

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

**AVNET, INC.,**

**Plaintiff,**

**vs.**

**CATALYST RESOURCE GROUP,  
LLC, and DAVID A. WILD,**

**Defendants.**

**No. C13-0021**

**ORDER FOR ENTRY OF  
JUDGMENT**

On April 15, 2014, the Court granted Plaintiff Avnet's Motion for Summary Judgment and directed the parties to submit affidavits regarding the current amount owed under the promissory note and guaranty. On April 18, Avnet submitted an Affidavit by Jolea Kidd (docket number 34), claiming \$963,342.05 was owed as of April 17. On April 24, Defendant David Wild filed an Affidavit (docket number 35), claiming the amount owed on April 17 was \$744,928.<sup>1</sup>

Avnet's affidavit does not include a detailed explanation as to how the amount owed was calculated, other than assuring the Court that it used "accepted accounting practices." Wild's affidavit shows the methodology which he employed to calculate the amount owed, although it includes an obvious error. That is, Wild asserts that from June 30, 2012 to April 17, 2014 is 1.578 years. In fact, it is approximately 1.797 years.

The fundamental difference in the calculations appears to be the late payment charge. Avnet apparently calculated interest at 8% per annum from May 5, 2008 (when the note was executed) to April 17, 2014 (when the calculation was made). Avnet then

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<sup>1</sup> In submitting his affidavit, Wild made it clear that "[n]othing in this document should be construed as a waiver of any appeal or other right that I have nor as any admission on my part that the guaranty which I signed obligates me to pay this amount."

added an *additional* 10% interest from July 1, 2012 (when a late payment charge became effective) until April 17, 2014. Wild, on the other hand, calculated interest at 8% from May 5, 2008 to June 30, 2012, and calculated interest after that date using a *total* interest rate of 10%. These calculations may be illustrated in table form as follows:

**Additional Late Charge of 10%**

Principal Amount	\$500,000.00
May 5, 2008 to April 17, 2014 at 8% (5 years and 347 days) (\$40,000 per year and \$109.589 per diem)	\$238,027.40
July 1, 2012 to April 17, 2014 at 10% (1 year and 290 days) (\$50,000 per year and \$136.986 per diem)	\$89,725.94
Total	\$827,753.34

**Total Late Charge of 10%**

Principal Amount	\$500,000.00
May 5, 2008 to June 30, 2012 at 8% (4 years and 56 days) (\$40,000 per year and \$109.589 per diem)	\$166,136.99
July 1, 2012 to April 17, 2014 at 10% (1 year and 290 days) (\$50,000 per year and \$136.986 per diem)	\$89,725.94
Total	\$755,862.93

As set forth above, Avnet claims the amount owed is \$963,342.05. It does not provide any explanation for the additional \$135,588.71, although Wild suspects it has something to do with compounding interest. In his affidavit, Wild claims that only

\$744,928 is owed, but the difference may be attributed to the error in calculating the partial year at 10%.

The promissory note provides for a late payment charge as follows:

If any payment owing under this Note is not timely paid in full and received by Holder within ten (10) days after it is due, Borrower shall pay to Holder additional interest charges equal to ten percent (10%) per annum until paid.

The Court believes the language in the promissory note is clear and unambiguous. That is, it provides for “additional interest charges” of 10% if the note is not timely paid in full. That is, the note does *not* say that the interest rate will *increase* from 8% to 10% if it is not timely paid. Rather, it clearly states that the borrower must pay “additional interest charges” of 10% until it is paid. Accordingly, in determining the amount owed by Wild under the guaranty, the Court adopts the first methodology set forth above. Specifically, the Court finds that judgment should enter in the amount of \$827,753.34, plus post-judgment interest at the statutory rate from and after April 17, 2014.

**ORDER**

IT IS THEREFORE ORDERED that the Clerk of Court shall enter judgment in favor of Avnet, Inc. and against David A. Wild in the amount of Eight Hundred Twenty-Seven Thousand Seven Hundred Fifty-Three Dollars thirty-four cents (\$827,753.34), plus post-judgment interest at the statutory rate from and after April 17, 2014.

DATED this 24th day of April, 2014.

  
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JON STUART SCOLES  
CHIEF MAGISTRATE JUDGE  
NORTHERN DISTRICT OF IOWA