

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

HYPERPHRASE TECHNOLOGIES, LLC and
HYPERPHRASE INC.,

Plaintiffs,

v.

GOOGLE INC.,

Defendant.

Civil Action No. 06-cv-199-bbc

**GOOGLE'S MOTION TO CLERK TO TAX COSTS
PURSUANT TO FED. R. CIV. P. 54(D)(1) AND
NOTICE OF FILING OF BILL OF COSTS**

Pursuant to Fed. R. Civ. P. 54(d)(1), Google Inc., the prevailing party, requests that the Clerk tax costs in this matter based upon the Bill of Costs, which is attached hereto.

To Attorneys for Plaintiffs HyperPhrase Technologies, LLC and HyperPhrase Inc.:

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TAKE NOTICE that Google Inc., by and through their attorneys has filed a Bill of Costs in this matter pursuant to 28 U.S.C. §§ 1920, 1924 and Fed. R. Civ. P. 54(d)(1).¹ Plaintiffs may file or move the Court to reconsider the action of the Clerk not later than 5 days from the date on which costs are taxed.

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¹ The Court did not dismiss Google's counterclaims in the judgment dated October 1, thus they are still pending. In this regard, this Bill of Costs maybe considered premature under Fed. R. Civ. P. 54(d)(2)(B)(i). Google has attempted three times to confer with plaintiffs' counsel on this issue (e.g. a stipulated dismissal) so that Court may enter a final judgment and put the case a condition for appeal, but it has not received a response from plaintiffs' counsel.

Dated: October 15, 2008

/s/ Jason W. Wolff

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Attorneys for Defendant GOOGLE INC.

CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2008, a true and correct copy of GOOGLE'S MOTION TO CLERK TO TAX COSTS PURSUANT TO FED. R. CIV. P. 54(D)(1) AND NOTICE OF FILING OF BILL OF COSTS, along with its attached BILL OF COSTS, was filed with the Clerk of the Court using the ECF filing system which will send notification of such filing to the following:

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