

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

Document Scanning Lead Sheet

Oct-23-2015 2:39 pm

Case Number: CGC-15-548606

Filing Date: Oct-23-2015 2:26

Filed by: ARLENE RAMOS

Juke Box: 001 Image: 05128551

COMPLAINT

MARS, INCORPORATED, VS. ORACLE CORPORATION, ET AL

001C05128551

Instructions:

Please place this sheet on top of the document to be scanned.

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
11 MARS, INCORPORATED and MARS
INFORMATION SERVICES, INC.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF SAN FRANCISCO**

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

17 Plaintiffs,

18 v.

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

21 Defendants.
22

Case No.

CGC -15-548606

COMPLAINT FOR:

DECLARATORY JUDGMENT

PUBLIC VERSION

**EXHIBITS 1-6 CONDITIONALLY FILED
UNDER SEAL**

23
24 Plaintiffs Mars, Incorporated and Mars Information Services, Inc. (collectively "Mars"
25 and/or "Plaintiffs"), hereby complains against defendants Oracle Corporation and Oracle
26 America, Inc. (collectively, "Oracle") and Does 1-25, inclusive (collectively "Defendants"), as
27 follows:
28

FILED
Superior Court of California
County of San Francisco

OCT 23 2015

CLERK OF THE COURT

BY: Adeline Ramon
Deputy Clerk

1 **I. NATURE OF THE ACTION**

2 1. Mars brings this declaratory judgment action for the Court to construe and enforce
3 the provision in the 1993 Software License and Services Agreement (the "Agreement") between
4 Mars and Oracle Corporation that limits any Oracle audit to an audit of "[Mars'] use of the
5 Programs," as that limitation is expressly and unambiguously stipulated in the Agreement.¹ (A
6 true and correct copy of the Agreement is attached as Exhibit 1 to this Complaint and
7 incorporated by reference herein.)

8 2. Contemporaneous with this Complaint, Mars is filing a motion for preliminary
9 injunction to enjoin Oracle from terminating the Agreement and thereby casting doubt on Mars'
10 on-going right to use millions of dollars of software licenses which are critical to Mars' on-going
11 business operations. Mars has provided to Oracle 233,089 pages of documents in support of
12 Oracle's on-going audit – of "[Mars'] use of the Programs" – and those documents show that Mars
13 owns large surpluses of licenses and has minimal, if any, need for additional licenses.
14 Unsatisfied, Oracle demanded information, to which it is not contractually entitled, regarding
15 servers that do not run Oracle software and Mars personnel who do not use Oracle software.
16 Oracle made these demands under false pretenses under false premises that non-use of software
17 nonetheless somehow constitutes licensable use of software for which Mars owes Oracle. In
18 response to Mars' request for Oracle to explain why Oracle's demand was within the scope of the
19 audit provision of the Agreement, Oracle notified Mars that Oracle "will terminate its license
20 agreement with Mars on October 26, 2015." At the time of this filing, Oracle has not rescinded
21 that threat. Action by this Court is needed to construe and enforce the terms to which the Parties
22 agreed as set forth in the Agreement.

23 //

24 //

25 //

26 _____
27 ¹ Pursuant to California Procedure Code § 1062.3, Mars requests that the Court set the date for
28 trial "at the earliest possible date" and allow this matter to take "precedence over all other cases."

1 **II. THE PARTIES**

2 3. Plaintiff Mars Incorporated is a global manufacturer of confectionery, pet food and
3 other food products. It is organized and existing under the laws of the state of Delaware and has a
4 principal place of business in McLean, Virginia.

5 4. Plaintiff Mars Information Services, Inc. executed certain Ordering Documents
6 pursuant to the Agreement. It is organized and existing under the laws of the state of Delaware
7 and has a principal place of business in Mount Olive, New Jersey.

8 5. Mars is informed and believes, and on that basis alleges, that Defendant Oracle
9 Corporation is a global software provider. It is organized and existing under the laws of the state
10 of Delaware and has a principal place of business in Redwood City, California.

11 6. Mars is informed and believes, and on that basis alleges, that Defendant Oracle
12 America, Inc. is organized and existing under the laws of the state of Delaware and has a
13 principal place of business in Redwood City, California.

14 7. Mars is ignorant of the true names and capacities of defendants sued herein under
15 fictitious names DOES 1 through 25, inclusive, and Mars will seek leave of court to amend this
16 complaint to allege such names and capacities as soon as they are ascertained.

17 8. Mars is informed and believes, and upon that basis alleges, that at all times
18 relevant hereto, Defendants and their directors, officers, partners, managers and employees, and
19 each of them, were acting on behalf of and as agents and representatives of each other, and were
20 acting within the scope and purpose of said authority, agency, employment and representation.

21 9. Mars is informed and believes, and upon that basis alleges, that Defendants, and
22 each of them, directly ordered, authorized, participated in, and/or ratified the acts alleged herein.

23 **III. JURISDICTION AND VENUE**

24 10. Mars is informed and believes, and upon that basis alleges, that Defendants, and
25 each of them, do business in the State of California and are subject to personal jurisdiction in this
26 state.

27 //

28 //

11. Venue is proper in San Francisco County because, in Section 7.3 of the Agreement, the parties stipulated "to submit to the jurisdiction of, and agree that venue is proper in," any state or federal court in the County of San Francisco County.

IV. **FACTUAL BACKGROUND**

A. **In 1993, Mars and Oracle Agreed that Any Audit Oracle Might Perform of Mars Would Be Limited to an Audit of Mars' "Use of [Oracle] Programs"**

12. On or about November 23, 1993, Mars, acting through its subsidiary Information Services International, a division of Effem Services, Inc., entered into an Agreement with Oracle which set forth a framework by which Mars could purchase licenses for Oracle "Programs" (as defined in the Agreement) and/or technical support services, pursuant to subsequently executed "Order Forms."

13. Pursuant to Section 2.4 of the Agreement, Oracle has certain limited rights to audit Mars' use of the software it licenses from Oracle:

On Oracle's written request, not more frequently than annually, [Mars] shall furnish Oracle with a signed certification (a) verifying that the Programs are being used pursuant to the provisions of this Agreement, including any User limitations; and (b) listing the locations, types and serial numbers of the Designated Systems on which the Programs are run.

Oracle may, at its expense, audit [Mars'] use of the Programs. Any such audit shall be conducted during regular business hours at [Mars'] facilities and shall not unreasonably interfere with [Mars'] business activities. If an audit reveals that [Mars] has underpaid fees to Oracle, [Mars] shall be invoiced for such underpaid fees based on the corporate user discount (such as a Project User Agreement) in place between [Mars] and Oracle in effect at the time the audit is complete. Audits shall be conducted no more than once annually.

(emphasis supplied).

14. Section 1.8.1 of the Agreement defines the term "Users" as: "a specific individual employed by [Mars] who is authorized by [Mars] to use the Programs, regardless of whether the individual is actively using the Programs at any given time." This definition of User applies to Order Forms entered into pursuant to the Agreement "unless otherwise specified in the Order Form."

1 15. Over the course of more than twenty years, Mars executed multiple Order Forms
2 (sometimes titled "Ordering Documents") pursuant to the Agreement, thereby licensing Oracle
3 software products and receiving related technical support from Oracle. Relevant to this
4 Complaint, programs that Mars licensed from Oracle include, but are not limited to: Agile
5 Product Lifecycle Management ("Agile")² and Oracle Database Enterprise Edition and option
6 packs used therewith ("Options").³

7 16. Four Order Documents were for Mars purchases of licenses for a custom suite of
8 Agile software programs. These Orders Documents define a Custom Suite User as "an individual
9 authorized by [Mars] to use the application programs included in the applicable Custom
10 Applications Suite which are installed on a single server or on multiple servers regardless of
11 whether the individual is actively using the programs at any given time."

12 **1. Notwithstanding the Clear Terms of the 1993 Agreement, Oracle Has**
13 **Repeatedly Demanded to Conduct an Audit Inconsistent with the Limited**
14 **Audit Provided for in the Agreement**

15 17. By letter dated September 15, 2014, Oracle's License Management Services
16 ("LMS") Group informed Mars that Mars had been selected for a "License Review." The
17 "License Review" did not purport to be an audit, and, more importantly, was inconsistent with
18 Oracle's audit rights under Section 2.4 of the Agreement.

19 18. Even if the "License Review" were purported to be an audit, as contemplated by
20 the Agreement, such "License Review," as proposed by Oracle, extended well beyond Oracle's
21 limited audit rights under the terms of the Agreement.

22 ² Pursuant to the terms of the Agreement, Mars, Incorporated, through its agents Mars
23 Information Services, Inc. and Mars IS UK Ltd, executed four Ordering Documents licensing
24 the Agile suite of products and receiving related technical support from Oracle. (True and
25 correct copies of these Ordering Documents are attached as Exhibits 2-5 to this Complaint and
26 incorporated herein by reference.)

27 ³ Pursuant to the terms of the Agreement, Mars, Incorporated, through its agent Mars
28 Information Services, Inc., executed, among other things an Ordering Document licensing the
Oracle Database Enterprise Edition software and Options and receiving related technical
support from Oracle. (A true and correct copy of this Ordering Documents is attached as
Exhibit 6 to this Complaint and incorporated herein by reference.)

1 19. Under the terms of the Agreement, Mars is required to provide a certification as to
2 certain limited “locations, types and serial numbers” information. In contrast, the License
3 Review demanded by Oracle requested that Mars complete an “Oracle Server Worksheet,” which
4 is an Excel spreadsheet that requests include the following: server names, models, processor
5 types, processor counts, core counts, operating system names, database instance names,
6 connection strings, and descriptions of any installed options and OEM Packs.

7 20. Oracle is not entitled under the terms of the Agreement to run, or have Mars run,
8 diagnostic software on Mars’ servers. In contrast, the License Review demanded by Oracle
9 required that Mars, at its own expense, use Oracle software and scripts to assemble information
10 on Oracle’s behalf.

11 21. Under the Agreement, Oracle is required to conduct any audit onsite at Mars and at
12 Oracle’s expense. In contrast, the License Review demanded by Oracle contemplated that Mars
13 collect information on Oracle’s behalf and at Mars’ expense – without Oracle ever arriving onsite.

14
15 **2. Mars Strived to Accommodate Oracle’s “License Review” Demand in Line**
16 **with the Agreement – But Oracle Threatened to Terminate Mars’ Licenses**
 Anyway

17 22. After Mars received Oracle’s “License Review” request, Mars representatives
18 sought to accommodate Oracle’s requests for information, consistent with the terms of the
19 Agreement and with staff workloads and availability, security concerns, and generally accepted
20 audit principles. Per the Agreement, Oracle is required to ensure that Oracle’s audit activities do
21 not unreasonably interfere with Mars’ business activities. Mars representatives worked diligently
22 to come to a mutually-agreeable process for completing an audit consistent with this imperative.

23 23. Over a period of months, Mars and LMS representatives met repeatedly in an
24 effort to structure the audit and spent significant time and effort seeking to come to agreement on
25 a Letter of Understanding to govern the audit process. Ultimately, LMS informed Mars that LMS
26 was unable to agree to any Letter of Understanding.

27 24. On April 17, 2015, Oracle sent to Mars a letter stating that Mars had materially
28 breached the Agreement by unreasonably delaying and refusing to permit Oracle’s license review.

1 The letter quoted in full Section 2.4 of the Agreement, but did not specify whether Oracle
2 believed Mars had breached Paragraph 1 of Section 2.4, which requires Mars to provide a
3 certification upon Oracle's written request, or Paragraph 2, which requires Mars to allow Oracle
4 to conduct an onsite audit at Oracle's expense.

5 25. On April 24, 2015, Mars provided to Oracle completed Oracle Server Worksheets.
6 The Worksheets included more information than Mars would have been required to provide in a
7 written certification (if Oracle had requested a written certification). Mars provided this
8 information in good faith, even though there was no requirement under Section 2.4 of the
9 Agreement that Mars do so.

10 26. On May 5, 2015, Mars explained to Oracle that Mars was not, and had never been,
11 in breach of Section 2.4 and requested that Oracle rescind the breach notice. Mars also offered to
12 provide to Oracle audit assistance on a voluntary basis, "even though the contract places on
13 Oracle the expense of conducting the audit." Mars made the entirely reasonable proposal that, for
14 the audit to not unreasonably interfere with Mars' business activities (as agreed between the
15 parties), the audit would "need to be conducted in a credible manner that reflects general audit
16 principles."

17 27. On May 8, 2015, Oracle responded that Oracle was under no obligation to conduct
18 its audit in accordance with general audit principles – and rejected Mars' offer for Mars to
19 voluntarily, at Mars' expense, assist Oracle's audit on the basis of agreed-to audit procedures.
20 Oracle reiterated that "Oracle will terminate the Agreement on May 20, 2015."

21 28. In the interest of avoiding litigation, Mars agreed to voluntarily, at its own
22 expense, assist with Oracle's audit on the following basis: rather than seeking to establish
23 mutually-agreeable audit procedures, Mars would voluntarily assemble and provide to Oracle
24 information reasonably related to determining Mars' use of Oracle software – and Mars would
25 provide only such information, and not extraneous information.

26 29. On May 19, Mars discussed with LMS personnel Melissa Alexander and Sara
27 Malek Mars' work plan for providing to Oracle information that Oracle had requested, and they
28

1 agreed that Oracle would provide written assurance that Oracle would not terminate the
2 Agreement on certain terms and conditions that Mars satisfied before May 20.

3 30. Notwithstanding this agreement, on May 20, Oracle informed Mars that, rather
4 than rescinding the breach notice, Oracle was instead extending by 7 days the deadline by which
5 Mars had to cure the alleged breach. Only on May 27, 2015, did Oracle confirm in writing that
6 Oracle was withdrawing the breach notice.

7
8 **B. Mars Provided 233,089 Pages of Documents and All Information Reasonably**
9 **Necessary to Audit Mars' Use of Oracle Software – But Oracle (Again)**
10 **Threatened to Terminate Mars' Licenses Because Mars Would Not Acquiesce**
in Oracle's Out-of-Scope Audit Requests

11 31. Mars and Oracle agreed that Mars would, on a rolling basis, provide documents in
12 response to Oracle's demands. From May 13 through September 2, 2015, Mars assembled
13 fourteen tranches of materials, consisting of 233,089 pages of documents. Mars assembled the
14 information at its own expense without Oracle ever being present at Mars' facilities.

15 32. After Mars had assembled and produced all information reasonably necessary to
16 audit Mars' use of Oracle's software, Oracle made demands that were outside the scope of the
17 audit provision set forth in the Agreement.

18 33. Over the summer, Oracle made various demands for Mars to provide information
19 that was outside the scope of the audit called for in the Agreement. For example, on August 21,
20 2015, Oracle demanded that Mars provide a listing of all clusters and servers included in Mars'
21 VMware environment.⁴ Oracle asserted that, because Mars was using VMware version 5.1 or
22 higher, "all additional servers and/or clusters not running oracle must be licensed."

23 34. By email dated September 2, 2015, Oracle demanded that Mars provide the two
24 areas of information that were outside the scope of the audit provision in the Agreement that give

25 ⁴ VMware software simulates the existence of hardware and allows organizations to create virtual
26 computer systems. Doing this allows organizations to run more than one virtual computer system
27 (also known as a "virtual machine" or "VM") on a single physical server. Additional information
28 is available on the VMware website at www.vmware.com/virtualization/how-it-works.html.
Mars' VMware environment consists of physical servers capable of hosting virtual machines.

1 rise to this cause of action, as well as a third out-of-scope demand (which Oracle has since ceased
2 demanding). Oracle demanded that Mars:

- 3 ➤ “[I]dentify the population of users that have access to Agile data” in three systems
4 to which Agile data are exported;
- 5 ➤ Provide purportedly “[m]issing VMware information” that had been previously
6 requested, and which Oracle previously had described as “screenshots of servers in
7 the VMware environment that show additional servers and/or clusters not running
8 Oracle;” and
- 9 ➤ Furnish a “[c]ertification of completeness signed by C-Level executive.”

10 35. Oracle further stated that “[i]f we are missing any information on 9/9, this
11 engagement will go back in escalation via Oracle Legal.”

12 36. These two demands by Oracle are well beyond the scope required by Section 2.4
13 of the Agreement. By letter dated September 9, 2015, Mars invited Oracle to clarify and provide
14 the contractual basis for its requests. In particular, Mars:

- 15 ➤ Requested “that [Oracle] clarify the information that is sought” with respect to
16 Agile;
- 17 ➤ Noted that “Oracle LMS has requested screenshots of servers in the VMware
18 environment that show ‘additional servers and/or clusters not running [O]racle’”
19 and responded that “[s]ervers and clusters that do not run Oracle are not probative
20 of Mars’ use of Oracle software and are outside the scope of Oracle’s audit rights.”
21 Nonetheless, Mars stated that “Mars is amenable to considering any contract
22 provision that Oracle might point to in support of Oracle LMS’s request;” and
- 23 ➤ Noted that the certification requested by Oracle “is different than the certification
24 that Oracle may request under the contract.” Nonetheless, Mars stated that “Mars
25 is amenable to considering an Oracle proposal for Mars to provide a certificate of
26 completion, provided that that certificate take the place of the contractually-
27 defined certification – *i.e.*, Mars would provide one, not two, certifications.”

28 37. For over two weeks, Oracle declined to respond to Mars’ September 9 request for
Oracle to clarify and provide the contractual basis for Oracle’s requests. Instead, Oracle
reiterated its demands for the information and threats to escalate the matter to Oracle Legal if
Mars did not acquiesce in Oracle’s demands.

1 38. On September 23-24, 2015, Mars and Oracle representatives met for two days to
2 go through a line-by-line review of Oracle LMS's preliminary compliance findings. During the
3 two days, the parties addressed certain factual and contract interpretation issues that had arisen
4 during the audit process. Oracle's representatives did not appear well-prepared on the first day
5 and did not even bring laptops with them into the conference room. Nonetheless, Mars viewed
6 the effort as productive because Oracle came to agree with Mars that there was an anomaly in the
7 script that Oracle used to detect use of one software option.

8 39. It is important to note that, at this juncture, the various factual and contract
9 interpretation issues that had arisen in the course of the unfinished audit are not the subject of this
10 Complaint, with the exception of the two issues related to Oracle's new definition of "use" which
11 are the basis for Oracle's breach notification and are the subject of this Complaint.

12 40. On September 25, 2015, Oracle responded to Mars' September 9th request for
13 Oracle to clarify and provide the contractual basis for Oracle's requests:

14 ➤ With respect to Agile, Oracle asserted that the "[u]se of the records created
15 by Agile is use of the Agile software." According to Oracle, employees
16 working with data that has been exported out of Agile and imported into
17 other software programs "obviously are using Oracle's proprietary
analytical, configuration, organizational, and management tools in the
Agile program."

18 Oracle based this view on the notion that "User" is defined in the contract
19 as an individual "authorized by Mars to use the Programs, regardless of
whether the individual is actively using the Programs at any given time."

20 ➤ With respect to VMware environments, Oracle asserted that Mars is
21 contractually required to purchase licenses for "all processors where the
22 Oracle Programs are installed and/or running." Oracle asserted that
23 "VMware technology specifically is designed for the purpose of allowing
live migration of programs to all processors across the entire environment"
24 – and that Oracle programs "are installed on any processors where the
programs are available for use."

25 ➤ With respect to a certification, Oracle abandoned its prior request for a
26 certification other than the certification that is called for in Section 2.4 of
the Agreement.

27 //

1 41. In the very same letter, and without providing to Mars any opportunity to review
2 Oracle's response or engage with Oracle on these matters, Oracle issued a (second) breach
3 notification and stated that "Oracle will terminate its license agreement with Mars on October 26,
4 2015."

5 42. Oracle concluded this letter by stating that "[s]hould Oracle terminate the
6 agreement, Mars will be prohibited from all further use of the Oracle programs."

7
8 C. **Mars Provided to Oracle Compelling Analysis as to Why Oracle's New**
9 **Definition of "Use" Was Unsupported by the Contract – but Oracle**
10 **Nevertheless Persisted in Demanding Out-of-Scope Information, Thereby**
11 **Forcing Mars to Seek Relief from this Court**

12 43. On September 30, 2015, Mars provided to Oracle compelling analysis as to why
13 Oracle's new definition of "use" was unsupported by the Agreement.

14 44. With respect to Oracle's request related to Agile software and Oracle's assertion
15 that "[u]se of the records created by Agile is use of the Agile software," Mars noted that:

- 16 a. Mars has a surplus of Agile licenses. The Agile software itself tracks
17 users. At Oracle's request, Mars ran the "Collect User Data" query in all
18 of Mars' Agile environments, which assembled user names and other
19 attributes for all Agile user accounts. The query results showed 481 active
20 Agile user accounts. Mars has a total of 566 licenses for Agile – and thus
21 has a license surplus.
- 22 b. The Agile software establishes what it means to be a "User" – and
23 individuals that simply receive exported data are not "Users." By Oracle's
24 design, a user account is necessary for an individual to log into Agile and
25 to use Agile. Those user accounts are established and tracked in the Agile
26 software – and only those individuals who are Users use the software.
- 27 c. Oracle's proposed definition of "User" is absurd. By arguing that "[u]se of
28 records created by Agile is use of the Agile software," Oracle advocates for
absurd results that could never have been reasonably considered to have
been within the contemplation of the parties when they signed the
Agreement in 1993. Specifically, Oracle's definition would mean that an
individual who has no access to an Agile user account, who is not trained
on Agile, who never logs into Agile and who never even touches a machine
that hosts Agile software would require a license as a "user of the
application programs."

 Stated another way, Oracle's definition would mean that any recipient of a
letter prepared in Microsoft Word would be deemed to have used Microsoft
Word merely by reading the letter.

- 1 d. The definition of "User" requires that Mars authorize use – and Mars has
2 not authorized SAP users (or other non-Agile users) to use Agile. The
3 Agreement defines a User as an individual "authorized by [Mars] to use the
4 Programs." Mars authorizes its personnel to use Agile by issuing to
5 personnel user names and accounts so that the personnel can log into Agile.
6 Mars does not authorize SAP users, in their roles as such, to log into agile.
7 Accordingly, none of those individuals have been authorized to use Agile
8 for purposes of the contract definition of User.
- 9 e. Oracle's written assurances to Mars in 2013 waive any claim Oracle might
10 otherwise have. In Mars' response letter, Mars notes that Oracle waived
11 any claim it otherwise might have had that there is a licensable event after
12 information is exported from Agile. In 2013, Mars requested that Oracle
13 provide its views as to the status of information exported from the Agile
14 environment and Oracle confirmed that downstream recipients were
15 outside the scope of the license. Specifically, Oracle (Gary Six) stated:
16 "The data belong[] to Mars, Oracle is OK with you extracting the data."
17 Oracle (Wes Frierson) further stated: "No issues with extracting data from
18 or attaching reporting tools to [Agile]."

19 45. With respect to Oracle's request related to the VMware environment and Oracle's
20 assertions that Mars uses Oracle software on any server where Oracle software programs "are
21 available for use," Mars noted as follows:

- 22 a. Oracle misstates Mars' contractual commitment. Mars is required to
23 purchase licenses only for servers that *use* Oracle software. Mars is not
24 contractually required to purchase licenses for all processors where the
25 "Oracle programs are available for use" but are not actually used.
- 26 b. Even if Mars were required to purchase licenses for servers where Oracle
27 software is available for use (*i.e., installed*), Mars has already complied
28 with Oracle's request for information because Mars has already provided
screenshots for all physical servers where Oracle software is installed.
- 29 c. Oracle's request goes beyond the scope of the audit permitted by Section
30 2.4 because Oracle seeks information concerning servers where, by
31 Oracle's own admission, Oracle software is not running.
- 32 d. Oracle software is not available for use throughout Mars' VMware
33 environment. Mars' VMware servers and clusters are configured so that
34 each VMware cluster has a specific purpose. As configured, processing
35 within one cluster cannot be moved to or performed by a different cluster.
36 In addition, each cluster has dedicated storage that is inaccessible to the
37 servers in the other clusters – so that, even if work could move between
38 clusters (which is not possible in Mars' current VMware environment
39 without changing its configuration), the destination cluster would have no
40 access to necessary database data.

41 Mars has also provided conclusive video evidence that Oracle software that
42 is available in one VMware cluster is unavailable to all other VMware
43 clusters: at Mars, the VMware software itself does not permit a user to live
44 migrate a virtual machine across clusters. Accordingly, software that is in

one cluster is not installed in a different cluster, and software that is available in one cluster is unavailable to a different cluster.

- e. Oracle's apparent concern is based on a fact pattern that simply is not present at Mars. Oracle states that: "VMware technology specifically is designed for the purpose of allowing live migration of programs to *all* processors across the entire environment." In contrast, as Mars has explained, as Mars has demonstrated in video evidence, and as Mars stands ready to further demonstrate as needed to on-site Oracle auditors, the manner in which the VMware technology is deployed and configured at Mars does not allow any live migration of programs across VMware clusters. There is no basis for Oracle to assert that Oracle database or add-on packs are used, installed or running on any server beyond the VMware cluster where the software is installed.
- f. Mars has fulfilled its obligation to provide information related to the use of Oracle software in the VMware environment by providing screenshots that that show all clusters and physical servers that use the Oracle software at issue.

46. In the letter, Mars also requested that Oracle rescind the breach notice by October 5, 2015.

47. On October 7, 2015, Oracle sent a letter to Mars. In the first two pages of the letter, Oracle appears to seek to change the subject – from Oracle's absurd and unsupportable proposed definitions of the term "use," to a discussion of the meaning of "audit" (which is not in dispute). In its October 7th letter, Oracle reiterates its positions with respect to Agile and VMware – but does not seriously engage the points raised by Mars. Rather than engaging the contract interpretation questions raised by Oracle's new definition of the term "use," Oracle instead states that the information that Oracle has demanded is necessary to address the question of contract interpretation questions that Mars raised in its September 25th letter.

48. In the same October 7th letter, Oracle states that it "reiterates its original notice of breach and requests that Mars cure it by providing the information above." Oracle further states that "[i]f Mars continues to refuse, then Oracle will terminate its license agreement with Mars on October 26, 2015. Should Oracle terminate the agreement, Mars will be prohibited from all further use of the Oracle programs."

1 **D. Oracle's Notice of Termination Is Improper**

2 49. Pursuant to Section 4.3, Oracle may terminate the "Agreement or any license upon
3 written notice if [Mars] materially breaches [the] Agreement and fails to correct the breach within
4 thirty (30) days following receipt of written notice specifying the breach."

5 50. As alleged above, Mars has not breached the Agreement, materially or otherwise,
6 because Mars has fully complied with its obligations to cooperate with the audit pursuant to
7 Section 2.4 of the Agreement. Because Mars has not materially breached the Agreement,
8 Oracle's notice of termination, and its refusal to withdraw the same, constitute a breach of Section
9 4.3.

10 51. Further, by serving notice of termination in its September 25th letter and by
11 affirming that notice of termination in its October 7th letter, Oracle unequivocally repudiated the
12 Agreement and acted in a manner wholly inconsistent with its obligations under the Agreement.

13 **E. A Termination of The Agreement Would Cause Substantial Disruption and**
14 **Irreparable Harm to Mars' Business**

15 52. Pursuant to Section 4.5, if Oracle terminates the Agreement, Mars must "(a) cease
16 using the applicable Programs, and (b) certify to Oracle within one month after expiration or
17 termination that [Mars] has destroyed or has returned to Oracle the Programs and all copies."

18 53. Cessation of *all* Oracle programs licensed to Mars would result in substantial
19 disruption to the day-to-day operations of Mars' global food products manufacturing business.
20 Mars depends on Oracle database software, including Oracle Database Enterprise Edition and
21 related add-ons, to manage the vast complexity of its operations. Oracle database software
22 supports 80 percent of Mars' information technology applications, including is most critical
23 processes covering the manufacturing and procurement, sales and distribution, finance and human
24 resources areas. Accordingly, loss of use of the software would halt production in factories, sales
25 of products, employee payroll, payment of suppliers, processing of customer invoices, and
26 management of Mars' cash. This paralysis would impact Mars' 75,000 employees worldwide and
27 have reverberating impacts on its suppliers and customers.

54. To the extent an alternative database software product is available, Mars would suffer from a protracted disruption to operations while interviewing, selecting, customizing, testing, integrating, and implementing a new software product. Mars currently runs over 2,000 databases using Oracle and migrating away from Oracle to another database software would be a months-long process.

55. Additionally, loss of the Oracle Agile software will significantly impair Mars' procurement and manufacturing business as the Agile software supports a segment of Mars' product information and specification solutions. Mars would be unable to communicate to its suppliers procurement needs and would be unable to critical quality checks in its manufacturing operations. As Agile is used in Mars' biggest markets (the United State and Europe), the business impact would be severe.

56. As a consequence of the foregoing, Mars will suffer irreparable harm, including, but not limited to, loss of reputation, competitive advantages, customers, market share, and most certainly, profits.

57. Based on the above allegations and those pled below, Mars alleges the following claims together and in the alternative.

FIRST CAUSE OF ACTION

(Declaratory Judgment)

58. Mars incorporates by reference paragraphs 1 through 57 of this Complaint as though fully set forth therein.

59. On or about November 23, 1993, Mars and Oracle entered into the Agreement, attached as Exhibit 1 hereto, which is a valid and binding contract. Under its terms, Mars executed Ordering Documents for licensing certain Oracle programs and contracting for related technical support, which are also valid and binding.

60. At all material times, Mars has performed all of its obligations under the Agreement and/or was ready, able and willing to perform those terms on its part to complete performance, or was excused from performance by reason of Oracle's acts and omissions or otherwise. Mars' performance included providing information to Oracle concerning its "use of

1 the Programs” licensed to Mars in strict accordance with the Agreement and the operative
2 ordering forms.

3 61. Pursuant to Section 4.3 of the Agreement, Oracle is not permitted to terminate the
4 Agreement because Mars has not materially breached the Agreement. Contrary to Oracle’s
5 allegations in its September 25th and October 7th letters, Mars has complied with its obligations
6 pursuant to Section 2.4 of the Agreement to provide Oracle with access to information concerning
7 Mars’ “use of” licensed software.

8 62. An actual controversy has arisen between the parties concerning the interpretation
9 of the Agreement, in that the parties dispute the scope of Oracle’s right to audit Mars’ “use of the
10 Programs” pursuant to Section 2.4 of the Agreement. Mars disagrees with Oracle’s contentions
11 that:

- 12 a. “Use of the records created by Agile is use of the Agile software.” Mars
13 contends that “use” of licensed software pursuant to Section 2.4 is limited
14 to use “of the application program” – and not merely use of data exported
15 therefrom; and
- 16 b. Mars uses Oracle software on all clusters, all servers, and all processors in
17 a VMware environment because Oracle software can be “live migrated” to
18 all clusters, all servers, and all processors. Mars contends that software
19 licenses are required only for servers where Oracle is in use and, moreover,
20 on even Oracle’s terms, software licenses are required only where live
21 migration is possible.

22 63. Oracle has repeatedly stated that it will terminate the Agreement on October 26,
23 2015 and at the time of this filing, has not rescinded those statements.

24 64. Mars seeks a judicial determination of the parties’ respective rights and duties, and
25 a declaration affirming that: (1) the Agreement and related Ordering Documents is in full force
26 and effect; (2) Mars is not in breach of the Agreement or any related Ordering Documents; and/or
27 (3) per the terms of the Agreement, Oracle is not permitted to terminate the Agreement and is not
28 permitted to terminate any of the licenses provided pursuant to the Agreement.

65. Mars’ requested declarations include some or all of the following ancillary
declarations:

- a. Mars has complied with its audit obligations regarding its use of the
licensed Agile software including, but not limited to, its obligation to
provide Oracle with sufficient audit information regarding the “Users” of
that software.

- b. Mars has complied with its audit obligations regarding its use of the licensed Oracle Database Enterprise Edition software including, but not limited to, its obligation to provide Oracle with sufficient audit information regarding "Users" running that software.
- c. Mars has complied with all other terms of the Agreement and Ordering Documents, including, but not limited to, all audit and payment obligations.
- d. Mars' license to utilize licensed software, including, but not limited to, Agile software and Oracle Database Enterprise Edition software, is in full force and effect.

66. A judicial determination resolving this actual controversy is necessary and appropriate at this time under the circumstances in order to prevent Oracle's unjustified termination of the Agreement that would result in irreparable harm to Mars' business operations.

WHEREFORE, Oracle prays for judgment as hereinafter set forth.

PRAYER FOR RELIEF

Mars requests that this Court enter judgment against Defendants as follows:

1. A declaratory judgment affirming that: (1) the Agreement and related Ordering Documents is in full force and effect; (2) Mars is not in breach of the Agreement; and/or (3) per the terms of the Agreement, Oracle is not permitted to terminate the Agreement and is not permitted to terminate any of the licenses provided pursuant to the Agreement. Mars' requested declarations may include some or all of the following ancillary declarations:

- a. Mars has complied with its audit obligations regarding its use of the licensed Agile software including, but not limited to, its obligation to provide Oracle with sufficient audit information regarding the "Users" of that software.
- b. Mars has complied with its audit obligations regarding its use of the licensed Oracle Database Enterprise Edition software including, but not limited to, its obligation to provide Oracle with sufficient audit information regarding "Users" running that software.
- c. Mars has complied with all other terms of the Agreement and Ordering Documents, including, but not limited to, all audit and payment obligations.
- d. Mars' license to utilize licensed software, including, but not limited to, Agile software and Oracle Database Enterprise Edition, is in full force and effect.

1 2. A preliminary and permanent injunction against Defendants, their servants,
2 employees, attorneys and all other persons in active concert or participation with Defendants
3 prohibiting Defendants from terminating the Agreement pursuant to any of the grounds stated by
4 Oracle in its September 25, 2015 letter, its October 7, 2015 letter, or any grounds related to the
5 current dispute regarding the scope of Oracle's audit rights pursuant to the Agreement.

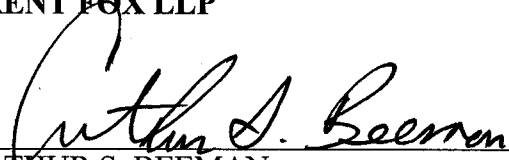
6 3. That Mars be awarded all reasonable costs allowable by law, including staff time,
7 court costs, attorneys' fees, experts' fees and other related expenses; and

8 4. That Mars be awarded costs of suit and such other and further relief as the Court
9 deems just and proper.

10
11 Dated: October 23, 2015

ARENTE FOX LLP

12
13 By:


ARTHUR S. BEEMAN
Attorneys for Plaintiffs
MARS, INCORPORATED and MARS
INFORMATION SERVICES, INC.

Exhibits 1-6

CONDITIONALLY UNDER SEAL

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANTS:

(AVISO AL DEMANDADO):

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

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

MARS, INCORPORATED, a Delaware corporation, and MARS INFORMATION SERVICES, INC., a Delaware corporation

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

San Francisco Superior Court

400 McAllister St.

San Francisco, CA 94102

CASE NUMBER:
(Número del Caso):

CGC -15-548606

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Arthur S. Beeman (SBN 237996) 415-757-5500

Arent Fox, LLP

55 Second Street, 21st Floor San Francisco, CA 94105-3470

DATE:

(Fecha)

OCT 23 2015

CLERK OF THE COURT

Clerk, by

(Secretario)

Arlene Ramos
ARLENE RAMOS

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under:

☐ CCP 416.10 (corporation)	☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation)	☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership)	☐ CCP 416.90 (authorized person)
☐ other (specify):	
4. ☐ by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

FOR COURT USE ONLY

Arthur S. Beeman (SBN 237996)
 Arent Fox LLP
 55 Second Street, 21st Floor
 San Francisco, CA 94105-3470

TELEPHONE NO.: 415-757-5500

FAX NO.: 415-757-5501

ATTORNEY FOR (Name): Plaintiffs Mars, Incorporated and Mars Information Services, Inc.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF **San Francisco**

STREET ADDRESS: 400 McAllister Street

MAILING ADDRESS:

CITY AND ZIP CODE: San Francisco, CA 94102

BRANCH NAME: Civic Center Courthouse

CASE NAME: Mars, Incorporated and Mars Information Services, Inc. v Oracle
 Corporation and Oracle America, Inc.

FILED
 Superior Court of California
 County of San Francisco

OCT 23 2015

CLERK OF THE COURT

BY: Arline Ramon
 Deputy Clerk

CIVIL CASE COVER SHEET

- ☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation

- ☐ **Counter** ☐ **Joinder**

Filed with first appearance by defendant
 (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

CGC -15-548606

JUDGE:

DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:**Auto Tort**

- ☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- ☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- ☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

- ☐ Wrongful termination (36)
☐ Other employment (15)

Contract

- ☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☒ Other contract (37)

Real Property

- ☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

- ☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

- ☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)

- ☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- ☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

- ☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- ☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
 b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☐ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): ONE (1)

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: October 23, 2015

Arthur S. Beeman (SBN 237996)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36) Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition