IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ORACLE CORPORATION and ORACLE U.S.A. INC. Plaintiffs/Counterdefendants, v. EPICREALM LICENSING, LP, Defendant/Counterclaimant AND RELATED COUNTERCLAIMS	C.A. No. 06-414 (SLR)

DECLARATION OF KATRINA MONTINOLA IN SUPPORT OF ORACLE'S OPPOSITION TO EPICREALM'S MOTION FOR PARTIAL SUMMARY JUDGMENT THAT THE ORACLE REFERENCES DO NOT ANTICIPATE

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DATED: August 21, 2008

I, Katrina Montinola, declare as follows:

1. Unless otherwise stated, the facts within this Declaration are within my personal knowledge and, if called and sworn as a witness, I could and would testify competently thereto.

2. I was any employee of Oracle Corporation from approximately September of 1990 to April of 1996. Beginning in early 1995 up until two months before I left Oracle, I was Director of Engineering in the Network Products Division. During my last one to two months at Oracle I moved over to Oracle's New Media Division. As Director of Engineering I managed the Oracle WebServer development teams that were working on the Oracle WebServer 1.0 and 2.0 products. Members of the WebServer development teams included, for example, Brian Zuzga, Mala Anand, Kelly Ireland, Aileen Jaitin, and myself. I was directly involved in the development of the Oracle WebServer 1.0 and 2.0 products from the time of their early conception up until the time I left the Network Products Division.

3. The development of Oracle WebServer 1.0 was based off another Oracle web product called the Web-Oracle-Web ("WOW") Gateway. Magnus Lönnroth developed the Oracle WOW Gateway from late 1994 through early 1995. The WOW Gateway was designed for installation on a web server computer to connect the server to an Oracle database server to provide access to database information in HTML format over the World Wide Web. In other words, the WOW gateway was designed to generate dynamic web pages that contained data dynamically retrieved from a database. Oracle released the WOW source code to the public for free in early 1995, and it was quickly put into use at various locations inside and outside the United States. After the development of the WOW Gateway, Joseph Pistritto, Mr. Lönnroth and other Oracle software engineers began developing the Oracle WebServer, which was an enterprise-class package of software that was the commercial successor to the freely available

WOW Gateway.

4. The Oracle WebServer development team conceived of the idea for Oracle WebServer 1.0 in early 1995. Oracle WebServer 1.0 system was an enterprise-class package of software that included three major components: the Web Listener, the Web Agent, and the Oracle7 Server (a database server). These main components comprised a system for providing access to database information in HTML format over the World Wide Web. The Web Agent component of the Oracle WebServer provided the connectivity between a web server and a database server. Particularly, the Web Agent connects the Web Listener, a web server, to page generating applications residing on an Oracle7 Server. For example, a request is received at the Web Listener, which is a web server capable of handling requests for both static and dynamic web pages. If the request is for a dynamic web page, the Web Listener routes it to the Web Agent. The Web Agent examines the request to determine which database server (or which application on the database server) should process the request. The Web Agent then logs into the appropriate Oracle7 Server and dispatches the request to the appropriate application. The appropriate application executes to query the database and dynamically generate an HTML web page including the information sought by the request. This process is designed to operate asynchronously, so that while the application on the database server is processing a request, the Web Listener is free to process and respond to other requests.

5. Although it had not yet been released to the public, Oracle Web Server 1.0's core functionality -- including the Web Listener, the Web Agent, and the Oracle7 Server's ability to generate dynamic web pages -- was operational by the end of July 1995. For example, an Oracle White Paper dated July 1995 titled "Oracle and The Internet" (bearing Bates Nos. ORCL01043064-091) describes the basic operation of Oracle WebServer 1.0. [Oracle Appendix

Exh. A52]. I recognize this Oracle White Paper as a document that Oracle created and maintained as part of Oracle's regularly conducted business activities. Indeed, it was the regular practice of Oracle to create and publish this type of White Paper. Oracle would have released this White Paper to the public at the time it is dated on its face. I have reviewed this White Paper and believe it to be an accurate representation of how WebServer 1.0 operated as of the date of the White Paper.

6. Oracle WebServer 1.0 was eventually released to the public in the fall of 1995. Particularly, the beta version of the Oracle WebServer was released for testing and review by Oracle customers in September 1995, in connection with a demonstration and presentation made at the International Oracle User's Week trade show ("IOUW95") on September 25, 1995. The beta release of the Oracle WebServer was made available on CD to attendees at IOUW95. Several thousand people attended IOUW95. A Press Release dated September 25, 1995 bearing Bates Nos. ORCL01606549-550 describes this event. [Appendix Exh. A53]. At the time of WebServer 1.0's first release in September 1995, Oracle was already selling its Oracle7 Server (v. 7.2) product including SQL*Net (v. 2.2). For example, Oracle business records showing sales of these products as early as August 1995 bear Bates Nos. ORCL018109611 and ORCL01818196. [Appendix Exh. A54]. The User's Guide entitled "Understanding SQL*Net, Release 2.2" bearing Bates Nos. ORCL01806620-706 [Excerpted at Appendix Exh. A49] was made accessible to the public together with the offer for sale and sale of the SQL*Net 2.2 product. Oracle's Oracle7 Server (including SQL*Net) products were also sold to customers on CD. The beta release of Oracle WebServer 1.0 represented a finished product, and its architecture and operation were identical to the architecture and operation of the first commercial release of the Oracle WebServer 1.0 product. Except for minor bug fixes, the core architecture

and operation of the beta release were identical to that of the first commercial release of the Oracle WebServer product in October 1995. Oracle worked diligently in reducing the WebServer 1.0 product to practice and releasing it to the public beginning as early as when I started work in the WebServer group in the first quarter of 1995.

7. The Oracle WebServer was further disclosed in a technical paper, titled "The Oracle WebServer: A Technical Discussion," which I presented and which was distributed at IOUW95 on September 25, 1995. A true and correct copy of this paper bears Bates Nos. ORCL01042968-974. [Appendix Exh. A41]. It describes the operation of the Oracle WebServer, both as of the date of its beta release in September 1995, and the operation of the first commercial release of the Oracle WebServer in October 1995. I recognize this Oracle Technical Discussion as a document that Oracle created and maintained as part of Oracle's regularly conducted business activities. Indeed, it was the regular practice of Oracle to create and publish this type of technical discussion for its new products. I believe the Technical Discussion to be an accurate representation of how WebServer 1.0 operated as of the date of its beta release.

8. Oracle made WebServer 1.0 commercially available and on sale to the public no later than October 30, 1995. Particularly, it was initially released in the form of a software package called "Oracle WebServer Option." A Press Release dated October 30, 1995 bearing Bates Nos. ORCL01027585-588 describes this event. [Appendix Exh. A55]. Additionally, Oracle business records showing sales of the Oracle WebServer Option as early as November 1995 bear Bates Nos. ORCL01818144. [Appendix Exh. A104]. The Oracle WebServer Option included the Web Listener and Web Agent components and was designed for installation with one or more Oracle7 database servers and for use with SQL*Net. The Oracle WebServer Option

package provided customers who previously or separately purchased an Oracle7 Server with a complete system for providing access to database information over the Web. Shortly thereafter, in November 1995, Oracle WebServer 1.0 was sold bundled with the Oracle7 Server to provide the complete system in one package. This bundled offering is mentioned in the Press Release bearing Bates Nos. ORCL01027585-588. I have personal knowledge that, in November 1995, Oracle customers were purchasing and using Oracle WebServer 1.0 (including the Oracle7 Server) for running Websites that generated dynamic Web pages.

9. The public release of Oracle WebServer 1.0 included an Oracle WebServer User's Guide. A true and correct copy of the WebServer User's Guide (Release 1.0), of which I was a contributing author, bears Bates Nos. ORCL000002-224. [Appendix Exh. A96]. This User's Guide was made publicly available at the time of Oracle WebServer 1.0's commercial release and was distributed with the product to customers. I recognize this User's Guide as a document that Oracle created and maintained as part of Oracle's regularly conducted business activities. Indeed, it was the regular practice of Oracle to create and publish this type of user's guide with its software products. I have reviewed this User's Guide and believe it to be an accurate representation of how WebServer 1.0 operated at the time of its release in September 1995.

10. While Oracle was developing WebServer 1.0, it was concurrently developing WebServer 2.0. Oracle WebServer 2.0 operated similarly to WebServer 1.0 but also included a few enhancements. For example, WebServer 2.0 included a Web Request Broker that was capable of dispatching dynamic web page generation requests to a variety of WRB Services including, for example, a PL/SQL Agent, a Java Interpreter, and a LiveHTML Interpreter. This dispatching of requests included the use of dynamic load balancing techniques as described in the WebServer User's Guide (Release 2.0) (Bates Nos. ORCL01816630-882) at pages 1-11 to 1-

12 of that Guide. [Excerpted at Appendix Exh. A42].

11. The Oracle WebServer team first conceived of the Oracle WebServer 2.0 functionality, including that of the Web Request Broker and the WRB Services, no later than July 1995 at the time WebServer 1.0 was being completed. Documents that show Oracle's development efforts with respect to WebServer 2.0 include, for example: (1) an Oracle WebServer Release 2.0 Feature List dated October 30, 1995 and bearing Bates Nos. ORCL01043092-101, (2) an Oracle WebServer 2.0 Design Specification dated December 15, 1995 and bearing Bates Nos. ORCL01043028-045, and (3) a Web Request Broker API dated February 12, 1996 and bearing Bates Nos. ORCL01606852-867. [Appendix Exhs. A56, A57 and A51]. I recognize these documents as development materials that Oracle created and maintained as part of Oracle's regularly conducted business activities. Indeed, it was the regular practice of Oracle to create these types of development documents. I have reviewed these documents and believe them to be accurate representations of how WebServer 2.0 operated as of the date of the documents.

12. Although not yet released to the public, Oracle Web Server 2.0's core functionality -- including the Web Listener, the Web Request Broker, and the WRB Services' a ability to generate or produce dynamic web pages -- was reduced to practice by the end of October 1995 as indicated, for example, by the Oracle WebServer Release 2.0 Feature List (Bates Nos. ORCL01043092-101). [Appendix Exh. A56].

13. WebServer 2.0 was publicly disclosed in February 1996 at the E-mail World & Internet Expo in San Jose, California. An Oracle Press Release dated February 21, 1996 bearing Bates Nos. BOOK000056-59 describes this event. [Appendix Exh. A58]. I recognize this Press Release as a document that Oracle created and maintained as part of Oracle's regularly conducted

business activities. Indeed, it was the regular practice of Oracle to create and publish this type of Press Release describing its new software products. I have reviewed this Press Release and believe it to be an accurate representation of how WebServer 2.0 operated at the time of its public disclosure at the E-mail World & Internet Expo.

14. Additionally, an Oracle WebServer 2.0 Technical Note dated March 1996 bearing Bates Nos. ORCL000761-781 [Appendix Exh. A44] describes the public availability of WebServer 2.0. I recognize this Technical Note as a document that Oracle created and maintained as part of Oracle's regularly conducted business activities. Indeed, it was the regular practice of Oracle to create and publish this type of Technical Note describing its new software products. I have reviewed this Technical Note and believe it to be an accurate representation of how WebServer 2.0 operated as of the date of its first public release. As indicated by the date on the document's face, Oracle would have made this document accessible to the public some time in March 1996.

15. Oracle released a commercial version of WebServer 2.0 to the public no later than April 1996. The public release of Oracle WebServer 2.0 included an Oracle WebServer User's Guide. A true and correct copy of the WebServer User's Guide (Release 2.0) bears Bates Nos. ORCL01816630-882. [Appendix Exh. A97]. Another true and correct copy of an earlier draft of the Oracle WebServer 2.0 User's Guide bears Bates Nos. ORCL01607381-645. [Excerpted at Appendix Exh. A98]. Similarly, a true and correct copy of Release 2.0.2 of the WebServer User's Guide bears Bates Nos. ORCL01816883-7136. I recognize these User's Guides as a document that Oracle created and maintained as part of Oracle's regularly conducted business activities. Indeed, it was the regular practice of Oracle to create and publish these type of user's guides with its software products. I have reviewed these User's Guides and believe them to be

accurate representations of how WebServer 2.0 operated at the time of its public disclosure in February 1996. Oracle worked diligently in reducing the WebServer 2.0 product to practice and releasing it to the public beginning at least as early as July 1995.

16. Oracle WebServer 1.0 and 2.0 were also used with the Oracle7 Server (v. 7.3) product including SQL*Net (v. 2.3). For example, Oracle business records showing sales of these products and related services as early as in February and March 1996 bear Bates Nos. ORCL01810962-963 and ORCL01818198. [Appendix Exh. A105]. The User's Guide entitled "Understanding SQL*Net, Release 2.3" bearing Bates Nos. ORCL01808597-820 [Excerpted at Appendix Exh. 50] would have been made accessible to the public along with the offer for sale and sale of the SQL*Net (v. 2.3) product. Oracle's Oracle7 Server (including SQL*Net) products were also sold to customers on CD.

17. The Oracle WebServer 1.0 User's Guide incorporates the "Understanding SQL*Net" manuals by reference at several locations including at ORCL000078 and ORCL000177. Oracle placed these references in the User's Guide to inform customers to refer to those manuals in case they needed more information about how SQL*Net worked with the Oracle WebServer product.

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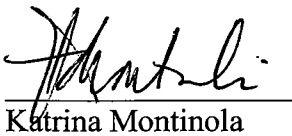
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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I executed this Declaration on this 19th day of August 2008, at Palo Alto, California.



Katrina Montinola

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CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2008, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF which will send electronic notification of such filing to the following:

Richard L. Horwitz
David Ellis Moore
POTTER ANDERSON & CORROON, LLP

Additionally, I hereby certify that true and correct copies of the foregoing were caused to be served on August 21, 2008 upon the following individuals in the manner indicated:

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