

Watson Declaration

EXHIBIT 31

1 the previously given instructions that you've given to
2 the jury should be included when you instruct the jury
3 this time as a reminder. Before giving this jury
4 instruction or at some appropriate point at Your Honor's
5 discretion, that you repeat the instructions that you've
6 previously given just to remind them of those
7 instructions.

8 So that is our first overall point. It's
9 not really an objection; it's more of an addition.

10 THE COURT: I appreciate your suggestion.
11 What's next?

12 MR. NELSON: Fair enough.

13 Next, Your Honor, on Page 4 right before
14 1.3, we believe that an adverse inference instruction is
15 appropriate. There has been evidence in the record --
16 substantial evidence in the record that even post-suit
17 that Samsung destroyed documents relevant to this case.
18 There are two examples of that, either of which is
19 sufficient.

20 The first is Mr. Kim admitted on the
21 stand this morning that his e-mails continued to be
22 deleted after 14 days, well after there was any -- there
23 was notice on this case.

24 I believe, I guess, that Samsung is going
25 to say, well, he didn't have any relevant documents, but

1 we have no idea and no way to know that. And we've
2 clearly seen some relevant documents that have --

3 THE COURT: Okay. What instruction are
4 you requesting?

5 MR. NELSON: That you have heard in this
6 case -- in presenting this case, that Samsung did not
7 preserve certain documents. If you find that Samsung
8 could have produced these records and that the records
9 were within their control and that these records would
10 have been material in deciding facts in dispute in this
11 case, then you are permitted, but not required, to infer
12 that this evidence would have been unfavorable to the
13 Defendant.

14 THE COURT: All right. That request is
15 denied.

16 What's next?

17 MR. NELSON: Thank you, Your Honor.

18 On 3.1 as a preliminary matter, we would
19 preserve our objection to the inclusion of any terms to
20 the jury being charged on constructions that we did not
21 proffer, just to preserve our objection on that.

22 More substantively, in terms of --

23 THE COURT: I don't know what you just
24 said. I don't know what that means.

25 MR. NELSON: Maybe Mr. Payne can explain.