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18 *Attorneys for Plaintiff*
    ORACLE AMERICA, INC.
19
                    UNITED STATES DISTRICT COURT
20   NORTHERN DISTRICT OF CALIFORNIA
                      SAN FRANCISCO DIVISION
21 ORACLE AMERICA, INC.   Case No. CV 10-03561 WHA

22   Plaintiff,   **DECLARATION OF ROMAN A.
                                          SWOOPES IN SUPPORT OF ORACLE
23   v.   AMERICA, INC.'S OPPOSITION TO
                                          GOOGLE'S MOTION FOR SUMMARY
24 GOOGLE INC.   JUDGMENT ON COUNT VIII OF
                                          ORACLE'S AMENDED COMPLAINT**
25   Defendant.
                                          Date: Sept. 15, 2011
26   Time: 2:00 p.m.
                                          Dept.: Courtroom 9, 19th Floor
27   Judge: Honorable William H. Alsup

28

1   I, Roman A. Swoopes, declare as follows:

2   I am an associate at Morrison & Foerster LLP and am counsel of record to Plaintiff Oracle

3   America, Inc. ("Oracle"). I have personal knowledge of the matters set forth herein and, if called

4   to testify, could and would testify competently to the following.

5   1.   Attached hereto as Exhibit 1 is a true and correct excerpt of the deposition

6   transcript of Joshua Bloch, taken on July 8, 2011.

7   2.   Attached hereto as Exhibit 2 is a true and correct excerpt of the deposition

8   transcript of Daniel Bornstein, taken on May 16, 2011.

9   3.   Attached hereto as Exhibit 3 is a true and correct excerpt of the deposition

10   transcript of Robert Lee, taken on August 3, 2011.

11   4.   Attached hereto as Exhibit 4 is a true and correct excerpt of the deposition

12   transcript of Richard Miner, taken on May 26, 2011.

13   5.   Attached hereto as Exhibit 5 is a true and correct excerpt of the deposition

14   transcript of Andrew Rubin, taken on April 5, 2011.

15   6.   Attached hereto as Exhibit 6 is a true and correct excerpt of the deposition

16   transcript of Edward Screven, taken on July 29, 2011.

17   7.   Attached hereto as Exhibit 7 is a true and correct excerpt of Defendant Google

18   Inc.'s ("Google") Responses to Plaintiff's Requests for Admission, Set One, served on August 4,

19   2011.

20   8.   Attached hereto as Exhibit 8 is a true and correct copy of an email from Tracey

21   Cole to Andrew Rubin, dated October 11, 2005, bearing Bates numbers GOOGLE-01-00019527-

22   528. This document is referenced at Rubin Dep. 32:8-38:23, Apr. 5, 2011.

23   9.   Attached hereto as Exhibit 9 is a true and correct copy of an email from Richard

24   Miner to Andrew Rubin, dated October 12, 2005, bearing Bates numbers GOOGLE-01-

25   00019529-532. This document is referenced at Miner Dep. 159:3-164:19, May 26, 2011.

26   10.   Attached hereto as Exhibit 10 is a true and correct copy of a Google powerpoint

27   presentation titled "A discussion with CMCC", dated March 28, 2007, bearing Bates numbers

28

SWOOPES DECL. ISO OPP. TO MSJ ON COUNT VIII OF ORACLE'S AMENDED COMPLAINT
CASE NO. CV 10-03561 WHA
pa-1481173

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1 GOOGLE-01-00025376-433. This document is referenced at Rubin Individual Dep. 170:25-

2 172:25, July. 27, 2011.

3   11.   Attached hereto as Exhibit 11 is a true and correct copy of an email from Andrew

4 Rubin to Daniel Bornstein, dated April 13, 2006, bearing Bates numbers GOOGLE-02-00111218.

5   12.   Attached hereto as Exhibit 12 is a true and correct copy of a Google PowerPoint

6 presentation titled "Open Handset Alliance", bearing Bates numbers GOOGLE-14-00042244-

7 254. This document is referenced at Miner Dep. 172:5-173:14, May 26, 2011.

8   13.   Attached hereto as Exhibit 13 is a true and correct copy of an email from Andrew

9 Rubin to sergey@google.com, dated January 13, 2006, bearing Bates numbers GOOGLE-26-

10 00007930. This document is referenced at Rubin Ind. Dep. 121:10-23, July 27, 2011.

11   14.   Attached hereto as Exhibit 14 is a true and correct copy of an email from Joshua

12 Bloch to Robert Lee, dated March 30, 2008, bearing Bates numbers GOOGLE-40-00034698-703.

13 This document is referenced at Lee Dep. 9:22-10:6, July 8, 2011; Bloch Dep. 146:23-147:13, July

14 8, 2011.

15   15.   Attached hereto as Exhibit 15 is a true and correct copy of a Noser Engineering

16 Statement of Work, dated April 4, 2008, bearing Bates numbers GOOGLE-00392183-194.

17   16.   Attached hereto as Exhibit 16 is a true and correct copy of a Statement of Work

18 from Noser Engineering, dated March 28, 2007, bearing Bates numbers GOOGLE-00392204-

19 212. This document is referenced at Bornstein Dep. 147:3-149:8, May 16, 2011; Lee Dep. 26:15-

20 28:7, Aug. 3, 2011.

21   17.   Attached hereto as Exhibit 17 is a true and correct excerpt of a book titled "API

22 Design for C++" by Martin Reddy, bearing Bates numbers OAGOOGLE0102490254,

23 OAGOOGLE0102490259, and OAGOOGLE0102490280.

24   18.   Attached hereto as Exhibit 18 are true and correct copies of copyright registrations

25 registered by Oracle relating to Java.

26   19.   Attached hereto as Exhibit 19 is a true and correct copy of a post by Joshua Bloch

27 titled "Bumper-Sticker API Design" on September 22, 2008, available at

28 http://www.infoq.com/articles/API-Design-Joshua-Bloch.

SWOOPES DECL. ISO OPP. TO MSJ ON COUNT VIII OF ORACLE'S AMENDED COMPLAINT
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1   20.   Attached hereto as Exhibit 20 is a true and correct copy of a website titled "Learn

2 About Java Technology", available at http://www.java.com/en/about/.

3   21.   Attached hereto as Exhibit 21 is a true and correct copy of an article titled "API

4 Design Matters" by Michi Henning, published in Communications of the ACM, Vol. 52, No. 5 in

5 May 2009, available at http://cacm.acm.org/magazines/2009/5/24646-api-designmatters/fulltext.

6   22.   Attached hereto as Exhibit 22 is a true and correct copy of the copyright pages of

7 the earliest Java API specifications from Sun Microsystems, available at

8 http://java.sun.com/docs/books/jls/first_edition/html/jcopyright.doc.html.

9   23.   Attached hereto as Exhibit 23 is a true and correct copy of the Google AdSense

10 API Terms and Conditions, available at http://code.google.com/apis/adsense/terms.html.

11   24.   Attached hereto as Exhibit 24 is a true and correct copy of the Google YouTube

12 Terms of Service, available at http://code.google.com/apis/youtube/terms.html.

13   25.   Attached hereto as Exhibit 25 is a true and correct copy of the Google Terms and

14 Conditions for Google SOAP Search API Service, available at

15 http://code.google.com/apis/soapsearch/api_terms.html.

16   26.   Attached hereto as Exhibit 26 is a true and correct copy of the Android Developers

17 website, What is Android?, available at http://developer.android.com/guide/basics/what-is-

18 android.html.

19   27.   Attached hereto as Exhibit 27 is a true and correct excerpt of the deposition

20 transcript of Mark Reinhold, taken on August 5, 2011.

21   28.   Under my direction, a Morrison & Foerster paralegal printed the Java Standard

22 Edition Version 5 documentation for the 37 packages at issue in this case to a PDF file. This PDF

23 file was over 11,000 pages in length.

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1   I declare under penalty of perjury under the laws of the United States that to the best of

2   my knowledge the foregoing is true and correct. Executed on August 19, 2011, in Palo Alto,

3   California.

4
                                                    /s/ Roman A. Swoopes
5   Roman A. Swoopes

6

7
                              GENERAL ORDER 45 ATTESTATION
8
        I, Kenneth A. Kuwayti, am the ECF User whose ID and password are being used to file
9   the **DECLARATION OF ROMAN A. SWOOPES IN SUPPORT OF ORACLE AMERICA,
    INC.'S OPPOSITION TO GOOGLE'S MOTION FOR SUMMARY JUDGMENT ON
10 COUNT VIII OF ORACLE'S AMENDED COMPLAINT**. In compliance with General Order
    45, X.B., I hereby attest that Roman A. Swoopes has concurred in this filing.
11

12   /s/ *Kenneth A. Kuwayti*
                                                      Kenneth A. Kuwayti
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