

1 [counsel listed on signature page]
2
3
4
5
6
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 ORACLE AMERICA, INC.

12 Plaintiff,

13 v.

14 GOOGLE INC.

15 Defendant.
16
17
18
19
20
21
22
23
24
25
26
27
28

Case No. CV 10-03561 WHA (DMR)

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Date: June 20, 2012

Time: 11:00 a.m.

Dept.: Courtroom 9, 19th Floor

Judge: Honorable William Alsup

1 Pursuant to the Court's May 31, 2012 Order (ECF 1204), Oracle America, Inc. and
2 Google Inc. jointly submit this statement of issues to be covered at the case management
3 conference on June 20, 2012.

4 **1. Statutory Damages for Copyright Infringement**

5 The Court has asked "whether the amount of statutory damages for copyright
6 infringement should be decided now or at a later date." (ECF 1204.) The parties are meeting and
7 conferring regarding statutory damages and hope to present a stipulation resolving the issue at the
8 conference.

9 **2. Issuance of Final Judgment**

10 As all outstanding claims and counterclaims have now been resolved by the jury's verdicts
11 and the Court's subsequent orders, the parties request that the Court enter final judgment in this
12 matter. Attached hereto are two alternative forms of a proposed Final Judgment (with a
13 placeholder for a statutory damages amount), reserving all rights to appeal any part of the
14 judgment and subject to all prior agreements among the parties.

15 **3. Fees related to Dr. Iain Cockburn's third damages report**

16 In a January 20, 2012 order, the Court directed Oracle to reimburse Google for "[a]ll
17 attorney's fees, expert fees, and other expenses reasonably incurred by Google as a result of
18 allowing a third damages study by Oracle." Jan. 20, 2012 Order [Dkt. 702] at 3, para. 8. After
19 Dr. Cockburn served his third report, Google filed a further Daubert motion, which the Court
20 heard on March 7, 2012. Following that hearing, the Court entered a March 13, 2012 order, [Dkt.
21 785], granting Google's motion in part and directing the parties to submit further briefs regarding
22 "how Dr. Cockburn's report could calculate a reasonable royalty for each individual patent in
23 light of the items stricken by this order." *Id.* at 19. The parties then drafted and submitted those
24 further briefs on March 19, 2012. The sole issue in dispute between the parties is whether the
25 fees and costs Google incurred in preparing and drafting its March 19, 2012 brief are recoverable
26 under the January 20, 2012 order as fees and costs "reasonably incurred by Google as a result of
27 allowing a third damages study by Oracle."

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

4. Fees related to Dr. Kearl's damages report

The parties agree that, to the best of their knowledge, Dr. Kearl has been paid in full for his work to date on this matter aside from his most recent June 8, 2012 bill which is currently being processed for payment.

5. Taxable costs

Google states that, as the prevailing party, it intends to seek its costs in this matter. Oracle will be prepared to address this issue at the conference.

1 Dated: June 18, 2012

MORRISON & FOERSTER LLP

2
3 By: /s/ Michael A. Jacobs

4 MORRISON & FOERSTER LLP
MICHAEL A. JACOBS (Bar No. 111664)
mjacobs@mofo.com
5 KENNETH A. KUWAYTI (Bar No. 145384)
kkuwayti@mofo.com
6 MARC DAVID PETERS (Bar No. 211725)
mdpeters@mofo.com
7 DANIEL P. MUINO (Bar No. 209624)
dmuino@mofo.com
8 755 Page Mill Road
Palo Alto, CA 94304-1018
9 Telephone: (650) 813-5600
Facsimile: (650) 494-0792

10
11 BOIES, SCHILLER & FLEXNER LLP
DAVID BOIES (Admitted *Pro Hac Vice*)
dboies@bsflp.com
12 333 Main Street
Armonk, NY 10504
13 Telephone: (914) 749-8200
Facsimile: (914) 749-8300
14 STEVEN C. HOLTZMAN (Bar No. 144177)
sholtzman@bsflp.com
15 1999 Harrison St., Suite 900
Oakland, CA 94612
16 Telephone: (510) 874-1000
Facsimile: (510) 874-1460

17
18 ORACLE CORPORATION
DORIAN DALEY (Bar No. 129049)
dorian.daley@oracle.com
19 DEBORAH K. MILLER (Bar No. 95527)
deborah.miller@oracle.com
20 MATTHEW M. SARBORARIA (Bar No.
21 211600)
matthew.sarboraria@oracle.com
22 500 Oracle Parkway
Redwood City, CA 94065
23 Telephone: (650) 506-5200
Facsimile: (650) 506-7114

24 *Attorneys for Plaintiff*
ORACLE AMERICA, INC.

1 Dated: June 18, 2012

KEKER & VAN NEST, LLP

2 By: /s/ Robert A. Van Nest

3 ROBERT A. VAN NEST (SBN 84065)
4 rvannest@kvn.com
5 CHRISTA M. ANDERSON (SBN184325)
6 canderson@kvn.com
7 DANIEL PURCELL (SBN 191424)
8 dpurcell@kvn.com
9 710 Sansome Street
10 San Francisco, CA 94111-1704
11 Telephone: (415) 391-5400
12 Facsimile: (415) 397-7188

13 SCOTT T. WEINGAERTNER (*Pro Hac Vice*)
14 sweingaertner@kslaw.com
15 ROBERT F. PERRY
16 rperry@kslaw.com
17 BRUCE W. BABER (*Pro Hac Vice*)
18 bbaber@kslaw.com
19 1185 Avenue of the Americas
20 New York, NY 10036-4003
21 Telephone: (212) 556-2100
22 Facsimile: (212) 556-2222

23 DONALD F. ZIMMER, JR. (SBN 112279)
24 fzimmer@kslaw.com
25 CHERYL A. SABNIS (SBN 224323)
26 csabnis@kslaw.com
27 KING & SPALDING LLP
28 101 Second Street - Suite 2300
San Francisco, CA 94105
Telephone: (415) 318-1200
Facsimile: (415) 318-1300

GREENBERG TRAURIG, LLP
IAN C. BALLON (SBN 141819)
ballon@gtlaw.com
HEATHER MEEKER (SBN 172148)
meekerh@gtlaw.com
1900 University Avenue
East Palo Alto, CA 94303
Telephone: (650) 328-8500
Facsimile: (650) 328-8508

Attorneys for Defendant
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, Michael A. Jacobs, am the ECF User whose ID and password are being used to file this
JOINT CASE MANAGEMENT CONFERENCE STATEMENT. In compliance with General
Order 45, X.B., I hereby attest that Robert A. Van Nest has concurred in this filing.

Date: June 18, 2012

/s/ Michael A. Jacobs