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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 MEDTRICA SOLUTIONS LTD.,

10 Plaintiff,

11 v.

12 CYGNUS MEDICAL LLC,

13 Defendant.

Case No. C12-538RSL

ORDER GRANTING MOTIONS
FOR ATTORNEY'S FEES

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15 This matter comes before the Court on “Medtrica’s Motion For Attorneys’ Fees,” Dkt.
16 # 158; and “Third-Party Defendant Steris Corp.’s Renewed Motion For Attorney Fees And
17 Costs,” Dkt. # 159. Medtrica Solutions Ltd. (“Medtrica”) and STERIS Corp. (“Steris”)
18 (collectively “defendants”) seek attorney’s fees in light of this Court’s order reconsidering its
19 denial of the parties’ previous motion for attorney’s fees. Dkt. # 156. Having reviewed the
20 memoranda and exhibits submitted by the parties, the Court finds as follows.

21 **I. BACKGROUND**

22 This patent litigation concerns U.S. Patent No. 7,648,023 (“the ‘023 Patent”), which
23 relates to a pre-cleaning kit for an endoscope that can be used immediately after surgery to clear
24 debris from the channel and insertion tube of the endoscope before a more thorough cleaning can
25 be completed. ‘023 Patent (Dkt. # 111-1 at 2), col. 1, lines 5-10. In March 2012, defendant and
26 counterclaimant Cygnus Medical LLC (“Cygnus”), the owner of the ‘023 Patent, sent Medtrica a
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28 ORDER GRANTING MOTIONS
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1 cease and desist letter. Dkt. # 132-1 at 2. Cygnus alleged that Medtrica’s endoscope pre-
2 cleaning kit, the “Appli-Kit,” infringed the ‘023 Patent and demanded that Medtrica stop
3 manufacturing and selling the product. Id. In response, Medtrica filed the Complaint in the
4 above-captioned matter, seeking a declaration of non-infringement and invalidity. Dkt. # 24 at
5 5. Shortly thereafter, Cygnus sent a cease and desist letter to Steris, the largest purchaser of
6 Medtrica’s endoscope pre-cleaning kits. Dkt. # 139 at 18. Steris sells the kits under the name,
7 “Revital-Ox.” Dkt. # 112 ¶ 2.

8 Cygnus filed a counterclaim against Medtrica and a third-party complaint against Steris.
9 Dkt. # 74; Dkt. # 75. Cygnus alleged that the “Appli-Kit” and “Revital-Ox” (the “Accused
10 Products”) infringed Claims 1-4, 10, and 11 of the ‘023 Patent and sought injunctive relief and
11 damages. Id. The Accused Products are stand-up pouches that contain pre-diluted enzymatic
12 detergent and a sponge. Dkt. # 41 ¶ 2; Dkt. # 112 ¶ 2. Each pouch contains v-shaped “notches”
13 on both sides approximately two inches below the top of the pouch. Dkt. # 41 at 4-7; Dkt. # 112
14 ¶ 3; Dkt. # 110 at 3. The ‘023 Patent describes an endoscope pre-cleaning kit that includes a
15 pouch containing a “weakened line” just below the top of the pouch. ‘023 Patent, col. 7, lines
16 13-15.

17 In its June 28, 2013 order construing the patent terms, the Court construed the term
18 “weakened line” to mean “a physical, identifiable segment of material that is less strong than the
19 surrounding material.” Dkt. # 108 at 8. The Court based this claim construction in part on the
20 prosecution history, which included Cygnus’s explanation that “the at least one weakened line”
21 “is an important aspect of the present invention because it provides a user with a quick and
22 convenient access [to] the detergent in order to clean the endoscope.” Dkt. # 96-6 at 11-12.

23 The Court granted defendants’ motion for summary judgment of non-infringement on
24 March 3, 2014. Dkt. # 128. The Court subsequently denied defendants’ motion for attorney’s
25 fees under 35 U.S.C. § 285, Dkt. # 144, finding no evidence of bad faith or litigation misconduct
26 on Cygnus’ part. The Court then reconsidered this decision in light of the Supreme Court’s
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1 decision in Octane Fitness, LLC v. Icon Health & Fitness, Inc., No. 12-1184, ___ U.S. ___, 134
2 S.Ct. 1749, 2014 WL 1672251 (Apr. 29, 2014), which changed the standard for awarding
3 attorney’s fees under § 285. Dkt. # 156. The Court found that this case was exceptional under
4 § 285 and that attorney’s fees were warranted, specifically finding that “this case is uncommon
5 based on the absence of evidence supporting Cygnus’s theories of infringement at summary
6 judgment.” Dkt. # 156 at 4 (“Based on Cygnus’s failure to produce any evidence supporting
7 infringement, despite ample opportunity to obtain supporting evidence, the Court, in its
8 discretion, GRANTS Medtrica’s and Steris’s motion for reconsideration.”). The Court did not
9 alter its previous findings that there was no evidence of bad faith or litigation misconduct. Id. at
10 3. The Court instructed defendants to file a motion for reasonable attorney’s fees including
11 supporting documents itemizing the fees and costs incurred in defending against Cygnus’s
12 infringement claims, finding that defendants’ filings to date had not allowed the Court to
13 determine a reasonable amount of fees. Id. at 5. The instant motions followed. Dkt. # 158; Dkt.
14 # 159. Medtrica is represented by attorneys from Jeffer Mangels Butler & Mitchell LLP
15 (“JMBM”) in Los Angeles and Landsman & Fleming, LLP (“Landsman”) in Seattle; Steris is
16 represented by Lindsay Hart, LLP (“LH”) in Seattle.

17 **II. LEGAL STANDARD**

18 In patent actions, the Court has discretion to award reasonable attorney’s fees to the
19 prevailing party in exceptional cases. 35 U.S.C. § 285. In determining a reasonable award of
20 attorney fees, the Court may use the lodestar approach. See Ballen v. City of Redmond, 466
21 F.3d 736, 746 (9th Cir. 2006). Under this approach, the Court determines a lodestar figure by
22 multiplying the number of hours reasonably spent on the litigation by a reasonable hourly rate.
23 Id. This presumptively-reasonable lodestar figure may be increased or decreased based on a
24 variety of factors, such as skill and time required, novelty of the questions involved, fixed or
25 contingent fee basis, results obtained, and/or relationship between attorney and client. Id. (citing
26 Kerr v. Screen Extras Guild, Inc., 526 F.2d 67, 70 (9th Cir. 1975)). The reasonable hourly rate is

1 usually determined with reference to the rates charged by lawyers in the same legal community
2 with comparable skills and reputations. See Blum v. Stenson, 465 U.S. 886, 895 n. 11 (1984).
3 Cygnus attacks defendants’ fee requests on several bases, and this order focuses primarily on
4 these disputed issues.¹

5 III. DISCUSSION

6 A. Fees For Time During Which Case Was “Exceptional”

7 Defendants seek attorney’s fees covering the entire course of this litigation, on the
8 grounds that the entire case was exceptional under § 285, and not simply a given phase (such as
9 the phase following the Court’s claim construction order). Dkt. # 175 (Steris Reply); Dkt. # 176
10 at 4 (Medtrica Reply). Defendants argue that it is clear that Cygnus lacked evidence of
11 infringement under any claim construction, thereby entitling defendants to fees for all of their
12 actions in this case. Dkt. # 176 at 7. Defendants emphasize that the Ninth Circuit permits
13 parties to be awarded attorney’s fees for all steps leading to their ultimate victory, including their
14 litigation of motions and theories that proved unsuccessful. See Cabrales v. County of Los
15 Angeles, 935 F.2d 1050, 1053 (9th Cir. 1991).

16 Federal Circuit authority indicates that a party may only be awarded attorney’s fees under
17 § 285 to the extent that a case was exceptional, i.e., to the extent of the opposing party’s
18 misconduct or after the point that the opposing party’s claim became baseless. See Special
19 Devices, Inc. v. OEA, Inc., 269 F.3d 1340, 1344 (Fed. Cir. 2001) (“[T]he amount of the attorney
20 fees [awarded] depends on the extent to which the case is exceptional.”); see also Monolithic
21 power Sys., Inc. v. O2 Micro Intern. Ltd., 726 F.3d 1359, 1369 (Fed. Cir. 2013) (“[A]n
22 exceptional case finding based on litigation misconduct usually does not support a full award of
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24 ¹ While the Court has made its own examination of defendants’ invoices to find reasonableness,
25 the Court notes that Cygnus does not specifically challenge the reasonableness of the rates and hours
26 billed by LH or Landsman in this case; nor does Cygnus identify specific problems with the tasks billed
27 by JMBM, the hours spent on these tasks, or most of defendants’ costs. Instead, Cygnus primarily
28 argues that defendants should not be able to recover fees relating to certain phases of the litigation, and
that JMBM’s rates are unreasonable. Dkt. # 172 (Cygnus Resp.).

1 attorney's fees Instead, a fee award must bear some relation to the extent of the
2 misconduct.”) (internal citations and quotation marks omitted). This case became clearly
3 exceptional only after the Court issued its order on claim construction; Cygnus lacked sufficient
4 evidence to support its case given the Court's construction, which was not identical to the
5 construction proposed by either party. The Court will not speculate about whether Cygnus
6 would or could have gathered sufficient evidence to defeat plaintiff's motion for summary
7 judgment (or to at least render this case non-exceptional) had the Court adopted Cygnus'
8 proposed claim construction; the Court sees no clear answer to this question. As the Court will
9 award attorney's fees only for the exceptional portion of this case, defendants are only entitled to
10 fees for hours worked after the Court issued its claim construction order on June 28, 2013.²

11 **B. Reasonable Rates**

12 A fee applicant has the burden of proving the reasonableness of the attorney fees
13 requested, producing satisfactory evidence (beyond the affidavits of interested counsel) that “the
14 requested rates are in line with those prevailing in the community for similar services by lawyers
15 of reasonably comparable skill, experience, and reputation.” Sorenson v. Mink, 239 F.3d 1140,
16 1145 (9th Cir. 2001) (quoting Blum, 465 U.S. at 895 n. 11). The relevant community is
17 generally the forum in which the district court sits. Barjon v. Dalton, 132 F.3d 496, 500 (9th Cir.
18 1997). Attorneys practicing from outside the forum district may be awarded outside-forum
19 hourly rates if adequate local counsel was unavailable. See id.; Gates v. Deukmejian, 987 F.2d
20 1393, 1405-06 (9th Cir. 1992). The Court may rely on its own knowledge and experience
21 regarding fees charged in its district. Ingram v. Oroudjian, 647 F.3d 925, 928 (9th Cir. 2011).

22 Cygnus challenges the reasonableness of the rates billed by Medtrica's attorneys from
23 JMBM in Los Angeles. JMBM partner Rod Berman, who chairs the firm's Intellectual Property
24 Department, billed Medtrica at \$825/hour in 2013 and \$850/hour in 2014. JMBM attorney
25 Jessica Bromall Sparkman billed \$465/hour as an associate in 2013 and \$485/hour as a partner in

26 ² This finding precludes defendants from seeking fees related to their experts.
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1 2014. Of counsel Brennan Swain billed \$505/hour in 2013 and \$525/hour in 2014. Associate
2 Ali Shalchi billed \$395/hour in 2014. Litigation support staff Martin R. Fernandez billed
3 \$225/hour in 2013 and \$235/hour in 2014.

4 Medtrica claims that JMBM's rates are consistent with the prevailing local rates, relying
5 heavily on the testimony of Joel Ard, a partner at Foster Pepper PLLC ("Foster Pepper"). Dkt.
6 # 160 (Ard Decl.) ¶ 7 ("Based on my experience, the rates charged by [JMBM] are in line with
7 the majority [of] lawyers of similar skill, experience, and credentials in the Seattle market.")³
8 Medtrica also relies on the National Law Journal's 2012 Law Firm Billing Survey of 55 mid-size
9 and large law firms nationwide to support their rates; this survey shows that partner billing rates
10 in 2012 ranged from \$347-\$745/hour (with a median of \$501/hour) and associate billing rates
11 that year ranged from \$217-\$447/hour (with a median of \$319/hour). Medtrica emphasizes that
12 patent litigation attorneys' rates are typically higher than those of attorneys in other practice
13 areas. Dkt. # 164 (Sparkman Decl.) ¶ 17. Finally, Ms. Sparkman states in her declaration that,
14 based on her research, she believes that the rates charged by JMBM are in line with those of its
15 peer firms in the Seattle market. Dkt. # 164 (Sparkman Decl.) ¶ 16. Aside from the National
16 Law Journal survey and Mr. Ard's declaration, this research has not been presented to the Court.

17 In support of its argument that JMBM's rates are unreasonable, Cygnus proffers the
18 declaration of attorney Timothy Boller, a partner at Seed Intellectual Property Law Group PLLC
19 ("Seed IP") who asserts that JMBM's rates "far exceed" the reasonable hourly rates charged by
20 comparable patent litigation counsel in the Seattle area. Dkt. # 173 (Boller Decl.) ¶ 7 (Boller
21 himself bills \$386/hour). Cygnus also relies heavily on a 2013 survey by the American
22 Intellectual Property Law Association (AIPLA) detailing attorney's fee rates for IP litigators in
23 the United States. Dkt. # 173-2 (Boller Decl. Exh. B). Multiple courts, including the Federal

24 ³ According to Ard, the chair of Foster Pepper's IP Department billed \$675/hour in 2013 and
25 \$685/hour in 2014. Dkt. # 160 (Ard Decl.) ¶ 3. Ard himself graduated from law school in 2000,
26 became a partner (at a different firm) in 2008, billed \$490/hour in 2013 and billed \$510/hour in 2014.
27 Dkt. # 160-1 (Ard. Decl. Exh. A). Another Foster Pepper partner who began his career in the mid-
1990s currently bills \$490/hour. Dkt. # 160 (Ard Decl.) ¶ 4.

1 Circuit, have relied on AIPLA surveys to determine reasonable attorney’s fees in intellectual
2 property cases with attorney fee disputes. See, e.g., View Eng’g, Inc. v. Robotic Vision Sys.,
3 Inc., 208 F.3d 981, 987 (Fed. Cir. 2000); Autodesk, Inc. v. Flores, 2011 WL 1884694, at *2
4 (N.D. Cal. May 18, 2011). However, the 2013 survey does not have data specific to Seattle,
5 instead grouping Washington and several other states into a category called “Other West”
6 (distinguishing them from states like California, for which the AIPLA provides city-specific
7 data). Dkt. # 173-2 (Boller Decl. Exh. B). The 2013 survey lists the average partner billing rate
8 for the “Other West” region in 2012 as \$389/hour, the average of counsel rate as \$365/hour, and
9 the average associate rate as \$374/hour.⁴ Id. at 5-7. According to Boller, the average hourly
10 rates in Seattle are consistent with the hourly rates reported in the AIPLA survey for attorneys in
11 the “Other West” region. Dkt. # 173 (Boller Decl.) ¶ 7.

12 Neither of the surveys presented by the parties provide data specific to Seattle’s market
13 for IP litigation services, and both Ard and Boller consider their firms’ rates consistent with
14 those of their peers while reaching opposite conclusions about the reasonableness of JMBM’s
15 rates. Basic similarities between Foster Pepper and JMBM suggest that the former’s rates could
16 indicate what firms like JMBM bill in Seattle: Foster Pepper has offices in two Washington
17 cities and employs between 125-150 attorneys, and JMBM has three California offices and
18 between 110-125 attorneys, whereas Seed IP employs roughly 40-45 attorneys (and specializes
19 in IP law, unlike the other two firms). Dkt. # 160 (Ard Decl. ¶ 2); Dkt. # 164 (Sparkman Decl. ¶
20 3); Dkt. # 177-1 (Sparkman Supp. Decl. Exh. C). However, this does not necessarily mean that
21 Foster Pepper rates represent the “prevailing rates” for attorneys of the skill and experience of
22 the JMBM attorneys in this case. Precedent from this District provides some guidance.⁵ Finally,
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24 ⁴ The Los Angeles average rates were \$557/hour for partners and \$389/hour for associates.

25 ⁵ See Getty Images (U.S.), Inc. v. Virtual Clinics, 2014 WL 1744522, at *3 (W.D. Wash. Apr.
26 29, 2014) (Robart, J.) (finding \$465/hour for veteran IP litigator and name partner at boutique firm
27 commensurate with the market rate in copyright infringement case); In re Washington Mut., Inc. Sec.

1 while the AIPLA survey is highly influential, the Court does not find it controlling, given that (in
2 the Court’s experience) the rates listed for the “Other West” region understate the local market
3 rates for experienced intellectual property lawyers.

4 Ultimately, the evidence presented and the Court’s experience indicate that the reasonable
5 rates for the JMBM attorneys in this case are as follows. The Court finds that a reasonable local-
6 market rate for Mr. Berman (chair of JMBM’s IP Department) would be \$675/hour. The Court
7 finds \$450/hour to be a reasonable rate for Ms. Sparkman (who graduated law school in 2004
8 and became partner in January 2014); \$480/hour to be a reasonable rate for Mr. Swain (a veteran
9 patent attorney and JMBM of counsel who began practicing law in the mid-1990s); and
10 \$375/hour to be a reasonable rate for Mr. Shalchi (an associate who began his legal career in
11 2005).⁶ Also, Mr. Fernandez (as litigation support staff) would have a Seattle market rate of
12 \$125/hour.

13 C. Redacted Invoices

14 Cygnus argues that defendants should not be able to recover fees for items that have been
15 redacted in their attorneys’ invoices. Dkt. # 172 at 21. In the Court’s previous order finding that
16 attorney’s fees were warranted, the Court held that submitted invoices should be redacted to no
17 greater an extent than necessary to protect attorney-client privilege; the Court recognized then,
18 as it does now, that some redacting would be necessary. Dkt. # 156. The Court finds the items
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20 Litig., 2011 WL 8190466, at *1 (W.D. Wash. Nov. 4, 2011) (Pechman, J.) (finding, in securities case,
21 that “the benchmark for quality and experienced counsel in this community does not exceed \$525 an
22 hour”); Gardner v. Toyota Motor Corp., 2010 WL 3733876, at *6 (W.D. Wash. Sept. 1, 2010) (Jones, J.)
23 (senior IP litigation partner at Seattle-based national firm claimed to bill \$465 an hour and asserted that
this was typical for someone of his experience and reputation in this jurisdiction; court did not expressly
rule on whether this was accurate) (patent infringement case).

24 ⁶ According to the AIPLA survey, of counsel bill at a lower, but somewhat-comparable average
25 rate to partners in the “Other West” region (billing \$365/hour to partners’ \$389/hour), and the best-
26 compensated do not on average bill more than \$450/hour. However, the survey incorporates relatively
27 little data on of counsel, missing several regions, and applying the survey’s findings in this respect
would be inconsistent with the Court’s reading of Mr. Swain’s credentials and experience.

1 with redactions on JMBM's invoices⁷ sufficiently descriptive to assure the Court that these items
2 were properly billed.

3 **D. Number Of Attorneys, Costs For Local Counsel, and Travel Expenses**

4 Relying on out-of-circuit precedent, Cygnus argues that Medtrica should not be able to
5 recover travel costs for its out-of-state counsel or the costs of its local counsel. Dkt. # 172 at 24.
6 The Court finds no authority from this Circuit requiring that it make such a finding, and the
7 Court declines to do so, given the reasonableness of Medtrica's decision to turn to competent
8 out-of-forum counsel it trusted to handle this litigation (in addition to local counsel). Cygnus
9 further suggests that defendants enlisted too many attorneys in this action. See GT Development
10 Corp. v. Temco Metal Prods. Co., 2005 WL 2138546, at *1 (W.D. Wash. Aug. 31, 2005) (Zilly,
11 J.) (awarding travel costs under § 285). The Court finds the number of attorneys reasonable
12 given the complexity of the case and the number of parties, and more importantly observes that
13 the lion's share of defendants' work was done by a single attorney with JMBM, Ms. Sparkman.
14 The number of attorneys does not suggest duplicative work or unreasonable billing practices.

15 **E. First Motion For Fees On Fees**

16 Cygnus argues that defendants should not recover for their time spent working on their
17 first motion for attorney's fees, given that defendants did not initially prevail on this motion and
18 only prevailed on reconsideration due to a change in the law. Dkt. # 172 at 26. The Court
19 rejects this argument. There is no reason to only award fees for defendants' later motions for
20 attorneys' fees and not their first motion. Ninth Circuit precedent holds that a party may recover
21 attorney's fees for time and effort spent on unsuccessful phases of litigation where the work
22 counsel performed was a "necessary step to [its] ultimate victory." See Cabrales, 935 F.2d at
23 1053. Plaintiff's first motion for attorney's fees, while denied, was ultimately reconsidered, and
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26 ⁷ Medtrica is not seeking attorney's fees for items that have been completely redacted from
27 JMBM's invoices. Dkt. # 177-1 (Sparkman Supp. Decl. Exh. D).

1 thus defendants' work on this motion was essential to their victory on this issue.⁸ This Court has
2 found no Federal Circuit or § 285 precedent indicating that Cabrales should not apply in this
3 case.⁹ If defendants can recover fees related to their fee litigation (or "fees on fees") in general,
4 then they can recover fees related to their first motion for attorney's fees.

5 This Circuit generally supports awarding fees on fees, and the Federal Circuit has
6 awarded them in § 285 cases in the past. See Camacho v. Bridgeport Fin., Inc., 523 F.3d 973,
7 981 (9th Cir. 2008) ("In statutory fee cases, federal courts, including our own, have uniformly
8 held that time spent in establishing the entitlement to and amount of the fee is compensable")
9 (citation and quotation marks omitted); Mathis v. Spears, 857 F.2d 749, 756 (Fed. Cir. 1988);
10 see also Gerawan Farming, Inc. v. Rehrig Pac. Co., 2014 WL 202736, at *4 (E.D. Cal. Jan. 17,
11 2014) (citing Camacho in awarding fees on fees in a § 285 case). Such fees can be awarded to
12 the extent that the requesting party prevails on its motion for attorney's fees, Thompson v.
13 Gomez, 45 F.3d 1365, 1468 (9th Cir. 1995); although the Court may deny them if it concludes
14 that fees already awarded provide sufficient compensation for this party's counsel, Kinney v.
15 Int'l Broth. of Elec. Workers, 939 F.2d 690, 695 (1991).

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17 F. Fee Award

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19 ⁸ In Elkins v. Dreyfus, 2011 WL 6012485, at *3 (W.D. Wash. Dec. 1, 2011) (Pechman, J.),
20 plaintiffs moved twice for attorney's fees. The court excluded the time spent on the first motion on the
21 grounds that the time spent on this motion was "duplicative" of the time spent on the second motion.
This Court makes no such finding, here.

22 ⁹ Cygnus relies heavily on two Federal Circuit cases for the proposition that parties may not
23 recover fees for issues on which they do not prevail. See Highmark, Inc. v. Allcare Health management
24 Sys., Inc., 687 F.3d 1300, 1311, 1319 (Fed. Cir. 2012), vacated and remanded, 134 S. Ct. 1744, 1749;
25 Beckman Instruments, Inc. v. Produkter AB, 892 F.2d 1547, 1554 (Fed. Cir. 1989) (holding, in action
26 where sole basis for imposing attorney fees was "gross injustice," that "the amount of fees awarded to
the 'prevailing party' should bear some relation to the extent to which that party actually prevailed.").
The Court finds no conflict between these cases and its finding here, given that defendants ultimately
27 prevailed on the issue of whether this case is exceptional, and given that defendants are only recovering
28 fees to the extent that this case is exceptional.

1 **(1) Calculating Fees Owed**

2 The reasonableness of the rates billed by Landsman and LH is not in dispute (and the
3 Court has identified JMBM’s local market rates); Cygnus has raised no specific argument that
4 defense counsel billed excessive or duplicative hours; and the Court has identified the stages of
5 litigation for which defendants may recover attorney’s fees. Thus, bearing in mind the hours
6 worked by defense counsel after the Court issued its claim construction order, and these
7 attorneys’ reasonable local-market rates, the Court finds that defendants are entitled to the
8 following attorney’s fees (including fees on fees):

9 **(2) Medtrica**

10 After the Court issued its claim construction order, JMBM attorneys billed 226.7 hours to
11 this case. At local market billing rates, their appropriate attorney’s fees are as follows:

Attorney	Hours	Rate/hr	Fee
Berman	57.5	\$675	\$38,812.50
Sparkman	129.7	\$450	\$58,365
Swain	1.4	\$480	\$672
Shalchi	37.8	\$375	\$14,175
Fernandez	.3	\$125	\$37.50
Total JMBM Fees:			\$112,062

19 Landsman’s requested fees for time worked after the Court issued its claim construction order
20 total \$3,637.50. The Court finds Landman’s rates, hours billed and tasks performed reasonable.
21 Consequently, Medtrica’s total fees amount to \$115,699.50. The Kerr factors do not argue in
22 favor of raising or lowering this combined lodestar amount. In light of JMBM’s and
23 Landsman’s post-claim-construction litigation costs of \$6,529.63 (which the Court finds
24 reasonable), the Court finds that Medtrica may recover \$122,229.13 in total on its motion.


1 **(3) Steris**

2 LH billed \$9,575 in attorney’s fees to this case after the Court issued its claim
3 construction order (including attorney’s fees and fees on fees). The Court finds the time, tasks
4 and rates billed reasonable, and the Kerr factors do not weigh in favor of either raising or
5 lowering this amount, which is an accurate lodestar figure. Combined with LH’s \$371.51 in
6 litigation costs (which the Court finds reasonable), Steris may recover \$9,946.51 in fees and
7 costs on its motion.

8 **IV. CONCLUSION**

9 For all of the foregoing reasons, the Court GRANTS IN PART defendants’ motions for
10 attorney’s fees. Dkt. # 158; Dkt. # 159. Within fourteen days of the date of this Order, Cygnus
11 shall pay attorneys fees and costs to Medtrica in the amount of \$122,229.13 and Steris in the
12 amount of \$9,946.51.

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14 DATED this 31st day of March, 2015.

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17 Robert S. Lasnik
18 United States District Judge
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