IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ORACLE CORPORATION and ORACLE U.S.A. INC.,	)	
Plaintiffs,	)	
v.	)	C.A. No. 06-414
EPICREALM LICENSING, LP,	)	
Defendant.	)	

EXHIBIT C TO COMPLAINT FOR DECLARATORY JUDGMENT

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Dated: June 30, 2006
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EXHIBIT C

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BY ELECTRONIC MAIL

Re: *EpicRealm Licensing, LLC v. Autoflex, et al., and EpicRealm Licensing, LLC v. Franklin Covey, et al.*; Case Nos. 2:05CV00163-DF, and 2:05CV00356-DF (consolidated); in the United States District Court for the Eastern District of Texas, Marshall Division

Dear Charles:

This is in response to your letter of January 24.

Our pre-suit investigation for Clark Consulting, Inc. focused on the website www.clarkconsulting.com. Header responses and other information available to us established that in responding to requests received by this website for webpages containing dynamic content, Clark generated such pages using Apache and Tomcat servers configured in a manner that infringed claims of the epicRealm patents.

In your January 24, letter, you advise us of three additional websites that Clark owns and operates that you claim use IIS server software as opposed to Apache and/or Tomcat servers.* In your letter, you ask whether the systems and methods employed by these websites for managing dynamic webpage generation requests infringe the epicRealm patents. We are not in a position at this time to provide you with a definitive answers to that question. There are a couple of reasons why that is so. First, as mentioned above, our pre-suit investigation focused on www.clarkconsulting.com, and header responses generated by that website consistently identified Apache and Tomcat servers and never identified any IIS servers. Second, unlike the open source Apache and Tomcat software, which is in the public domain, IIS server software is proprietary and not publicly available.

* You appear to have an incorrect URL for the first such site. We believe the correct URL is http://surveys.clarkconsulting.com/login-verification.asp. The website you identify – http://www.clarkconsulting.com/services/surveys/scchips/index.shtm, – generates a header response that identifies Apache and Tomcat server software.

The contention in the first page of your letter that only systems that utilize Apache and/or Tomcat web server software or their equivalent can infringe the epicRealm patents is incorrect. Certainly, a system or method that employs IIS service software instead of Apache or Tomcat servers could, if used to generate webpages with dynamic content, be configured in a way that would infringe the claims of the epicRealm patents.

In response to your question whether Clark is "required to provide [epicRealm] disclosures with regard to web-sites that are IIS software servers only," we believe the answer is Yes. Such disclosures, in particular a complete and full document production, should answer the infringement issue.

As I stated in our brief phone conversation this afternoon, it is not true that other defendants have requested an extension of time until February 16 to respond to our request for production. No defendant has made such a request. In our phone conversation, you made such a request on behalf of all defendants. I am not inclined to agree. The reason is that we originally served our document request on the Autoflex defendants by letter dated June 24, 2005, and on the Franklin Covey defendants (including you) by letter dated September 23, 2005. The Autoflex defendants have had more than seven months to gather these documents for production. The Franklin Covey defendants (including you) have had more than four months. That seems like plenty of time.

Charles, if you have any questions, please give me a call.

Very truly yours,

Larry D. Carlson

by permission
Ryan Loveless

Larry D. Carlson

LDC:ldm