

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION**

Anascape, Ltd.,

Plaintiff,

v.

Microsoft Corp., and  
Nintendo of America, Inc.,

Defendants.

Civil Action No. 9:06-cv-158-RC

**DECLARATION OF STEVEN CALLAHAN  
IN SUPPORT OF ANASCAPE'S BILL OF COSTS**

I, Steven Callahan, declare as follows:

1. I am an associate at the law firm of McKool Smith, P.C., attorneys of record for Plaintiff Anascape, Ltd. ("Anascape") in the above-referenced matter. I am over the age of twenty-one (21) and have never been convicted of any felony or misdemeanor, nor have I ever been arrested. I have either direct or indirect personal knowledge of the following facts and statements in this declaration and, if called upon to testify, I could and would testify competently thereto.

2. I attended each day of the jury trial of the above referenced case, and am one of the attorneys who represented Anascape in the above referenced case.

3. To the best of my knowledge, information and belief, all of the costs described below are correct and have been necessarily incurred in the case, and the services for which fees have been charged were actually and necessarily performed in the case.

4. I have been informed by Nintendo's counsel that Nintendo does not dispute the costs sought by Anascape as described herein.

## I. TOTAL COSTS

5. The chart immediately below summarizes Anascape's total costs. In the sections that follow, such costs are broken down in detail.

<b>Cost</b>	<b>Amount</b>
Docket Fees	\$350.00
Court Reporter Fees	\$38,451.51
Witness Fees	\$7,638.74
Printing / Copy / Exemplification Fees	\$26,658.09
Compensation for Court Appointed Expert	\$13,134.14
Audio / Visual Support	\$27,750.00
	<b>Total: \$113,982.48</b>

## II. DOCKET FEES<sup>1 2</sup>

<b>Payee</b>	<b>Event</b>	<b>Fee / Exhibit</b> <sup>3</sup>
US District Clerk, Eastern District of Texas	7/31/2008 -- Filing Fee	\$350.00 [A1]
		Total: \$350.00

## III. COURT REPORTER FEES<sup>4</sup>

<b>Payee</b>	<b>Event</b>	<b>Fee / Exhibit</b>
TSG Reporting, Inc.	3/17/2008 -- Copy of Brad Armstrong Transcript	\$1,147.25 [C15-C16]
TSG Reporting, Inc.	3/18/2008 -- Copy of Brad Armstrong	\$932.75 [C28]

<sup>1</sup> True and correct copies of various documents, evidencing payment of these costs, are collected and attached hereto as **Exhibit A**. In certain instances, various exhibits have been redacted.

<sup>2</sup> **Exhibit B** has been intentionally omitted.

<sup>3</sup> Reference to, for example, "A1" means that the supporting document is located at Exhibit A, page 1.

<sup>4</sup> True and correct copies of various documents, evidencing payment of these costs, are collected and attached hereto as **Exhibit C**. The payment documentation relating to Mr. Pederson's deposition is attached at Exhibit E (E20-E21).

Payee	Event	Fee / Exhibit
	Transcript	
TSG Reporting, Inc.	3/19/2008 -- Copy of Brad Armstrong Transcript	\$630.50 [C107]
LegalLink	4/12/2007 -- Jon Pederson Deposition	\$500.00 [E20-E21]
Christina L. Bickham, CRR RMR	4/7/2008 -- Trial Transcripts	\$17,627.40 (\$35,000.00 Deposit - \$17,372.60 Refund) [C1-C5]
Ellen Grauer Court Reporting Co., LLC	5/24/2007 -- Transcript for Brad Armstrong Deposition	\$880.75 [C17-C18]
TSG Reporting, Inc.	10/31/2007 -- Kelly Tyler Deposition	\$936.00 [C19-C20]
Henjum Goucher Reporting Services, L.P.	2/1/2008 -- Interpreter for Genyo Takeda Deposition	\$2,078.75 [C21-C22]
Henjum Goucher Reporting Services, L.P.	2/1/2008 -- Interpreter for Nintendo Corporate Representative Deposition	\$2,078.75 [C21, C24]
Henjum Goucher Reporting Services, L.P.	2/1/2008 -- Interpreter for Nintendo Corporate Representative Deposition	\$2,078.75 [C21, C26]
Henjum Goucher Reporting Services, L.P.	2/7/2008 -- Genyo Takeda Deposition	\$2,240.00 [Full day per diem plus witness fee] [C82, C159]
Henjum Goucher Reporting Services, L.P.	11/9/2007 -- R. Sanchez Deposition	\$300.00 [C35, C64, C141]
Henjum Goucher Reporting Services, L.P.	11/9/2007 -- A. Penello Jr. Deposition	\$885.00 [C37, C105]
Henjum Goucher Reporting Services, L.P.	11/19/2007 -- G. Harrison Deposition	\$800.00 [C37-C38]
Henjum Goucher Reporting Services, L.P.	11/19/2007 -- Jacqualee Story Deposition	\$490.00 [C37, C134]
LegalLink, Inc.	3/4/2008 -- Transcript of Susan Panico Deposition	\$296.70 [C55-C56]
LegalLink, Inc.	3/27/2008 -- Transcript of Mark Newman Deposition	\$227.90 [C57-C58]
Henjum Goucher Reporting Services, L.P.	10/30/2007 -- Transcript of H. Cheng Deposition	\$820.00 [C59, C121]
LegalLink, Inc.	10/12/2007 -- Transcript of S. Bowman Deposition	\$279.50 [C61, C80]
LegalLink, Inc.	10/12/2007 -- Transcript of B. Carlson Deposition	\$406.35 [C61-C62]

Payee	Event	Fee / Exhibit
LegalLink, Inc.	4/9/2008 -- Transcript of R. Howe Deposition	\$410.65 [C67, C135]
LegalLink, Inc.	4/15/2008 -- Transcript of Mark Baldwin Deposition	\$187.05 [C69-C70, C146-C147]
Christina L. Bickham, CRR RMR	9/27/2007 -- Claim Construction Hearing	\$272.13 [C90, C167-C168]
LegalLink, Inc.	1/4/2008 -- Transcript of B. Stolar Deposition	\$126.85 [C91-C92]
Christina L. Bickham, CRR RMR	12/13/2006 -- Transcript of Case Management Conference	\$104.88 [C99, C101, C177, C179]
LegalLink, Inc.	4/24/2008 -- Transcript of Walter Bratic Deposition	\$653.60 [C95, C127]
Consulate General of the United States of America Osaka-Kobe	2/15/2008 -- Japanese Deposition Fee	\$1,060.00 [C136-C139]
		Total: \$38,451.51

#### IV. WITNESS FEES<sup>5</sup>

Witness Name	Event	Fee / Exhibit
Brad Armstrong (owner, Anascape)	4/19/2007 -- Attendance Deposition Testimony	\$40.00
	3/17/2008 -- Attendance Deposition Testimony	\$40.00
	3/18/2008 -- Attendance Deposition Testimony	\$40.00
	3/19/2008 -- Attendance Deposition Testimony	\$40.00
	5/5/2008 -- Attendance Trial Testimony	\$40.00
	5/6/2008 -- Attendance Trial Testimony	\$40.00
	5/13/2008 -- Attendance Trial Testimony	\$40.00
	5/14/2008 -- Attendance Trial Testimony	\$40.00

<sup>5</sup> See 28 U.S.C. § 1821. Where these costs have been paid already, true and correct copies of various documents, evidencing payment of such costs, have been collected and attached hereto as **Exhibit D**.

<b>Witness Name</b>	<b>Event</b>	<b>Fee / Exhibit</b>
	7/18/2008 -- Attendance Post-Trial Hearing Testimony	\$40.00
	Going to and coming from trial	\$80.00
	Mileage: 859 miles @ 50.5 cents per mile. (3 round trips from Tyler to Lufkin for trial (80.5 miles one way)); 1 round trip from Tyler to Beaumont for post-trial hearing (188 miles one way).)	\$433.78
	Subsistence (8 days of trial + 1 day @ \$122/day)	\$1,098.00
Brian Carlson (owner, Anascape)	10/4/2007 -- Attendance Deposition Testimony	\$40.00
Mark Baldwin (Anascape game design expert)	4/4/2008 -- Attendance Deposition Testimony	\$40.00
Steven Bowman (owner, Anascape)	10/3/2007 -- Attendance Deposition Testimony	\$40.00
Walt Bratic (Anascape damages expert)	4/15/2008 -- Attendance Deposition Testimony	\$40.00
	5/7/2008 -- Attendance Trial Testimony	\$40.00
	Going to and coming from trial	\$40.00
	Mileage: 242 miles @ 50.5 cents per mile (1 round trip from Houston to Lufkin for trial (121 miles one way))	\$122.21
	Subsistence (2 days @ \$122/day)	\$244.00
Dr. Robert Howe (Anascape infringement expert)	3/27/2008 -- Attendance Deposition Testimony	\$40.00
	5/6/2008 -- Attendance Trial Testimony	\$40.00
	5/7/2008 -- Attendance Trial Testimony	\$40.00
	5/13/2008 -- Attendance Trial Testimony	\$40.00
	Going to and coming from trial	\$40.00
	Mileage: 484 miles @ 50.5 cents per mile (2 round trip from Houston to Lufkin for trial (121 miles one way))	\$244.42
	5/5/2008 Airfare and Car Rental	\$1,863.41 [D2]
	Subsistence (3 days @ \$122/day)	\$366.00
Mark Newman (Anascape PTO expert)	3/11/2008 -- Attendance Deposition Testimony	\$40.00
	5/7/2008 -- Attendance Trial Testimony	\$40.00

Witness Name	Event	Fee / Exhibit
	Going to and coming from trial	\$40.00
	Mileage: 242 miles @ 50.5 cents per mile (1 round trip from Houston to Lufkin for trial (121 miles one way))	\$122.21
	5/12/2008 -- Roundtrip Airfare for Mark Newman to and from Houston from Washington, D.C. for Anascape Trial	\$1,414.50 [D70-D71]
	Subsistence (2 days @ \$122/day)	\$244.00
Kelly Tyler (owner, Anascape)	10/16/2007 -- Attendance Deposition Testimony	\$40.00
	5/7/2008 -- Attendance Trial Testimony	\$40.00
	Going to and coming from trial	\$40.00
	Mileage: 242 miles @ 50.5 cents per mile (1 round trip from Houston to Lufkin for trial (121 miles one way))	\$122.21
	Subsistence (2 days @ \$122/day)	\$244.00
		Total: \$7,638.74

**V. PRINTING / COPY / EXEMPLIFICATION FEES**<sup>6</sup>

6. Regarding those copy/printing/image costs claimed by Anascape below, such costs include expenses associated with (i) the preparation of the original trial exhibits in accordance with this Court's requirements; (ii) preparation of trial exhibits for use in the courtroom during the course of the trial; (iii) preparation of daily binders for the Court, witnesses, and opposing counsel; (iv) preparation of briefing and case binders as requested by the Court; and (v) printing of various documents and exhibits to be used to cross examine Nintendo's witnesses.

Payee	Event	Fee / Exhibit
Omar Moreno / OCE Printing	5/13/2008 -- Copy service while at trial	\$1,672.46 [E4]
Omar Moreno / OCE	5/16/2008 -- Copy service while at trial	\$556.24 [E4]

<sup>6</sup> True and correct copies of various documents, evidencing payment of these costs, are collected and attached hereto as **Exhibit E**.

<b>Payee</b>	<b>Event</b>	<b>Fee / Exhibit</b>
Printing		
Reed Technology & Information Services, Inc.	4/17/2008 -- Patent Document Delivery Services (Certified Copy of Patent-In-Suit)	\$237.45 [E50-E51]
Pinnacle Reprographics-Digital, L.L.C.	4/30/2008 -- Printing of Images	\$3,450.34 [E24-E25]
Pinnacle Reprographics-Digital, L.L.C.	4/30/2008 -- Printing of Images	\$4,194.64 [E24, E26]
Pinnacle Reprographics-Digital, L.L.C.	4/15/2008 -- Document Imaging	\$2,005.65 [E28-E29]
Pinnacle Reprographics-Digital, L.L.C.	4/30/2008 -- Printing of Images	\$994.38 [E30-E31]
Pinnacle Reprographics-Digital, L.L.C.	4/15/2008 -- Printing of Images	\$911.38 [E32-E33]
Pinnacle Reprographics-Digital, L.L.C.	4/21/2008 -- Printing of Images	\$791.57 [E34-E35]
Pinnacle Reprographics-Digital, L.L.C.	4/15/2008 -- Printing of Images	\$741.51 [E36-E37]
Pinnacle Reprographics-Digital, L.L.C.	4/21/2008 -- Color Copies	\$686.31 [E38-E39]
Pinnacle Reprographics-Digital, L.L.C.	4/21/2008 -- Color Copies	\$680.89 [E40-E41]
Pinnacle Reprographics-Digital, L.L.C.	4/21/2008 -- Printing of Images	\$522.63 [E42-E43]
Pinnacle Reprographics-Digital, L.L.C.	4/7/2008 -- Litigation Copies	\$520.25 [E44-E45]
Pinnacle Reprographics-Digital, L.L.C.	4/23/2008 -- Trial Exhibit Boards	\$346.40 [E46-E47]
Pinnacle Reprographics-Digital, L.L.C.	5/6/2008 -- Document Imaging	\$239.99 [E49-E49]
Pinnacle Reprographics-Digital, L.L.C.	5/7/2008 -- Color Trial Exhibit Board	\$184.03 [E55-E56]

Payee	Event	Fee / Exhibit
L.L.C.		
Pinnacle Reprographics-Digital, L.L.C.	4/21/2008 -- Color Copies	\$167.53 [E58-E59]
Pinnacle Reprographics-Digital, L.L.C.	4/21/2008 -- Document Imaging	\$167.40 [E59-E60]
Pinnacle Reprographics-Digital, L.L.C.	4/16/2008 -- Litigation Copies	\$158.80 [E61-E62]
Pinnacle Reprographics-Digital, L.L.C.	4/15/2008 -- Color Copies	\$153.63 [E63-E64]
Pinnacle Reprographics-Digital, L.L.C.	4/3/2008 -- Litigation Copies	\$92.36 [E65-E66]
Pinnacle Reprographics-Digital, L.L.C.	4/21/2008 -- Digital Printing of Images	\$1,615.22 [E67-E68]
Pinnacle Reprographics-Digital, L.L.C.	4/30/2008 -- Color Copies	\$1,093.33 [E69-E70]
East Texas Copy Systems	4/17/2008 -- Copier Rental Fee for Trial	\$2,245.00 [E91-E92]
East Texas Copy Systems	5/16/2008 -- Outside Copy Service	\$556.24 [E94]
East Texas Copy Systems	5/13/2008 -- Outside Copy Service	\$1,672.46 [E110]
		Total: \$26,658.09

**VI. COMPENSATION FOR COURT APPOINTED EXPERT<sup>7 8</sup>**

Payee	Event	Fee / Exhibit
Howard K. Schmidt, Ph.D	8/23/2007 -- Services Rendered as Technical Advisor in Case 9:06-cv- 00158-RHC	\$7,406.75 [F1-F2]
Howard K. Schmidt,	11/29/2007 -- Services Rendered as	\$3,477.39 [F3-F4]

<sup>7</sup> True and correct copies of various documents, evidencing payment of these costs, are collected and attached hereto as **Exhibit F**.

<sup>8</sup> **Exhibit G** has been intentionally omitted.



Payee	Event	Fee / Exhibit
Ph.D	Technical Advisor in Case 9:06-cv-00158-RHC	
Howard K. Schmidt, Ph.D	5/26/2008 -- Services Rendered as Technical Advisor in Case 9:06-cv-00158-RHC	\$2,250.00 [F5-F6]
		Total: \$13,134.14

**VII. AUDIO / VISUAL SUPPORT<sup>9</sup>**

Technician	Event	Fee / Exhibit
Chris Martin (McKool Smith Graphics Specialist)	Trial graphics work (150 hours @ \$185.00/hour).	\$27,750.00 [H16]
		Total: \$27,750.00

7. Mr. Martin is a McKool Smith employee whose usual and customary billing rate is \$185.00/hour. Mr. Martin is a Graphics Specialist who received his Bachelor of Science degree in architecture from the University of Texas at Arlington in 1976 and has over thirty years of graphics design expertise.

8. Mr. Martin's experience in industrial design and engineering prototypes was used to accurately represent the working of the infringing Nintendo controllers. Mr. Martin disassembled the controllers and many of the components (potentiometers and injection molded elements) to create mechanically functional 3D animation. From technical documents and exemplars, Mr. Martin created 3D cross-sections of accelerometers to illustrate structure and operation. Mr. Martin converted figures from Mr. Armstrong's patent application into 3D forms

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<sup>9</sup> True and correct copies of various documents, evidencing payment of these costs, are collected and attached hereto as **Exhibit H**.

to illustrate and animate mechanical operation. Mr. Martin also supervised the preparation of video depositions and exhibits for trial presentation.

9. Mr. Martin created extensive PowerPoint presentations used in Anascape's opening and closing statements, plaintiff presentations and expert examinations. Mr. Martin prepared cross-examination PowerPoints to be used to cross-examine Nintendo's experts. Mr. Martin also produced graphic boards and document enlargements for use at trial. Mr. Martin operated the PowerPoints throughout the entirety of the trial.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 8, 2008 in Grand Lake, Colorado.



Steven Callahan