

1 ARTHUR S. BEEMAN (SBN 237996)  
arthur.beeman@arentfox.com  
2 JOEL T. MUCHMORE (SBN 224446)  
joel.muchmore@arentfox.com  
3 **ARENT FOX LLP**  
55 Second Street, 21st Floor  
4 San Francisco, California 94105-3470  
Telephone: 415.757.5500  
5 Facsimile: 415.757.5501

6 KEVIN PINKNEY (*pro hac vice* pending)  
kevin.pinkney@arentfox.com  
7 **ARENT FOX LLP**  
1717 K Street, NW  
8 Washington, DC 20006-5344  
Phone: 202.857.6000  
9 Facsimile: 202.857.6395

10 Attorneys for Plaintiffs  
MARS, INCORPORATED, and MARS  
11 INFORMATION SERVICES, INC.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF SAN FRANCISCO**

14 MARS, INCORPORATED, a Delaware  
15 corporation and MARS INFORMATION  
16 SERVICES, INC., a Delaware corporation,

17 Plaintiff,

18 v.

19 ORACLE CORPORATION, a Delaware  
20 corporation, ORACLE AMERICA, INC., a  
21 Delaware corporation, and Does 1-25,

21 Defendants.

Case No. CGC-15-548606

**DECLARATION OF REMY  
OTZENBERGER IN SUPPORT OF MARS,  
INCORPORATED'S MOTION FOR A  
PRELIMINARY INJUNCTION**

Date: December 2, 2015  
Time: 9:30 am  
Dept.: 302  
Reservation No.: 10231202-10

Action Filed: October 23, 2015

22 I, Remy Otzenberger, declare:

23 1. I am employed by Mars Information Services, Inc. ("Mars") and hold the position  
24 of Director, IT Infrastructure Development. In this capacity, I have oversight and management  
25 responsibility for Mars' datacenters in Mt. Olive, New Jersey and Exton, Pennsylvania.

26 2. I submit this declaration in support of Plaintiff's Motion for a Preliminary  
27 Injunction.

28 3. This Declaration is made based upon my personal knowledge.

**ELECTRONICALLY  
FILED**  
*Superior Court of California,  
County of San Francisco*  
**10/26/2015**  
**Clerk of the Court**  
BY: NOELIA RIVERA  
Deputy Clerk

1                    **VMware Environment in Mt. Olive NY and Exton PA Datacenters**

2                    4.        Mars maintains datacenters in Mt. Olive, New Jersey and Exton, Pennsylvania that  
3 use VMware on some servers.

4                    5.        Each of the datacenters in Mt. Olive and Exton has four VMware clusters that use  
5 Oracle Enterprise Edition database software. A VMware cluster is a group of physical servers  
6 that are configured to work closely together.

7                    6.        In the Mt. Olive and Exton datacenters, each VMware cluster has a specific  
8 purpose. For example, there is a VMware cluster for physical servers that host SAP systems that  
9 use Oracle database software, and a separate VMware cluster for physical servers that host SAP-  
10 partitioned systems that use Oracle database software.

11                   7.        As of today, the eight VMware clusters that use Oracle Enterprise Edition database  
12 software are named as follows:

13

Cluster Name	
Mt. Olive, NJ	Exton, PA
MTOVMCLS08	ISXVMCLS07
MTOVMCLS04	ISXVMCLS04
MTOVMCLS05	ISXVMCLS05
MTOVMCLS10	ISXVMCLS10

14

15

16

17

18                   8.        In the Mt. Olive and Exton datacenters uses, all physical servers in the VMware  
19 environment that use Oracle Enterprise Edition database software are located in one of the eight  
20 VMware clusters noted above. No server located in any VMware cluster other than the eight  
21 VMware clusters noted above uses Oracle Enterprise Edition software. No Oracle Enterprise  
22 Edition database software is installed on any physical server in any VMware cluster other than the  
23 eight VMware clusters noted above.

24                   9.        In the Mt. Olive and Exton datacenters, the VMware clusters are configured such  
25 that a virtual machine that is hosted in one VMware cluster cannot readily be moved to a different  
26 cluster. Stated another way, the “live migration” feature in VMware software cannot be used to  
27 move a virtual machine from one VMware cluster to another VMware cluster. The “live  
28 migration” feature cannot be used to move virtual machines from a VMware cluster running

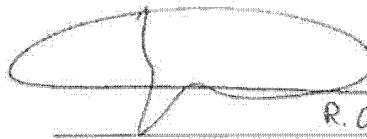
1 Oracle Enterprise Edition database software to a VMware cluster not running Oracle Enterprise  
2 Edition database software – and the “live migration” feature cannot be used to move a virtual  
3 machine between two VMware clusters that both run Oracle Enterprise Edition database software.

4 10. Relocating a virtual machine from one VMware cluster to another VMware cluster  
5 would require that multiple servers and databases be taken off-line, which would cause  
6 immediate, and potentially costly, disruptions to business and factory operations. Relocating a  
7 virtual machine from one VMware cluster to another VMware cluster would be significantly  
8 more complex and burdensome than installing Oracle Enterprise Edition database software on a  
9 new server.

10 11. In addition, at the Mt. Olive and Exton datacenters, each VMware cluster has  
11 dedicated storage that is inaccessible to other VMware clusters and the physical servers in other  
12 VMware clusters. Even if a virtual machine could readily be moved between VMware clusters  
13 (which is not possible), the destination cluster would have no access to necessary database data.

14 I declare under penalty of perjury under the laws of the State of California that the  
15 foregoing is true and correct to the best of my knowledge, information and belief

16  
17 Executed this 23<sup>rd</sup> day of October, 2015, at Haguenau, FRANCE,

18  
19  
20 

21 R. OTZENBERGER  
22 REMY OTZENBERGER