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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

ORACLE USA, INC., *et al.*,  
 Plaintiffs,  
 v.  
 SAP AG, *et al.*,  
 Defendants.

CASE NO. 07-CV-01658 PJH (EDL)

**ORACLE'S RESPONSE TO SAP'S  
 STATEMENT REGARDING  
 PLAINTIFFS' PROPOSED FORM OF  
 JUDGMENT**

1 Plaintiffs Oracle USA, Inc., Oracle International Corporation, and Siebel Systems, Inc.  
2 (collectively, “Oracle” or “Plaintiffs”) respectfully submit this response to Defendants’ filing  
3 styled as “Defendants’ Statement Regarding Plaintiffs’ Proposed Form of Judgment” (DKT  
4 1010).

5 First, Defendants assert that Oracle’s proposed form of judgment would not be a final  
6 judgment because it is silent as to whether Oracle seeks a permanent injunction against SAP.  
7 Oracle does not seek a permanent injunction against SAP, except to the extent identified in the  
8 proposed of judgment (relating to the disposition of the infringed intellectual property) submitted  
9 on December 10, 2010; the form of judgment that Oracle submitted will be final if the Court  
10 directs the Clerk to enter it.

11 Second, Defendants contend that Oracle’s proposed judgment should “be treated like a  
12 motion” to which Defendants propose to respond on December 29, 2010, with a reply from  
13 Oracle on January 5, and a hearing to be set sometime thereafter. Oracle objects to Defendants’  
14 proposal. There is no basis for the requested delay, and Defendants cite no authority at all in  
15 support of that request. Pursuant to Rule 58, the judgment is to be entered “promptly.”

16 Since the jury returned its verdict on November 23, the parties have met and conferred  
17 extensively (and kept the Court apprised of their discussions) on the form of judgment, including  
18 an exchange of drafts of the judgment, disclosure of the amount of interest that Oracle seeks and  
19 the basis for the applicable interest rate, and an exchange and discussion of legal authorities  
20 concerning all of the issues Defendants say they dispute. If Defendants have an objection to  
21 Oracle’s proposed form of the judgment, they should make that objection now, rather than delay  
22 entry of judgment by a full month or more. Contrary to Defendants’ suggestion in their  
23 Statement, Oracle has fully shared with Defendants the reasoning behind and justification for  
24 Oracle’s request for and calculation of prejudgment interest over the course of the last several  
25 weeks. Defendants have already had ample opportunity to determine their position.

26 Accordingly, Oracle requests that Defendants be required to file any objections to the  
27 proposed form of judgment and any alternative proposed form of judgment by Thursday,  
28 December 16; and that Oracle be required to provide any objections to Defendants’ proposal (if

1 any) by Monday, December 20.

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DATED: December 13, 2010

BOIES SCHILLER & FLEXNER LLP

By: /s/ Steven C. Holtzman  
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Oracle International Corporation, and Siebel  
Systems, Inc.