

FILED
SAN MATEO COUNTY

JUN 14 2012

Clerk of the Superior Court
By *Marasouli*
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO
CENTRAL BRANCH, COMPLEX CIVIL LITIGATION

ALTAVION, INC.

Plaintiff,

vs.

KONICA-MINOLTA HOLDINGS
INC., et al.,

Defendants.

Civil No. 467662

Assigned for All Purposes to
Hon. Marie S. Weiner, Dept. 2

**AMENDED JUDGMENT AFTER
COURT TRIAL**

On November 30, 2011, the Court entered its "Judgment After Court Trial," ("Judgment"). Post-trial motions followed, which have now all been adjudicated by various post-judgment orders, each of them identified herein. Based on the rulings contained in those various post-judgment orders, the Court now amends the Judgment as expressly set forth herein.

This case was presented for Court trial in Department 2 of this Court, commencing on October 4, 2010 with Opening Statements, the presentation of evidence, concluding on December 7, 2010 with oral Closing Arguments as well as written Closing Arguments filed March 7, 2011 through April 4, 2011, and subsequent objections. Glenn

Peterson of Millstone Peterson & Watts, LLP and John Costello and Pamela Bertani of The Costello Law Corporation appeared on behalf of Plaintiff Altavion, Inc., and Bryan Wilson, Marc Pernick and Daniel Wan of Morrison & Foerster LLP appeared on behalf of Defendants. A Final Statement of Decision was issued on November 10, 2011.

On November 30, 2011, Judgment was entered in favor of Plaintiff Altavion, Inc. against Defendant Konica Minolta Systems Laboratory Inc. in the amount of **\$1,513,400.00**, which is calculated as \$1,000,000.00 in monetary damages, plus prejudgment interest of \$513,400.00 (pursuant to Judgment entered on November 30, 2011, attached hereto as "Exhibit A" and incorporated herein by this reference). Plaintiff Altavion, Inc. is also awarded reasonable attorneys' fees and costs against Defendant Konica Minolta Systems Laboratory, Inc., pursuant to Civil Code Section 3426.4 in the amount of **\$3,297,102.50** in attorneys' fees and **\$79,778.30** in expert fees (pursuant to Amended Order on Plaintiff's Motion for Attorneys' Fees and Costs entered on May 21, 2012, attached hereto as "Exhibit B" and incorporated herein by this reference). Further Judgment is entered in favor of Cross-Defendant Altavion, Inc. against Cross-Complainant Konica Minolta Systems Laboratory, Inc., and that Cross-Complainant Konica Minolta Systems Laboratory, Inc. shall take nothing on its Cross-Complaint. As prevailing party, Plaintiff Altavion, Inc. shall also recover statutory costs against Defendant Konica Minolta Systems Laboratory, Inc. in the amount of **\$93,813.35** (\$77,306.75 for Peterson and \$16,506.60 for Costello) (pursuant to Order on Defendant's Motion to Tax Plaintiff's Statutory Costs entered on February 23, 2012, attached hereto as "Exhibit C" and incorporated herein by this reference).

Judgment is entered in favor of Defendants Konica Minolta Business Solutions U.S.A. Inc., Konica Minolta Business Technologies Inc., and Konica Minolta Technology Center Inc. against Plaintiff Altavion, Inc. as to all claims and causes of action alleged in the Second Amended Complaint. Plaintiff shall receive nothing from Defendants on its Second Amended Complaint. As prevailing parties, Defendants

Konica Minolta Business Solutions U.S.A. Inc., Konica Minolta Business Technologies Inc., and Konica Minolta Technology Center Inc. shall recover statutory costs against Plaintiff Altavion Inc. in the amount of **\$78,021.10** (pursuant to Order on Plaintiff's Motion to Tax Defendants' Costs entered on February 23, 2012, attached hereto as "Exhibit D" and incorporated herein by this reference).

JUDGMENT IS HEREBY ENTERED as follows:

Judgment is entered in favor of Plaintiff Altavion, Inc. against Defendant Konica Minolta Systems Laboratory Inc. in the total amount of **\$4,984,094.15** (calculated as \$1,000,000.00 in monetary damages, \$513,400 in *prejudgment* interest; \$3,297,102.50 in attorneys' fees; \$79,778.30 in expert fees; and \$93,813.35 in statutory costs).

Judgment is entered in favor of Defendants Konica Minolta Business Solutions U.S.A. Inc., Konica Minolta Business Technologies Inc., and Konica Minolta Technology Center Inc. against Plaintiff Altavion Inc. in the total amount of **\$78,021.10** (representing statutory costs as prevailing parties on the Second Amended Complaint).

DATED: **JUN 14 2012**



HONORABLE MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

**ENDORSED FILED
SAN MATEO COUNTY**

NOV 30 2011

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO
CENTRAL BRANCH, COMPLEX CIVIL LITIGATION**

ALTAVION, INC.,

Civil No. 467662

Plaintiff,

Assigned for All Purposes to
Hon. Marie S. Weiner, Dept. 2

vs.

**KONICA-MINOLTA HOLDINGS
INC., et al.,**

**NOTICE OF ENTRY OF
JUDGMENT AFTER COURT
TRIAL**

Defendants.

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

Upon order by the Court, under Section 664.5 of the Code of Civil Procedure,
PLEASE TAKE NOTICE that Judgment After Court Trial was entered in this
action on November 30, 2011. A filed endorsed copy of the Judgment After Court Trial
is attached to this Notice.

DATED: November 30, 2011

**JOHN FITTON
CLERK OF THE SUPERIOR COURT**

By: **TERRI MARAGOULAS**
Terri Maragoulas, Deputy Clerk

**ENDORSED FILED
SAN MATEO COUNTY**

NOV 30 2011

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO
CENTRAL BRANCH, COMPLEX CIVIL LITIGATION**

ALTAVION, INC.,

Civil No. 467662

Plaintiff,

Assigned for All Purposes to
Hon. Marie S. Weiner, Dept. 2

vs.

**JUDGMENT AFTER COURT
TRIAL**

**KONICA-MINOLTA HOLDINGS
INC., et al.,**

Defendants.

This case was presented for Court Trial in Department 2 of this Court, commencing on October 4, 2010 with Opening Statements, the presentation of evidence, concluding on December 7, 2010 with oral Closing Arguments as well as written Closing Arguments filed March 7, 2011 through April 4, 2011, and subsequent objections. Glenn Peterson of Millstone Peterson and Watts LLP and John Costello and Pamela Bertani of Costello Law Corporation appeared on behalf of Plaintiff Altavion Inc., and Bryan Wilson, Marc Pernick, and Daniel Wan of Morrison & Foerster LLP appeared on behalf of Defendants. A Final Statement of Decision was issued on November 10, 2011.

Judgment is entered in favor of Plaintiff Altavion Inc. against Defendant Konica Minolta Systems Laboratory Inc. in the amount of \$1,513,400.00, which is calculated as \$1,000,000.00 in monetary damages, plus prejudgment interests of \$513,400.00. Plaintiff Altavion Inc. is also awarded reasonable attorneys' fees and costs against Defendant Konica Minolta Systems Laboratory Inc., pursuant to Civil Code Section 3426.4, in an amount to be determined upon timely motion for award of fees and costs, in conformity with CRC Rule 3.1702. Further Judgment is entered in favor of Cross-Defendant Altavion Inc. against Cross-Complainant Konica Minolta Systems Laboratory Inc., and that Cross-Complainant Konica Minolta Systems Laboratory Inc. shall take nothing on its Cross-Complaint. As prevailing party, Plaintiff Altavion Inc. shall also recovery statutory costs against Defendant Konica Minolta Systems Laboratory Inc. upon proper and timely submission of a Memorandum of Costs, in conformity with C.C.P. Section 1033.5 and CRC Rule 3.1700.

Judgment is entered in favor of Defendants Konica Minolta Business Solutions U.S.A. Inc., Konica Minolta Business Technologies Inc., and Konica Minolta Technology Center Inc. against Plaintiff Altavion Inc. as to all claims and causes of action alleged in the Second Amended Complaint. Plaintiff shall receive nothing from Defendants on its Second Amended Complaint. As prevailing parties, Defendants Konica Minolta Business Solutions U.S.A. Inc., Konica Minolta Business Technologies Inc., and Konica Minolta Technology Center Inc. shall recovery statutory costs against Plaintiff Altavion Inc. upon proper and timely submission of a Memorandum of Costs.

Pursuant to Code of Civil Procedure section 664.5(d), the Clerk of the Court shall
give Notice of entry of this judgment

DATED: November 30, 2011



HON. MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

ENDORSED FILED
SAN MATEO COUNTY

NOV 30 2011

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

AFFIDAVIT OF MAILING

CASE NUMBER: CIV 467662

ALTAVION, INC., vs KONICA-MINOLTA HOLDINGS INC., et al.,

DOCUMENT: NOTICE OF ENTRY OF JUDGMENT AFTER COURT TRIAL

I declare, under penalty of perjury, that on the following date I deposited in the United State Post Office Mail Box at San Mateo, California a true copy of the foregoing document, enclosed in an envelope, with the proper and necessary postage prepaid thereon, and addressed to the following:

GLENN PETERSON
STEPHEN HAMILTON
MILLSTONE PETERSON & WATTS LLP
2267 Lava Ridge Court, Suite 210
Roseville, CA 95661

JOHN COSTELLO
PAMELA BERTANI
COSTELLO LAW CORPORATION
331 J. Street, Suite 200
Sacramento, CA 95814

BRYAN WILSON
MARC PERNICK
DANIEL WAN
JEREMIAH TORRES
MORRISON & FOERSTER LLP
755 Page Mill Road
PaloAlto, CA 94304-1018

Executed on: November 30, 2011
at San Mateo, California

JOHN FITTON
CLERK OF THE SUPERIOR COURT

TERRI MARAGOULAS
By: _____
Terri Maragoulas, Deputy Clerk

**ENDORSED FILED
SAN MATEO COUNTY**

MAY 21 2012

Clerk of the Superior Court
By **TERRI MARAGOULAS**
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO
CENTRAL BRANCH, COMPLEX CIVIL LITIGATION

ALTAVION, INC.,

Civil No. 467662

Plaintiff,

Assigned for All Purposes to
Hon. Marie S. Weiner, Dept. 2

vs.

KONICA-MINOLTA HOLDINGS
INC., et al.,

**AMENDED ORDER ON
PLAINTIFF'S MOTION FOR
ATTORNEYS' FEES AND COSTS**

Defendants.

On February 22, 2012, hearing was held on Plaintiffs' Motion for Attorneys' Fees and Costs in Department 2 of this Court, before the Honorable Marie S. Weiner. Glenn Peterson of Millstone Peterson and Watts LLP and John Costello of Costello Law Corporation appeared on behalf of Plaintiff Altavion Inc., and Bryan Wilson, Daniel Wan, Brian Cupka of Morrison & Foerster LLP appeared on behalf of Defendants.

Upon due consideration of the briefs and evidence presented, and the Court having presided over this case and trial, and upon due consideration of the oral argument of counsel for the parties, and having taken the matter under submission, and having allowed supplemental evidence to be presented by Plaintiff filed February 28, 2012,

IT IS HEREBY ORDERED as follows:

Plaintiff Altavion Inc. is awarded attorneys' fees, pursuant to Civil Code Section 3426.4, against Defendant Konica Minolta Systems Laboratory Inc. in the amount of \$3,297,102.50. The attorneys' fees are calculated as follows:

The Court uses \$600.00 per hour as the reasonable hourly rate prevailing in the community for similar work for senior attorneys Glenn Peterson and John Costello; \$350.00 per hour for Pamela Bertani's work, \$250.00 per hour for Stephen Hamilton's work; and \$175.00 per hour for the paralegal Leslie Fisher. The Court used the following number of hours: 1917.2 plus 25 (for fee motion) for Peterson; 1674.5 for Bertani; 522.1 for Fisher; 39.6 for Hamilton, and for Costello 2407.4 hours (2480.8 plus 7 for fee motion, *minus* 48.5 hours spent working to place Plaintiff in good corporate standing so that it could sue in the first place, *minus* 30.3 hours spent to obtain financing for this lawsuit, *minus* 1.6 hours spent on legal services to Bill Zivic personally). The Court is *not* awarding other fees requested for the services on this fee motion, as they were excessive or not reasonably necessary.

This lawsuit was brought by Plaintiff alleging seven causes of action and suing six defendants. It is not subject to reasonable dispute that this was a complex case involving intellectual property claims. Plaintiff only prevailed on one cause of action (for misappropriation) against one defendant. On the other hand, most of the claims were inextricably intertwined, or the facts and evidence were interlinked. All of the named defendants were interrelated. The time records for the attorneys are not easily segregated by claim or by specific defendant. Only a fraction of the amount of compensatory damages sought were ultimately awarded. Inefficiencies existed in the prosecution of the case, as identified in the opposition, and otherwise. The skill and experience of the

Plaintiff's attorneys is already recognized by the hourly rates utilized by the Court in calculating the lodestar. On balance, the Court exercises its discretion and DENIES the Plaintiff's request for a multiplier/enhancement of the lodestar amount.

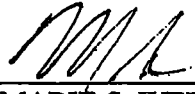
Plaintiff Altavion Inc. is awarded expert witness fees, pursuant to Civil Code Section 3426.4, against Konica Minolta Systems Laboratory Inc. in the amount of \$79,778.30. The expert fees are calculated as follows: \$106,203.30 requested, *minus* \$18,000.00 for Hussein, *minus* \$8425.00 for Barnes. Barnes performed tax services to Plaintiff, which was in a suspended corporate status, so that it would be in good standing so as to be allowed to sue Defendant – this is not a expert witness fee pertaining to misappropriation. Evidence was presented at trial that Hussein regularly worked for Plaintiff in the past. Although he potentially provided “expert” services to Plaintiff pretrial, his testimony was not admissible due to hearsay as he was not made available to appear at trial or for full deposition as a disclosed expert. Hussein is apparently in the Middle East, and U.S. Immigration will not allow him to return here. In addition, the \$18,000 for his services is apparently a “block” billing with no invoice or other breakdown of the services provided, hours, rates, etc. Accordingly the Hussein expert fees are unreliable, and will not be awarded against Defendant.

Plaintiff's request for “Miscellaneous Costs” of \$14,271.18 is DENIED, as these are general administrative expenses in conducting a lawsuit, such as postage and delivery. Further, such “overhead” overlaps with Plaintiff's request for an increased hourly fee rate for attorney services. In addition, such costs are discretionary under Section 3426.4, and the Court exercises its discretion not to award them.

If Plaintiff desires the formality of an Amended Judgment, Plaintiff shall prepare, circulate, and submit an Amended Judgment within 10 days.

Any and all other relief is DENIED.

DATED: May 18, 2012



HON. MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

SERVICE LIST
Altavion v. Konica-Minolta
Civil No. 467662
as of February 5, 2010

Attorneys for Plaintiff:

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2267 Lava Ridge Court, Suite 210
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**JOHN COSTELLO
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Attorneys for Defendants:

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(650) 813-5600
fax (650) 494-0792**

MAY 21 2012

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

AFFIDAVIT OF MAILING

CASE NUMBER: CIV 467662

ALTAVION, INC., vs KONICA-MINOLTA HOLDINGS INC., et al.,

**DOCUMENTS : AMENDED ORDER ON PLAINTIFF'S MOTION FOR
ATTORNEYS' FEES AND COSTS**

I declare, under penalty of perjury, that on the following date I deposited in the United State Post Office Mail Box at San Mateo, California a true copy of the foregoing document, enclosed in an envelope, with the proper and necessary postage prepaid thereon, and addressed to the following:

GLENN PETERSON
STEPHEN HAMILTON
MILLSTONE PETERSON & WATTS LLP
2267 Lava Ridge Court, Suite 210
Roseville, CA 95661

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JEREMIAH TORRES
MORRISON & FOERSTER LLP
755 Page Mill Road
PaloAlto, CA 94304-1018

Executed on: May 21, 2012
at San Mateo, California

JOHN FITTON
CLERK OF THE SUPERIOR COURT

By: TERRI MARAGOULAS
Terri Maragoulas, Deputy Clerk

**ENDORSED FILED
SAN MATEO COUNTY**

FEB 23 2012

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO
CENTRAL BRANCH, COMPLEX CIVIL LITIGATION

ALTAVION, INC.,

Civil No. 467662

Plaintiff,

Assigned for All Purposes to
Hon. Marie S. Weiner, Dept. 2

vs.

KONICA-MINOLTA HOLDINGS
INC., et al.,

**ORDER ON DEFENDANT'S
MOTION TO TAX PLAINTIFF'S
STATUTORY COSTS**

Defendants.

On February 22, 2012, hearing was held on Defendant Konica Minolta Systems Laboratory Inc.'s Motion to Tax Costs of Plaintiff in Department 2 of this Court, before the Honorable Marie S. Weiner. Glenn Peterson of Millstone Peterson and Watts LLP and John Costello of Costello Law Corporation appeared on behalf of Plaintiff Altavion Inc., and Bryan Wilson, Daniel Wan, Brian Cupka of Morrison & Foerster LLP appeared on behalf of Defendants.

Upon due consideration of the briefs and evidence presented, and the Court having presided over this case and trial, and upon due consideration of the oral argument of counsel for the parties, and having taken the matter under submission,

IT IS HEREBY ORDERED as follows:

In the Memorandum of Costs, Plaintiff's counsel unusually submitted two separate Memo of Costs, one for costs incurred by attorney Peterson and on for costs incurred by attorney Costello. These total \$253,365.02. The matter is further complicated in that the Memos of Costs include statutory costs sought pursuant to C.C.P. Section 1033.5 and discretionary costs sought pursuant to C.C. Section 3426.4.

The motion to tax is GRANTED as to the claim for \$25,480.43 under Item #13 "other" submitted by Peterson, which are for the services of attorneys and other professionals regarding out of state depositions, and specifically their attorneys' fees which are not a statutory "costs" and are only potentially awardable as "fees" upon proper application -- but they were *not* included in the fee motion filed by Plaintiff. On the other hand, the specific detailed invoices of these out of state attorneys *do* present expenses which *are* recoverable statutory costs totalling \$2198.85:

Fennemore Craig;	\$286.00 appearance fee
	\$78.00 issuance of subpoenas
	\$478.50 service of process
Ferris:	\$80.00 service of process
	\$6.00 court fee
Keegan Werlin	\$280.00 filing fees
	\$380.00 service of process and investigation
McGinnis:	\$602.00 service of process and investigation
	\$8.35 court fee

Thus the motion to tax is GRANTED in the net amount of \$23,281.58 as to the bills of out of state attorneys.

The motion to tax \$4175.00 (on the Peterson Memo) as costs incurred for a mediation which was not court-ordered and was cancelled by Plaintiff's counsel in June 2008 is GRANTED.

The motion to tax \$3601.29 on the Peterson Memo and \$260.25 on the Costello Memo for court transcripts is GRANTED, as none of these court transcripts were court ordered.

The motion to tax lodging incurred by Plaintiff's counsel during trial, specifically \$10,538.84 on the Peterson Memo and \$6,141.41 on the Costello Memo is GRANTED.

The motion to tax the costs of service of process upon three Japanese Defendants against whom Plaintiff did not prevail, including the cost to translate the complaint into Japanese for these three Defendants alone, in the total amount of \$5,350.00, is GRANTED. These items are specifically costs incurred as to these specific Defendants individually.

The request that all costs be reduced pro rata is DENIED. Other than items which are specifically attributable to particular Defendants, the proceedings and litigation and trial were presented uniformly by Plaintiff and by Defendants such that it is reasonably likely that the costs would have been incurred regardless of the number of Defendants as they were all related entities called "Konica Minolta" all involving common transactions.

Defendant's Motion to Tax the \$106,203.30 listed as Item #8b "Expert fees (per Code of Civil Procedure section 998) on the Costello Memo is GRANTED. These expert witness fees are not recoverable as statutory costs under C.C.P. Section 998 nor Section 1033.5, but rather are only recoverable as discretionary costs under Civil Code Section 3426.4, which the Court will separately address in its Order on the Fee Motion.

The remainder of the Defendant's Motion to Tax is DENIED.

DATED: February 22, 2012



HON. MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

SERVICE LIST
Altavion v. Konica-Minolta
Civil No. 467662
as of February 5, 2010

Attorneys for Plaintiff:

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Attorneys for Defendants:

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**ENDORSED FILED
SAN MATEO COUNTY**

FEB 23 2012

Clerk of the Superior Court
By TERRI MARAGOULAS
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO
CENTRAL BRANCH, COMPLEX CIVIL LITIGATION

ALTAVION, INC.,

Civil No. 467662

Plaintiff,

Assigned for All Purposes to
Hon. Marie S. Weiner, Dept. 2

vs.

**ORDER ON PLAINTIFF'S MOTION
TO TAX DEFENDANTS' COSTS**

KONICA-MINOLTA HOLDINGS
INC., et al.,

Defendants.

On February 22, 2012, hearing was held on Plaintiff's Motion to Tax Costs Claimed by Certain Defendants in Department 2 of this Court, before the Honorable Marie S. Weiner. Glenn Peterson of Millstone Peterson and Watts LLP and John Costello of Costello Law Corporation appeared on behalf of Plaintiff Altavion Inc., and Bryan Wilson, Daniel Wan, Brian Cupka of Morrison & Foerster LLP appeared on behalf of Defendants.

Upon due consideration of the briefs and evidence presented, and the Court having presided over this case and trial, and upon due consideration of the oral argument of counsel for the parties, and having taken the matter under submission,

IT IS HEREBY ORDERED as follows:

Plaintiff's Motion to Tax certain costs set forth in the Amended Memorandum of Costs of Defendants Konica Minolta Business Technologies Inc., Konica Minolta Business Solutions USA Inc., and Konica Minolta Technology Center Inc. is GRANTED as to the \$80,706.50 claimed for hotel charges and client representative travel expenses (as part of the total costs prior to pro-rate reduction); and is GRANTED as to the pro-rata calculation of the total costs of 75% between the various Defendants (3 out of 4), such that the Court finds that it should instead be 3/5 (as three out of five active Defendants are claiming costs, as Catrone was dismissed in exchange for an agreement that no costs would be sought, and KMSL was not a prevailing party); and the motion to tax is otherwise DENIED.

Accordingly, Defendants are entitled to recover statutory costs totalling \$78,021.10, calculated as follows:

Claimed Costs:	\$210,741.68
Less	< 80,706.50 >
Subtotal	\$130,035.18
	x 60% pro rata share
TOTAL	\$78,021.10

DATED: February 22, 2012


HON. MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

SERVICE LIST
Altavion v. Konica-Minolta
Civil No. 467662
as of February 5, 2010

Attorneys for Plaintiff:

**GLENN PETERSON
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Attorneys for Defendants:

**BRYAN WILSON
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Palo Alto, CA 94304-1018
(650) 813-5600
fax (650) 494-0792**

1 CASE TITLE: *Altavion, Inc. v. Konica-Minolta Laboratory Systems, Inc., et al.*

2 COURT/CASE NO: San Mateo County Superior Court, Case No. CIV 467662

3 **PROOF OF SERVICE**

4 I am employed in the County of Placer; my business address is 2267 Lava Ridge Court,
5 Suite 210, Roseville, California. I am over the age of 18 years and not a party to the foregoing
6 action.

6 On May 24, 2012, I served the following documents:

7 ***AMENDED JUDGMENT AFTER COURT TRIAL***

8 **by electronic service** [Code Civ. Proc 1010.6] by electronically mailing a true and
9 correct copy of the documents listed above through electronic mail to the e-mail
10 address(es) set forth below per agreement in accordance with Code of Civil Procedure
11 section 1010.16.

12 **by mail** on the following party(ies) in said action, in accordance with Code of Civil
13 Procedure § 1013a(3), by placing a true copy thereof enclosed in a sealed envelope in a
14 designated area for outgoing mail, addressed as set forth below. At Millstone Peterson &
15 Watts, LLP, mail placed in that designated area is given the correct amount of postage and
16 is deposited that same day, in the ordinary course of business, in a United States mailbox
17 in the City of Roseville, California.

14 ***Marc J. Pernick, Esq.***

15 ***Dan Wan, Esq.***

15 MORRISON & FOERSTER LLP

16 755 Page Mill Road

16 Palo Alto, CA 94304

17 Marc J. Pernick - MPernick@mofo.com

17 Dan Wan - DWan@mofo.com

18 Frances Sagapolu - FSagapolu@mofo.com

18 Bryan J. Wilson - bwilson@mofo.com

19 *Attorneys for Defendants*

20 ***John P. Costello, Esq.***

21 COSTELLO LAW CORPORATION

22 331 J Street, Suite 200


22 Sacramento, CA 95814

23 John P. Costello - jcostello@costellolawcorp.com

23 Heidi Hernandez - hhernandez@costellolawcorp.com

24 *Attorneys for Plaintiff*

25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct. Executed on May 24, 2012, at Roseville, California.

27 
28 KATE MOORE