

# EXHIBIT A

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC., )  
Plaintiff, )  
vs. ) No. CV 10-03561 WHA  
GOOGLE, INC., )  
Defendant. )  
\_\_\_\_\_ )

CONFIDENTIAL TESTIMONY - ATTORNEYS' EYES ONLY  
VIDEOTAPED DEPOSITION OF JAMES KEARL  
MONDAY, MARCH 26, 2012

PAGES 1 - 226

1 which of these it needs, all right? Think of 01:11:34  
2 this -- my analogy here, inept may it be, I don't  
3 know which of the 100 pages I want to read; I just  
4 know I want to read one. Then I'd be willing to  
5 pay the subscription price for the right to read 01:11:47  
6 whatever page I wanted to read.

7 Q Doesn't the hypothetical negotiation in  
8 this case presuppose a negotiation over just the  
9 intellectual property in-suit?

10 A I understand that is what the law 01:12:01  
11 requires. This opinion simply says that doesn't  
12 make a lot of sense to an economist, but -- and  
13 Judge Alsup asked for my best economic view, so  
14 here it is.

15 Q So I know the answer to this question 01:12:16  
16 already, but you've reviewed Judge Alsup's orders in  
17 this case?

18 A I have.

19 Q And I'm sure you've read them carefully.

20 A I've read them carefully. 01:12:25

21 Q And you've reviewed the transcript of the  
22 various hearings on challenges the damage experts  
23 report in this case?

24 A I have.

25 Q Do you perceive any tension between your 01:12:32

1 opinion in Section K of your report and any of 01:12:33  
2 Judge Alsup's orders or statements --  
3 MR. COOPER: Objection as to form.  
4 MR. NORTON: Join.  
5 THE WITNESS: I can imagine there will be 01:12:42  
6 some tension, yes.  
7 BY MR. PURCELL:  
8 Q Do you intend to tell the jury that, in  
9 your opinion, no apportionment of the 2006 IP bundle  
10 is appropriate as a matter of economics? 01:12:50  
11 A I expect I'll be permitted to tell the  
12 jury what Judge Alsup tells me I can tell the  
13 jury, so....  
14 Q That's a very diplomatic way of putting  
15 it. 01:13:05  
16 So moving forward just a little bit to  
17 paragraph 118 of your report, there's a section on  
18 "Other Copyright Damages," and it starts with a  
19 section on "Disgorgement of Infringer's Profits."  
20 A Yes. 01:13:27  
21 Q Do you see that?  
22 And then if you look on the next page,  
23 Paragraph 121, you calculate Android's total profits  
24 through the end of 2011 as \$3.1 million, correct?  
25 A Correct. 01:13:42

1 STATE OF CALIFORNIA )  
 ) :ss  
2 COUNTY OF SAN FRANCISCO )  
3

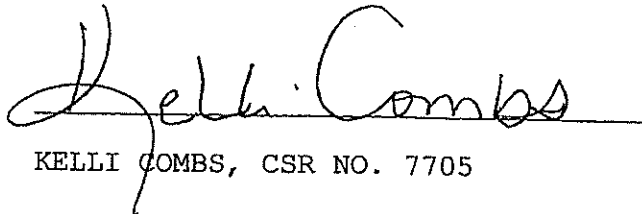
4 I, KELLI COMBS, CSR NO. 7705, a Certified Shorthand  
5 Reporter of the State of California, do hereby certify:

6 That the foregoing proceedings were taken before me  
7 at the time and place herein set forth; that any  
8 witnesses in the foregoing proceedings, prior to  
9 testifying, were placed under oath; that the verbatim  
10 record of the proceedings was made by me using machine  
11 shorthand which was thereafter transcribed under my  
12 direction; further, that the foregoing is an accurate  
13 transcription thereof.

14 I further certify that I am neither financially  
15 interested in the action nor a relative or employee of  
16 any attorney of any of the parties.

17 IN WITNESS WHEREOF, I have this date subscribed my  
18 name.

19  
20 Dated: March 27, 2012  
21

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24 KELLI COMBS, CSR NO. 7705  
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