

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

ANASCAPE, LTD.

Plaintiff,

v.

MICROSOFT CORPORATION, and
NINTENDO OF AMERICA INC.,

Defendants.

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Hon. Ron Clark

Civil Action No. 9:06-CV-00158-RC

**DECLARATION OF JAMES S. BLANK
IN SUPPORT OF NINTENDO OF AMERICA INC.'S BILL OF COSTS**

I, James S. Blank, declare as follows:

1. I am a partner at the law firm of Kaye Scholer LLP, attorney of record for Defendant Nintendo of America Inc. (“Nintendo”) 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 Nintendo 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, and have been paid in full.

I. TOTAL COSTS

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

Cost	Amount
Docket Fees	\$455.00
Court Reporter Fees	\$33,864.55
Witness Fees	\$11,201.77
Printing/Copy/Exemplification Fees	\$20,082.57
Costs as Shown on Mandate of Court of Appeals	\$4,085.66
Compensation for Court Appointed Experts	\$2,863.69
Compensation for Interpreters	\$3,926.33
Audio/Visual Support	\$46,691.02
Premiums Paid for Bonds	\$274,078.00
	Total: \$397,248.59

II. DOCKET FEES¹

Payee	Event	Fee/Exhibit
U.S. District Court, Eastern District of Texas	7/29/2008 -- Fee for filing Notice of Appeal	\$455.00 [A1-A2] ²
		Total: \$455.00

III. COURT REPORTER FEES³

Payee	Event	Fee/Exhibit
TSG Reporting, Inc.	3/17-19/2008 -- Brad Armstrong	\$4,128.30 [B1-B6] ⁴

¹ See F.R.A.P. 39(e)(4). True and correct copies of various documents, evidencing payment of such costs, are collected and attached hereto as Exhibit A.

² Reference to, for example, "A1," means that the supporting document is located at Exhibit A, page 1.

³ True and correct copies of various documents, evidencing payment of such costs, are collected and attached hereto as Exhibit B.

Payee	Event	Fee/Exhibit
	Deposition	
Legalink, Inc.	3/21/2007 -- Jon Pederson Deposition	\$540.58 [B7-B8]
Christina L. Bickham, CRR RMR	4/25/2008 -- Trial Transcripts	\$17,627.40 (\$35,000.00 Deposit - \$17,372.60 Refund) [B9-B11, B43]
Ellen Grauer Court Reporting Co., LLC	4/19/2007 -- Brad Armstrong Deposition	\$1,883.45 [B12-B13]
TSG Reporting, Inc.	10/16/2007 -- Kelly Tyler Deposition	\$1,425.60 [B14-B16]
Henjum Goucher Reporting Services, L.P.	1/23/2008 -- Genyo Takeda, Nintendo Corporate Representative Deposition	\$621.70 [B17-B18]
Henjum Goucher Reporting Services, L.P.	1/24/2008 -- Akio Ikeda, Nintendo Corporate Representative Deposition	\$669.20 [B19-B20]
Henjum Goucher Reporting Services, L.P.	1/25/2008 -- Kazunori Koshiishi, Nintendo Corporate Representative Deposition	\$603.80 [B21-B22]
Henjum Goucher Reporting Services, L.P.	11/9/2007 -- George Harrison Deposition	\$855.50 [B23-B24]
Henjum Goucher Reporting Services, L.P.	11/9/2007 -- Jacqualee Story Deposition	\$534.00 [B25-B26]
Henjum Goucher Reporting Services, L.P.	11/8/2007 -- Collette Meader Deposition	\$480.30 [B27-B28]
Legalink, Inc.	2/20/2008 -- Susan Panico Deposition	\$296.70 [B29, B8]
Legalink, Inc.	4/15/2008 -- Walter Bratic Deposition	\$667.72 [B30, B8]
Henjum Goucher Reporting Services, L.P.	10/17/2007 -- Howard Cheng Deposition	\$546.90 [B31-B32]
Legalink, Inc.	10/3/2007 -- Steve Bowman Deposition	\$279.50 [B33, B8]
Legalink, Inc.	10/4/2007 -- Brian Carlson Deposition	\$406.35 [B34, B8]
Legalink, Inc.	3/27/2008 -- Robert Howe Deposition	\$410.65 [B35, B8]
Legalink, Inc.	4/4/2008 -- Mark Baldwin Deposition	\$187.05 [B36, B8]
Christina L. Bickham, CRR RMR	9/19/2007 -- Claim Construction Hearing	\$814.98 [B37-B38]
Legalink, Inc.	12/20/2008 -- Bernard Stolar Deposition	\$126.85 [B39, B8]
Christina L. Bickham, CRR RMR	8/22/2007 -- Claim Construction Hearing	\$653.14 [B40-B41]

⁴ The court reporters fees set forth in this Section III are solely for the costs of transcripts themselves. Nintendo does not seek costs for expedited delivery, videotaping, synchronization, ASCII, exhibits, shipping, etc.

Payee	Event	Fee/Exhibit
Christina L. Bickham, CRR RMR	12/13/2006 -- Transcript of Case Management Conference	\$104.88 [B42]
		Total: \$33,864.55

IV. WITNESS FEES⁵

Payee	Event	Fee/Exhibit
Kazunori Koshiishi	Attendance deposition testimony -- 1/23/08	\$40.00
Genyo Takeda	Attendance deposition testimony -- 1/25/08	\$40.00
Akio Ikeda	Attendance deposition -- 1/24/08 Attendance trial testimony -- 5/8/08 Going and coming from trial Airfare Subsistence (1 day of trial + 4 days @ \$130/day)	\$40.00 \$40.00 \$80.00 \$3,500.00 [C1-C2] \$650.00
Collette Meader	Attendance deposition testimony -- 11/8/07	\$40.00
George Harrison	Attendance deposition testimony -- 11/9/07	\$40.00
Howard Cheng	Attendance deposition testimony -- 10/17/07	\$40.00
Jacqualee Story	Attendance deposition testimony -- 11/9/07 Attendance trial testimony -- 5/8/08 Going and coming from trial Airfare Subsistence (5/4/08-5/14/08) (11 days @ \$130/day)	\$40.00 \$40.00 \$80.00 \$1,026.29 [C3-C7, C25-C30] \$1,430.00 [C3-C7, C25-C30]
Jon Pederson	Attendance deposition testimony -- 3/21/07 Attendance trial testimony -- 5/8/08	\$40.00 \$40.00

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

Payee	Event	Fee/Exhibit
	Going and coming from trial Airfare Lodging (5/6/08-5/8/08) (1 day of trial +2 days @ \$130/day) Car rental	\$80.00 \$1,026.29 [C8-C14, C19-C24] \$390.00 [C8-C14, C19-C24] \$247.32 [C8-C14, C19-C24]
Robert Dezmelyk (Nintendo non-infringement and invalidity expert)	Attendance trial testimony -- 5/8, 12/08 Going and coming from trial Airfare Car rental Gas Subsistence (2 days of trial + 4 days @ \$130/day)	\$80.00 \$80.00 \$433.00 [C17] \$297.46 [C17] \$14.16 [C17] \$780.00
Ed Fiorito (Nintendo PTO expert)	Attendance trial testimony -- 5/14/08 Going to and coming from trial Mileage Subsistence (2 days @ \$130/day)	\$40.00 \$40.00 \$227.25 [C15-C16, C18] \$260.00
		Total: \$11,201.77

V. PRINTING/COPY/EXEMPLIFICATION FEES⁶

5. Regarding those copying and printing costs claimed by Nintendo below, such costs include expenses associated with (i) the preparation of 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 used to cross-examine Anascape's witnesses.

⁶ True and correct copies of various documents, evidencing payment of such costs, are collected and attached hereto as Exhibit D.

Payee	Event	Fee/Exhibit
Trial Access, Inc.	4/27/08 - 5/16/08 -- 65,127 copies @ \$.035 per page; rental of 2 black and white copiers, 4 laser printers and 1 color laser printer; 15 boxes of copy paper	\$3,909.45 [D1-D2]
TransPerfect Document Management, Inc.	4/28/08	\$11,641.62 [D3, D5]
TransPerfect Document Management, Inc.	4/25/08	\$5,251.50 [D4-D5]
		Total: \$20,082.57

VI. COSTS ON MANDATE OF COURT OF APPEALS⁷

Payee	Event	Fee/Exhibit
n/a	6/8/10 Mandate	\$4,085.66 [E1]
		Total: \$4,085.66

VII. COMPENSATION FOR COURT APPOINTED EXPERT⁸

Payee	Event	Fee/Exhibit
Howard K. Schmidt, Ph.D	11/29/07 - Services rendered as Technical Advisor in Case No. 9:06-cv-00158-RHC	\$1,738.69 [F1]
Howard K. Schmidt, Ph.D	5/26/08 - Services rendered as Technical Advisor in Case No. 9:06-cv-00158-RHC	\$1,125.00 [F2]
		Total: \$2,863.69

⁷ True and correct copies of various documents, evidencing payment of such costs, are collected and attached hereto as Exhibit E.

⁸ True and correct copies of various documents, evidencing payment of such costs, are collected and attached hereto as Exhibit F.

VIII. COMPENSATION FOR INTERPRETERS⁹

Payee	Event	Fee/Exhibit
Jared Taylor	5/7-8/08 -- Japanese translation for Akio Ikeda, @\$1,400/day plus airfare (\$433.00), hotel, rental car, gasoline, taxis and meals	\$3,926.33 [G1-G2]
		Total: \$3,926.33

6. At trial Mr. Taylor served as a Japanese interpreter pursuant to this Court's Order dated April 29, 2008 (Dkt. No. 298).

IX. AUDIO/VISUAL SUPPORT¹⁰

Payee	Event	Fee/Exhibit
Kamaria Henderson (FTI Senior Consultant)	Trial video, IT and graphics work (150 hours @ \$275/hour)	\$41,250.00 [H4-H5, H10-H11, H17-H18]
FTI/Aquipt	4/30/08 -- Courtroom equipment rental	\$2,479.90 [H5, H13, H17]
FTI/Aquipt	4/30/08 -- Freight delivery charges for courtroom equipment	\$1,341.88 [H5, H14, H17]
FTI/Aquipt	5/8/08 -- Courtroom equipment rental	\$394.27 [H11, H15, H18]
FTI/Aquipt	5/30/08 -- Freight delivery charges for courtroom rental	\$1,224.97 [H11, H16, H18]
		Total: \$46,691.02

7. Ms. Henderson is an employee of the Trial Services division of FTI Consulting, Inc. a litigation support consulting firm. Ms. Henderson provided Technology Consulting with the title Senior Consultant. Ms. Henderson was responsible for the in-court presentation of deposition video, trial exhibits and PowerPoints for opening and closing statements, defense

⁹ True and correct copies of various documents, evidencing payment of such costs, are collected and attached hereto as Exhibit G.

¹⁰ True and correct copies of various documents, evidencing payment of such costs, are collected and attached hereto as Exhibit H.

witness direct examinations and plaintiff witness cross-examinations. Ms. Henderson also supervised the preparation of all video depositions and exhibits for trial presentation and supervised and assisted in the preparation of the TrialMax exhibit database for Nintendo. Ms. Henderson also combined Nintendo's designations and Anascape's counter-designations, ensuring that all objections were edited from the video clips pursuant to the Court's direction and that all clips were properly trimmed. Portions of her time for April 15-18, 21-23, 28-30, 2008 and May 1-16, 2008 are included herein.

X. PREMIUMS PAID FOR BONDS¹¹

Payee	Event	Fee/Exhibit
Parker Smith & Feek, Inc.	Premium paid for \$27,699,538 supersedeas bond for the period 7/25/08 to 7/25/09	\$99,718.00 [I1, I3-I4]
Parker Smith & Feek, Inc.	Premium paid for \$10,366,957 royalty payment bond for the period 7/25/08 to 7/25/09	\$37,321.00 [I2, I3-I4]
Parker Smith & Feek, Inc.	Premium paid for renewal of \$27,699,538 supersedeas bond for the period 7/25/09 to 7/25/10	\$99,718.00 [I5, I7-I8]
Parker Smith & Feek, Inc.	Premium paid for renewal of \$10,366,957 royalty payment bond for the period 7/25/09 to 7/25/10	\$37,321.00 [I6-I8]
		Total: \$274,078.00

¹¹ See F.R.A.P. 39(e)(3). True and correct copies of various documents, evidencing payment of such costs, are collected and attached hereto as Exhibit I.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 6, 2010 in New York, New York.

/s/ James S. Blank
James S. Blank