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11 Action Network, Inc., and Council on American Islamic
Relations of Santa Clara, Inc.
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DAVIS WRIGHT TREMAINE LLP

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14 IN THE UNITED STATES DISTRICT COURT
15 THE NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 MICHAEL SAVAGE,
18 Plaintiff,

19 v.

20 COUNCIL ON AMERICAN-ISLAMIC
RELATIONS, INC., COUNCIL ON
AMERICAN ISLAMIC RELATIONS ACTION)
21 NETWORK, INC., COUNCIL ON AMERICAN)
ISLAMIC RELATIONS OF SANTA CLARA,)
22 INC., and DOES 3-100,)
23 Defendants.)

) Case No. CV07-06076 SI

)
) **DECLARATION OF FRED VON**
) **LOHMANN IN SUPPORT OF MOTION**
) **FOR AWARD OF ATTORNEYS' FEES**
) **AND COSTS**

) Date: October 3, 2008

) Time: 9:00 a.m.

) Honorable Susan Illston

DAVIS WRIGHT TREMAINE LLP

1 1. I am an attorney for the Defendants in this matter and a member in good standing
2 of the California State Bar, and am admitted to practice before this Court. I have personal
3 knowledge of the matters stated in this declaration. If called upon to do so, I am competent to
4 testify to all matters set forth herein.

5 2. I am a Senior Intellectual Property Attorney at Electronic Frontier Foundation
6 (“EFF”), which is a non-for-profit corporation organized and existing under the laws of The
7 Commonwealth of Massachusetts with its principal place of business in San Francisco, California.
8 I have held that position since 2001.

9 3. EFF generally represents clients without charge in precedent-setting litigation of
10 national importance involving novel and complex issues arising from the intersection of new
11 technology with privacy rights, free press and free expression rights, and other civil liberties.
12 Nevertheless, EFF attorneys have hourly rates for purposes of cases in which EFF is entitled to
13 attorneys’ fees.
14

15 4. My 2007 hourly rate, which is the hourly rate for purposes of this matter, is \$450
16 per hour.
17

18 5. My rates are well within the prevailing hourly rates in the San Francisco Bay Area
19 for lawyers of comparable education, expertise, and experience who handle matters of the type
20 involved in this litigation.

21 6. Courts have found EFF’s rates to be reasonable in several recent cases. In *Elec.*
22 *Frontier Foundation v. Office of the Director of National Intelligence*, No. 07-05278 SI, 2008
23 U.S. Dist. LEXIS 44050 (N.D. Cal. June 4, 2008), for example, this Court found EFF’s 2007
24 hourly rates to be reasonable. In *Apple v. Does* (Santa Clara Superior Ct., Case No. 1-04-CV-
25 032178), EFF was awarded attorneys’ fees in accordance with their lawyers’ 2006 and 2007 rates.
26 *Id.* In *In re Sony BMG CD Technologies Litigation* (S.D.N.Y. Case No 1:05-cv-09575-NRB),
27 EFF attorneys were paid fees at their hourly rates as part of the settlement of the action in June
28

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1 2006. *Id.* In addition, in *OPG v. Diebold*, 337 F. Supp. 2d 1195 (N.D. Cal. 2004), EFF attorneys
2 were paid fees after a summary judgment victory at the organization's 2004 hourly rates.

3 7. I received my Juris Doctor degree with distinction from Stanford Law School and
4 was elected to the Order of the Coif in 1996.

5 8. Prior to joining EFF, I was an attorney with Morrison & Foerster LLP in San
6 Francisco (1997-1998, 1999-2000) and was a visiting researcher with the Berkeley Center for Law
7 & Technology (2000-2001). I also served as a law clerk to Judge Betty B. Fletcher of the Ninth
8 Circuit Court of Appeals (1998-1999) and Judge Thelton E. Henderson of the Northern District of
9 California (1996-1997).
10

11 9. I have participated in a number of high-profile copyright cases, including serving as
12 counsel in *MGM v. Grokster*, which I argued before the Ninth Circuit and which was decided by
13 the Supreme Court in 2005. I have authored 11 amicus briefs on intellectual property matters that
14 have been accepted by federal courts, including the U.S. Supreme Court. I have received
15 numerous recognitions for my intellectual property expertise. In 2008, I was named one of the 50
16 leading intellectual property lawyers in California by the Daily Journal, which has also honored
17 me as among the 100 most influential lawyers in California from 2004-08. I was also named a
18 Northern California "SuperLawyer" for my expertise in intellectual property litigation by San
19 Francisco magazine. I received a California Lawyer of the Year (CLAY) Award for Intellectual
20 Property in 2003 from California Lawyer magazine.
21

22 10. After a careful review of my time records on the case which were recorded
23 contemporaneously as the work was performed, I estimate the minimum number of hours I spent
24 on the answer, motion for judgment on the pleadings, reply in support of the motion for judgment
25 on the pleadings, motion for judicial notice, and the motion for fees as follows:
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