

EXHIBIT E

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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ORACLE AMERICA, INC.,)
Plaintiff,)
vs.) No. CV 10-03561 WHA
GOOGLE, INC.,)
Defendant.)
_____)

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VIDEOTAPED DEPOSITION OF PETER KESSLER
THURSDAY, FEBRUARY 16, 2012

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Videotaped Deposition of PETER KESSLER, taken on behalf of Defendant, at Morrison & Foerster, 755 Page Mill Road, Palo Alto, California, commencing at 2:30 p.m., Thursday, February 16, 2012, before Sandra Lee Hockin, CSR 7372.

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1 APPEARANCE OF COUNSEL:

2

3 FOR PLAINTIFF ORACLE AMERICA, INC.:

4 BOIES, SCHILLER & FLEXNER, LLP

5 BY: FRED NORTON, ESQ.

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8 (510) 874-1000

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10

11 FOR DEFENDANT GOOGLE, INC.:

12 KEKER & NAN NEST

13 BY: EUGENE M. PAGE, ESQ.

14 710 Sansom Street

15 San Francisco, California 94111

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18

19 Also present:

20 Sean Grant, Videographer

21 Andrew Temkin, In-house counsel for Oracle

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PETER KESSLER,

after having been duly sworn, testified as follows:

---o0o---

THE VIDEO OPERATOR: Good afternoon. We are
on the record. The time is 2:30 p.m., and the date is 02:30
February 16, 2012. This is the videotaped deposition
of Dr. Peter Kessler.

My name is Sean Grant, here with our court
reporter Sandy Hockin. We are here from Veritext
National Deposition and Litigation Services at the 02:30
request of counsel for the defendants. This
deposition is being held at Morrison Foerster in
Palo Alto, California.

The caption of the case is Oracle America,
Inc. versus Google, Inc. Case number is CV 10-03561 02:30
WHA.

Please note that audio and video recording
will take place unless all parties agree to go off the
record. Microphones are sensitive and may pick up
whispers, private conversations and cellular 02:31
interference.

At this time, will counsel and all present
please identify themselves beginning with the witness.

THE WITNESS: I am Peter Kessler.

MR. NORTON: Fred Norton of Boies, Schiller & 02:31

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[REDACTED]

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[REDACTED]

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1 A. I'm not sure there was anything after that.

2 Q. So you finished this project on a Wednesday?

3 A. That's my recollection, yes.

4 Q. Okay. When you ranked the patents, were you

5 assigned a particular group of patents to rank, you 03:16

6 yourself?

7 A. No. That was done in the group.

8 Q. Okay. So the group as a whole went through

9 and said 1, 2 or 3?

10 A. Yes. 03:16

11 Q. Was there consensus on every patent?

12 A. On many of them, there was consensus. Where

13 there was a disagreement, we would discuss them.

14 Q. Who generally made the call if there was

15 disagreement? 03:16

16 A. There weren't any disagreements -- I don't

17 remember any disagreements that had to be settled by a

18 "call." So we were always able to reach consensus on

19 what the rankings meant.

20 Q. Okay. Had you seen any of the patents that 03:17

21 you were ranking prior to this exercise?

22 A. Yes.

23 Q. Which ones?

24 A. I don't remember them specifically. Several

25 of them are my patents. I certainly had seen those. 03:17

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[REDACTED]

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[REDACTED]

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[REDACTED]
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[REDACTED]

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[Redacted text block containing approximately 25 lines of text, all of which have been completely obscured by black bars.]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

4 MR. PAIGE: Okay. With that I think I have
5 no further questions for you today. Thank you for 04:20
6 your time, Dr. Kessler. I appreciate it.

7 MR. NORTON: I have just a couple of
8 questions for the witness. Rather than -- actually,
9 I'll go ahead and take Mr. Paige's chair, although I
10 just need a couple minutes, I think. 04:20

11 (Discussion off the record.)

12 EXAMINATION

13 BY MR. NORTON:

14 Q. Dr. Kessler, I'll just try to take no more
15 than a few more minutes of your time. 04:20

16 A. Thank you.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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1 STATE OF CALIFORNIA) ss:
2

3 I, SANDRA LEE HOCKIN, C.S.R. No. 7372, do hereby
4 certify:

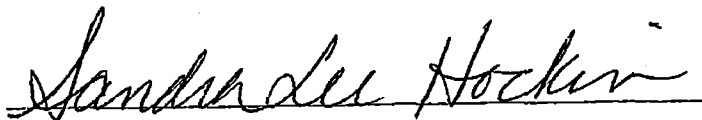
5 That the foregoing deposition testimony was
6 taken before me at the time and place therein set
7 forth and at which time the witness was administered
8 the oath;

9 That the testimony of the witness and all
10 objections made by counsel at the time of the
11 examination were recorded stenographically by me,
12 and were thereafter transcribed under my direction
13 and supervision, and that the foregoing pages
14 contain a full, true and accurate record of all
15 proceedings and testimony to the best of my skill
16 and ability.

17 I further certify that I am neither counsel for
18 any party to said action, nor am I related to any
19 party to said action, nor am I in any way interested
20 in the outcome thereof.

21 IN WITNESS WHEREOF, I have subscribed my name
22 this 17th day of February, 2012.

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24
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SANDRA LEE HOCKIN, C.S.R. No. 7372