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Attorneys For Defendant
 GOOGLE INC.

20 UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 21 SAN FRANCISCO DIVISION

22 ORACLE AMERICA, INC.,
 23 Plaintiff,
 24 v.
 25 GOOGLE INC.,
 26 Defendant.

Case No. CV 10-03561 WHA

**JOINT STIPULATION AND
~~PROPOSED~~ ORDER RE TESTIMONY
 OF JONATHAN SCHWARTZ**

Dept.: Courtroom 8, 19th Floor
Judge: Hon. William H. Alsup

1 **STIPULATION**

2 WHEREAS Oracle filed a summary motion in limine seeking to exclude portions of
3 former Sun CEO Jonathan Schwartz’s prior testimony from the retrial in this matter, ECF 1696 at
4 18;

5 WHEREAS Google filed a summary opposition opposing Oracle’s motion in limine, ECF
6 1696 at 19;

7 WHEREAS the Court ordered full briefing on Oracle’s summary motion in limine from
8 both parties, ECF 1723;

9 WHEREAS Oracle and Google (collectively the “Parties”) conferred and agreed that a
10 mutual stipulated agreement would resolve Oracle’s outstanding motion in limine without the
11 need for further motion practice;

12 NOW, THEREFORE, the Parties AGREE AND STIPULATE that:

13
14 To resolve Oracle’s Summary Motion in Limine No. 8, ECF 1696 at 18, Google agrees
15 not to attempt to elicit from Mr. Schwartz or use at trial the testimony by Mr. Schwartz that “we
16 didn’t have any grounds” for litigation against Google over Android. If Oracle opens the door to
17 this testimony by asking Mr. Schwartz or any other witness whether Sun had legal grounds to sue
18 Google over Android, by presenting testimony (solicited or not) from any Oracle witness on this
19 issue, or through attorney argument, Google will thereafter not be limited by this agreement. If
20 Google believes the door has been opened to this issue, Google agrees to seek clearance from the
21 Court before attempting to use Mr. Schwartz’s prior testimony. Nothing in this agreement should
22 be read to limit Oracle or Google from presenting evidence or argument on any issue not
23 specifically identified herein.

1 Dated: April 25, 2016

ORRICK, HERRINGTON & SUTCLIFFE LLP

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3 By: /s/ Peter A. Bicks
PETER A. BICKS

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5 Attorneys for Plaintiff
ORACLE AMERICA, INC.

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7 Dated: April 25, 2016

Keker & Van Nest LLP

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9 By: /s/ Robert A. Van Nest
ROBERT A. VAN NEST

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11 Attorneys For Defendant
GOOGLE INC.

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13
14 **ATTESTATION OF CONCURRENCE**

15 I, Peter A. Bicks, the ECF User whose ID and password are being used to file this Joint
16 Stipulation and [Proposed] Order Regarding the Testimony of Jonathan Schwartz, hereby attest
17 that Robert Van Nest has concurred in this filing.

18 Dated: April 25, 2016 By: /s/ Peter A. Bicks

19
20
21 **~~PROPOSED~~ ORDER**

22 The foregoing stipulation is approved, and Oracle's Summary Motion in Limine Re. the
23 Testimony of Jonathan Schwartz, ECF 1696 at 18, is denied as moot without prejudice to refileing
24 in the event it is no longer moot. IT IS SO ORDERED.

25
26 Date: April 25, 2016.

27 
Honorable William H. Alsup
28 Judge of the United States District Court