

MCKOOL SMITH HENNIGAN, P.C.
REDWOOD SHORES, CA

Courtland L. Reichman
SBN 268873
creichman@mckoolsmith.com
MCKOOL SMITH HENNIGAN, P.C.
255 Shoreline Drive, Suite 510
Redwood Shores, CA 94065
Telephone: (650) 394-1400
Fax: (650) 394-1422

Theodore Stevenson III
Texas State Bar No. 19196650
tstevenson@mckoolsmith.com
300 Crescent Court, Suite 1500
MCKOOL SMITH, P.C.
Dallas, Texas 75201
Telephone: (214) 978-4000
Fax: (214) 978-4044

Kevin Burgess
Texas State Bar No. 24006927
kburgess@mckoolsmith.com
John B. Campbell
Texas State Bar No. 24036314
jcampbell@mckoolsmith.com
MCKOOL SMITH, P.C.
300 W. 6th St., Suite 1700
Austin, Texas 78701
Telephone: (512) 692-8700
Fax: (512) 692-8744

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**UNWIRED PLANET LLC, a Nevada limited
liability company,**

Plaintiff,

v.

APPLE INC., a California corporation,

Defendant.

Case No. 3:13-cv-4134-VC (JCS)

**UNWIRED PLANET'S
OBJECTIONS TO APPLE'S BILL
OF COST**

JUDGE: Hon. Vince Chhabria

Case No. 3:13-cv-4134-VC (JCS)

**UNWIRED PLANET'S OBJECTIONS TO
APPLE'S BILL OF COSTS**

Plaintiff Unwired Planet LLC sets forth the following objections to Apple's bill of costs, as detailed below.

I. UNWIRED PLANET'S OBJECTIONS

A. Objections to Apple's Category of "Deposition Transcripts" (Schedule A)

Unwired Planet objects that for many of the depositions at issue, Apple has included the costs to make exhibits electronically searchable (as opposed to the costs for exhibits themselves). The Local Rules allow for "the cost of reproducing exhibits." See Civil Local Rule 54-3(c)(3). For example, for the deposition of Jordan Becker, Apple included the cost of "Exhibits – OCR Processing – B&W." Dkt. 439, Exhibit A. "OCR," or Optical Character Recognition, is a process by which the exhibits are scanned and their text is converted to searchable metadata which can be used to conduct electronic searches of the exhibits. This process is not part of the "reproduction" of the exhibits, which is included in a separate line in each invoice, and as such it is improper to tax these costs to Unwired Planet. Apple's costs should be reduced by \$663.30 to account for the inclusion of these expenses for the Becker, McKnight, and King depositions.

B. Objections to Apple's Category of "Witness Expenses" (Schedule C)

Unwired Planet objects that Apple has included costs for depositions which never in fact took place. After issuing subpoenas or deposition notices, Apple voluntarily chose not to take the depositions of the following individuals or entities from its list: Nokia Inc., Qualcomm, Inc., Motorola Solutions, Oracle Corp., Motorola Mobility, Persistent Systems, Microsoft Corp., Alan Minsk, Mike Mulica, Vector Capital, Lenovo, M*Modal, and Marsh, Fischmann & Breyfogle LLP. Several of these entities are included multiple times in Apple's list of expenses, despite Apple never actually depositing them. Because Apple opted to forgo the above depositions, it is inappropriate to

1 tax Unwired Planet with a “witness attendance fee” for witnesses who were not in fact deposed
 2 because Apple determined that it did not wish to take their depositions. Apple’s costs should be
 3 reduced by \$665.48 to account for this.
 4

5 **C. Objections to Apple’s Category of “Miscellaneous Reproduction and**
 6 **Exemplification Costs” (Schedule D)**

7 Apple seeks \$16,431.30 in costs for “preparation of graphics and exhibits to assist Court in
 8 understanding the issues.” Dkt. 439, Schedule D. But with respect to graphics, the Local Rules
 9 support only “the physical preparation and supplication of documents[,] and not the intellectual
 10 effort involved in their production.” *Emblaze Ltd. v. Apple, Inc.*, No. 5:11-cv-1079-PSG, 2015 U.S.
 11 Dist. LEXIS 35366, at *22 (N.D. Cal. Mar. 20, 2015) (bracket in original). A number of the time
 12 entries Apple included in its costs are for things other than the physical preparation of trial graphics.
 13 Time spent in meetings or other activities is not appropriately taxed as costs. *Id.*
 14

15 A number of the time entries for one of Apple’s graphics team members, Colin Walsh, were
 16 block-billed entries for both preparation of graphics and “Court coordination and equipment
 17 logistics” or “case coordination and logistics.” Dkt. 439, Ex. D. Apple does not separate out which
 18 portions of the time for these entries were for creating graphics as opposed to logistical issues or
 19 “case coordination.” Similarly, Mr. Walsh billed 13.60 hours for “Meet with Gibson team and in-
 20 house counsel in Palo Alto, printing, prep for Markman hearing.” Meetings relating to documents
 21 are not appropriately included in costs, *Emblaze*, 2015 U.S. Dist. LEXIS 35366 at *22. Because
 22 Apple provides no proof of how much of the block entries consisted of graphics creation, those
 23 entries should be disallowed, and Apple’s costs should be reduced by \$8,473.50 to account for these
 24 block entries.
 25

D. Objections to Apple’s Category of “Electronic Discovery: File Processing/Uploads” Costs (Schedule E)

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McKool Smith Hennigan, P.C.
DENVER, COLORADO, USA

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[REDACTED]

II. CONCLUSION

Based on the foregoing objections, Apple’s costs should be reduced by a total of \$9,532.08.

McKool Smith Hennigan, P.C.
Redwood Shores, CA

1 DATED: July 27, 2015

McKool Smith Hennigan, P.C.

2
3 By /s/ Theodore Stevenson III

4 Courtland L. Reichman (SBN 268873)
creichman@mckoolsmithhennigan.com
5 MCKOOL SMITH HENNIGAN, P.C.
255 Shoreline Drive, Suite 510
6 Redwood Shores, CA 94065
Telephone: (650) 394-1400
Facsimile: (650) 394-1422

7 Theodore Stevenson III
8 Texas State Bar No. 19196650
tstevenson@mckoolsmith.com
9 Mitchell R. Sibley
Texas State Bar No. 24073097
10 msibley@mckoolsmith.com
MCKOOL SMITH, P.C.
11 300 Crescent Court, Suite 1500
Dallas, Texas 75201
12 Telephone: (214) 978-4000
Fax: (214) 978-4044

13 Kevin Burgess
14 Texas State Bar No. 24006927
kburgess@mckoolsmith.com
15 John B. Campbell
Texas State Bar No. 24036314
16 jcampbell@mckoolsmith.com
Kevin Kneupper
17 Texas State Bar No. 24050885
kkneupper@mckoolsmith.com
18 James E. Quigley
Texas State Bar No. 24075810
19 jqibley@mckoolsmith.com
Mario A. Apreotesi
20 Texas State Bar No. 24080772
mapreotesi@mckoolsmith.com
21 MCKOOL SMITH, P.C.
300 W. 6th St., Suite 1700
22 Austin, Texas 78701
Telephone: (512) 692-8700
23 Fax: (512) 692-8744

24 ATTORNEYS FOR PLAINTIFF UNWIRED
25 PLANET LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on July 27, 2015 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system. Any other counsel of record will be served by electronic mail, facsimile, U.S. Mail and/or overnight delivery.

/s/ Kevin M. Kneupper

McKool Smith Hennigan, P.C.
DENVER, COLORADO, CA