

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

TIMEBASE PTY LTD.,  
Plaintiff,

vs.

THE THOMSON CORPORATION,  
WEST PUBLISHING CORPORATION,  
and WEST SERVICES, INC.,

Defendants.

**Civil No. 07-1687 (JNE/JJG)**

**DECLARATION OF KEVIN P.  
WAGNER IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO  
TIMEBASE'S MOTION TO  
COMPEL ADEQUATE DISCOVERY  
REGARDING DAMAGES**

I, KEVIN P. WAGNER, declare:

1. I am an attorney with the law firm of Faegre & Benson LLP, am licensed to practice in the State of Minnesota, am admitted to practice before this Court, and am one of the attorneys representing the defendants The Thomson Corporation, West Publishing Corporation, and West Services, Inc. (collectively "the defendants") in connection with the above action.

2. This declaration is submitted in support of Defendants' Opposition to TimeBase's Motion to Compel Adequate Discovery Regarding Damages.

3. Attached hereto as Exhibit A is a true and correct copy of the Deposition Transcript of Mark Hoffman dated July 29, 2010.

4. Attached hereto as Exhibit B is a true and correct copy of TimeBase's Requests 83-85 for the Production of Documents dated Document Requests dated May 7, 2010.

5. Attached hereto as Exhibit C is a true and correct copy of Thomson's Objections and Responses to TimeBase's Requests for the Production of Documents (Nos. 83-85) to the Thomson Corporation dated June 7, 2010.

6. Attached hereto as Exhibit D is a true and correct copy of TimeBase's Request for the Production of Documents (Nos. 86-90) to the Thomson Corporation dated July 30, 2010.

7. Attached hereto as Exhibit E is a true and correct copy of Thomson's Objections and Responses to TimeBase's Requests for the Production of Documents (Nos. 86-90) to the Thomson Corporation dated August 30, 2010.

8. Attached hereto as Exhibit F is a true and correct copy of an email from Calvin Litsey to Joe Hosteny dated May 7, 2010, responding to an email from Joe Hosteny to Calvin Litsey also dated May 7, 2010

9. Attached hereto as Exhibit G is a true and correct copy of an email from Joe Hosteny to Calvin Litsey dated May 14, 2010.

10. Attached hereto as Exhibit H is a true and correct copy of an email from Calvin Litsey to Joe Hosteny dated May 19, 2010.

11. Attached hereto as Exhibit I is a true and correct copy of an email from Calvin Litsey to Joe Hosteny dated May 21, 2010.

12. Attached hereto as Exhibit J is a true and correct copy of an email from Joe Hosteny to Calvin Litsey dated May 21, 2010.

13. Attached hereto as Exhibit K is a true and correct copy of an email from Calvin Litsey to Joe Hosteny dated May 21, 2010.

14. Attached hereto as Exhibit L is a true and correct copy of Joe Hosteny to Calvin Litsey dated May 21, 2010.

15. Attached hereto as Exhibit M is a true and correct copy of an email from Calvin Litsey to Joe Hosteny dated May 21, 2010.

16. Attached hereto as Exhibit N is a true and correct copy of an email from Joe Hosteny to Calvin Litsey dated May 24, 2010.

17. Attached hereto as Exhibit O is a true and correct copy of an email from Calvin Litsey to Joe Hosteny dated June 14, 2010.

18. Attached hereto as Exhibit P is a true and correct copy of an email from Calvin Litsey to Joe Hosteny dated June 18, 2010.

19. Attached hereto as Exhibit Q is a true and correct copy of is an email from Calvin Litsey to Joe Hosteny dated June 30, 2010, responding to an email from Joe Hosteny to Calvin Litsey dated June 29, 2010.

20. Attached hereto as Exhibit R is a true and correct copy of an email from Joe Hosteny to Calvin Litsey dated June 30, 2010.

21. Attached hereto as Exhibit S is a true and correct copy of an email from Calvin Litsey to Joe Hosteny dated June 30, 2010.

22. Attached hereto as Exhibit T is a true and correct copy of an email from Joe Hosteny to Calvin Litsey dated July 8, 2010.

23. Attached hereto as Exhibit U is a true and correct copy of an email from Calvin Litsey to Joe Hosteny dated July 21, 2010.

24. Attached hereto as Exhibit V is a true and correct copy of an email from Calvin Litsey to Joe Hosteny dated August 18, 2010.

25. Attached hereto as Exhibit W is a true and correct copy of an email from Calvin Litsey to Joe Hosteny dated August 19, 2010, responding to an email from Joe Hosteny to Calvin Litsey also dated August 19, 2010.

26. Attached hereto as Exhibit X is a true and correct copy of an email from Calvin Litsey to Joe Hosteny dated August 20, 2010.

27. Attached hereto as Exhibit Y is a true and correct copy of an email from Kevin Wagner to Joe Hosteny dated September 10, 2010.

28. TimeBase selected 23 customers by customer number and requested production of contracts and communications for the 10 largest government customers as well. 3 of the 10 largest government customers were already included in the 23 customers specifically identified by TimeBase. As a result, the defendants' production of contracts and communications pertain to a total of 30 customers. The page count of produced documents from the customer files for the 30 customers selected by TimeBase exceeds 92,000.

29. In the meet and confer regarding customer contracts and communications, the defendants asked TimeBase how many contracts would constitute a representative sample in their view and to explain how additional contracts would be most relevant than those already produced. TimeBase declined these invitations. The defendants also asked TimeBase whether it was still interested in the remaining 42 contracts for those customers TimeBase originally selected, but TimeBase responded that it was not.

30. In the meet and confer regarding TimeBase's inspection request, the defendants asked TimeBase to identify any specific queries that it would like run in the defendants' data warehouse. TimeBase declined to respond to this request.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Dated: October 12, 2010

*s/Kevin P. Wagner*  
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Kevin P. Wagner

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