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19 **UNITED STATES DISTRICT COURT**  
 20 **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  
**DECLARATION OF FRED NORTON IN  
 SUPPORT OF ORACLE AMERICA,  
 INC.'S OPPOSITION TO GOOGLE'S  
 DAUBERT MOTION**  
 Dept.: Courtroom 9, 19th Floor  
 Judge: Honorable William H. Alsup

1 I, FRED NORTON, declare as follows:

2 1. I am a partner with the law firm of Boies, Schiller & Flexner LLP, attorneys for plaintiff  
3 Oracle America, Inc. in the above captioned matter.

4 2. I make this declaration based on my own personal knowledge. If called as a witness, I  
5 could and would testify competently as to the matters set forth herein.

6 3. Attached hereto as Exhibit A is a true and correct copy of the April 21, 2009, article titled  
7 “In Sun, Oracle Sees a Software Gem,” published in the New York Times and downloaded from  
8 www.nytimes.com.

9 4. Attached hereto as Exhibit B is a true and correct copy of the July 28, 2010 article titled  
10 “Eric Schmidt on Google’s Next Tricks” published in the Wall Street Journal and printed from  
11 www.wsj.com.

12 5. Attached hereto as Exhibit C is a true and correct copy of a January 31, 2006, e-mail and  
13 attachment from Andy Rubin to Timothy Lindholm, Richard Miner, Chris DiBona, and David Lee.  
14 The root e-mail, entitled “FYI,” bears Bates stamp GOOGLE-14-00042243. The attachment, a  
15 presentation titled “Open Handset Alliance,” bears Bates stamp GOOGLE-14-00042244-54. Google  
16 produced these documents and has designated them HIGHLY CONFIDENTIAL – ATTORNEYS  
17 EYES ONLY. **[FILED UNDER SEAL.]**

18 6. Attached hereto as Exhibit D is a true and correct copy of a October 11, 2005 email from  
19 Andy Rubin to Larry Page, titled “RE: Sun meeting.” and bearing Bates stamp GOOGLE-01-  
20 00019527-28. Google produced this document and has designated it HIGHLY CONFIDENTIAL –  
21 ATTORNEYS EYES ONLY. **[FILED UNDER SEAL.]**

22 7. Attached hereto as Exhibit E is a true and correct copy of the June 21, 2011 article titled  
23 “25 Percent, 50 Percent ... What’s In A Number?” by Dr. Christine Siegwath Meyer and Dr. David  
24 Blackburn of NERA Economic Consulting, published by Law360 and printed from www.law360.com.

25 8. Attached hereto as Exhibit F is a true and correct copy of an article by Elizabeth M. Bailey,  
26 Gregory K. Leonard, and Mario A. Lopez, titled “Making Sense of ‘Apportionment’ in Patent  
27 Damages,” published in the Columbia Science & Technology Law Review on June 2, 2011, and  
28 downloaded from www.nera.com.

1 9. Attached hereto as Exhibit G is a true and correct copy of the Google, Inc. Q3 2010  
2 Earnings Call Transcript, dated October 14, 2010, downloaded from www.morningstar.com.

3 10. Attached hereto as Exhibit H is a true and correct copy of the August 5, 2010, article titled  
4 “Google’s Android Is Making Boatloads Of Money, Says Schmidt – Way More Than It Costs To  
5 Make,” published in Business Insider and downloaded from www.businessinsider.com.

6 11. Attached hereto as Exhibit I is a true and correct copy of the Google, Inc. Q2 2010  
7 Earnings Call Transcript, dated July 15, 2010, and downloaded from www.morningstar.com.

8 12. Attached hereto as Exhibit J is a true and correct copy of page 63 from *Economic*  
9 *Approaches To Intellectual Property: Policy, Litigation, and Management* edited by Gregory K.  
10 Leonard and Lauren J. Stiroh, copyright 2005 NERA, Inc.

11 13. Attached hereto as Exhibit K is a true and correct copy of page 92 of the deposition  
12 transcript of Andy Rubin, which Google has designated CONFIDENTIAL. **[FILED UNDER SEAL.]**

13 14. Attached hereto as Exhibit L is a true and correct copy of the Android Timeline  
14 downloaded from <http://www.android.com/timeline.html>.

15 15. Attached hereto as Exhibit M is a true and correct copy of a June 6, 2007, e-mail thread  
16 between Andy Rubin, Steve Horowitz, Jason Parks, and Dan Bornstein, titled “Re: [FWD: MIDP VM  
17 on Android.]” and bearing Bates stamp GOOGLE-02-00089698-99. Google produced this document  
18 and has designated it HIGHLY CONFIDENTIAL – ATTORNEYS EYES ONLY. **[FILED UNDER**  
19 **SEAL.]**

20  
21 I declare under penalty of perjury that the foregoing is true and correct and that this declaration  
22 was executed on June 28, 2011 at Oakland, California.

23  
24 By: /s/ Fred Norton  
Fred Norton

1 **ATTESTATION OF FILER**

2 The signatory to this document is Fred Norton. I, Alanna Rutherford, have obtained Mr.  
3 Norton's concurrence to file this document on his behalf.

4  
5 Dated: June 28, 2011

BOIES, SCHILLER & FLEXNER LLP

6 By: /s/ Alanna Rutherford  
7 Alanna Rutherford

8 *Attorneys for Plaintiff*  
9 ORACLE AMERICA, INC.