

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ORACLE AMERICA, INC.,

Plaintiff,

No. C 10-03561 WHA

v.

GOOGLE INC.,

Defendant.

**COURT’S RESPONSE TO JOINT CASE
MANAGEMENT MEMORANDUM**

Given the number of civil cases that will be ready for jury trial during the period between the current lengthy criminal RICO-VICAR trial and those to follow (discussed with counsel), the undersigned judge feels obligated to give priority to those civil cases most suited and practical for jury comprehension and decision, all other things being equal. The larger the number of patents and patent claims at trial, the greater will be the burden on the jury’s ability to comprehend and to reach a just and correct verdict. The larger the number of patents and patent claims asserted, moreover, the more practical it will then seem to simply stay this case and see which claims survive PTO re-examination. Although the Court doubts that the number of claims Oracle would ask a jury to learn and to evaluate is “triable,” it is premature to reach a final conclusion and the Court will let Oracle make its final proposal for a three-week trial of all issues at the final pretrial conference (and will consider a stay pending re-examination at that time). In this regard, practicality and fairness to the jury also require weighing the number and variation of invalidity contentions for the claims selected. As counsel should be aware already, the trial days will be

1 7:30 a.m. to 1:00 p.m. with two fifteen-minute recesses (and no lunch break) except that once the
2 jury begins to deliberate, the jury can go as long as it wishes each day. Possibly summary
3 judgment motions will be allowed on the patent issues but counsel should not count on it, much
4 less count on eliminating triable issues of fact.

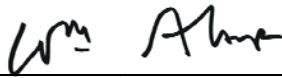
5 Therefore, this order simply approves the agreed-on points and leaves for the final pretrial
6 conference whether a workable trial plan can be devised, failing which the trial will either be put
7 over until it is trial-ready and/or a trial stay pending re-examination will be entered.

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9 **IT IS SO ORDERED.**

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11 Dated: May 23, 2011.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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