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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. 4: TO EXCLUDE
 TESTIMONY OF DEFENDANTS'
 EXPERT DONALD REIFER**

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)

ALINDER DECL. IN SUPPORT OF REPLY MEMO. RE MOT. TO EXCLUDE TESTIMONY OF
 DEFENDANTS' EXPERT DONAL REIFER

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 Donal Reifer.

9 **Reifer Report and Deposition**

10 2. Attached as Exhibit A is a true and correct copy of relevant excerpts from
11 the Expert Rebuttal Report of Donald Reifer, served by Defendants on March 26, 2010. Non-
12 relevant portions of the Report have been either excluded or redacted.

13 3. Attached as Exhibit B is a true and correct copy of relevant excerpts from
14 the transcript of the June 18, 2010 Deposition of Donald Reifer. Non-relevant portions of the
15 deposition transcript have been either excluded or redacted.

16 **Pinto Report**

17 4. Attached as Exhibit C is a true and correct copy of relevant excerpts from
18 the Expert Report of Paul C. Pinto, served by Oracle on November 16, 2009. A slipsheet
19 indicating Appendix B to the Report has been added for the Court's convenience. Non-relevant
20 portions of the Report have been either excluded or redacted.

21 **Garmus Report**

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

25 **Meet and Confer History Regarding Pinto's Code Counting Utilities**

26 6. Attached as Exhibit E is a true and correct copy of an email string between
27 counsel for Defendants, Jeffrey Butler, and counsel for Plaintiffs, Geoff Howard, dated February
28 21, 2010, which is related to the code counting utilities Pitno used in forming his opinion.

1 7. Attached as Exhibit F is a true and correct copy of an email string between
2 counsel for Defendants, Jeffrey Butler, and counsel for Plaintiffs, Amy Donnelly, dated February
3 24, 2010, which is related to the code counting utilities Pinto used in forming his opinion.

4 8. Defendants claim that Reifer could not get the executable files produced in
5 the email string reference above to work. However neither Reifer nor Defendants ever asked
6 Oracle or its counsel for further information regarding these files. Nor did Defendants ask Pinto
7 how to operate his counters.

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10 I declare under penalty of perjury under the laws of the United States that the
11 foregoing facts are true and correct, and that this Declaration was executed on September 16,
12 2010, in San Francisco, CA.

13 /s/ Zachary J. Alinder
14 Zachary J. Alinder

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