

# BINGHAM

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September 28, 2010

***Via Electronic Delivery***

The Honorable Phyllis J. Hamilton  
 United States District Court  
 3rd Floor, Courtroom 3  
 1301 Clay Street  
 Oakland, CA 94612-5212

**Re: Oracle USA, Inc., et al. v. SAP AG, et al., Case No. 07-CV-01658**

Your Honor:

This joint letter follows up on the Parties' joint letters to the Court dated September 14 and September 22, 2010.

In addition to the agreements recited in those letters, the Parties agree that Plaintiffs' Motion in Limine No. 8 is moot because Defendants have agreed in good faith to notify Oracle of any witnesses it now intends to withdraw from its designation list by Monday, October 4, without prejudice to withdrawing additional designations. The Parties further agree that Oracle may provide its counter-counter designations by October 20.

In addition, with Judge Spero's assistance, the Parties have agreed upon two factual stipulations and one stipulation regarding Defendants' late production of materials, which includes among other provisions several stipulations of fact and a stipulated jury instruction. All three stipulations will be filed today.

Sincerely yours,

/s/ Geoffrey M. Howard

/s/ Tharan Gregory Lanier

cc: Jason McDonell, Esq.  
 Scott Cowan, Esq.

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