

# EXHIBIT 40

# Oracle v. SAP

## Oracle Closing Arguments

Monday, November 22, 2010

Sunday 2PM PST Draft

## Who Testified And What Were Their Roles?

	<b>Witnesses Who Testified At Trial</b>	<b>What They Testified About Value Of FMV License</b>
	Buffy Ransom - Oracle VP, Support Services	No opinion
	Edward Sceven – Oracle Chief Corporate Architect	No opinion
	Charles Phillips – Oracle Former President	<b>\$4 – 5 billion</b>
	John Zepecki – SAP Vice President	No opinion
	Richard Allison – Oracle Oracle Database	No opinion
	Werner Brandt – SAP AG CFO, Executive Board	No opinion
	Larry Ellison – Oracle CEO	<b>\$4 billion</b>
	Safra Catz – Oracle President	<b>“Billions” of dollars</b>
	Paul Meyer – Oracle Damages Expert	<b>\$1.656 billion</b>
	Kevin Mandia – Oracle Technical Expert	No opinion
	Bill McDermott – SAP AG Co-CEO, Executive Board	No opinion
	Stephen Clarke – SAP Damages Expert	<b>\$40 million</b>

## Reasonableness Checks for Fair Market Value Licenses Sponsored By Experts Meyer and Clarke

	Value
1. Value of Licenses / Mr. Phillips	\$4B - \$5B
2. Value of Licenses / Mr. Ellison	\$4B
3. 20% of PSFT and Siebel Acquisitions (\$17.2B)	\$3.44B
4. 3,000 customers at \$1M value per customer	\$3B
5. Indication of Value – PSFT (3,000 converted) + Siebel + DB	\$2.86B
6. SAP's Roadmap Revenue – Extended to Oct. 31, 2008, using same 2008 growth as 2007	\$1.77B
7. 10% of PSFT and Siebel Acquisitions (\$17.2B)	\$1.72B
8. PSFT and Siebel annual maintenance revenue (year 1)	\$1.70B
<b>9. FMV Licenses / Mr. Meyer</b>	<b>\$1.65B</b>
10. 1,375 customers at \$1M value per customer	\$1.38B
11. SAP's Roadmap Revenue-Extended to Oct. 31, 2008 assuming no growth from 2007 to 2008	\$1.36B
12. Indication of Value – PSFT (1,375 converted) + Siebel + DB	\$1.04B
13. Roadmap PSFT Revenue (2005-2007 only)	\$897M
<b>14. FMV Licenses / Mr. Clarke</b>	<b>\$40.6 M</b>

## **SAP Expected To Gain Billions Of Dollars As A Result Of The Infringement -- What SAP Expected To Gain From Customer Conversion Alone If Customers Were Valued At \$1.9 Million Each**

- SAP's average revenues per customer, as calculated by SAP's expert Clarke, for the four customers SAP contends were the only customers converted to SAP as a result of TN, was \$1.9 million each (Clarke Slide 53)

<b>Number of Customers That SAP Expected in January 2005 to be Converted to SAP Customers (12/23/04 -- PTX 12, p. 11)</b>	<b>Value per Customer (Clarke Slide 53)</b>	<b>Total SAP Gain from Converted Customers (Number of customers x value per customer)</b>
1375	\$1.9 million	\$2.6 billion
2000	\$1.9 million	\$3.8 billion
3000	\$1.9 million	\$5.7 billion