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16   UNITED STATES DISTRICT COURT

17   NORTHERN DISTRICT OF CALIFORNIA

18   OAKLAND DIVISION

19 ORACLE USA, INC., *et al.*,   CASE NO. 07-CV-01658 PJH (EDL)

20   Plaintiffs,   **DECLARATION OF MARK FALLON
                                                    IN SUPPORT OF ORACLE'S
21   v.   MOTION FOR PARTIAL SUMMARY
                                                    JUDGMENT**
22 SAP AG, *et al.*,

23   Defendants.   **REDACTED**

24   Date: May 5, 2010
                                                    Time: 9:00 am
25   Place: 3rd Floor, Courtroom 3
                                                    Judge: Hon. Phyllis J. Hamilton
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                                                    Case No. 07-CV-01658 PJH (EDL)

    DECLARATION OF MARK FALLON IN SUPPORT OF ORACLE'S MOTION FOR PARTIAL SUMMARY JUDGMENT

1   I, Mark Fallon, declare as follows:

2   1.   I am a Director of Release Engineering for Oracle America, successor to

3   Plaintiff Oracle USA. I have personal knowledge of the facts set forth in this declaration and

4   would competently testify to them if called upon to do so.

5   2.   I have been an employee of Oracle America, or of its predecessors and

6   related entities, (collectively, "Oracle") since August 1999. Since I began at Oracle, I have

7   developed and managed development of various aspects of Oracle's Relational Database

8   Management Software product ("Oracle Database"). I have reviewed code, modified code,

9   worked on new features and functionality and have been personally involved in architectural

10   decision-making for many versions of Oracle Database, including versions 8.0, 8i (8.1), 9i

11   Release 1 (9.0), 9i Release 2 (9.2), 10g Release 1 (10.1) and 10g Release 2 (10.2). My

12   references below to Oracle Database include these six releases, together with revisions and

13   patches to those releases.

14   3.   Oracle Database is a very large and complex product, comprising millions

15   of lines of code, that has resulted from the creative efforts of thousands of developers, including

16   my own. Oracle Database is the industry-leading tool for storage, organization and retrieval of

17   enterprise data. In creating this product, Oracle's developers implemented the overall product

18   architecture, designed the user interface, and designed the querying, reporting and information

19   storage technologies. Oracle Database overall, then, is the result of millions of choices made by

20   thousands of individual developers, because there are nearly limitless ways to create programs

21   such as Oracle Database that store, organize and retrieve data.

22   4.   I am personally familiar with the way Oracle created each new version of

23   Oracle Database software since version 8.0.6. To create a new version of Oracle Database

24   software, Oracle began with a copy of the latest code–source code and database schema–from

25   the immediately prior version. Thus, Oracle incorporated the software in its entirety from the

26   earlier version of Oracle Database into each subsequent version, with only small portions of that

27   earlier software being modified or replaced.

28   5.   To create Oracle Database 8.1.7, Oracle began with a copy of the source

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1   code and schema for version 8.1.6. Oracle Database 9.2.0.1 was first made available to

2   customers in May 2002; this was the first production release of 9.2. To create Oracle Database

3   9.2.0.2, Oracle began with a copy of the source code and schema for version 9.2.0.1. Similarly,

4   Oracle Database 9.2.0.3 through 9.2.0.6 were, in each case, created by beginning with a copy of

5   the code for the prior patch set version, 9.2.0.2 through 9.2.0.5, respectively. 10.2.0.1.0 was first

6   made available to customers in July 2005; this was the first production release of 10.2.

7   6.   In creating each of the minor versions and patch sets described above,

8   based on my overall knowledge of the development procedures for Oracle Database, only a very

9   small part of the code from the earlier version of Oracle Database was modified or replaced. In

10   my estimation, and based on my personal knowledge that Oracle rarely deleted features and

11   functionality from one version of Oracle Database to another, almost all of the code from Oracle

12   Database 8.1.6 is present in Oracle Database 8.1.7, almost all the code from Oracle Database

13   9.2.0.1 is present in 9.2.0.2 through 9.2.0.6.

14   7.   I have installed Oracle Database from a CD, DVD or downloaded

15   executable file numerous times, and I have personal knowledge of the results of such

16   installations. When Oracle Database is installed from a CD, DVD or downloaded executable

17   file, a copy of the entire Oracle Database software is installed. An installation of Oracle

18   Database includes nearly 100% of the code (as scripts or binary code), including database

19   schema.

20   8.   Someone who makes a copy of Oracle Database reproduces Oracle's

21   database schema, which includes system tables and views, fields and the relationships between

22   tables. System tables and views include ████████████ which lists database indexes owned

23   by the current database user. Fields include ██████████, which holds the names of database

24   indexes. Developers have the ability to name tables and fields whatever they might choose; table

25   and field names are the results of their creative choices. Developers can also choose whether to

26   solve a problem by adding fields to an existing table or whether instead to create a new, related

27   table. The structures of the tables and fields, and the relationships between tables, are the result

28   of creative choices made by thousands of Oracle developers, subject to loose guidelines that have

1   developed on the Oracle Database team over time. I regularly make these types of choices with

2   respect to the development of Oracle Database.

3   9.   Someone who makes a copy of Oracle Database also reproduces the

4   programs, functions, subroutines, and program variables contained within Oracle Database

5   (either as compiled code or as source code). The names of, relationships between and structures

6   of these programs, functions, subroutines, and program variables are the result of creative

7   choices made by hundreds of Oracle developers, subject to loose guidelines that have developed

8   on the Oracle Database team over time. Within these guidelines, developers can choose

9   whatever names for programs, functions, subroutines, and program variables that they wish, and

10   can structure these sections however they wish. I regularly make these types of choices with

11   respect to the development of Oracle Database.

12   10.   Because developers have so much creative license in how to name and

13   structure their code, individual developers often have their own style. In addition to structural

14   choices like those discussed above, developers have tremendous leeway in their use of

15   comments, whitespace, and names, because these stylistic choices generally do not affect the

16   functioning of the code. When I was developing code for Oracle Database, I frequently inserted

17   comments in the source code.

18   11.   Both the database schema and the source code contain content, including

19   both comments and code, that is reproduced both when Oracle Database is installed and when an

20   existing installation of Oracle Database is reproduced.

21   12.   At a high level, Oracle Database comprises millions of lines of code and a

22   very complex schema. The code and the schema are the result of millions of small-scale choices

23   like those described above, as well as larger-scale choices from high-level product architecture
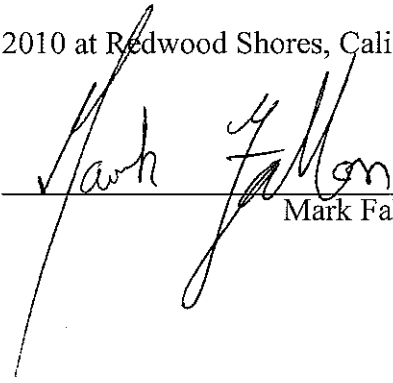
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DECLARATION OF MARK FALLON IN SUPPORT OF ORACLE'S MOTION FOR PARTIAL SUMMARY JUDGMENT

1   and what features and functionality to offer to Oracle's users all the way down to how different

2   code files interrelate.

3   I declare under penalty of perjury that the foregoing is true and correct and that

4   this declaration was executed on March 3, 2010 at Redwood Shores, California.

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6   Mark Fallon

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