



PROCUREMENT AND ENFORCEMENT  
OF INTELLECTUAL PROPERTY

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## LITIGATION RETAINER AGREEMENT

THIS LITIGATION RETAINER AGREEMENT (“Agreement”) is entered into on the earliest date shown below by and between [CLIENT] (“Client”) and CISLO & THOMAS LLP (“Attorneys”).

### 1. Scope of Agreement

Client hires Attorneys to provide legal services to Client in the matter of [Services/Case] and to do all things necessary to bring the above-referenced [proceeding] [litigation] to a conclusion by either settlement or trial. This Agreement shall not extend to appeals, if any, or for any subsequent action necessary after said stated matter as another, separate contract will be required for such representation.

### 2. Duties of Attorneys and Client

Attorneys shall provide those legal services reasonably required to represent Client in the matter described in paragraph 1 of this Agreement. Attorneys shall also take reasonable steps to keep Client informed on significant developments and to respond to Client’s inquiries.

Client shall be truthful with Attorneys, cooperate with Attorneys, keep Attorneys informed of developments, perform the obligations Client has agreed to perform under this Agreement, pay Attorneys’ bills within thirty (30) days of being rendered, and keep Attorneys apprised of Client’s address, telephone number and whereabouts.

### 3. Billing Rate

Client agrees to pay for legal services at the following rates: for an attorney’s time up to **\$420/hour**; an associate’s time up to **\$325/hour**; and a paralegal’s time up to **\$175/hour**. Attorneys bill in minimum units of one-quarter (1/4) hours. Attorneys shall have the right to change these rates not more than once each calendar year. Client will be given thirty (30) days’ notice of any changes. Client will be presumed to have agreed to the new rates if Client does not discharge Attorneys within the thirty (30) day period. Client shall raise any questions concerning any bill within thirty (30) days of receipt of Attorneys’ bill, thereafter any of those fees or charges shall be deemed to be reasonably incurred.

4. Costs and Expenses

Client shall reimburse Attorneys for all actual costs and expenses incurred by Attorneys, including the following: sheriffs', marshals', and process servers' fees, filing fees and other charges assessed by Courts and other public agencies, court reporters' fees, jury fees, witness fees, messenger and other delivery fees, photocopying at **\$0.12** per page, parking, travel expenses (including airfare at coach rates, lodging, meals and ground transportation), charges for computer research at then prevailing rates, clerical staff overtime, investigation expenses, consultants' fees and expert witness fees. Attorneys shall itemize all costs incurred on each periodic statement. Any costs incurred shall be charged with a five percent addition for handling and payment.

To aid in the preparation of Client's case, it may become necessary in Attorneys' judgment to hire an expert witness, consultant or investigator. Attorneys shall select any expert witness, consultant or investigator to be hired. Client shall be responsible for such person's fees and charges.

5. Statements

Attorneys shall send Client a statement for fees and costs incurred every thirty (30) days. Client shall pay Attorneys' statements within thirty (30) days after each statement's date. If attorneys are holding a deposit from Client, Attorneys' statement shall indicate what portion of the sums due have been paid out of the deposit, and what portion, if any, are then due and owing from Client to Attorneys.

Attorneys shall provide a bill to Client, upon Client's request, no later than ten (10) days following the request. Client is entitled to make subsequent requests for bills at intervals of no less than thirty (30) days following the initial request.

6. Deposit

Concurrently with the execution of this contract, Client shall deposit with Attorneys the sum of **#[Deposit Amount]**. This sum shall be deposited in a trust account ("Client Deposit Account"). Attorneys shall use this amount to pay for:

Fees for legal services incurred by Attorneys in representing Client, as well as all costs and expenses as previously described in Paragraph 4.

Client hereby authorizes Attorneys to withdraw sums from Client's Deposit Account as such amount has become due and owing to Attorneys and has been billed to Client. Any unused deposit at the conclusion of Attorneys' services will be refunded to Client.

When any deposit is exhausted, Client shall pay an additional deposit within ten (10) days upon Attorneys' demand. Client Deposit Accounts shall be maintained at the retainer amount listed above. If Client fails to deposit sufficient funds to maintain Client Deposit Account at the above-agreed-to amount within ten (10) days after notification of amount due to so maintain, Attorneys reserve the right to withdraw from representation of Client and terminate all obligations for services, and Client shall not raise any objection to such withdrawal.

If it appears that this matter will proceed to trial, Attorneys shall calculate an estimate of the amount of fees and costs Attorneys believe they will incur in representing Client at trial and shall notify Client of this estimated amount as the trial approaches. Client shall pay into Client Deposit Account this calculated amount no later than thirty (30) days before the commencement of the trial. If Client fails to pay this calculated amount on or before thirty (30) days before the commencement of the trial, Attorneys reserve the right to withdraw from representation of Client and terminate all obligations for services, and Client shall not raise any objection to such withdrawal.

7. Lien

Client hereby grants Attorneys a lien on any and all causes of action Client may assert in any court action brought by Attorneys on Client's behalf under this Agreement. Attorneys' lien will be for any sums due and owing to Client to Attorneys at the conclusion or termination of Attorneys' services. The lien will attach to any recovery Client may obtain in the court action, whether by judgment, settlement or otherwise.

8. Disclaimer of Guarantee

Attorneys have made no promises or guarantees to Client about the outcome of Client's matter, and nothing in this Agreement shall be construed as such a promise or guarantee.

9. Discharge and Withdrawal

Client may discharge Attorneys at any time. Attorneys may withdraw only for good cause, Client's failure to pay Attorneys' fees as specified herein, or Client's failure to respond to Attorneys' letters within thirty (30) days. Among the acts constituting good cause are Client's breach of this Agreement, Client's refusal to cooperate with Attorneys or to follow Attorneys' advice on a material matter, or any act or circumstance that would render Attorneys' continuing representation of Client unlawful or unethical.

**CHECK WITH ATTORNEY BEFORE ADDING THIS NEXT PARAGRAPH**

**Furthermore, in the event that Client does not pay Client's bill within thirty (30) days of receipt, Attorneys shall have the right to withdraw representation from the litigation by filing a copy of the attached Substitute of Attorney. Client is obligated to sign the Substitute of Attorney, in advance, which is a material term of this Agreement which Attorneys may use**

**to withdraw representation in the event Client fails to pay Attorneys for Attorneys' services. Clients shall sign the Substitute of Attorney in advance to be effective the date upon which Attorneys execute the notice and file it with the Court. The parties acknowledge that this Substitute of Attorney would only be filed in the event that Client fails to pay Attorneys for Attorneys' services rendered, and it is the only way for Attorneys to discontinue their representation accordingly.**

Attorneys and Client each agree to sign any documents reasonably necessary to complete Attorneys' discharge or withdrawal.

10. Termination or Conclusion

Upon the termination or conclusion of Attorneys' services, all unpaid charges for services rendered and costs incurred or advanced through the termination or conclusion date shall become immediately due and payable. Attorneys acknowledge their obligation, upon Client's demand, to deliver Client's file to Client at or after the termination or conclusion of Attorneys' services. Client shall pay for any photocopying costs incurred by Attorneys to maintain a set of files if originals are to be provided to Client. Attorneys shall only be obligated to keep client's files for a period of two (2) years after the termination or conclusion of Attorneys' services in this matter. Thereafter, Attorneys are authorized to discard or destroy any materials held by Attorneys.

11. Commencement of Services

If this Agreement calls for a deposit by Client, then Attorneys shall have no obligation whatsoever to provide legal services to Client unless the deposit is paid in accordance with the terms of this Agreement. Otherwise, Attorneys' obligation to provide legal services shall commence upon Attorneys' receipt of a copy of this Agreement signed by Client. Attorneys and Client each agree to sign any additional documents necessary to complete Attorneys' discharge or withdrawal.

12. Disputes

Any dispute between the parties shall be resolved by binding arbitration in the County of Los Angeles, California, by the Los Angeles County's Bar Arbitration Panel, and in accordance with their rules applied under California law.

13. Notice

Client shall provide Attorneys with written notice of any change of address within ten (10) days of any change of address.

14. Miscellaneous

(a) This Agreement is executed voluntarily and without any duress or undue influence

on the parties or their officers, employees, agents or attorneys. Neither party is relying upon any inducements, promises or representations not contained herein made by the other party or any of its officers, employees, agents or attorneys. The parties hereto acknowledge that they have been represented in the litigations for, and in the preparation of this Agreement, by counsel, that they have had this Agreement fully explained to them by such counsel, and that they are aware of its contents and of its legal effect.

(b) Any provision of this Agreement which is invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective only to the extent of such invalidity, illegality or unenforceability, and shall not in any manner affect the remaining provisions hereof in such jurisdiction or render any other provision of this Agreement invalid, illegal or unenforceable in any other jurisdiction.

(c) This Agreement shall be governed by and interpreted in accordance with the laws of the State of California. The parties consent to personal jurisdiction and venue in the United States District Court for the Central District of California or the Superior Court for the County of Los Angeles.

(d) This Agreement contains the entire agreement between the parties as to the subject matter hereof. This Agreement may not be modified or amended except by a written amendment signed by an officer of each party.

(e) No party has heretofore assigned, transferred, granted, or purported to assign, transfer or grant, or by operation of law been required to assign, transfer or grant, any of the claims, counterclaims and defenses disposed of by this Agreement.

(f) Each party has cooperated in the drafting and preparation of the Agreement. Hence, the agreement shall not be construed against any particular party.

(g) Each party represents that it has the right, power and authority to execute this Agreement and to thereby become bound by this Agreement and each of the obligations imposed hereby.

IN WITNESS WHEREOF, the parties hereto have caused duplicate originals of this Agreement to be executed by their duly authorized officers on the date first above written.

CISLO & THOMAS LLP

Date: October \_\_, 2007

By: \_\_\_\_\_  
»«**Daniel M. Cislo, Esq.**

[CLIENT]

Date: October \_\_, 2007

By: \_\_\_\_\_  
[Representative]  
[Title]

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