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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

NEW MEDIUM TECHNOLOGIES LLC, AV  
TECHNOLOGIES LLC, IP INNOVATION  
LLC, and TECHNOLOGY LICENSING  
CORPORATION,

Plaintiffs,

v.

BARCO N.V., MIRANDA  
TECHNOLOGIES, LG PHILIPS LCD, LTD.,  
TOSHIBA CORPORATION, TOSHIBA  
AMERICA CONSUMER PRODUCTS,  
L.L.C., LG ELECTRONICS INC., and  
SYNTAX-BRILLIAN CORPORATION,

Defendants.

Misc. No.  
Civil No. 05 C 5620\*

\*In the U.S. District Court, Northern District  
of Illinois, Eastern Division

MEMORANDUM IN SUPPORT OF NON-  
PARTY PIXELWORKS, INC.'S MOTION  
TO QUASH DEPOSITION SUBPOENA  
AND MOTION FOR SANCTIONS

Non-party Pixelworks, Inc. ("Pixelworks" or "the Company") respectfully submits the following Memorandum in support of its Motion to Quash Deposition Subpoena and Motion For Sanctions.

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## INTRODUCTION

Plaintiffs served Pixelworks with a third-party subpoena without making any effort to avoid undue burden and expense. The subpoena includes a list of deposition topics so massively overbroad that it is patently unlawful and qualifies as discovery abuse. Pixelworks moves the Court for an order quashing the subpoena and awarding Pixelworks its reasonable attorney fees incurred in filing this motion.

## BACKGROUND FACTS

Plaintiffs first filed this patent infringement suit in September 2005 in the U.S. District Court for the Northern District of Illinois, Eastern Division. Plaintiffs' current operative complaint is the Corrected Fourth Amended Complaint ("FAC"), filed August 15, 2007. A copy of the FAC is attached to the Declaration of James M. Barrett ("Barrett Decl.") as Exhibit 1. The litigants have been taking discovery for almost two years. Pixelworks received the third-party deposition subpoena that is the subject of this motion on August 15, 2007. Discovery is scheduled to close in a matter of weeks on September 28, 2007.

In the FAC, Plaintiffs allege that the defendants have sold or offered to sell products that infringe Plaintiffs' patents. (FAC ¶¶ 16-20.) Plaintiffs identify their patents, but do not identify the allegedly infringing products or describe how the defendants' products infringe the patents. (*Id.*)

Pixelworks is an Oregon-based company that designs, develops, and markets system-on-chip semiconductors and software for the advanced display industry, including televisions, projectors, and LCD panels. (*Zafiris Decl.* ¶ 2.) Pixelworks is not a party to this action. However, one of the defendants, Syntax-Brilliant Corp. ("SBC"), used a Pixelworks chip, the "PW-106", in a relatively small number of its products. (*Id.* ¶ 3.) Plaintiffs apparently believe that the PW-106 chip is relevant to their infringement claims against SBC.

Plaintiffs initially served Pixelworks with a third-party document subpoena on March 12, 2007. (*Barrett Decl.* ¶ 4, Ex. 2.) Pixelworks timely objected to the subpoena, which Plaintiffs

had used to propound massively overbroad and burdensome requests for confidential and proprietary information. (*Id.*) The Company has refused to produce documents until its objections are addressed. (*Id.*) Instead of conferring with Pixelworks, on August 15, 2007, Plaintiffs served Pixelworks with the deposition subpoena that is the subject of this Motion. (*Id.* ¶ 5.) A copy of the deposition subpoena is attached to the Barrett Declaration as Exhibit 3.

The new deposition subpoena purports to require the Company to prepare witnesses under Fed. R. Civ. P. 30(b)(6) to testify about many of the same massively overbroad categories of information that Plaintiffs identified in their document subpoena. (*Barrett Decl.* ¶ 6.) A simple comparison reveals a cut-and-paste job; Plaintiffs copied their document requests into the new subpoena and slightly modified them to require testimony instead of documents. (*Id.*) Plaintiffs made no attempt to confer with Pixelworks about a mutually agreeable deposition date. (*Id.*) Neither did they attempt to narrow the information sought, even though deposition topics must be described with “reasonable particularity.” Fed. R. Civ. P. 30(b)(6).

On August 20, 2007, Pixelworks served Plaintiffs’ counsel with detailed objections and advised them in writing that the deposition subpoena was facially defective in several respects. (*Barrett Decl.* ¶ 7.) A copy of the objections are attached to the Barrett Declaration as Exhibit 4. Pixelworks also apprised Plaintiffs’ counsel that it would seek sanctions for their failure to take reasonable steps to avoid undue burden and expense under Fed. R. Civ. P. 45(c). (*Id.*) Plaintiffs’ counsel did not make themselves available to confer about Pixelworks’ objections until August 27, 2007. (*Id.* ¶ 8.) At that time, Plaintiffs’ counsel refused to narrow the scope of the deposition topics or make modifications of any kind. (*Id.*) Rather, they stated that they could not narrow the deposition topics without first receiving documents from Pixelworks in response to the document subpoena. (*Id.*) This motion followed.

### LEGAL STANDARDS

Rule 45 of the Federal Rules of Civil Procedure governs discovery of nonparties by subpoena. Under this rule, nonparties are afforded “special protection” from intrusive discovery

requests. *Exxon Shipping Co. v. Dep't of Interior*, 34 F.3d 774, 779 (9th Cir. 1994) (Federal Rules “afford nonparties special protection against the time and expense of complying with subpoenas”); *Dart Indust. Co. v. Westwood Chem. Co.*, 649 F.2d 646, 649 (9th Cir. 1980) (same). Parties issuing subpoenas to nonparties must “take reasonable steps to avoid imposing undue burden or expense” or risk sanctions. Fed. R. Civ. P. 45(c)(1). See *Theofel v. Farey-Jones*, 359 F.3d 1066, 1074 (9th Cir. 2004) (“The subpoena power is a substantial delegation of authority to private parties, and those who invoke it have a grave responsibility to ensure it is not abused.”).

On timely motion, a court *shall* quash or modify a subpoena if, among other things, it (i) fails to allow reasonable time for compliance; (ii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or (iii) subjects a person to undue burden. Fed. R. Civ. P. 45(c)(3)(A). A court *may* quash or modify a subpoena if, among other things, it (i) requires disclosure of a trade secret or other confidential research, development, or commercial information; or (ii) requires disclosure of an unretained expert’s opinion. Fed. R. Civ. P. 45(c)(3)(B).

Nonparty subpoenas are also subject to Rule 26(b)(2). A court may limit discovery if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (iii) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues. Fed. R. Civ. P. 26(b)(2).

### ARGUMENT

The deficiencies in Plaintiffs’ subpoena are blatant and numerous. When viewed cumulatively, two things are obvious. First, Plaintiffs threw the subpoena together in slapdash

fashion with, at best, reckless disregard for their obligations under Rule 45. They cut and pasted document requests that were already massively overbroad and simply recast them as “deposition topics,” which, by rule, should have been described with reasonable particularity. They did not even attempt to ensure that the subpoena was properly noticed under Fed. R. Civ. P. 45(a)(2). As a result, Plaintiffs abused their duties and responsibilities and sanctions are warranted.

Plaintiffs also drafted their subpoena for an improper purpose. It is clear that they are attempting to embark upon a fishing expedition prohibited by the discovery rules. *See Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 353 n. 17 (1978) (“a court is not required to blind itself to the purpose for which a party seeks information,” and “when the purpose of a discovery request is to gather information for use in proceedings other than the pending suit, discovery is properly denied”). Plaintiffs did not bother to disguise their agenda; they have the chutzpah to demand that Pixelworks testify about its own obligation to indemnify other parties that infringe third-party intellectual property. *See, e.g., Nicholas v. Poughkeepsie Savings Bank/FSB*, 1991 WL 113279, \* 2 (S.D.N.Y. 1991) (court modified subpoena when it could reasonably infer that issuing party’s purpose was to obtain facts to make claim against nonparty). The subpoena should be quashed.

A. PROCEDURAL OBJECTIONS.

1. *The Subpoena Was Improperly Noticed and, therefore, Invalid.*

Plaintiffs served the subpoena without stating the method for recording the testimony. *See* Fed. R. Civ. P. 45(a)(2)(B) (“A subpoena *must* . . . [state] the method for recording the testimony”) (emphasis added). Failure to follow the mandatory requirements of Rule 45 renders service incomplete and is grounds to quash the subpoena. *Cf. CF&I Steel Corp. v. Mitsui & Co. (U.S.A.), Inc.*, 713 F.2d 494, 496 (9th Cir. 1983) (subpoena was invalid where party failed to follow Fed. R. Civ. P. 45(b)(1)); *In re Stratosphere Corp. Securities Litigation*, 183 F.R.D. 684, 687 (D. Nev. 1999) (“The failure to pay witness and mileage fees, required by Fed. R. Civ. P. 45(b)(1), renders service incomplete.”).

2. Plaintiffs Failed to Confer Regarding a Deposition Date and Failed to Provide Pixelworks Reasonable Time for Compliance.

Prior to serving the subpoena, Plaintiffs made no effort to contact Pixelworks' counsel. (*Barrett Decl.* ¶ 6.) The subpoena issued from this Court and the local rules requiring conferral apply. See LR 1.1 ("local rules govern practice and procedure . . . in all civil actions" arising in this District). "Except for good cause, counsel will not serve a notice of deposition until they have made a good faith effort to confer with all counsel regarding a mutually convenient date, time, and place for the deposition." LR 30.2. Plaintiff disregarded that rule and, accordingly, the subpoena should be quashed.

Plaintiffs' failure to confer aside, the date on which the deposition is noticed – September 5, 2007 – does not provide Pixelworks adequate time to prepare witnesses to testify. (*Zafiris Decl.* ¶ 4.) A court shall quash a subpoena that "fails to allow reasonable time for compliance." Fed. R. Civ. P. 45(c)(3)(A). As described below, Plaintiffs drafted 18 massively overbroad deposition topics. It is impossible for Pixelworks to identify the witnesses who would be required to testify, prepare those witnesses, and also determine a host of other issues such as whether any testimony might breach nondisclosure obligations or require a protective order, all within the space of three weeks that includes the Labor Day weekend. (*Zafiris Decl.* ¶ 4.)

Plaintiffs undoubtedly will point to the fact that they have only weeks to complete discovery. However, Plaintiffs had months if not years to notice depositions of Pixelworks witnesses. Pixelworks should not be made to bear the consequences of Plaintiffs' dilatory conduct.

B. OBJECTIONS TO DEPOSITION TOPICS.

1. The Deposition Topics Are Facially Overbroad and Unduly Burdensome.

A court must quash a subpoena that "subjects a person to undue burden." Fed. R. Civ. P. 45(c)(3)(A)(iv). The "undue burden" standard "requires district courts supervising discovery to be generally sensitive to the costs imposed on third parties." *Watts v. Securities Exchange Comm'n*, 482 F.3d 501, 509 (D.C. Cir. 2007) (citing authorities). Here, Plaintiffs' deposition

topics qualify as overbroad to a degree that shows a lack of good faith. Employing a tactic of recasting document requests as “deposition topics” under Fed. R. Civ. P. 30(b)(6), when the latter must be described with “reasonable particularity,” is objectionable on its face. Directed at a nonparty that is entitled to special protection, it rises to the level of discovery abuse.

The topics are further objectionable on the following grounds:

- *The topics lack a nexus with underlying claims.* The allegations in a lawsuit are the touchstone for determining what is discoverable. *See Food Lion, Inc. v. United Food & Commercial Workers Int’l Union*, 103 F.3d 1007, 1014 (D.C. Cir. 1997) (party seeking discovery from nonparty must demonstrate nexus between information sought from nonparty and “elements necessary to the underlying cause of action”). When no attempt is made to tailor requests for information from a nonparty to the immediate needs of the case, a subpoena is “abusively drawn.” *Mattel Inc. v. Walking Mountain Productions*, 353 F.3d 792, 813 (9th Cir. 2003).

For purposes of argument, Pixelworks will assume that information about past use of the PW-106 chip in SBC products is potentially relevant to Plaintiffs’ claims (although even that much is not clear – the FAC is thoroughly ambiguous). Even granting that assumption, Plaintiffs have drafted deposition topics that are wildly overbroad in scope. For example, Plaintiffs consistently seek information regarding any Pixelworks chips, whether or not used by SBC. (Topics 1, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14.) They also seek information about Pixelworks chips that are “compatible” or even “potentially compatible” with SBC products. (Topics 4, 8, 9, 10, 11.)

Plaintiffs further seek information that cannot possibly relate to their claims against defendants, but are transparent attempts to gather facts to use against Pixelworks or others in potential future litigation. *See, e.g.*, Topic 16 (“Any licenses to patents held by third parties relating generally to improvements in the visual display of digital image data or de-interlacing technology, including the license agreement with InFocus.”); Topic 17 (“Pixelworks’

indemnification obligations with respect to the infringement of third party intellectual property rights.”); Topic 18 (“Any current or past patent litigation involving Pixelworks relating generally to improvements in the visual display of digital image data, including but not limited to, the litigation with InFocus Corporation.”). This kind of blatant fishing expedition is clearly prohibited. *Oppenheimer Fund, Inc.*, 437 U.S. at 353 n. 17 (“when the purpose of a discovery request is to gather information for use in proceedings other than the pending suit, discovery is properly denied”).

- *There is no time limitation.* Plaintiffs made no effort to limit the topics to a relevant time period, such as the period when Pixelworks supplied SBC with the PW-106 chip. Topic No. 5 is typical. It requires Pixelworks to produce a witness to testify regarding “[a]ny communications between Pixelworks and [SBC] concerning Pixelworks IC capabilities, functions and/or selection.” Topics that lack time limitations are facially overbroad. *See, e.g., Theofel*, 359 F.3d at 1071 (properly drafted subpoena might request “messages sent during some relevant time period,” and subpoenas without meaningful scope limitations are “patently unlawful” and suggest at least gross negligence).

- *Plaintiffs Seek Information More Easily Obtainable from SBC.* A court properly limits discovery where information is “obtainable from some other source that is more convenient, less burdensome, or less expensive” and where a party has had “ample opportunity by discovery in the action to obtain the information sought.” Fed. R. Civ. P. 26(b)(C). Consistent with those principles, it is inappropriate to seek discovery from a nonparty that can be obtained from a party to the litigation. *See, e.g., Haworth, Inc. v. Caruthers-Wallace Coutenay, Inc.*, 998 F.2d 975, 978 (Fed. Cir. 1993) (affirming trial court’s decision to require litigant to seek discovery from opposing party before subpoenaing nonparty); *Moon v. SCP Pool Corp.*, 232 FRD 633, 638 (C.D. Cal. 2005) (finding undue burden where “plaintiffs can more easily and inexpensively obtain the documents from defendant, rather than from nonparty”);



*Richards of Rockford, Inc. v. Pacific Gas & Elec. Co.*, 71 FRD 388, 391 (N.D. Cal. 1993) (refusing to require non-parties to produce discovery that litigant could obtain from opponent).

Many of Plaintiffs' deposition topics seek information that could be obtained from SBC, and, in some cases, *only* from SBC. *See, e.g.*, Topic 4 (seeking information about the "operating characteristics" of the Relevant Products, which are made by SBC); Topic 7 (seeking information about which Pixelworks chips were "considered for use by [SBC]"); Topic 8 (seeking information about how Pixelworks chips might be "potentially compatible" with SBC's products); Topic 11 (seeking information about how SBC's Relevant Products "function"); Topic 12 (seeking information about which models of Pixelworks' products SBC "considered" using).

- *Plaintiffs Seek Unretained "Expert" Testimony.* The drafters of Rule 45 acknowledged that a "growing problem has been the use of subpoenas to compel the giving of evidence and information by unretained experts," which "can be regarded as a 'taking' of intellectual property." Fed. R. Civ. P. 45, 1991 amend. note. In *Mattel Inc., supra*, the Ninth Circuit quashed a subpoena that required a nonparty to provide information on the market for an artist's work that was the subject of litigation, "including the characteristics of 'art consumers.'" 353 F.3d at 814. Several of plaintiffs' deposition topics clearly request a similar kind of "expert" testimony. *See* Topic 1 (seeking testimony about the "benefits" and "advantages" of Pixelworks' products); Topic 2 (seeking testimony about the "benefits" of various technologies in the marketplace); Topic 14 (seeking any "competitive analysis" of "any ICs competing with PW 106 IC").

## 2. *The Deposition Topics Are Not Described with Reasonable Particularity.*

Under Fed. R. Civ. P. 30(b)(6), a party may notice the deposition of a private corporation, which is then obligated to designate one or more officers, directors, or managing agents to testify on its behalf. The noticing party must "describe with reasonable particularity the matters on which examination is requested." Fed. R. Civ. P. 30(b)(6). The purpose of requiring such a

description is “to give the opposing party notice of the areas of inquiry that will be pursued so that it can identify appropriate deponents and ensure they are prepared for the deposition.” *Tri-State Hospital Supply Corp. v. United States*, 226 F.R.D. 118, 125 (D.D.C. 2005). Failure to describe matters with the requisite particularity is sufficient grounds for a protective order. *See id.* Plaintiffs’ topic descriptions are not described with reasonable particularity for the following reasons:

- *The use of the phrase “including but not limited to.”* It is improper to use the phrase “including but not limited to” in describing a 30(b)(6) deposition topic because it can make it impossible for the noticed party to identify the outer limits of the areas of inquiry. *See Tri-State Hospital Supply Corp., supra*, 226 F.R.D. at 125 (upholding objections to phrase “including but not limited to”); *Innomed Labs, LLC v. Alza Corp.*, 211 F.R.D. 237, 240 (S.D.N.Y. 2002) (same); *Reed v. Bennett*, 193 F.R.D. 689, 692 (D. Kan. 2000) (same). Plaintiffs liberally employ this phrase, not only in the topic descriptions (*see* Topics 1, 3, 8, 9, 10, 11, 12, 13, 18), but also in the underlying definition of “Relevant Products,” which only compounds the ambiguity:

The term ‘Relevant Products’ presently includes any and all televisions, computer monitors, laptops, players and/or receivers sold by [SBC] under the Olevia brand name, which are accused to infringe the Patents-in-Suit *including, without limitation*, the following television products: 323V, 323-S11, 327V, 327-S11, 327-S12, 332H, 332-B11, 332-B12, 337H, 342i, 342-B11, 326V, 326-B11, 340, LT20HVN, LT20HVNW, LT20HVT, LT20HVTW, LT23HVM, LT23HVN, LT23HVT, LT26HVN, LT27HVN, LT32HVN, LT40HVN, LT42HVA, 565H, 347i. (*Barrett Decl.*, Ex. 3, ¶ L) (emphasis added).

Pixelworks cannot possibly identify the outer limits of this definition. Not only is it blatantly overbroad (Pixelworks chips are not used in most of the products, *see Zafiris Decl.* ¶ 3), but it is explicitly nonexclusive. Pixelworks has no idea what products Plaintiffs accuse of infringing their patents. Plaintiffs must describe the topics with reasonable particularity so that Pixelworks can meet its obligations under Rule 30(b)(6).

- The use of undefined terms that require speculation. Plaintiffs' deposition topics also are replete with vague terms like "function" (Topics 1, 11, 15); "compatible" (Topics 4, 8, 9, 10, 11); and "features" (Topics 7, 9). One term in particular, "potentially compatible", is not only vague but requires speculation. (See Topics 4, 8, 9, 10, 11.) Again, Plaintiffs must describe topics with reasonable particularity so that Pixelworks can meet its obligations under Rule 30(b)(6).

### 3. The Deposition Topics Call for Confidential and Proprietary Information.

A court may quash or modify a subpoena that "requires disclosure of a trade secret or other confidential research, development, or commercial information." Fed. R. Civ. P. 45(c)(3)(B)(i). Plaintiffs' subpoena broadly seeks sensitive commercial information about all Pixelworks' products, regardless whether those products have been used in an allegedly infringing device. Plaintiffs want Pixelworks to identify and describe "features", "functions", "operations", "benefits", "advantages", how many products have been sold, and any "competitive analyses." (See Topics 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15.) Plaintiffs also seek information about Pixelworks' business relationships, including the licenses it holds to use patents of third parties and its "indemnification obligations with respect to the infringement of third party intellectual property rights." (Topics 16 and 17).

Not surprisingly, this information is confidential and proprietary, and Pixelworks actively takes measures to protect it. See *Zafiris Decl.* ¶ 6. See also *Moon*, 232 FRD at 638 (quashing subpoena seeking information about nonparty's business relationships with other nonparties). As a result, the subpoena must be quashed unless Plaintiffs can show a "substantial need" for the testimony "that cannot be otherwise met without undue hardship."

Fed. R. Civ. P. 45(c)(3)(B)(iii). Simply pointing out that the court can issue a protective order is not sufficient. See *Insulate America v. Masco Corp.*, 227 FRD 427 (W.D.N.C. 2005) ("There is a constant danger inherent in disclosure of confidential information pursuant to a Protective

Order” and “the party requesting disclosure must make a strong showing of need, especially when confidential information from a non-party is sought”).

Anticipating Pixelworks’ objections to disclosing confidential and proprietary information, Plaintiffs state in their subpoena that they “are prepared to receive the testimony under the designation of Outside Counsel-Only pursuant to the Protective Order entered by the Court in this litigation.” (*Barrett Decl.*, Ex. 3, ¶ Q.) However, the Protective Order to which Plaintiffs refer does not authorize designation of information as “Outside Counsel-Only,” nor does it require other parties to accept any designation that Pixelworks might request. (*Zafiris Decl.* ¶ 7.) Further, the Protective Order would restrict a person who viewed Pixelworks’ confidential documents from participating in the prosecution of a patent application only for two years and only with respect to patents “directed to technology disclosed in the patents-in-suit.” (*Id.*) The period of time is too short and a limited restriction on participating only in prosecutions directed at technology disclosed in the patents-in-suit is too narrow to provide Pixelworks with adequate protection. (*Id.*)

Pixelworks is particularly concerned that some of the defendants in the lawsuit have business relationships with Pixelworks’ direct competitors. (*Zafiris Decl.* ¶ 7.) Without adequate protections or need, Pixelworks should not be forced to disclose sensitive and confidential business information. *See Insulate America*, 227 FRD at 433 (“Courts have concluded that disclosure to a competitor is more harmful than disclosure to a non-competitor.”).

#### 4. The Deposition Topics Require Disclosure of Privileged Matters

A court must quash a subpoena that “requires disclosure of privileged or other protected matter and no exception or waiver applies.” Fed. R. Civ. P. 45(c)(3)(A)(iii). Plaintiffs clearly seek such information in Topic No. 6, which requires Pixelworks to testify regarding “[c]ommunications by or between Pixelworks, *its attorneys*, agents and SBC or *its attorneys* or agents regarding this lawsuit, any subpoena in this litigation, any or all of U.S. Patent Nos. 5,424,780, 6,529,637 B1, and 6,870,964 B1, or Mr. J. Carl Cooper.” (Emphasis added.) Any

communications between Pixelworks and SBC regarding the lawsuit or this subpoena would be protected by the attorney-client privilege or work product doctrine. Accordingly, Topic No. 6 is improper.

C. SANCTIONS.

Plaintiffs’ subpoena topics are “abusively drawn.” *Mattel Inc.*, 353 F.3d at 813. Pixelworks served Plaintiffs with detailed objections to the deposition subpoena and afforded them the opportunity to correct their mistakes. (*Barrett Decl.* ¶ 7.) Plaintiffs refused. Instead, Plaintiffs have continued to exhibit a complete lack of good faith effort to take “reasonable steps to avoid imposing undue burden or expense.” Fed. R. Civ. P. 45(c)(1). The court “*shall* enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney’s fee.” *Id.* (emphasis added).

Pixelworks estimates that it will have incurred approximately \$8,342.50 to confer with counsel and research, draft, and argue this motion. *Barrett Decl.* ¶¶ 9-11 (setting out justification for fees). Accordingly, Pixelworks respectfully requests that the Court award it that amount as a sanction against Plaintiffs. *See, e.g., Theofel v. Farey-Jones*, 359 F.3d at 1072 (noting that trial court had awarded nonparty \$9,000 in legal fees to defend against patently overbroad subpoena); *Mattel Inc.*, 353 F.3d at 813 (approving monetary sanctions against party who served overbroad and oppressive subpoena).

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CONCLUSION

For the foregoing reasons, Pixelworks requests that the Court grant its motion to quash Plaintiffs' deposition subpoena and award sanctions in the amount of \$8,342.50.

DATED this 28th day of August, 2007.

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I hereby certify that I served the foregoing MEMORANDUM IN SUPPORT OF NON-PARTY PIXELWORKS, INC.'S MOTION TO QUASH DEPOSITION SUBPOENA AND FOR SANCTIONS on the following:

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DATED this 28th day of August, 2007.

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