

The Honorable John C. Coughenour

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

JAMES S. GORDON, Jr., a married individual, d/b/a 'GORDONWORKS.COM'; OMNI INNOVATIONS, LLC., a Washington limited liability company,

Plaintiffs,

v.

VIRTUMUNDO, INC, a Delaware corporation d/b/a ADKNOWLEDGEMAIL.COM; ADKNOWLEDGE, INC., a Delaware corporation, d/b/a ADKNOWLEDGEMAIL.COM; SCOTT LYNN, an individual; and JOHN DOES, 1-X,

Defendants.

NO. CV06-0204JCC

[PROPOSED]ORDER GRANTING DEFENDANTS' MOTION FOR ATTORNEYS' FEES AND COSTS

THIS MATTER comes before the Court on the Motion for Attorneys' Fees and Costs of Defendants Virtumundo, Inc., Adknowledge, Inc., and Scott Lynn (collectively "Defendants"). Having reviewed Defendants' Motion for Attorneys' Fees and Costs, Plaintiffs' Response, and Defendants' Reply, and finding that oral argument is

1 unnecessary, the Court GRANTS the motion.

2 Defendants were the prevailing party in this litigation for the purposes of 15  
3 U.S.C. § 7706(g)(4) and Wash. Rev. Code 19.190.090(3) and are therefore entitled to  
4 recover reasonable attorneys' fees and costs.

5 Hourly rates of \$350 per hour for senior attorneys, \$200 per hour for junior  
6 attorneys, and \$125 per hour for document analysis attorneys as well as the actual  
7 number of hours Defendants' counsel spent on this matter are reasonable in this case  
8 considering:

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- 10 1. The Experience, skill, and reputation of Defendants' counsel, Newman &  
Newman, Attorneys at Law, LLP.
  - 11 2. The complex and highly technical nature of the lawsuit.
  - 12 3. The substantial liability posed to Defendants by the lawsuit.
  - 13 4. Defendants' counsel's substantial success in defending the lawsuit.

14 Additionally, considering the novelty and difficulty of the legal questions involved  
15 in the case, the technical knowledge required to perform the legal service properly, the  
16 extraordinary threat posed to the Defendants, and their total success in defending the  
17 lawsuit, it is appropriate to adjust the award of attorneys' fees upward by 20%.

18 Finally, Defendants' costs of \$26,338.02 in defending this lawsuit are reasonable.  
19 Defendants' expert witness costs of \$5,875 are also reasonable, especially when  
20 considering the exceptionally technical nature of this lawsuit and the extent to which  
21 Defendants relied on the experts' testimony.

22 Therefore, Defendants' Motion for Attorneys' Fees and Costs is GRANTED.

23 The Court ORDERS that Defendants shall be awarded reasonable attorneys' fees  
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1 in the amount of \$509,821.50 and costs in the amount of \$32,213.01.

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3 It is HEREBY ORDERED.

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5 DATED this \_\_\_\_ day of \_\_\_\_ 2007.

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7 \_\_\_\_\_  
8 UNITED STATES DISTRICT JUDGE  
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11 Presented by:

12 **NEWMAN & NEWMAN,**  
13 **ATTORNEYS AT LAW, LLP**

14  
15 By:



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23 **Attorneys for Defendants Virtumundo, Inc.;**  
24 **Adknowledge, Inc.; and, Scott Lynn**  
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