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20 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
21 OAKLAND DIVISION

22 ORACLE USA, INC., *et al.*,  
23 Plaintiffs,  
24 v.  
25 SAP AG, *et al.*,  
26 Defendants.

No. 07-CV-01658 PJH (EDL)

**DECLARATION OF KYLE ZIPES IN  
SUPPORT OF MOTION FOR LEAVE TO  
FILE MOTION FOR RECONSIDERATION  
REGARDING UP-SELL AND CROSS-  
SELL PROJECTIONS**

1 I, Kyle Zipes, declare that I am an attorney licensed to practice law in the State of  
2 California and am an associate at Bingham McCutchen LLP, counsel of record for plaintiffs  
3 Oracle International Corporation (“Oracle” or “Plaintiffs”). I have personal knowledge of the  
4 facts stated below and could testify competently to them if required.

5 1. I submit this declaration in support of Oracle’s Motion For Leave To File  
6 A Motion for Reconsideration Regarding Up-Sell and Cross-Sell Projections.

7 2. Oracle produced the Valuation Exhibits on February 6, 2009.


8 3. SAP deposed Ms. Catz on March 27, 2009; Charles Phillips on April 17,  
9 2009; and Larry Ellison on May 5, 2009.

10 4. Attached as **Exhibit A** are true and correct copies of excerpts of the trial  
11 transcript in this matter. The following portions of the trial transcript comprise **Exhibit A**:

Date(s)	Trial Transcript Pages	Description of Event
11/8/10	816-818	Argument Regarding Admissibility of Up-Sell and Cross-Sell Evidence
11/8/10	820	Argument Regarding Admissibility of Up-Sell and Cross-Sell Evidence
11/8/10	824-826	Argument Regarding Admissibility of Up-Sell and Cross-Sell Evidence
11/16/10	1679-1681	Cross-Examination of SAP’s Expert, Stephen Clarke

19 I declare under penalty of perjury under the laws of the United States that the  
20 foregoing facts are true and correct, and that this Declaration was executed on April 17, 2012 in  
21 San Francisco, California.

22 April 17, 2012

  
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Kyle Zipes