

# **EXHIBIT 40**

# **EXHIBIT B**

## **Second Supplemental**

## Exhibit B-Second Supplemental

### List of Materials Considered

1. Complaint for Patent and Copyright Infringement, Demand for Jury Trial and exhibits, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, August 12, 2010.
2. Google Inc.'s Answer to Plaintiff's Complaint for Patent and Copyright Infringement and Counterclaims, Jury Trial Demanded, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, October 4, 2010.
3. Google Inc.'s Motion to Dismiss Count VIII of Plaintiff's Complaint Or, In The Alternative, For a More Definite Statement, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, October 4, 2010.
4. Amended Complaint for Patent and Copyright Infringement, Demand for Jury Trial, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, October 27, 2010.
5. Google Inc.'s Answer to Plaintiff's Amended Complaint for Patent and Copyright Infringement and Counterclaims, Jury Trial Demanded, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, November 10, 2010.
6. Case Management Order, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, November 19, 2010.
7. Order Entering Joint Proposed Claim Construction Briefing Schedule, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, November 29, 2010.
8. Defendant Google Inc.'s Supplemental Responses to Plaintiff's Interrogatories, Set One.
9. Plaintiff Oracle America, Inc.'s Supplemental Responses to Defendant Google, Inc.'s Interrogatories, Set One.
10. Plaintiff's Request for Production of Documents and Things to Defendant Google Inc., Set One.
11. Joint Protective Order, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, December 20, 2010.

12. Google's Invalidity Contentions, served on January 18, 2011.
13. Joint Claim Construction Statement, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, February 22, 2011.
14. Oracle's Technology Tutorial, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, April 6, 2011, Oracle 04-06-2011 Tech Tutorial Slide.PPT.
15. Google's Technical Tutorial, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, April 6, 2011, Oracle v Google – Google Tech Tutorial Slides 04-06-2011.pdf.
16. Oracle's Technology Tutorial Supplement, *Oracle America, Inc., v. Google, Inc.*, April 6, 2011, Oracle 04-06-2011 Tech Tutorial Supplement.PPT.
17. Claim Construction Hearing, Oracle's Argument, *Oracle America, Inc., v. Google, Inc.*, April 20, 2011, Oracle Markman Hearing Slides 04-20-2011.pdf.
18. Transcript of Proceedings, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, April 20, 2011.
19. Claim Construction Order, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, May 9, 2011.
20. Order Granting in Part Motion to Strike Damage Report of Plaintiff Expert Iain Cockburn, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, July 22, 2011.
21. Order Granting In Part And Denying In Part Plaintiff's Request To Take Additional Depositions, *Oracle America, Inc., v. Google, Inc.*, No. 10-03561 WHA, United States District Court, Northern District of California, July 21, 2011.
22. U.S. Patents Nos. 5,966,702; 6,061,520; 6,125,447; 6,192,476; RE38,104 E; 6,910,205; 7,426,720 and associated file histories.
23. U.S. Patent Nos. 5,909,579; 5,995,754; 6,591,416; 6,691,307; 6,886,157; 7,093,134; 5,311,591; 5,412,717; 7,934,166; 6,026,485; 5,768,593.
24. Oracle Java code, documentation, specifications, and related materials.
25. Android code, documentation, specifications, videos, and related materials.
26. Files from Android devices.

27. Deposition transcripts and exhibits: Aditya Agarwal, Joshua Bloch, Daniel Bornstein, Patrick Brady, Eric Chu, Rachel Claflin, Bob Lee, Andrew McFadden, Dan Morrill, Lisa Ripley, Andrew Rubin, Brian Swetland.
28. Performance benchmarks and testing by Bob Vandette, Noel Poore, and Erez Landau
29. Reports by Johnson-Laird, Inc.
30. Expert Report of Iain M. Cockburn and supporting materials
31. Analysis of Samsung Captivate (SGH-I897) & LG (Various Models) Handset Code by Marc Visnick (JLI)
32. Expert Report of Dr. Benjamin F. Goldberg Regarding Validity of Patents-in-Suit and supporting documents
33. Expert Report of Dr. David I. August, Ph.D. Regarding the Non-Infringement of U.S. Patent No. RE38,104 and supporting documents
34. Expert Report of David I. August, Ph.D. Regarding the Non-Infringement of U.S. Patent No. 6,910,205 and supporting documents
35. Expert Report of Terence Parr, Ph.D. Regarding Non-Infringement of U.S. Patent No. 5,966,702 and supporting documents
36. Expert Report of Terence Parr, Ph.D. Regarding the Non-Infringement of U.S. Patent No. 6,061,520 and supporting documents
37. Expert Report of Jack W. Davidson, Ph.D. Regarding the Non-Infringement of U.S. Patent No. 7,426,720 and supporting documents
38. Expert Report of Prof. David Mazières, Ph.D. Regarding Non-Infringement of U.S. Patent Nos. 6,125,447 and 6,129,476 and supporting documents
39. Videos:
  - Google I/O 2008 Video entitled “Anatomy and Physiology of an Android,” presented by Patrick Brady, *available at* <http://developer.android.com/videos/index.html#v=G-36noTCaiA>
  - Google I/O 2010 Video entitled “A JIT Compiler for Android’s Dalvik VM,” presented by Ben Cheng and Bill Buzbee (Google’s Android Team), *available at* <http://developer.android.com/videos/index.html#v=Ls0tM-c4Vfo>
  - Google I/O 2008 Video entitled “Dalvik Virtual Machine Internals,” by presented Dan Bornstein, *available at* <http://developer.android.com/videos/index.html#v=ptjedOZEXPM>

- R. Cannings, 2010 Presentation entitled “Android: Securing a Mobile Platform from the Ground Up,” available at <http://www.usenix.org/events/sec09/tech>

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- D. Goodin, “2 out of 3 Android apps use private data ‘suspiciously’ Google protections ‘insufficient’,” posted Sept. 30, 2010, available at [http://www.theregister.co.uk/2010/09/30/suspicious\\_android\\_apps/](http://www.theregister.co.uk/2010/09/30/suspicious_android_apps/)
- E. Gamma, et al., Design Patterns: Elements of Reusable Object-Oriented Software (1995), available at [http://books.google.com/books?id=6oHuKQe3TjQC&printsec=frontcover&dq=Design+Patterns:+Elements+of+Reusable+Object-Oriented&hl=en&ei=wVI\\_TsC6IobhiAKMqpHDBg&sa=X&oi=book\\_result&ct=result&resnum=1&ved=0CCoQ6AEwAA#v=onepage&q&f=false](http://books.google.com/books?id=6oHuKQe3TjQC&printsec=frontcover&dq=Design+Patterns:+Elements+of+Reusable+Object-Oriented&hl=en&ei=wVI_TsC6IobhiAKMqpHDBg&sa=X&oi=book_result&ct=result&resnum=1&ved=0CCoQ6AEwAA#v=onepage&q&f=false)
- E. Roberts, “*The Dream of a Common Language: The Search for Simplicity and Stability in Computer Science Education*,” SIGCSE ‘04 Proceedings of the 35th SIGCSE technical symposium on Computer science education (2004), available at <http://www-cs-faculty.stanford.edu/~eroberts/papers/SIGCSE-2004/DreamOfACommonLanguage.pdf>
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- JR Raphael, *The Nexus S and Google: Everything There Is To Know*, PCWORLD (Nov. 11, 2010), available at [http://www.pcworld.com/article/210460/the\\_nexus\\_s\\_and\\_google\\_everything\\_the\\_re\\_is\\_to\\_know.html](http://www.pcworld.com/article/210460/the_nexus_s_and_google_everything_the_re_is_to_know.html)
- M. LaMonica, “IBM, BEA join on Java strategy,” CNET News (Nov. 25, 2003), available at <http://news.cnet.com/2100-7345-5111567.html>
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- R. Ierusalimschy, L. H. de Figueiredo, W. Celes, The evolution of Lua, Proceedings of ACM HOPL III (2007) 2-1-2-26, available at <http://portal.acm.org/citation.cfm?id=1238846>
- R. Ierusalimschy, L. H. de Figueiredo, W. Celes, The implementation of Lua 5.0, Journal of Universal Computer Science 11 #7 (2005) 1159-1176, available at [http://www.jucs.org/jucs\\_11\\_7/the\\_implementation\\_of\\_lua/jucs\\_11\\_7\\_1159\\_1176\\_defigueiredo.pdf](http://www.jucs.org/jucs_11_7/the_implementation_of_lua/jucs_11_7_1159_1176_defigueiredo.pdf)
- R. Lowe, Linux Kernel Process Management, April 15, 2005. Sample Chapter is provided courtesy of Sams, <http://www.informit.com/articles/article.aspx?p=370047&seqNum=2&rll=1>
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- RESTful Single Sign on shown on the iPhone, Comment by D. Bornstein, April 14, 2009, available at [http://groups.google.com/group/android-security-discuss/tree/browse\\_frm/month/2009-04/03bdf8dd52fe7101?num=31&\\_done=/group/android-security-discuss/browse\\_frm/month/2009-04?&pli=1](http://groups.google.com/group/android-security-discuss/tree/browse_frm/month/2009-04/03bdf8dd52fe7101?num=31&_done=/group/android-security-discuss/browse_frm/month/2009-04?&pli=1)
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- S. Lohr and A. Vance, “I.B.M., Looking to Buy Sun, Sets Up a Software Strategy,” *The New York Times Inside Technology* article (Mar. 18, 2009), available at <http://www.nytimes.com/2009/03/19/technology/companies/19sun.html>
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- Stephen G. Kochan, *Programming in Objective-C 2.0, Rough Cuts*, 2nd Edition, available at <http://www.informit.com/articles/article.aspx?p=1271260>
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- <http://android-developers.blogspot.com/2010/05/dalvik-jit.html>
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- <http://download.oracle.com/javase/1.5.0/docs/api/>
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- <http://download.oracle.com/javase/1.5.0/docs/api/java/util/Arrays.html>
- <http://download.oracle.com/javase/1.5.0/docs/api/java/util/TreeMap.html>
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- <http://web.archive.org/web/20080205101616/http://www.sun.com/smi/Press/sunflash/1996-01/sunflash.960123.10561.xml>
- <https://opensource.samsung.com/>
- [https://market.android.com/details?id=com.prosyst.mbs.mobile.android&feature=search\\_result](https://market.android.com/details?id=com.prosyst.mbs.mobile.android&feature=search_result)
- [www.elinux.org/Android\\_Zygote\\_Startup](http://www.elinux.org/Android_Zygote_Startup)
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- *Global-Tech Appliances, Inc. v. SEB S.A.*, 131 S. Ct. 2060 (2011)
- *Moore U.S.A., Inc. v. Standard Register Co.*, 229 F.3d 1091 (Fed. Cir. 2000)
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**43.** Oracle production:

OAGOOGL0000106419

OAGOOGL0000116075  
OAGOOGL0000122862  
OAGOOGL0100000454  
OAGOOGL0100003560  
OAGOOGL0100003653  
OAGOOGL0100003796  
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OAGOOGL0100219558  
OAGOOGL0100219559  
OAGOOGL0100219560  
OAGOOGL0100219561  
OAGOOGL0100219562  
OAGOOGL0100219563  
OAGOOGL0100219564  
OAGOOGL0100219565  
OAGOOGL0100219566  
OAGOOGL0100219567  
OAGOOGL0100219568  
OAGOOGL0100219569  
OAGOOGL0100219570

**44.** Google production:

GOOGLE-00296158  
GOOGLE-00296163  
GOOGLE-00296500  
GOOGLE-00302662  
GOOGLE-00302808  
GOOGLE-00320083  
GOOGLE-00320116  
GOOGLE-00320162  
GOOGLE-03374578  
GOOGLE-00381507  
GOOGLE-00383073  
GOOGLE-00383312  
GOOGLE-00384339  
GOOGLE-00385568  
GOOGLE-00392204  
GOOGLE-00392213  
GOOGLE-00393127  
GOOGLE-03373762  
GOOGLE-03403710  
GOOGLE-01-00019511  
GOOGLE-01-00019527  
GOOGLE-01-00019529  
GOOGLE-01-00020250

GOOGLE-01-00025376  
GOOGLE-01-00025576  
GOOGLE-01-00029331  
GOOGLE-01-00053552  
GOOGLE-01-00056695  
GOOGLE-01-00075935  
GOOGLE-02-00111218  
GOOGLE-02-00449471  
GOOGLE-03-00090810  
GOOGLE-04-00039541  
GOOGLE-04-00042610  
GOOGLE-04-00055098  
GOOGLE-04-00055169  
GOOGLE-04-00061079  
GOOGLE-04-00083077  
GOOGLE-04-00083078  
GOOGLE-05-00256263  
GOOGLE-10-00045531  
GOOGLE-12-00000537  
GOOGLE-12-00003871  
GOOGLE-12-00006964  
GOOGLE-12-00079180  
GOOGLE-14-00042244  
GOOGLE-16-00110209  
GOOGLE-17-00016798  
GOOGLE-17-00066964  
GOOGLE-17-00119695  
GOOGLE-17-00664938  
GOOGLE-22-00171914  
GOOGLE-22-00183584  
GOOGLE-22-00281510  
GOOGLE-22-00433254  
GOOGLE-29-00002338  
GOOGLE-40-00034698

**45.** Third Party Production:

STAPROD0000130