants’ infringement
 27 was willful, at least in part, because they never consulted a lawyer, that Defendants be
 28 allowed to testify that they did discuss the matter with the lawyer with whom Hart talked.

1 In other words, Plaintiffs should not be allowed to use this motion in limine as a way to
2 take unfair advantage of Defendants at trial. If they open the door to testimony about
3 Hart's legal consult, he and his counsel should be allowed to discuss and use that
4 testimony.

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6 Dated: July 2, 2010

ONE LLP

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9 By: /s/ Christopher W. Arledge
10 Christopher W. Arledge
11 Attorneys for Defendants, Charles S. Devore and
12 Justin Hart
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