

1 BINGHAM McCUTCHEM LLP
 DONN P. PICKETT (SBN 72257)
 2 GEOFFREY M. HOWARD (SBN 157468)
 HOLLY A. HOUSE (SBN 136045)
 3 ZACHARY J. ALINDER (SBN 209009)
 BREE HANN (SBN 215695)
 4 Three Embarcadero Center
 San Francisco, CA 94111-4067
 Telephone: (415) 393-2000
 5 Facsimile: (415) 393-2286
 donn.pickett@bingham.com
 6 geoff.howard@bingham.com
 holly.house@bingham.com
 7 zachary.alinder@bingham.com
 bree.hann@bingham.com

8 BOIES, SCHILLER & FLEXNER LLP
 DAVID BOIES (Admitted *Pro Hac Vice*)
 9 333 Main Street
 Armonk, NY 10504
 Telephone: (914) 749-8200
 10 Facsimile: (914) 749-8300
 dboies@bsflp.com
 11 STEVEN C. HOLTZMAN (SBN 144177)
 FRED NORTON (SBN 224725)
 12 1999 Harrison St., Suite 900
 Oakland, CA 94612
 Telephone: (510) 874-1000
 13 Facsimile: (510) 874-1460
 14 sholtzman@bsflp.com
 fnorton@bsflp.com

15 DORIAN DALEY (SBN 129049)
 JENNIFER GLOSS (SBN 154227)
 16 500 Oracle Parkway, M/S 5op7
 Redwood City, CA 94070
 Telephone: (650) 506-4846
 17 Facsimile: (650) 506-7114
 18 dorian.daley@oracle.com
 jennifer.gloss@oracle.com

19 Attorneys for Plaintiffs Oracle USA, Inc., *et al.*

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 REPLY
 MEMORANDUM REGARDING
 MOTION NO. 3: TO EXCLUDE
 TESTIMONY OF DEFENDANTS'
 EXPERT DAVID GARMUS**

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

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

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 Reply
8 Memorandum Regarding its Motion to Exclude Testimony of David Garmus.

9 **Garmus Report and Deposition**

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

13 **Clarke Report**

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

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

18 4. Attached as Exhibit C is a true and correct copy of relevant excerpts of the
19 September 25, 2003 Deposition of Donald Reifer in the Evolution v. Sun Trust case, (D. Kan.
20 2:01-cv-02409), as obtained from the electronic docket for the case, Dkt. 164-2. For ease of use
21 and clarity, Oracle has also attached, before the report, a true and correct copy of relevant
22 excerpts of the docket report in that case.

23

24 I declare under penalty of perjury under the laws of the United States that the
25 foregoing facts are true and correct, and that this Declaration was executed on September 16,
26 2010, in San Francisco, CA.

27

/s/ Zachary J. Alinder
Zachary J. Alinder

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