

EXHIBIT O

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17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN FRANCISCO DIVISION

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

Case No. 07-CV-1658 (PJH) EDL

**PLAINTIFFS' SUPPLEMENTAL AND
AMENDED INITIAL DISCLOSURES**

Date: n/a
Time: n/a
Judge: The Honorable Phyllis J. Hamilton
Courtroom 11, 19th Floor

**CONTAINS INFORMATION
DESIGNATED HIGHLY
CONFIDENTIAL PURSUANT TO
PROTECTIVE ORDER**

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1 different plaintiffs bring different causes of action. Oracle would not seek or be entitled to
2 duplicate recovery though it will likely seek damages in the alternative.

3 A. In connection with its Copyright Infringement cause of action, Oracle has
4 alternative measures of its damages available to it under the law. Oracle reserves its right to
5 elect statutory damages for Defendants' infringement at the appropriate time, but currently does
6 not envision that it will do so. Rather, it currently seeks from Defendants the value of the
7 copyrighted material Defendants infringed both through hypothetical license(s) and, in the
8 alternative, through a lost profits/infringers' profits analysis.

9 Oracle expects to seek to recover damages based on a hypothetical license for the
10 PSFT/JDE-related infringement by Defendants. Accordingly, the value of the PS/JDE-related
11 hypothetical license is determined by the value of the rights being licensed or received, as
12 evidenced by the circumstances at the time (e.g., for Oracle – the fact that Oracle had just paid
13 significant amounts for the companies, the anticipated value to Oracle of the PSFT/JDE
14 acquisitions, Oracle's cross-sell and up-sell and service renewal history; for Defendants – the
15 fact that the acquisitions significantly increased Oracle's threat to SAP, the anticipated value to
16 SAP of the TN acquisition, the amount that would not have to be expended by Defendants to
17 legitimately create what they would instead license (which will also be the subject of expert
18 analysis and relied upon by Oracle's damages experts), SAP's cross-sell and up-sell and service
19 renewal history). Based on the evidence to date, Oracle anticipates valuing the hypothetical
20 licenses in the billions of dollars. However, no formal computation has been completed.

21 Oracle's alternative lost profits and infringers' profits analysis for its copyright
22 infringement claims against Defendants is ongoing and incomplete. It currently will encompass
23 the lost profits associated with support customers who left Oracle, PeopleSoft or J.D. Edwards
24 for SAP and TN, service-related discounts required to compete against SAP and TN, and lost
25 license sales and license discounts associated with competition with SAP and TN. Evidence
26 relevant to this analysis is contained, for example, in Defendants' multiple internal and external
27 reports of the revenues taken away from Oracle by TN and by the Safe Passage program, in the
28 voluminous customer contracts and related files produced by the parties, in the customer