

James Martin, PhD.
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

_____)	
In re)	Chapter 11 Cases
Adelphia Communications Corporation, <u>et al.</u> ,)	Case No. 02-41729 (REG)
Debtors.)	Jointly Administered
_____)	

FINAL APPLICATION OF JAMES MARTIN, AS EXPERT WITNESS FOR DEBTORS AND DEBTORS IN POSSESSION, FOR INTERIM ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES INCURRED FROM SEPTEMBER 1, 2006 THROUGH FEBRUARY 13, 2007

TO THE HONORABLE ROBERT E. GERBER,
UNITED STATES BANKRUPTCY JUDGE:

Dr. James Martin, expert witness for the above-captioned debtors and debtors in possession in these cases (the “Debtors”), in support of his final application (the “Final Application”) for allowance of compensation for professional services rendered and reimbursement of expenses incurred from September 1, 2006 through February 13, 2007 (the “Final Application Period”), respectfully represents:

PRELIMINARY STATEMENT

1. I am an assistant professor in the Department of Computer Science at Clemson University. I was retained by the defendants (collectively, “Adelphia”), to provide my independent expert opinion as to Plaintiff Rembrandt Technologies, LP’s (“Rembrandt”) allegations of infringement of U.S. Patent Nos. 5,710,761; 5,778,234; 6,131,159; and 6,950,444

(DX 1, DX 2, DX 3, and DX 4, respectively) by Adelphia's high-speed internet services. By order dating October 29, 2006, I was retained as an expert witness.

2. By this Final Application and pursuant to sections 330 and 331 of title 11 of the United States Code (the "Bankruptcy Code") and Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), I request that this Court authorize: (a) interim allowance of compensation for professional services I rendered to the Debtors during the Final Application Period in the amount of \$19,200; and (b) the reimbursement of actual and necessary expenses I incurred in connection with the rendering of such professional services in the amount of \$1049.29.

3. This Court has jurisdiction over this Final Application pursuant to 28 U.S.C. §§ 157 and 1334 and the "Standing Order of Referral of Cases to Bankruptcy Judges," dated July 10, 1984, of District Court Judge Robert T. Ward. Venue of these cases and this Final Application is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The predicates for the relief sought herein are sections 330 and 331 of chapter 11 of the Bankruptcy Code and Rule 2016 of the Bankruptcy Rules.

DR MARTIN'S FEES AND EXPENSES

4. My services in these cases have been substantial, necessary, and beneficial to the Debtors and to their estates, creditors, and other parties in interest. Throughout the Final Application Period, the variety and complexity of the issues involved in these cases and the need to address those issues on an expedited basis have required me to devote substantial time.

5. My services have included: 1) Developing and delivering the document 'REBUTTAL EXPERT REPORT OF DR. JIM MARTIN TO THE NOVEMBER 13, 2006

PRELIMINARY EXPERT REPORT OF KEVIN C. ALMERO TH'. 2)Advising the Debtors' counsel on the technical issues surrounding the patent infringements claimed by Rembrandt.

6. I have submitted a fee statement of professional services rendered and fees incurred to the Debtors from October 31,2006 through December 31, 2006. There have not been any further charges since December 31, 2006.

7. No agreement or understanding exists between myself and any other entity for the sharing of compensation to be received for services rendered in or in connection with this case. See Affidavit of Jim Martin, annexed hereto as Exhibit A.

8. I maintain written records of the time expended in rendering professional services to the Debtors. Such time records are made contemporaneously with the rendition of services by myself rendering such services. A copy of the daily time records for the Final Application Period, is annexed hereto as Exhibit B and then summarized by service categories is annexed hereto as Exhibit C.¹

9. I also maintain records of all actual and necessary out-of-pocket expenses incurred in connection with the rendition of professional services. A schedule setting forth the categories of expenses and amounts for which reimbursement is requested is annexed hereto as Exhibit D.

¹ Copies of the daily time records are being provided to the Court and the Office of the United States Trustee. Parties in interest required to be served with my monthly fee statements pursuant to the Compensation Order have previously been furnished with such daily time records. Copies of the time records will be made available to other parties in interest upon reasonable request.

10. Pursuant to the administrative order regarding guidelines for fees and disbursements for professionals in bankruptcy cases (the “Administrative Order”), I recorded my services rendered and disbursements incurred on different matters reasonably expected by the Debtors to continue over a period of at least three months and to constitute a substantial portion of the fees sought during the Final Application Period.

SUMMARY OF SERVICES RENDERED

11. Recitation of each and every item of professional services that I performed during the Final Application Period would unduly burden the Court. Hence, the following summary highlights the major areas to which I devoted time and attention during the Final Application Period. In the following subsections I summarize the major work areas.

A. **Technical Review of Patents**

12. During the Final Application Period, I reviewed the patents in question and the documents submitted by Rembrandt. I spent 10.8 hours on this work item.

B. **Technical discussions with Debtors’ Counsel**

13. During the Final Application Period, I engaged in technical discussions with the Debtors’ counsel. The majority of these discussions were designed to advise the Debtors’ counsel on the technical issues surrounding the patents and the alleged infringement issues. I spent 14.9 hours on this work item.

C. **Document Preparation**

14. During the Final Application Period, I prepared several documents including my retention affidavit and my rebuttal to Rembrandt’s expert witness. However, the

most significant document that I developed was the document delivered on 11/22/2006 entitled 'REBUTTAL EXPERT REPORT OF DR. JIM MARTIN TO THE NOVEMBER 13, 2006 PRELIMINARY EXPERT REPORT OF KEVIN C. ALMEROOTH'. In this document, I elaborated upon each claim of infringement identified by Dr Almeroth and provided my opinion (along with the rationale) as to why I did not agree. I spent 12.8 hours on this work item.

D. Preparation for Court Appearance

15. During the Final Application Period, I prepared for a court appearance. The Debtors' counsel helped with this activity. I spent 9.5 hours on this activity.

EVALUATING MY SERVICES

16. As highlighted above, during the Final Application Period, I provided extensive services to facilitate the Debtors' discharge of their duties as debtors in possession and otherwise move these cases forward. I have billed at an hourly rate using my usual consulting fee of \$400 per hour. The hours I expended were necessary.

REQUEST FOR FINAL COMPENSATION

17. The allowance of Final compensation for services rendered and reimbursement of expenses incurred in bankruptcy cases is expressly provided for in section 331 of the Bankruptcy Code:

[A] Debtors' attorney, or any professional person . . . may apply to the court not more than once every 120 days after an order for relief in a case under this title, or more often if the court permits, for such compensation for services rendered . . . as is provided under section 330 of this title.

11 U.S.C. § 331.

18. Concerning the level of compensation, section 330(a)(1)(A) of the Bankruptcy Code provides, in pertinent part, that the court may award to a professional person, including the Debtors' attorney:

reasonable compensation for actual, necessary services rendered by the . . . professional person, or attorney. . . .

11 U.S.C. § 330. The Congressional intent and policy expressed in section 330 of the Bankruptcy Code is to provide for adequate compensation to continue to attract qualified and competent practitioners to bankruptcy cases.

19. I submit that my request for Final compensation is reasonable. The services I rendered, as highlighted above, required substantial time and effort, much of which occurred under substantial pressure and during nights and weekends.

20. During the Final Application Period, I encountered certain complex issues, often requiring extensive research and drafting. I brought to bear technical expertise in many areas including DOCSIS MAC protocols, cable networks, embedded systems.

DISBURSEMENTS

21. I incurred actual and necessary out-of-pocket expenses during the Final Application Period in connection with the rendition of the professional services described above, in the amounts set forth in Exhibit D. By this Final Application, I respectfully request allowance of such reimbursement in full.

22. The disbursements for which I seek reimbursement include the following:

- (a) Travel Expenses - The \$1049.29 expenses were incurred on a trip to New York that was necessary for my services.

DR MARTIN'S NARRATIVE OF 13 FACTORS

23. *The Final Applicant's role, objectives, and accomplishments in the Adelpia Case;* My role was to serve as the expert witness for the defense. I was to evaluate the claims made by the Rembrandt expert, determine if infringements had occurred, and defend my opinions. The main output of my efforts was the document "REBUTTAL EXPERT REPORT OF DR. JIM MARTIN TO THE NOVEMBER 13, 2006 PRELIMINARY EXPERT REPORT OF KEVIN C. ALMEROOTH".

24. *The time billed for the services and the billing rates;* I have submitted a detailed account of all time billed. Given my responsibilities at Clemson University, I was actually only able to work for a relatively small amount of time. Therefore the amount of time billed for services is not out of the ordinary. My billing rate of \$400 per hour is typical for an expert witness with the necessary expertise.

25. *Steps taken by the Final Applicant to provide services solely within their scope of employment, as prescribed by their respective retention orders;* Because of my hectic schedule at Clemson University, I had to minimize the amount of hours worked. This forced me to provide services solely within the scope of employment.

26. *Coordination of the Final Applicant's services with those of other professionals in the Adelpia Case to limit or prevent duplication of work being done;* The Debtors' counsel and myself worked in a team environment to perform the work as efficiently, accurately, and quickly as possible. We assigned tasks and check pointed frequently to make sure we knew what the others were doing.

27. *Whether the services were necessary to the administration of, or beneficial at the time at which the services were rendered;* The services were absolutely necessary. The services performed assisted the Debtors in reaching settlement with Rembrandt.

28. *Whether the services were performed within a reasonable amount of time commensurate with the complexity, importance and nature of the problem, issue or task addressed;* The services were performed within 2 months which is extremely fast considering there were three separate patents.

29. *The opposition encountered and the problems that arose;* No opposition or problems.

30. *Compliance with Fee Committee Memorandum;* To the best of my knowledge I complied with all standards and memorandums.

31. *Any amounts by which the fees of the Final Applicant have been reduced voluntarily, with respect to an Interim Application or otherwise, prior to their submission to or review by the Fee Committee identified by work code or, if none, by description;* I am not reducing any of my fees voluntarily. All hours that I worked were directly applicable to fulfilling the objectives.

32. *Any amounts by which the fees of the Final Applicant have been reduced at the recommendation of the Fee Committee, with respect to an Interim Application or otherwise, identified by work code or, if none, by description;* The Fee Committee has not recommended any fee reductions.

33. *Any amounts by which the expenses of the Final Applicant have been reduced voluntarily, with respect to an Interim Application or otherwise, prior to their submission to or review by the Fee Committee identified by expense category;* No expenses were reduced voluntarily. They were all necessary to meet the objectives.

34. *Any amounts by which the expenses of the Final Applicant have been reduced at the recommendation of the Fee Committee, with respect to an Interim Application or otherwise, identified by expense category;* No expenses have been reduced at the recommendation of the Fee Committee.

35. *Any other matters that the Fee Committee believes should be considered by the Bankruptcy Court in its final determination of compensation and expense reimbursement for the Final Applicant.* There is no additional information the Fee Committee should be made aware of.

REDUCTIONS CHART

<i>36. Any amounts by which the fees of the Final Applicant have been reduced voluntarily, with respect to an Interim Application or otherwise, prior to their submission to or review by the Fee Committee identified by work code or, if none, by description;</i>	37. None
<i>38. Any amounts by which the fees of the Final Applicant have been reduced at the recommendation of the Fee Committee, with respect to an Interim Application or otherwise, identified by work code or, if none, by description;</i>	39. None
<i>40. Any amounts by which the expenses of the Final Applicant have been reduced voluntarily, with respect to an Interim Application or otherwise, prior to their submission to or review by the Fee Committee identified by expense category;</i>	41. None
<i>42. Any amounts by which the expenses of the Final Applicant have been reduced at the recommendation of the Fee Committee, with respect to an Interim Application or otherwise, identified by expense category;</i>	43. None

PROCEDURE

44. I have provided notice of this Final Application to: (i) the Office of the United States Trustee; (ii) Counsel to the agents for the Debtors' prepetition and postpetition bank lenders; (iii) Counsel to the Committees; (iv) the Debtors; and (v) the Fee Committee.

45. No previous application for the relief sought herein has been made to this or any other court.

CONCLUSION

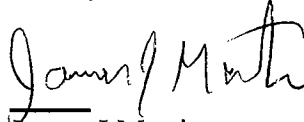
WHEREFORE, I respectfully request that this Court enter an order awarding me:

(a) interim compensation from the Debtors for services rendered from SEPTEMBER 1, 2006 THROUGH FEBRUARY 13, 2007, inclusive, in the amount of \$19,200.00.

(b) reimbursement of actual, necessary expenses incurred in connection with the rendition of such services, in the amount of \$1,049.29

Dated: March 27, 2007.

James Martin, PhD.

By: 
James J Martin

103 Santee Trail

Clemson, SC 29631