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

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

No. 07-CV-01658 PJH (EDL)

**DECLARATION OF LUCIA MACDONALD
IN SUPPORT OF MOTION NO. 2: TO
EXCLUDE TESTIMONY OF DEFENDANTS'
EXPERT BRIAN SOMMER**

Date: September 30, 2010
Time: 9:00 a.m.
Place: 3rd Floor, Courtroom 3
Judge: Hon. Phyllis J. Hamilton

1 I, Lucia MacDonald, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am counsel
3 at Bingham McCutchen LLP, counsel of record for plaintiffs Oracle USA, Inc. (predecessor to
4 Oracle America, Inc.), Oracle International Corporation, Oracle EMEA Limited and Siebel
5 Systems, Inc. (collectively "Oracle" or "Plaintiffs") in this action. Except where stated below on
6 information and belief, I have personal knowledge of the facts stated within this Declaration and
7 could testify competently to them if required.

8 2. Attached as Exhibit A is a true and correct copy of the Expert Rebuttal Report of
9 Brian S. Sommer, served by Defendants on March 26, 2010, when rebuttal reports were due
10 under the case management order.

11 3. Attached as Exhibit B is a true and correct copy of the transcript of the June 25,
12 2010 Deposition of Brian S. Sommer.

13 4. Attached as Exhibit C is a true and correct copy of relevant excerpts from the
14 Supplemental Expert Report of Paul K. Meyer, served by Oracle on February 23, 2009. Non-
15 relevant portions of this Report have been either excluded or redacted.

16 5. Attached as Exhibit D is a true and correct copy of relevant excerpts from the
17 transcript of the May 14, 2010 Deposition of Paul K. Meyer. Non-relevant portions of the
18 deposition transcript have been either excluded or redacted.

19 6. Attached as Exhibit E is a true and correct copy of Exhibit 595 to the June 25,
20 2010 Deposition of Brian S. Sommer. Exhibit 595 is a document produced by Defendants
21 entitled "Safe Passage: Winning Customers and Markets from Oracle-PeopleSoft-J.D. Edwards"
22 dated January 20, 2004, and bates numbered SAP-OR00299495-518.

23 I declare under penalty of perjury under the laws of the United States that the foregoing
24 facts are true and correct, and that this Declaration was executed on August 19 2010, in San
25 Francisco, CA.

26 By: 
27 Lucia MacDonald