

1 [counsel listed on signature page]

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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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SAN FRANCISCO DIVISION

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ORACLE AMERICA, INC.

Case No. CV 10-03561 WHA (DMR)

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Plaintiff,

**SECOND STIPULATION AND  
[PROPOSED] ORDER REGARDING  
COPYRIGHT DAMAGES**

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v.

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GOOGLE INC.

Dept.: Courtroom 9, 19th Floor  
Judge: Honorable William H. Alsup

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Defendant.

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**STIPULATION**

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2 WHEREAS, the parties previously entered into a stipulation, approved by the Court (ECF  
3 1159), regarding damages, if any, related to Google’s infringement of Oracle’s copyrights in  
4 connection with (1) the rangeCheck code in TimSort.java and ComparableTimSort.java, and  
5 (2) the eight decompiled files (seven “Impl.java” files and one “ACL” file) (collectively, the  
6 “Copied Materials”);

7 WHEREAS, Section 3.C of the prior stipulation provides that the Court will set an amount  
8 of statutory damages for Google’s infringement in connection with the Copied Materials if  
9 Oracle’s copyright claim based on the accused 37 Java API packages (the “SSO Claim”) is not  
10 submitted to a future jury; and

11 WHEREAS, the parties wish to modify the prior stipulation in certain respects to facilitate  
12 entry of a final, appealable judgment in this action;

13 NOW THEREFORE THE PARTIES HEREBY STIPULATE AND AGREE as follows:

14 1. The Court may enter an award of statutory damages under Section 3.C of the prior  
15 stipulation (ECF 1159) of \$0, and can enter statutory damages of \$0 in the final judgment in  
16 connection with the Copied Materials only.

17 2. Other than as stated above, this stipulation will not alter the terms of the prior  
18 stipulation (ECF 1159). For the avoidance of doubt, the parties reaffirm that paragraph 2 of the  
19 prior stipulation shall govern in the event that the SSO Claim or any portion thereof is ultimately  
20 submitted to a trier-of-fact for an assessment and award of monetary relief.

21 3. The amount of statutory damages set in Paragraph 1 shall not be used to support an  
22 argument that a party is or is not the “prevailing party” for purposes of allocating costs, nor shall  
23 it be used to support an argument that the award is outside the range permitted by 17 U.S.C.  
24 § 504(c).

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**ORDER**

The foregoing stipulation is approved, and IT IS SO ORDERED.

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

\_\_\_\_\_  
Honorable William Alsup  
Judge of the United States District Court

1 Dated: June 20, 2012

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2 By: /s/ Michael A. Jacobs

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Dated: June 20, 2012

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**ATTESTATION**

I, Michael A. Jacobs, am the ECF User whose ID and password are being used to file this SECOND STIPULATION AND [PROPOSED] ORDER REGARDING COPYRIGHT DAMAGES. In compliance with General Order 45, X.B., I hereby attest that Robert A. Van Nest has concurred in this filing.

Date: June 20, 2012

/s/ Michael A. Jacobs