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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

11 ORACLE AMERICA, INC.

12 Plaintiff,

13 v.

14 GOOGLE INC.

15 Defendant.

CASE NO. CV 10-03561 WHA

**JOINT RESPONSE TO NOTICE RE
SECOND PHASE OF TRIAL**

Judge: Honorable William H. Alsup

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In the event that a verdict is returned on Thursday, May 3 (or Friday, May 4), the parties have no objection to starting the Phase 2 on Monday, May 7.

The parties have met and conferred to resolve the only witness problem that may have interfered with the Court’s proposal. Oracle had identified Mr. Bornstein, a former Google engineer who also testified in Phase 1, as the first witness for its case in chief. But because of a pre-planned trip, Mr. Bornstein was scheduled to be out of town next week. The parties have therefore reached a compromise to accommodate Mr. Bornstein’s schedule. Specifically, Google has agreed to stipulate to the admissibility of various trial exhibits at the beginning of Oracle’s case in chief. In addition, Oracle may present Mr. Bornstein out of order as part of Oracle’s case in chief next Thursday, May 10. Google may thereafter examine Mr. Bornstein in full as part of Google’s case in chief; Google’s examination will not be limited to the scope of Oracle’s examination. Oracle’s cross/rebuttal examination and Google’s rebuttal examination may then follow.

Having resolved the sole potential witness issue, the parties are not aware of anything else that might interfere with the Court’s scheduling proposal.

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Dated: May 2, 2012

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By: /s/ Marc David Peters

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Dated: May 2, 2012

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ATTESTATION

I, Marc David Peters, am the ECF User whose ID and password are being used to file this
JOINT RESPONSE TO NOTICE RE SECOND PHASE OF TRIAL. In compliance with
General Order 45, X.B., I hereby attest that Matthias A. Kamber has concurred in this filing.

Date: May 2, 2012

/s/ Marc David Peters