

EXHIBIT 4

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GOOGLE INC.

15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**

19 ORACLE AMERICA, INC.

20 Plaintiff,

21 v.

22 GOOGLE INC.

23 Defendant.

Case No. 3:10-cv-03561-WHA

Honorable Judge William Alsup

**DEFENDANT GOOGLE INC.'S
FOURTH SUPPLEMENTAL RESPONSES
TO PLAINTIFF'S INTERROGATORIES,
SET ONE, NO. 3**

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1 conclusion that “the Accused Instrumentalities are specially made or adapted for
2 infringement and are not a staple article suitable for substantial non-infringing use,” without
3 any factual support despite the fact that it is Oracle’s burden to prove that the Accused
4 Instrumentalities are not suitable for substantial non-infringing use pursuant to 35 U.S.C.
5 § 271(c). Oracle has not endeavored any analysis of even readily available public open
6 source applications and continues to simply rely on a purely conclusory statement. As a
7 result, Oracle cannot establish infringement as a matter of law.

8 • **All Asserted Claims:** Oracle is estopped as a matter of law from relying on the doctrine of
9 equivalents to enlarge the scope of the ‘205 patent claims to cover the Accused
10 Instrumentalities. *See Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki*, 243 F.3d 558 (Fed.
11 Cir. 2000) (en banc). Alternatively, Oracle cannot rely on the doctrine of equivalents to
12 prove infringement because the asserted scope of equivalency of what is literally claimed
13 would encompass the prior art. *Wilson Sporting Goods Co. v. David Geoffrey & Assoc.*, 904
14 F.2d 677, 683 (Fed. Cir. 1990), *cert. denied*, 498 U.S. 992 (1990). In any event, the
15 functionality identified by Oracle as infringing under the doctrine of equivalents is
16 substantially different from that described and claimed by the ‘205 patent. In addition,
17 Oracle’s identification of an entry in the jitEntry table works in a completely different
18 manner from the claimed “new instruction.”

19 • **All Asserted Claims:** Google served its Invalidity Contentions on January 18, 2011,
20 detailing its bases for the invalidity of each asserted claim of this patent. Google contends
21 that each asserted claim is invalid and therefore Google cannot infringe such a claim.

22 **The ‘702 Patent**

23 • **Claims 1 and 7, and all dependent claims that depend therefrom:** For these claims,
24 Oracle has failed to identify on a claim by claim basis in Exhibit C the actual performance of
25 any allegedly infringing method and instead relied on a general statement including “Android
26 dx tool involves a method” or “Android dx tool [performs steps].” All of these claims
27 implicate the performance of a method and the charts in Exhibit C are devoid of any example
28 of any method being performed, thereby precluding a finding of infringement. Oracle has

1 not made a showing of infringement because it has not identified any allegedly infringing act
2 or purported direct infringer for these claims and has yet to provide them in supplemental
3 disclosures under the Patent Local Rules.

- 4 • **Claims 13, and all dependent claims that depend therefrom:** For these claims, Oracle
5 failed to identify on a claim by claim basis in Exhibit C any specific device that allegedly
6 infringes and instead relied on a general statement including “[a]ny device or computer
7 which can run the Android dx tool.” Oracle has not made a showing of infringement because
8 it has not identified any specific allegedly infringing device or purported direct infringer for
9 these claims and has yet to provide them in supplemental disclosures under the Patent Local
10 Rules.
- 11 • **All Asserted Claims:** As presently understood, Oracle has not made a showing of
12 infringement at least because the material cited for the “removing said duplicated elements
13 from said plurality of class files to obtain a plurality of reduced class files” element on pages
14 13-17 of Exhibit C does not meet the claim element even if it were implemented and used in
15 a device in the form it is recited in Exhibit C because it would not employ a method of
16 obtaining a plurality of reduced class files in that there would be no intermediate step of
17 removing duplicated elements from class files to obtain a plurality of reduced class files prior
18 to forming a multi-class file. Similarly, Oracle has not made a showing of infringement at
19 least because the material cited for the “forming a multi-class file comprising said plurality of
20 reduced class files” element at pages 17-20 of Exhibit C does not meet the claim element
21 even if it were implemented and used in a device in the form it is recited in Exhibit C
22 because it would not employ a method of forming a multi-class file in that no multi-class file
23 would be formed from reduced class files obtained prior to forming the multi-class file. Each
24 other independent claim in Exhibit C references Oracle’s citation for claim 1 for similar
25 elements and the same basis applies to those claims.
- 26 • **All Asserted Claims:** As presently understood, Oracle has not made a showing of
27 infringement at least because the material cited for the “forming a multi-class file comprising
28 said plurality of reduced class files” element at pages 17-20 of Exhibit C does not meet the

1 claim element even if it were implemented and used in a device in the form it is recited in
2 Exhibit C because, in view of the Court’s claim construction, the resulting .dex file does not
3 contain all of “what remains after one or more duplicated elements have been removed from
4 a class file.” For example, the resulting .dex file does not contain a reduced constant pool for
5 each class or the Java bytecodes contained in the class files. Each other independent claim
6 in Exhibit C references Oracle’s citation for claim 1 for similar elements and the same basis
7 applies to those claims.

8 • **Claims 1, 7, and all dependent claims that depend therefrom:** As presently understood,
9 Oracle has not made a showing of infringement at least because the material cited for the
10 “removing said duplicated elements from said plurality of class files to obtain a plurality of
11 reduced class files” element on pages 13-17 of Exhibit C does not meet the claim element
12 even if it were implemented and used in a device in the form it is recited in Exhibit C. Even
13 if Oracle were correct to claim that the cited material results in the “remov[al]” of
14 “duplicated elements” from some of the class files (and it is not), the cited material does not
15 treat the first instance of a constant duplicated across a plurality of class files in the same
16 manner as subsequent instances of the constant found in the plurality of class files, and so
17 there is no “remov[al]” of duplicated elements from each and every one of the “said plurality
18 of class files.” Claim 7 in Exhibit C references Oracle’s citation for claim 1 for similar
19 elements and the same basis applies to that claim.

20 • **All Asserted Claims:** As presently understood, Oracle has not made a showing of
21 infringement at least because the material cited for “determining plurality of duplicated
22 elements in a plurality of class files” elements on pages 2–9 of Exhibit C does not meet the
23 claim element even if it were implemented and used in a device in the form it is recited in
24 Exhibit C because it would not employ a method of determining a plurality of duplicated
25 elements in a plurality of class files in that the classes cited do not determine whether a
26 duplicated element is duplicated within a single class file or across two class files or whether
27 the duplicated is one of many or the only one. Each other independent claim in Exhibit C
28 references Oracle’s citation for claim 1 for similar elements and the same basis applies to