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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ORACLE USA, INC., et al.,

Plaintiffs,

No. C 07-1658 PJH

v.

ORDER

SAP AG, et al.,

Defendants.

_____ /

Before the court is the parties' dispute regarding the form of judgment to be entered in the above-entitled action. The parties are hereby directed to submit a proposed form of judgment that conforms to the following:

First, the judgment shall include an award of prejudgment interest, but the amount shall be calculated based on 28 U.S.C. § 1961(a). That is, prejudgment interest shall be calculated "at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding" the date of the judgment, compounded annually. Substantial evidence does not support a finding that the equities of the case require a rate other than the rate set forth in § 1961. In particular, the court does not find that the rate should be calculated separately for each year back to the date of the hypothetical license negotiation.

Second, as for the date from which the interest should accrue, the court finds that the date of the hypothetical PeopleSoft and Oracle Database license negotiation and the date of the hypothetical Siebel license negotiation are equally speculative. Since the jury did not apportion the \$1.3 billion damage award, the court has no basis upon which to do

United States District Court
For the Northern District of California

1 so. Accordingly, in view of the size of the jury award, the interest will accrue from the date
2 of the hypothetical Siebel license negotiation.

3 Third, the issue of the disposition of the infringing materials is not relevant to the
4 entry of judgment. Accordingly, the parties shall submit a separate stipulation
5 memorializing their agreement regarding the destruction of the infringing materials that
6 remain in SAP's possession.

7 Fourth, the judgment shall include all claims and parties that were dismissed prior to
8 the trial, in addition to the claims that were tried to the jury.

9 Finally, Oracle's request for leave to file a "full" reply brief is DENIED.

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11 **IT IS SO ORDERED.**

12 Dated: December 28, 2010



PHYLLIS J. HAMILTON
United States District Judge

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