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 ORACLE AMERICA, INC.

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

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

CASE NO. CV 10-03561 WHA

**[PROPOSED] ORDER GRANTING  
 ORACLE AMERICA'S MOTION FOR  
 ADMINISTRATIVE RELIEF TO  
 DEEM FACTS ADMITTED BY  
 GOOGLE**

Judge: Honorable William H. Alsup

1 The Court has read and considered Oracle’s Motion for Administrative Relief to Deem  
2 Facts Admitted by Google. Based on the arguments presented in the motion, the pleadings on  
3 file, and any other relevant matter, the following facts shall be deemed admitted for purposes of  
4 the upcoming trial:

- 5 1. Google has admitted that the 37 Java APIs meet the threshold for originality required  
6 by the Constitution.
- 7 2. Google has admitted that Android incorporates the same selection, arrangement and  
8 structure of API elements as Java 2 SE does for the 37 API packages at issue.
- 9 3. Google has admitted that the Java programming language is distinct from the Java  
10 APIs and class libraries.
- 11 4. Google has admitted that the only way to demonstrate compatibility with the Java  
12 specification is by meeting all of the requirements of Sun’s Technology Compatibility  
13 Kit (“TCK”) for a particular edition of Sun’s Java.
- 14 5. Google has admitted: TCKs were only available from Sun, initially not available as  
15 open source, were provided solely at Sun’s discretion, and included several  
16 restrictions, such as additional licensing terms and fees. In essence, although  
17 developers were free to develop a competing Java virtual machine, they could not  
18 openly obtain an important component needed to freely benefit from Sun’s purported  
19 open-sourcing of Java.
- 20 6. Google has admitted: Although Sun offered to open source the TCK for Java SE, Sun  
21 included field of use (“FOU”) restrictions that limited the circumstances under which  
22 Apache Harmony users could use the software that the Apache Software Foundation  
23 created. Sun refused the ASF’s request for a TCK license without FOU restrictions.

24 IT IS SO ORDERED.

25 Date: \_\_\_\_\_

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