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 15

16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 OAKLAND DIVISION
 19

20 ORACLE USA, INC., *et al.*,

21 Plaintiffs,

22 v.

23 SAP AG, *et al.*,

24 Defendants.
 25

No. 07-CV-01658 PJH (EDL)

**DECLARATION OF MARTHA
 JEONG IN SUPPORT OF ORACLE'S
 OPPOSITION TO DEFENDANTS'
 MOTION TO COMPEL**

Date: January 26, 2010
 Time: 2 p.m.
 Place: Courtroom E, 15th Floor
 Judge: Hon. Elizabeth D. Laporte

1 I, Martha Jeong, declare as follows:

2 1. I am an attorney at law licensed to practice in the State of California and
3 before this Court, and am an associate at Bingham McCutchen LLP, counsel of record for
4 plaintiffs Oracle USA, Inc., Oracle International Corporation, Oracle EMEA Limited, and Siebel
5 Systems, Inc. (together, "Oracle") in this action. I have personal knowledge of the facts stated
6 below by virtue of my representation of Oracle in this action and if called as a witness could
7 competently testify as to them.

8 2. I was extensively involved in Oracle's document collection, review, and
9 production over the course of fact discovery. My responsibilities at various points in the
10 litigation included interviewing custodians, overseeing document collection, supervising
11 document review, and coordinating document production.

12 3. I am informed and believe that Oracle produced over 130,000 documents
13 during fact discovery, made up of nearly 750,000 pages, native files, and software CDs. In order
14 to identify produced documents responsive or otherwise related to RFPs 44, 45, 47, 51 and
15 Interrogatory 7, Oracle anticipates it would have to create a detailed set of search terms that
16 would likely results in many thousands of hits. For example, identifying all documents just
17 responsive or otherwise related to RFP 45 (which seeks "[a]ll Documents relating to which
18 Software and Support Materials any TN Customer or Named Customer is, or was at any time,
19 entitled to access or Download") would require a document review of nearly all of the customer-
20 related produced documents. Further, the effort required to provide the level of detail about
21 these documents requested by Defendants would be akin to creating a detailed privilege log for
22 these documents, including extensive document review, data entry, and quality control to ensure
23 accurate "logs" are created.

24 4. I am informed and believe that the following categories of documents were
25 produced to Defendants and include information that is dated January 1, 2002 through January 1,
26 2004 and/or March 22, 2007 through October 31, 2008: Charts of Accounts; Inter-Entity
27 Agreements; Plaintiff-specific financial reports; Customer-specific financial reports;
28 Cancellation Reports; Product Profitability Analyses; License Revenue; Research and

1 Development Expenses; Research and Development Headcount; Database Form Licenses;
2 Database Development Licenses; At-Risk Reports; and pre- 2004 data for the following 10 key
3 custodians: Elizabeth Shippy, Rick Cummins, Buffy Ransom, Dave Duffield, Craig Conway,
4 Andy Allbritten, Phil Wilmington, Tawanna Sanders, John Wookey, and Harald Freudendahl.
5 Examples of these productions can be located on the following discs and corresponding Bates
6 numbers: ORCL074 (ORCL00333861-ORCL00346119), ORCL097 (ORCL03999924-
7 ORCL00399939), ORCL113 (ORCL00409540-ORCL00409564), ORCL204 (ORCL00524883-
8 ORCL00525145), ORCL215 (ORCL00537582-ORCL00537582), ORCL223 (ORCL00546414-
9 ORCL00546414), ORCL224 (ORCL00546415-ORCL00546415), ORCL236 (ORCL00560443-
10 ORCL00570175), ORCL237 (ORCL00570176-ORCL00570176), ORCL240 (ORCL00570179-
11 ORCL00570179), ORCL245 (ORCL00578071-ORCL00578117), ORCL247 (ORCL00583824-
12 ORCL00583921), ORCL249 (ORCL00585007-ORCL00585065), ORCL255 (ORCL00588459-
13 ORCL00588716), ORCL270 (ORCL00622264-ORCL00622264), ORCL271 (ORCL00622265-
14 ORCL00622265), ORCL277 (ORCL00658367-ORCL00669691), ORCL279 (ORCL00671721-
15 ORCL00672278), ORCL280 (ORCL00672279), ORCL281 (ORCL00672280-ORCL00672559),
16 ORCL284 (ORCL00673473), ORCL288 (ORCL00689888-ORCL00689889), ORCL291
17 (ORCL00693913-ORCL00694039), and ORCL292 (ORCL00694040).

18 5. In order for Oracle to review and produce relevant post-litigation documents
19 for the six custodians at issue here, Oracle needs to do a full re-collection of the custodial data,
20 which requires the time and efforts of several people at Oracle, its e-Discovery vendor, and
21 Bingham McCutchen. All of the custodians would be re-interviewed (with the exception of one
22 who is no longer employed by Oracle); all email would be re-copied from the Oracle network
23 server; all computer data and potentially external hardware would be fully re-imaged by Oracle
24 Global Information Security (GIS) members (requiring travel to four different office locations
25 including two in Colorado); and any potentially relevant hard copy documents would be
26 collected as well. The data would then be processed by the e-Discovery vendor, prepared for
27 review in-house by Bingham McCutchen litigation technology specialists, and a review team
28 would be re-assembled if there is none in place at the time.

1 6. I am informed and believe that the information listed below accurately details
2 the dates on which Oracle email was copied from the network server and computer data was
3 imaged for the following custodians:

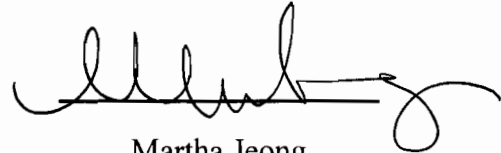
- 4 a. Juergen Rottler - April 2007
- 5 b. Juan Jones - June & August 2007
- 6 c. Chris Madsen - August & September 2008
- 7 d. Rick Cummins - April 2007
- 8 e. Michael Van Boening - August, October & December 2007
- 9 f. Robert Lachs - November 2007 & April 2008

10 7. One of the six custodians at issue here is located in Redwood Shores,
11 California; a second is located in Pleasanton, California; a third is located in Rocklin, California;
12 and two others are located in Denver, Colorado. The remaining custodian is no longer an Oracle
13 employee as of March 14, 2008.

14 8. Oracle estimates that the cost to re-interview, re-collect, process and review
15 documents for custodians Juergen Rottler, Juan Jones, Chris Madsen, Rick Cummins, Robert
16 Lachs, and Michael Van Boening for the post-litigation time period using Defendants' proposed
17 list of 71 search terms sent by Elaine Wallace on December 4, 2009 (see McDonell Declaration
18 Exhibit M) is approximately \$125,000, based on the following estimates. Based on previous
19 data volumes for these six custodians, Oracle estimates vendor costs of approximately \$40,600
20 (based on 28GB of data) to have the data processed. Next, taking into account the time period
21 and revised search terms that Defendants proposed, Oracle estimates a need to review
22 approximately 29,000 documents at an approximate cost of \$70,624 (based on 447 review
23 hours). The travel costs for Oracle Global Information Security (GIS) to collect and image the
24 data for these custodians is approximately \$2900, taking into account the locations of these
25 custodians. The total figure does not take into account GIS labor time and costs to carry out the
26 collection. Oracle further estimates that the time and cost of Bingham McCutchen staff involved
27 in various stages of the production process to approximate 36 hours of attorney and litigation
28 technology specialist time, at a cost of approximately \$11,400. The total cost estimate based on

1 the above described figures amounts to \$125,524 (which excludes Oracle GIS labor costs for the
2 collection). The total time estimate based on the above described tasks amounts to 483 hours of
3 Bingham McCutchen staff time (which exclude Oracle GIS labor hours for the collection and
4 vendor labor hours for the processing).

5 9. I declare under penalty of perjury under the laws of the State of California and
6 the United States that the foregoing is true and correct, and that this Declaration was signed on
7 January 5, 2010 in San Francisco, California.

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9 Martha Jeong

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