

1 [counsel listed on signature page]

2

3

4

5

6

7

8

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

10

11 ORACLE AMERICA, INC.

12 Plaintiff,

13 v.

14 GOOGLE INC.

15 Defendant.

CASE NO. CV 10-03561 WHA

**STIPULATION AND [PROPOSED]  
ORDER REGARDING '104 PATENT**

Judge: Honorable William H. Alsup

16

17

18

19

20

21

22

23

24

25

26

27

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**STIPULATION**

WHEREAS, the parties have continued to meet and confer regarding proposals for streamlining the trial, and have reached agreement regarding the '104 patent;

NOW THEREFORE THE PARTIES HEREBY STIPULATE AND AGREE as follows:

1. Google has agreed to withdraw its invalidity defense to the '104 patent.

2. The parties have agreed to the conditional stipulations regarding Oracle and Sun products practicing the '104 patent set forth in the Supplemental Joint Statement of February 21, 2012 (Dkt. 721). Specifically, if Oracle proves in Phase 2 that Google infringes the '104 patent, Google conditionally stipulates for purposes of Phase 3 (the damages phase) that the Oracle products identified in the 2/21/2012 Joint Statement practiced the asserted claims of the '104 patent during the relevant time period. In turn, Oracle conditionally stipulates for purposes of Phase 3 that Oracle and Sun did not mark the practicing products with the '104 patent during the relevant time period. The parties agree that these conditional stipulations relate only to Phase 3 and are triggered by a finding of patent infringement; the stipulations shall not be used as evidence or referred to in attorney argument in Phase 2 regarding patent liability.

**ORDER**

The foregoing stipulation is approved, and IT IS SO ORDERED.

Date: \_\_\_\_\_

\_\_\_\_\_  
Honorable William H. Alsup  
Judge of the United States District Court

1 Dated: May 6, 2012

MORRISON & FOERSTER LLP

2

By: /s/ Marc David Peters

3

MORRISON & FOERSTER LLP  
MICHAEL A. JACOBS (Bar No. 111664)  
mjacobs@mofo.com  
MARC DAVID PETERS (Bar No. 211725)  
mdpeters@mofo.com  
DANIEL P. MUINO (Bar No. 209624)  
dmuino@mofo.com  
755 Page Mill Road  
Palo Alto, CA 94304-1018  
Telephone: (650) 813-5600  
Facsimile: (650) 494-0792

4

5

6

7

8

9

10

BOIES, SCHILLER & FLEXNER LLP  
DAVID BOIES (Admitted *Pro Hac Vice*)  
dboies@bsflp.com  
333 Main Street  
Armonk, NY 10504  
Telephone: (914) 749-8200  
Facsimile: (914) 749-8300  
STEVEN C. HOLTZMAN (Bar No. 144177)  
sholtzman@bsflp.com  
1999 Harrison St., Suite 900  
Oakland, CA 94612  
Telephone: (510) 874-1000  
Facsimile: (510) 874-1460

11

12

13

14

15

16

17

ORACLE CORPORATION  
DORIAN DALEY (Bar No. 129049)  
dorian.daley@oracle.com  
DEBORAH K. MILLER (Bar No. 95527)  
deborah.miller@oracle.com  
MATTHEW M. SARBORARIA (Bar No.  
211600)  
matthew.sarboraria@oracle.com  
500 Oracle Parkway  
Redwood City, CA 94065  
Telephone: (650) 506-5200  
Facsimile: (650) 506-7114

18

19

20

21

22

23

*Attorneys for Plaintiff*  
ORACLE AMERICA, INC.

24

25

26

27

28

1 Dated: May 6, 2012

KEKER & VAN NEST LLP

2  
3 By: /s/ Matthias A. Kamber

4 SCOTT T. WEINGAERTNER (*Pro Hac Vice*)

sweingaertner@kslaw.com

5 ROBERT F. PERRY

rperry@kslaw.com

6 BRUCE W. BABER (*Pro Hac Vice*)

bbaber@kslaw.com

1185 Avenue of the Americas

7 New York, NY 10036-4003

8 Telephone: (212) 556-2100

Facsimile: (212) 556-2222

9 DONALD F. ZIMMER, JR. (SBN 112279)

fzimmer@kslaw.com

10 CHERYL A. SABNIS (SBN 224323)

csabnis@kslaw.com

11 KING & SPALDING LLP

101 Second Street - Suite 2300

12 San Francisco, CA 94105

13 Telephone: (415) 318-1200

Facsimile: (415) 318-1300

14 GREENBERG TRAUIG, LLP

15 IAN C. BALLON (SBN 141819)

ballon@gtlaw.com

16 HEATHER MEEKER (SBN 172148)

meekerh@gtlaw.com

1900 University Avenue

17 East Palo Alto, CA 94303

18 Telephone: (650) 328-8500

Facsimile: (650) 328-8508

19 KEKER & VAN NEST LLP

20 ROBERT A. VAN NEST (SBN 84065)

rvannest@kvn.com

21 CHRISTA M. ANDERSON (SBN184325)

canderson@kvn.com

22 DANIEL PURCELL (SBN 191424)

dpurcell@kvn.com

633 Battery Street

23 San Francisco, CA 94111

24 Telephone: (415) 391-5400

Facsimile: (415) 397-7188

25 *Attorneys for Defendant*

26 GOOGLE INC.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ATTESTATION**

I, Marc David Peters, am the ECF User whose ID and password are being used to file this STIPULATION AND [PROPOSED] ORDER REGARDING '104 PATENT. In compliance with General Order 45, X.B., I hereby attest that Matthias A. Kamber has concurred in this filing.

Date: May 6, 2012

/s/ Marc David Peters