

MORRISON & FOERSTER LLP  
MICHAEL A. JACOBS (Bar No. 111664)  
mjacobs@mofo.com  
MARC DAVID PETERS (Bar No. 211725)  
mdpeters@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@bsfllp.com  
333 Main Street  
Armonk, NY 10504  
Telephone: (914) 749-8200 / Facsimile: (914) 749-8300  
STEVEN C. HOLTZMAN (Bar No. 144177)  
sholtzman@bsfllp.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.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.

Plaintiff,

v.

GOOGLE, INC.

Defendant.

Case No. CV 10-03561 WHA

**AMENDED COMPLAINT FOR  
PATENT AND COPYRIGHT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

1 Plaintiff Oracle America, Inc., by and through its attorneys, alleges as follows:

2 **PARTIES**

3 1. Oracle America, Inc. ("Oracle America") is a corporation organized under the laws  
4 of the State of Delaware with its principal place of business at 500 Oracle Parkway, Redwood  
5 City, California 94065. Oracle America does business in the Northern District of California.

6 2. Upon information and belief, Defendant Google, Inc. ("Google") is a corporation  
7 organized under the laws of the State of Delaware with its principal place of business at 1600  
8 Amphitheatre Parkway, Mountain View, California 94043. Google does business in the Northern  
9 District of California.

10 **JURISDICTION AND VENUE**

11 3. This is an action for patent and copyright infringement arising under the patent and  
12 copyright laws of the United States, Titles 35 and 17, United States Code. Jurisdiction as to these  
13 claims is conferred on this Court by 28 U.S.C. §§ 1331 and 1338(a).

14 4. Venue is proper in the Northern District of California under 28 U.S.C. §§ 1391 and  
15 1400(b).

16 5. This Court has personal jurisdiction over Google. Google has conducted and does  
17 conduct business within the State of California and within this judicial district.

18 6. Google, directly or through intermediaries, makes, distributes, offers for sale or  
19 license, sells or licenses, and advertises its products and services in the United States, the State of  
20 California, and the Northern District of California.

21 **INTRADISTRICT ASSIGNMENT**

22 7. This is an Intellectual Property Action to be assigned on a district-wide basis  
23 pursuant to Civil Local Rule 3-2(c).

24 **BACKGROUND**

25 8. Oracle Corporation ("Oracle") is one of the world's leading technology companies,  
26 providing complete, open, and integrated business software and hardware systems. On January  
27 27, 2010, Oracle acquired Sun Microsystems, Inc. ("Sun"). Sun is now Oracle America, a  
28

1 subsidiary of Oracle. Oracle America continues to hold all of Sun's interest, rights, and title to  
2 the patents and copyrights at issue in this litigation.

3 9. One of the most important technologies Oracle acquired with Sun was the Java  
4 platform. The Java platform, which includes code and other documentation and materials, was  
5 developed by Sun and first released in 1995. The Java platform is a bundle of related programs,  
6 specifications, reference implementations, and developer tools and resources that allow a user to  
7 deploy applications written in the Java programming language on servers, desktops, mobile  
8 devices, and other devices. The Java platform is especially useful in that it insulates applications  
9 from dependencies on particular processors or operating systems. To date, the Java platform has  
10 attracted more than 6.5 million software developers. It is used in every major industry segment  
11 and has a ubiquitous presence in a wide range of computers, networks, and devices, including  
12 cellular telephones and other mobile devices. Sun's development of the Java platform resulted in  
13 many computing innovations and the issuance to Sun of a substantial number of important  
14 patents.

15 10. Oracle America is the owner by assignment of United States Patents  
16 Nos. 6,125,447; 6,192,476; 5,966,702; 7,426,720; RE38,104; 6,910,205; and 6,061,520,  
17 originally issued to Sun. True and correct copies of the patents at issue in this litigation are  
18 included as Exhibits A-G.

19 11. Oracle America owns copyrights in the code, documentation, specifications,  
20 libraries, and other materials that comprise the Java platform. Oracle America's Java-related  
21 copyrights are registered with the United States Copyright Office, including those attached as  
22 Exhibit H.

23 12. Google's Android competes with Oracle America's Java as an operating system and  
24 software development platform for cellular telephones and other mobile devices. The Android  
25 operating system software "stack" consists of Java applications running on a Java-based object-  
26 oriented application framework, and core libraries running on a "Dalvik" virtual machine (VM)  
27 that features just-in-time (JIT) compilation. Google actively distributes Android (including  
28

1 without limitation the Dalvik VM and the Android software development kit) and promotes its  
2 use by manufacturers of products and applications.

3 13. Android (including without limitation the Dalvik VM and the Android software  
4 development kit) and devices that operate Android infringe one or more claims of each of United  
5 States Patents Nos. 6,125,447; 6,192,476; 5,966,702; 7,426,720; RE38,104; 6,910,205; and  
6 6,061,520.

7 14. On information and belief, Google has been aware of Sun's patent portfolio,  
8 including the patents at issue, since the middle of this decade, when Google hired certain former  
9 Sun Java engineers.

10 15. On information and belief, Google has purposefully, actively, and voluntarily  
11 distributed Android and related applications, devices, platforms, and services with the expectation  
12 that they will be purchased, used, or licensed by consumers in the Northern District of California.  
13 Android has been and continues to be purchased, used, and licensed by consumers in the Northern  
14 District of California. Google has thus committed acts of patent infringement within the State of  
15 California and, particularly, within the Northern District of California. By purposefully and  
16 voluntarily distributing one or more of its infringing products and services, Google has injured  
17 Oracle America and is thus liable to Oracle America for infringement of the patents at issue in  
18 this litigation pursuant to 35 U.S.C. § 271.

19 **COUNT I**

20 **(Infringement of the '447 Patent)**

21 16. Oracle America hereby restates and realleges the allegations set forth in paragraphs  
22 1 through 15 above and incorporates them by reference.

23 17. On September, 26, 2000, United States Patent No. 6,125,447, ("the '447 patent")  
24 entitled "Protection Domains To Provide Security In A Computer System" was duly and legally  
25 issued to Sun by the United States Patent and Trademark Office. Oracle America is the owner of  
26 the entire right, title, and interest in and to the '447 patent. A true and correct copy of the '447  
27 patent is attached as Exhibit A to this Complaint.  
28

18. Google actively and knowingly has infringed and is infringing the '447 patent with knowledge of Oracle America's patent rights and without reasonable basis for believing that Google's conduct is lawful. Google has also induced and contributed to the infringement of the '447 patent by purchasers, licensees, and users of Android, and is continuing to induce and contribute to the infringement of the '447 patent by purchasers, licensees, and users of Android. Google's acts of infringement have been and continue to be willful, deliberate, and in reckless disregard of Oracle America's patent rights. Google is thus liable to Oracle America for infringement of the '447 patent pursuant to 35 U.S.C. § 271.

## **COUNT II**

### **(Infringement of the '476 Patent)**

19. Oracle America hereby restates and realleges the allegations set forth in paragraphs 1 through 15 above and incorporates them by reference.

20. On February 20, 2000, United States Patent No. 6,192,476, ("the '476 patent") entitled "Controlling Access To A Resource" was duly and legally issued to Sun by the United States Patent and Trademark Office. Oracle America is the owner of the entire right, title, and interest in and to the '476 patent. A true and correct copy of the '476 patent is attached as Exhibit B to this Complaint.

21. Google actively and knowingly has infringed and is infringing the '476 patent with knowledge of Oracle America's patent rights and without reasonable basis for believing that Google's conduct is lawful. Google has also induced and contributed to the infringement of the '476 patent by purchasers, licensees, and users of Android, and is continuing to induce and contribute to the infringement of the '476 patent by purchasers, licensees, and users of Android. Google's acts of infringement have been and continue to be willful, deliberate, and in reckless disregard of Oracle America's patent rights. Google is thus liable to Oracle America for infringement of the '476 patent pursuant to 35 U.S.C. § 271.

**COUNT III**

**(Infringement of the '702 Patent)**

22. Oracle America hereby restates and realleges the allegations set forth in paragraphs 1 through 15 above and incorporates them by reference.

23. On October 12, 1999, United States Patent No. 5,966,702, ("the '702 patent") entitled "Method And Apparatus For Preprocessing And Packaging Class Files" was duly and legally issued to Sun by the United States Patent and Trademark Office. Oracle America is the owner of the entire right, title, and interest in and to the '702 patent. A true and correct copy of the '702 patent is attached as Exhibit C to this Complaint.

24. Google actively and knowingly has infringed and is infringing the '702 patent with knowledge of Oracle America's patent rights and without reasonable basis for believing that Google's conduct is lawful. Google has also induced and contributed to the infringement of the '702 patent by purchasers, licensees, and users of Android, and is continuing to induce and contribute to the infringement of the '702 patent by purchasers, licensees, and users of Android. Google's acts of infringement have been and continue to be willful, deliberate, and in reckless disregard of Oracle America's patent rights. Google is thus liable to Oracle America for infringement of the '702 patent pursuant to 35 U.S.C. § 271.

**COUNT IV**

**(Infringement of the '720 Patent)**

25. Oracle America hereby restates and realleges the allegations set forth in paragraphs 1 through 15 above and incorporates them by reference.

26. On September 16, 2008, United States Patent No. 7,426,720, ("the '720 patent") entitled "System And Method For Dynamic Preloading Of Classes Through Memory Space Cloning Of A Master Runtime System Process" was duly and legally issued to Sun by the United States Patent and Trademark Office. Oracle America is the owner of the entire right, title, and interest in and to the '720 patent. A true and correct copy of the '720 patent is attached as Exhibit D to this Complaint.



**COUNT VI**

**(Infringement of the '205 Patent)**

31. Oracle America hereby restates and realleges the allegations set forth in paragraphs 1 through 15 above and incorporates them by reference.

32. On June 21, 2005, United States Patent No. 6,910,205, (“the ’205 patent”) entitled “Interpreting Functions Utilizing A Hybrid Of Virtual And Native Machine Instructions” was duly and legally issued to Sun by the United States Patent and Trademark Office. Oracle America is the owner of the entire right, title, and interest in and to the ’205 patent. A true and correct copy of the ’205 patent is attached as Exhibit F to this Complaint.

33. Google actively and knowingly has infringed and is infringing the ’205 patent with knowledge of Oracle America’s patent rights and without reasonable basis for believing that Google’s conduct is lawful. Google has also induced and contributed to the infringement of the ’205 patent by purchasers, licensees, and users of Android, and is continuing to induce and contribute to the infringement of the ’205 patent by purchasers, licensees, and users of Android. Google’s acts of infringement have been and continue to be willful, deliberate, and in reckless disregard of Oracle America’s patent rights. Google is thus liable to Oracle America for infringement of the ’205 patent pursuant to 35 U.S.C. § 271.

**COUNT VII**

**(Infringement of the '520 Patent)**

34. Oracle America hereby restates and realleges the allegations set forth in paragraphs 1 through 15 above and incorporates them by reference.

35. On May 9, 2000, United States Patent No. 6,061,520, (“the ’520 patent”) entitled “Method And System for Performing Static Initialization” was duly and legally issued to Sun by the United States Patent and Trademark Office. Oracle America is the owner of the entire right, title, and interest in and to the ’520 patent. A true and correct copy of the ’520 patent is attached as Exhibit G to this Complaint.

36. Google actively and knowingly has infringed and is infringing the ’520 patent with knowledge of Oracle America’s patent rights and without reasonable basis for believing that

1 Google's conduct is lawful. Google has also induced and contributed to the infringement of the  
2 '520 patent by purchasers, licensees, and users of Android, and is continuing to induce and  
3 contribute to the infringement of the '520 patent by purchasers, licensees, and users of Android.  
4 Google's acts of infringement have been and continue to be willful, deliberate, and in reckless  
5 disregard of Oracle America's patent rights. Google is thus liable to Oracle America for  
6 infringement of the '520 patent pursuant to 35 U.S.C. § 271.

## 7 **COUNT VIII**

### 8 **(Copyright Infringement)**

9 37. Oracle America hereby restates and realleges the allegations set forth in paragraphs  
10 1 through 15 above and incorporates them by reference.

11 38. As noted in paragraph 11 above, Oracle America owns copyrights in the code,  
12 documentation, specifications, libraries, and other materials that comprise the Java platform.

13 39. Google's Android infringes Oracle America's copyrights in the Java platform, and  
14 Google infringes Oracle's exclusive rights under copyright by reproducing and distributing  
15 Android and inducing others to reproduce and distribute Android or the code contained within it.

16 40. Android includes infringing class libraries and documentation. Approximately one  
17 third of Android's Application Programmer Interface (API) packages (available at  
18 <http://developer.android.com/reference/packages.html>) are derivative of Oracle America's  
19 copyrighted Java API packages (available at [http://download-llnw.oracle.com/javase/1.5.0/-](http://download-llnw.oracle.com/javase/1.5.0/-docs/api/)  
20 [docs/api/](http://download-llnw.oracle.com/javase/1.5.0/-docs/api/) and <http://download-llnw.oracle.com/javase/1.4.2/docs/api/>) and corresponding  
21 documents. The infringed elements of Oracle America's copyrighted work include Java method  
22 and class names, definitions, organization, and parameters; the structure, organization and content  
23 of Java class libraries; and the content and organization of Java's documentation. Examples of  
24 this copying are illustrated in Exhibit I to this complaint. In at least several instances, Android  
25 computer program code also was directly copied from copyrighted Oracle America code. For  
26 example, as may be readily seen in Exhibit J, the source code in Android's  
27 "PolicyNodeImpl.java" class is nearly identical to "PolicyNodeImpl.java" in Oracle America's  
28 Java, not just in name, but in the source code on a line-for-line basis.

1           41. Google has distributed Android to many companies interested in the mobile device  
2 market, including the members of the Open Handset Alliance, with the understanding and  
3 intention that those companies would distribute Android to developers and end-users, all with the  
4 purpose of encouraging and promoting the creation and execution of Android software  
5 applications. Users of Android must copy and use infringing Java class libraries, or works  
6 derived therefrom, to manufacture and use functioning Android devices, in violation of Oracle's  
7 copyrights. Such use is not licensed. Google has thus induced, caused, and materially  
8 contributed to the infringing acts of others by encouraging, inducing, allowing and assisting  
9 others to copy and distribute infringing works.

10           42. On information and belief, Google's direct and induced infringements are and have  
11 been knowing and willful.

12           43. By this unlawful copying, use, and distribution, Google has violated Oracle  
13 America's exclusive rights under 17 U.S.C. § 106.

14           44. Google has realized unjust profits, gains and advantages as a proximate result of its  
15 infringement.

16           45. Google will continue to realize unjust profits, gains and advantages as a proximate  
17 result of its infringement as long as such infringement is permitted to continue.

18           46. Oracle America is entitled to an injunction restraining Google from engaging in any  
19 further such acts in violation of the United States copyright laws. Unless Google is enjoined and  
20 prohibited from infringing Oracle America's copyrights, inducing others to infringe Oracle  
21 America's copyrights, and unless all infringing products and advertising materials are seized,  
22 Google will continue to intentionally infringe and induce infringement of Oracle America's  
23 registered copyrights.

24           47. As a direct and proximate result of Google's direct and indirect willful copyright  
25 infringement, Oracle America has suffered, and will continue to suffer, monetary loss to its  
26 business, reputation, and goodwill. Oracle America is entitled to recover from Google, in  
27 amounts to be determined at trial, the damages sustained and will sustain, and any gains, profits,  
28

1 and advantages obtained by Google as a result of Google's acts of infringement and Google's use  
2 and publication of the copied materials.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Oracle America prays for judgment as follows:

5 A. Entry of judgment holding Google liable for infringement of the patents and  
6 copyrights at issue in this litigation;

7 B. An order permanently enjoining Google, its officers, agents, servants, employees,  
8 attorneys and affiliated companies, its assigns and successors in interest, and those persons in  
9 active concert or participation with it, from continued acts of infringement of the patents and  
10 copyrights at issue in this litigation;

11 C. An order that all copies made or used in violation of Oracle America's copyrights,  
12 and all means by which such copies may be reproduced, be impounded and destroyed or  
13 otherwise reasonably disposed of;

14 D. An order awarding Oracle America statutory damages and damages according to  
15 proof resulting from Google's infringement of the patents and copyrights at issue in this litigation,  
16 together with prejudgment and post-judgment interest;

17 E. Trebling of damages under 35 U.S.C. § 284 in view of the willful and deliberate  
18 nature of Google's infringement of the patents at issue in this litigation;

19 F. An order awarding Oracle America its costs and attorney's fees under 35 U.S.C.  
20 § 285 and 17 U.S.C. § 505; and

21 G. Any and all other legal and equitable relief as may be available under law and  
22 which the court may deem proper.  
23  
24  
25  
26  
27  
28

**DEMAND FOR A JURY TRIAL**

Oracle America demands a jury trial for all issues so triable.

Dated: October 27, 2010

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  
755 Page Mill Road  
Palo Alto, CA 94304-1018  
Telephone: (650) 813-5600  
Facsimile (650) 494-0792

BOIES, SCHILLER & FLEXNER LLP  
DAVID BOIES (*Pro Hac Vice* Pending)  
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.