

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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BROWNMARK FILMS, LLC,

Plaintiff,

v.

Case No. 2:10-cv-01013-JPS

COMEDY PARTNERS, MTV  
NETWORKS, PARAMOUNT  
PICTURES CORPORATION, SOUTH  
PARK DIGITAL STUDIOS LLC, and  
VIACOM INTERNATIONAL, INC.,

Defendants.

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DECLARATION OF JAMES D. PETERSON IN SUPPORT OF DEFENDANTS' MOTION  
TO RECOVER ATTORNEYS' FEES AND COSTS WITH EXHIBIT J

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I, James D. Peterson, declare:

1. I am an attorney licensed to practice law before the courts of the State of Wisconsin and before the Eastern District of Wisconsin. I am a shareholder in the law firm of Godfrey & Kahn S.C., which previously participated in the representation of defendants Comedy Partners, MTV Networks, Paramount Home Entertainment Inc., South Park Digital Studios LLC, and Viacom International Inc. (collectively "the South Park Defendants") in this lawsuit. Unless expressly stated on information and belief, the matters stated below are true of my own personal knowledge.

2. The Godfrey & Kahn attorneys who participated in the representation of the South Park Defendants in this matter – primarily Jennifer Gregor and me – both practice primarily in intellectual property litigation. Ms. Gregor has handled patent, trademark, advertising, unfair competition, trade secret, and copyright cases since she graduated from DePaul University

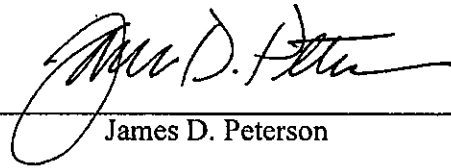
School of Law in 2005. I have practiced intellectual property law in Wisconsin since 1998, and I teach from time to time as an adjunct professor at the University of Wisconsin Law School.

3. Based on my experience in this field, my review of legal bills from other law firms that practice intellectual property law, my review of the bills attached to fee motions filed by those firms in other cases, and my participation as a member of intellectual property bar associations, I believe that the discounted hourly rates that the South Park Defendants were billed for our services. Those rates in 2008 (when the plaintiffs sent an initial demand letter and threatened suit) were \$416.50 for my partner, Brady Williamson, and \$318.75 for my time. In 2010 and 2011 (when this litigation was pending) the rates were \$292.25 for Mr. Gregor's time and \$382.50 for my time. These rates are easily within the range of rates charged by other lawyers with similar expertise and experience in this market. True and correct copies of the bills submitted by Godfrey & Kahn to the South Park Defendants for this case are attached as Exhibit J. The bills have been redacted to eliminate tasks for which the South Park Defendants do not seek reimbursement. In a very few instances, certain task descriptions have been redacted to protect information that is subject to the attorney-client privilege and/or the work-product doctrine. The billing statements identify each task for which the South Park Defendants seek reimbursement, the attorney or paralegal who performed the task and his or her billing rate, and the amount of time expended on each task. These billing statements either have been paid by MTV Networks or represent outstanding obligations of MTV Networks. In total, Mr. Williamson spent 4.4 hours on this matter, Ms. Gregor spent 4.9 hours, and I spent 14.9 hours. Godfrey & Kahn paralegals Karen Paape and Bruce Napp together spent 8.1 hours on this matter.

4. As reflected in the billing statements, the total legal fees and costs incurred by the South Park Defendants to date from work performed by Godfrey & Kahn is \$9,856.17. I am informed and believe that the South Park Defendants also incurred \$36,919.06 for legal work

performed by Davis Wright Tremaine LLP. The total legal fees incurred by the South Park Defendants to date are \$46,775.23.

This declaration was executed on July 20, 2011, in Madison, Wisconsin. I declare under penalty of perjury under the laws of the United States of America and the State of Wisconsin that the foregoing is true and correct.



James D. Peterson

# **EXHIBIT J**

Viacom, Inc.

November 18, 2008

Re: Brownmark Films

Invoice No. 463940  
Matter No. 069192-0002

Billing Attorney:  
Brady C. Williamson

Invoice Total	\$	<u>4,631.00</u>
15% Fee Discount	\$	<u>-694.65</u>
<b>Current Invoice Total</b>	<b>\$</b>	<b><u>3,936.35</u></b>
Prior Balance Due	\$	<u>0.00</u>
<b>Total Amount Now Due</b>	<b>\$</b>	<b><u>3,936.35</u></b>

**PAYMENT DUE UPON RECEIPT  
PLEASE RETURN THIS COPY WITH YOUR REMITTANCE.**

**PLEASE SEND ALL PAYMENTS TO:  
GODFREY & KAHN, BIN #318, MILWAUKEE, WI 53288-0318**

FED ID: 39-1128206

WIRE INSTRUCTIONS: BANK NAME: M&I MARSHALL & ISLEY BANK BANK ABA: #075000051 ACCOUNT NAME: GODFREY & KAHN S.C.  
ACCOUNT NO: #291-714 SWIFT CODE: MARLUS 44 (IF INTERNATIONAL WIRE TRANSFER)

OFFICES IN MILWAUKEE, MADISON, WAUKESHA, GREEN BAY AND APPLETON, WI; WASHINGTON, DC; AND SHANGHAI, PRC

Viacom, Inc.

November 18, 2008

Re: Brownmark Films

Invoice No. 463940  
Matter No. 069192-0002

Billing Attorney:  
Brady C. Williamson

For Legal Services Rendered Through October 31, 2008

<b>Date</b>	<b>Timekeeper</b>	<b>Description</b>	<b>Hours</b>	<b>Amount</b>
10-06-2008	James D. Peterson	Review allegedly infringing South Park clip, demand letter from Brownmark Films, and response from Viacom counsel; check status of copyright registration and investigate ownership of Brownmark Films; check dockets in Eastern and Western Districts; briefly review injunction procedures for each court.	4.50	1,687.50
10-06-2008	Brady C. Williamson	Telephone call from Heather Windt on new matter; exchange telephone calls and messages with her and with Alonzo Wickers, Davis, Wright firm; review video and related materials; check procedures.	2.80	1,372.00
10-07-2008	James D. Peterson	Teleconferences with co-counsel regarding practice expectations in Wisconsin federal districts and strategy for response to potential suit for copyright infringement.	0.60	225.00
10-07-2008	Brady C. Williamson	Additional research: U.S. District Court/Eastern District--procedure; conference on status.	1.40	686.00

<b>Date</b>	<b>Timekeeper</b>	<b>Description</b>	<b>Hours</b>	<b>Amount</b>
10-15-2008	James D. Peterson	Begin review of copyright infringement cases in Eastern District of Wisconsin to determine whether judges have reached substantive decisions on fair use.	1.50	562.50
10-16-2008	Brady C. Williamson	Conference on case status.	0.20	98.00
		Total Fees	\$	4,631.00
		15% Fee Discount	\$	<u>-694.65</u>
		Total Adjusted Fees	\$	3,936.35
		Total Disbursements	\$	<u>0.00</u>
		<b>Total For This Invoice</b>	<b>\$</b>	<b><u>3,936.35</u></b>

### Time and Fee Summary

<b>Timekeeper</b>	<b>Title</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
JAMES D. PETERSON	Shareholder	6.60	375.00	2,475.00
BRADY C. WILLIAMSON	Shareholder	4.40	490.00	2,156.00
<b>Shareholder Total</b>		<b>11.00</b>		<b>4,631.00</b>
<b>TIMEKEEPER TOTALS</b>		<b>11.00</b>		<b>\$4,631.00</b>

HISTORY TO DATE (including current invoice):

	Year-to-Date	Inception-to-Date
Fees	\$ 3,936.35	\$ 3,936.35
Disbursements	\$ 0.00	\$ 0.00
<b>Total Billed</b>	<b>\$ 3,936.35</b>	<b>\$ 3,936.35</b>



Viacom, Inc.

May 26, 2011

Invoice No. 533421  
Matter No. 069192-0002

Billing Attorney:  
James D. Peterson

Re: Brownmark Films

Invoice Total	\$ <u>7,040.19</u>
Less 15% Discount	\$ <u>-1,044.68</u>
<b>Current Invoice Total</b>	<b>\$ <u>5,995.51</u></b>
Prior Balance Due	\$ <u>0.00</u>
<b>Total Amount Now Due</b>	<b>\$ <u>5,995.51</u></b>

**PAYMENT IS DUE 30 DAYS FROM DATE OF INVOICE  
PLEASE RETURN THIS COPY WITH YOUR REMITTANCE.**

**PLEASE SEND ALL PAYMENTS TO:**  
GODFREY & KAHN, BIN #318, MILWAUKEE, WI 53288-0318  
FED ID: 39-1128206

WIRE INSTRUCTIONS: BANK NAME: M&I MARSHALL & ILSLEY BANK ABA: #075000051 ACCOUNT NAME: GODFREY & KAHN S.C.  
ACCOUNT NO: #291-714 SWIFT CODE: MARLUS 44 (IF INTERNATIONAL WIRE TRANSFER)

OFFICES IN MILWAUKEE, MADISON, WAUKESHA, GREEN BAY, APPLETON WI; AND WASHINGTON, DC

Viacom, Inc.

May 26, 2011

Invoice No. 533421  
Matter No. 069192-0002

Billing Attorney:  
James D. Peterson

Re: Brownmark Films

For Legal Services Rendered Through April 30, 2011

<b>Date</b>	<b>Timekeeper</b>	<b>Description</b>	<b>Hours</b>	<b>Amount</b>
01-20-2011	Karen Paape	Finalize and file stipulation and proposed order.	1.10	209.00
01-25-2011	Karen Paape	Update file with new pleadings.	0.10	19.00
01-25-2011	James D. Peterson	Communication with co-counsel regarding court order on motion for extension.	0.30	135.00
01-31-2011	Karen Paape	Update file with new pleadings and docket response dates.	0.70	133.00
02-20-2011	James D. Peterson	Review and suggest revisions to motion to dismiss and supporting brief.	1.60	720.00
02-22-2011	Karen Paape	Prepare for and file motion to dismiss with accompanying documents.	2.50	475.00
02-22-2011	Bruce Knapp	Review and respond to email correspondence from Ms. Paape regarding filing of exhibits to declaration of Mr. Glasser.	0.20	38.00
02-22-2011	Jennifer Gregor	Review draft motion to dismiss and supporting papers and revise to finalize for filing.	1.20	414.00

<b>Date</b>	<b>Timekeeper</b>	<b>Description</b>	<b>Hours</b>	<b>Amount</b>
02-22-2011	James D. Peterson	Review and revise motion to dismiss and supporting documents; attend to filing of motion to dismiss and corporate disclosure statement.	3.90	1,755.00
02-23-2011	Karen Paape	Update file with new pleadings; finalize and file notice of filing of physical exhibits; docket deadlines.	1.20	228.00
02-23-2011	Bruce Knapp	Travel to and from court to file exhibits to declaration of Mr. Glasser.	0.50	95.00
02-23-2011	Bruce Knapp	Correspond with Ms. Paape regarding filing of exhibits to declaration of Mr. Glasser.	0.20	38.00
02-23-2011	Jennifer Gregor	Review motion to dismiss filing and prepare notice of filing video exhibits.	0.30	103.50
02-23-2011	James D. Peterson	Conference with Ms. Gregor regarding confirmation of delivery of DVDs to court and notice of filing.	0.20	90.00
02-24-2011	Karen Paape	Update file with new pleadings.	0.10	19.00
03-15-2011	Karen Paape	Update file with new pleadings; correspondence to opposing counsel regarding motion to dismiss exhibits.	1.10	209.00
03-15-2011	Jennifer Gregor	Email communications with opposing counsel and co-counsel regarding service of video exhibits and Rule 26(f) meet and confer requirement.	0.50	172.50
03-15-2011	James D. Peterson	Communications with opposing counsel regarding service of exhibits.	0.30	135.00
03-16-2011	Karen Paape	Update file with new pleadings.	0.20	38.00

<b>Date</b>	<b>Timekeeper</b>	<b>Description</b>	<b>Hours</b>	<b>Amount</b>
03-16-2011	Jennifer Gregor	Call Judge Stadtmueller's chambers regarding potential Rule 26(f) conference during pending motion to dismiss; emails with co-counsel and opposing counsel regarding same.	0.50	172.50
03-17-2011	James D. Peterson	Email communications with opposing counsel regarding case scheduling.	0.20	90.00
03-29-2011	Jennifer Gregor	Review draft reply brief in support of motion to dismiss and edits to formatting and tables of contents and authorities to prepare for filing.	1.00	345.00
03-29-2011	James D. Peterson	Review draft reply in support of motion to dismiss complaint; send comments to Mr. Glasser.	1.80	810.00
03-30-2011	Karen Paape	Docket deadlines.	0.10	19.00
03-30-2011	Jennifer Gregor	Finalize and file reply brief in support of motion to dismiss.	0.50	172.50
03-31-2011	Karen Paape	Update file with new pleadings.	0.10	19.00
04-01-2011	Jennifer Gregor	Brief review of local rules regarding attorney admissions; prepare and collect admission forms and draft email to Messrs. Wickers and Glasser regarding admission to Eastern District of Wisconsin.	0.50	172.50
04-08-2011	Jennifer Gregor	Review Best v. Berard and teleconference with Mr. Glasser regarding filing supplemental authority.	0.40	138.00
			<b>Total Fees</b>	<b>\$ 6,964.50</b>
			<b>Less 15% Discount</b>	<b>\$ -1,044.68</b>
			<b>Total Adjusted Fees</b>	<b>\$ 5,919.82</b>

Matter Number: 069192-0002  
Invoice No.: 533421

May 26, 2011  
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**Disbursements:**

<b>Code</b>	<b>Description</b>	<b>Bill Value</b>
06	Fed. Express/Express Mail	75.69
	Total Disbursements	\$ 75.69
	<b>Total For This Invoice</b>	<b>\$ 5,995.51</b>

### Time and Fee Summary

<b>Timekeeper</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
KAREN PAAPE	7.20	190.00	1,368.00
BRUCE KNAPP	0.90	190.00	171.00
JENNIFER GREGOR	4.90	345.00	1,690.50
JAMES D. PETERSON	8.30	450.00	3,735.00
<b>TIMEKEEPER TOTALS</b>	<b>21.30</b>		<b>\$6,964.50</b>

*We adjust our hourly billing rates effective January 1 of each year. Accordingly, billing rate changes are reflected on this statement for work performed in 2011. Information regarding the hourly rates applicable to our attorneys and other personnel working on your matters is available on request from our billing department.*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 20, 2011, I caused the foregoing document to be electronically filed with the Clerk of the Court using the ECF system which will make this document available to all counsel of record for viewing and downloading from the ECF system.

Dated: July 20, 2011.

/s/ Alonzo Wickers IV  
Alonzo Wickers IV