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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AUGME TECHNOLOGIES, INC.,

Plaintiff,

v.

YAHOO! INC.,

Defendant.

Case No. C-09-5386 JCS

**STIPULATION TO STAY TAXABLE
COSTS PENDING FINAL
DETERMINATION ON APPEAL**

Judge: Hon. Joseph C. Spero

YAHOO! INC.,

Counterclaim Plaintiff,

v.

AUGME TECHNOLOGIES, INC. and
WORLD TALK RADIO, LLC,

Counterclaim Defendants.

1 Pursuant to Civil L. R. 7-12 and 54, the parties, through their undersigned counsel, hereby
2 stipulate, subject to the Court's approval, as follows:

3 WHEREAS, on December 17, 2012, Yahoo! Inc. ("Yahoo!") and Augme Technologies, Inc.
4 ("Augme") stipulated that \$140,321.28 in costs is properly taxable against Augme, pertaining to
5 Augme's patent infringement claims and Yahoo!'s counterclaims of invalidity, and on December 19,
6 2012, the Court entered an order taxing the stipulated costs. (ECF Nos. 367, 371);

7 WHEREAS, on December 27, 2012, Yahoo!, Augme, and World Talk Radio LLC ("WTR")
8 stipulated that \$22,664.33 in costs is properly taxable against Augme and WTR, pertaining to
9 Yahoo!'s patent infringement claims, and on January 2, 2013, the Court entered an order taxing the
10 stipulated costs. (ECF Nos. 377, 378);

11 WHEREAS, on February 4, 2013, counsel for Augme and Yahoo! met and conferred
12 regarding Augme's request to stay costs;

13 WHEREAS, following these discussions, Augme agrees to secure an irrevocable line of
14 credit ("ILOC") naming Yahoo! as the beneficiary and, in exchange for this security, Yahoo! agrees
15 to stay costs pending a final determination on appeal.

16 THEREFORE, Yahoo! and Augme stipulate and request as follows:

17 1. That Augme, through Wells Fargo Bank, provide an ILOC with a three year term,
18 naming Yahoo! as the beneficiary in an amount equal to 125% of taxable costs (\$203,732.01).

19 2. That the ILOC is intended to secure an amount equal to the taxable costs
20 (\$162,985.61) plus an amount sufficient to cover statutory interest.

21 3. That the ILOC include the following drawing statement as a prerequisite to Yahoo!
22 accessing the funds:

23 Yahoo! Inc. requests a draw down on the line of credit based on either (1) a final
24 determination, with no further right of appeal, in favor of Yahoo! Inc. in the matter of
25 *Augme Technologies, Inc. v. Yahoo! Inc.*, No. 09-5386 (N.D. Cal. Aug. 8, 2012),
26 appeals docketed, No. 13-1121 (Fed. Cir. Dec. 19, 2012) and No. 13-1195 (Fed. Cir.
Feb. 6, 2013) in the Federal Circuit, or (2) on Augme's declaration of bankruptcy
before a final determination.

27 4. That Yahoo! may not draw down the line of credit unless and until there is either a
28 final determination, with no further right of appeal, in favor of Yahoo! in the matter of Augme

1 Technologies, Inc. v. Yahoo! Inc., No. 09-5386 (N.D. Cal. Aug. 8, 2012), appeals docketed, No. 13-
2 1121 (Fed. Cir. Dec. 19, 2012) and No. 13-1195 (Fed. Cir. Feb. 6, 2013) in the Federal Circuit, or a
3 declaration of bankruptcy by Augme before a final determination.

4 5. That if the judgment on appeal is in favor of Augme, Yahoo! shall, within a
5 reasonable period of time, contact Wells Fargo Bank and cancel the ILOC.

6 6. That if Yahoo! draws down the line of credit in the event of Augme's bankruptcy,
7 Yahoo! shall return the amount drawn if Augme ultimately prevails on appeal.

8 7. In the event that the ILOC expires before there is a final determination in favor of
9 either party, Augme agrees to either renew the ILOC or secure a new line of credit on the same
10 terms.

11 It is so STIPULATED.

12 Dated: March 29, 2013

Respectfully submitted,

13
14 By: /s/ Gregory S. Bishop

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Counterclaim Defendant WORLD TALK
RADIO, LLC

Dated: March 29, 2013

By: /s/ John K. Blake, Jr.

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Attorneys for Defendant and Counterclaim
Plaintiff YAHOO! INC.

Dated: April 1, 2013



1 **ATTESTATION OF E-FILED SIGNATURES**

2 I, Gregory S. Bishop, am the ECF User whose ID and Password are being used to file this
3 STIPULATION TO STAY TAXABLE COSTS PENDING FINAL DETERMINATION ON
4 APPEAL. In compliance with Civ. L.R. 5-1(i)(3), I hereby attest that John K. Blake, Jr. has
5 concurred to its filing.

6
7 Dated: March 29, 2013

8 By: /s/ Gregory S. Bishop
9 Gregory S. Bishop
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1 **CERTIFICATE OF SERVICE**

2 I certify that this document filed through the ECF system will be sent electronically to the
3 registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will
4 be sent to those indicated as non-registered participants on March 29, 2013.

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6 Dated: March 29, 2013

7 By: /s/ Gregory S. Bishop
8 Gregory S. Bishop
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