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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 ZACHARY J.
 ALINDER IN SUPPORT OF
 OPPOSITION TO DEFENDANTS'
 MOTION TO EXCLUDE
 TESTIMONY OF PAUL PINTO**

Date: September 30, 2010
 Time: 2:30 p.m.
 Place: Courtroom 3
 Judge: Hon. Phyllis J. Hamilton

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Case No. 07-CV-01658 PJH (EDL)

ALINDER DECL. IN SUPPORT OF OPP. TO MOTION TO EXCLUDE TESTIMONY OF PAUL PINTO

Exhibit Index

Exhibit	Document
A.	Paul Pinto Deposition and Exhibit 2059
B.	Supplemental Expert Report of Paul Meyer
C.	Donald Reifer Deposition
D.	Expert Report of Donald Reifer
E.	Expert Report of Donald Reifer in the Evolution v. Sun Trust case
F.	Deposition of Donald Reifer in the Evolution v. Sun Trust case
G.	Expert Report of David Garmus
H.	David Garmus Deposition
I.	Expert Report of Stephen Clarke
J.	Exhibit 3205 to the Stephen Clarke Deposition
K.	ORCLX-PIN-000100 (Software Cost Estimation)
L.	ORCLX-PIN-000101 (Software Cost Estimation in 2002)
M.	ORCLX-PIN-000102 (Software sizing Estimation and Risk Management)
N.	ORCLX-PIN-000006 (The Forrester Wave: Enterprise CRM Suites, Q3 2008)
O.	David Herron Interview

1 I, Zachary J. Alinder, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am
3 a partner at Bingham McCutchen LLP, counsel of record for plaintiffs Oracle USA, Inc., Oracle
4 International Corporation, and Siebel Systems, Inc. (collectively, "Oracle"). I have personal
5 knowledge of the facts stated within this Declaration and could testify competently to them if
6 required. Unless otherwise noted below, Oracle has provided all highlighting and/or circling in
7 these Exhibits to further assist in identifying the information relevant to Oracle's Opposition to
8 Defendants' Motion to Exclude Testimony of Paul Pinto.

9 **Pinto Deposition**

10 2. Attached as Exhibit A is a true and correct copy of relevant excerpts from
11 the transcript of the May 19, 2010 Deposition of Paul C. Pinto, including a true and correct copy
12 of Exhibit 2059 to this deposition. Non-relevant portions of the deposition transcript have been
13 either excluded or redacted.

14 **Meyer Expert Report**

15 3. Attached as Exhibit B is a true and correct copy of relevant excerpts from
16 the Supplemental Expert Report of Paul Meyer, served by Oracle on February 23, 2010. Non-
17 relevant portions of the Report have been either excluded or redacted.

18 **Reifer Expert Report and Deposition**

19 4. Attached as Exhibit C is a true and correct copy of relevant excerpts from
20 the transcript of the June 18, 2010 Deposition of Donald Reifer. Non-relevant portions of the
21 deposition transcript have been either excluded or redacted.

22 5. Attached as Exhibit D is a true and correct copy of relevant excerpts from
23 the Expert Rebuttal Report of Donald Reifer, served by Defendants on March 26, 2010. Non-
24 relevant portions of the Report have been either excluded or redacted.

25 **Evolution v. Sun Trust Case Materials**

26 6. Attached as Exhibit E is a true and correct copy of the June 26, 2003
27 Expert Report of Donald Reifer in the Evolution v. Sun Trust case, (D. Kan. 2:01-cv-02409) as
28 obtained from the electronic docket for the case, Dkt. 164-1. This document was also introduced

1 as Exhibit 3239 to the deposition of Donald Reifer. For ease of use and clarity, Oracle has also
2 attached, before the report, a true and correct copy of relevant excerpts of the docket report in
3 that case.

4 7. Attached as Exhibit F is a true and correct copy of relevant excerpts of the
5 September 25, 2003 Deposition of Donald Reifer in the Evolution v. Sun Trust case, (D. Kan.
6 2:01-cv-02409), as obtained from the electronic docket for the case, Dkt. 164-2.

7 **Garmus Expert Report and Deposition**

8 8. Attached as Exhibit G is a true and correct copy of relevant excerpts from
9 the Expert Rebuttal Report of David P. Garmus, served by Defendants on March 26, 2010. Non-
10 relevant portions of the Report have been either excluded or redacted.

11 9. Attached as Exhibit H is a true and correct copy of relevant excerpts from
12 the transcript of the June 4, 2010 Deposition of David P. Garmus. Non-relevant portions of the
13 deposition transcript have been either excluded or redacted.

14 **Clarke Expert Report and Deposition Exhibit**

15 10. Attached as Exhibit I is a true and correct copy of relevant excerpts from
16 the Expert Report of Stephen Clarke, as supplemented on May 7, 2010. Non-relevant portions of
17 the Report have been either excluded or redacted.

18 11. Attached as Exhibit J is a true and correct copy of Exhibit 3205 to the June
19 8, 2010 deposition of Stephen Clark. For ease of use and clarity, Oracle has included the cover
20 page with the Exhibit stamp, but has replaced the remaining pages with a clean copy of the
21 exhibit.

22 **Documents Produced with Pinto Report**

23 12. Attached as Exhibit K is a true and correct copy of a document entitled
24 Software Cost Estimation, which was produced with the bates-number ORCLX-PIN-000100 as
25 one of the supporting materials with Pinto's November 16, 2009 Report and is also available at
26 <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.24.4489&rep=rep1&type=pdf>.

27 13. Attached as Exhibit L is a true and correct copy of a document entitled
28 Software Cost Estimation in 2002, which was produced with the bates-number ORCLX-PIN-

1 000101 as one of the supporting materials with Pinto's November 16, 2009 Report and is
2 available at <http://www.stsc.hill.af.mil/crosstalk/2002/06/jones.html>.

3 14. Attached as Exhibit M is a true and correct copy of excerpts of a book
4 entitled Software Sizing Estimation and Risk Management written by Daniel Galorath and
5 Michael Evans and published by Auerbach Publications, which was produced with the bates-
6 number ORCLX-PIN-000102 as one of the supporting materials with Pinto's November 16,
7 2009 Report.

8 15. Attached as Exhibit N is a true and correct copy of a document entitled
9 The Forrester Wave: Enterprise CRM Suites, Q3 2008, which was produced as ORCLX-PIN-
10 000006 as one of the supporting materials with Pinto's November 16, 2009 Report and is
11 available at <http://www.microsoft.com/presspass/itanalyst/docs/08-29-08EnterpriseCRM.PDF>.

12 **Interview with David Herron**

13 16. Attached as Exhibit O is a true and correct copy of an interview with
14 David Herron, co-founder (along with David Garmus) of the David Consulting Group, available
15 at <http://www.compaid.com/caiinternet/ezine/davidherroninterview.pdf>.

16
17 I declare under penalty of perjury under the laws of the United States that the
18 foregoing facts are true and correct, and that this Declaration was executed on September 9,
19 2010, in San Francisco, CA.

20 /s/ Zachary J. Alinder
21 Zachary J. Alinder
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