

1 [counsel listed on signature page]
2
3
4
5
6
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 ORACLE AMERICA, INC.

12 Plaintiff,

13 v.

14 GOOGLE INC.

15 Defendant.
16

CASE NO. CV 10-03561 WHA

**JOINT RESPONSE TO NOTICE RE
SECOND PHASE OF TRIAL**

Judge: Honorable William H. Alsup

17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

In the event that a verdict is returned on Thursday, May 3 (or Friday, May 4), the parties have no objection to starting the Phase 2 on Monday, May 7.

The parties have met and conferred to resolve the only witness problem that may have interfered with the Court’s proposal. Oracle had identified Mr. Bornstein, a former Google engineer who also testified in Phase 1, as the first witness for its case in chief. But because of a pre-planned trip, Mr. Bornstein was scheduled to be out of town next week. The parties have therefore reached a compromise to accommodate Mr. Bornstein’s schedule. Specifically, Google has agreed to stipulate to the admissibility of various trial exhibits at the beginning of Oracle’s case in chief. In addition, Oracle may present Mr. Bornstein out of order as part of Oracle’s case in chief next Thursday, May 10. Google may thereafter examine Mr. Bornstein in full as part of Google’s case in chief; Google’s examination will not be limited to the scope of Oracle’s examination. Oracle’s cross/rebuttal examination and Google’s rebuttal examination may then follow.

Having resolved the sole potential witness issue, the parties are not aware of anything else that might interfere with the Court’s scheduling proposal.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: May 2, 2012

MORRISON & FOERSTER LLP

By: /s/ Marc David Peters

MORRISON & FOERSTER LLP
MICHAEL A. JACOBS (Bar No. 111664)
mjacobs@mofo.com
MARC DAVID PETERS (Bar No. 211725)
mdpeters@mofo.com
DANIEL P. MUINO (Bar No. 209624)
dmuino@mofo.com
755 Page Mill Road
Palo Alto, CA 94304-1018
Telephone: (650) 813-5600
Facsimile: (650) 494-0792

BOIES, SCHILLER & FLEXNER LLP
DAVID BOIES (Admitted *Pro Hac Vice*)
dboies@bsflp.com
333 Main Street
Armonk, NY 10504
Telephone: (914) 749-8200
Facsimile: (914) 749-8300
STEVEN C. HOLTZMAN (Bar No. 144177)
sholtzman@bsflp.com
1999 Harrison St., Suite 900
Oakland, CA 94612
Telephone: (510) 874-1000
Facsimile: (510) 874-1460

ORACLE CORPORATION
DORIAN DALEY (Bar No. 129049)
dorian.daley@oracle.com
DEBORAH K. MILLER (Bar No. 95527)
deborah.miller@oracle.com
MATTHEW M. SARBORARIA (Bar No. 211600)
matthew.sarboraria@oracle.com
500 Oracle Parkway
Redwood City, CA 94065
Telephone: (650) 506-5200
Facsimile: (650) 506-7114

Attorneys for Plaintiff
ORACLE AMERICA, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: May 2, 2012

KEKER & VAN NEST LLP

By: /s/ Matthias A. Kamber

SCOTT T. WEINGAERTNER (*Pro Hac Vice*)
sweingaertner@kslaw.com
ROBERT F. PERRY
rperry@kslaw.com
BRUCE W. BABER (*Pro Hac Vice*)
bbaber@kslaw.com
1185 Avenue of the Americas
New York, NY 10036-4003
Telephone: (212) 556-2100
Facsimile: (212) 556-2222

DONALD F. ZIMMER, JR. (SBN 112279)
fzimmer@kslaw.com
CHERYL A. SABNIS (SBN 224323)
csabnis@kslaw.com
KING & SPALDING LLP
101 Second Street - Suite 2300
San Francisco, CA 94105
Telephone: (415) 318-1200
Facsimile: (415) 318-1300

GREENBERG TRAUIG, LLP
IAN C. BALLON (SBN 141819)
ballon@gtlaw.com
HEATHER MEEKER (SBN 172148)
meekerh@gtlaw.com
1900 University Avenue
East Palo Alto, CA 94303
Telephone: (650) 328-8500
Facsimile: (650) 328-8508

KEKER & VAN NEST LLP
ROBERT A. VAN NEST (SBN 84065)
rvannest@kvn.com
CHRISTA M. ANDERSON (SBN184325)
canderson@kvn.com
DANIEL PURCELL (SBN 191424)
dpurcell@kvn.com
633 Battery Street
San Francisco, CA 94111
Telephone: (415) 391-5400
Facsimile: (415) 397-7188

Attorneys for Defendant
GOOGLE INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION

I, Marc David Peters, am the ECF User whose ID and password are being used to file this
JOINT RESPONSE TO NOTICE RE SECOND PHASE OF TRIAL. In compliance with
General Order 45, X.B., I hereby attest that Matthias A. Kamber has concurred in this filing.

Date: May 2, 2012

/s/ Marc David Peters