

## Declaration of Tina Brand

I, Tina Brand, declare as follows:

1. My name is Tina Brand. I am currently an author and artist residing in Arlington, Massachusetts. I am over the age of 18, have personal knowledge of the facts set forth herein, and am competent to testify to the same.

2. From 1989-2013, I spent twenty-four years in roles including Technical Writer, Documentation Manager, Release Manager, and Project Manager at several companies including ICAD, Concentra, Inc., and Oracle Corporation. In particular, I authored manuals and customer training materials for a product configurator known as Oracle Configurator.

3. From 1989-1999 I worked at ICAD and then Concentra. From 1993-1995, I worked as the Documentation Manager for Concentra. In 1995-1996, I was the Release Manager for the first release of Concentra's SellingPoint Configurator. In 1997-1998, I was a Project Manager on SellingPoint and personally worked with customers. In 1998, I again became the Documentation Manager for Concentra's SellingPoint Configurator and was based in Burlington, Massachusetts.

4. Oracle then purchased Concentra. Concentra became a part of Oracle in January 1999 after the acquisition closed. From January 1999 until June 2007 my role was Manager for Configurator Documentation and Curriculum Development. In this role, I wrote documentation and training materials and oversaw the documentation and curriculum development group for Oracle Configurator and configuration technology, continuing the role I had immediately before the acquisition.

5. After the acquisition of Concentra, Oracle initially re-branded SellingPoint Configurator as Oracle SellingPoint Configurator and then Oracle Configurator. (These names were used to refer to the same product during the period of time that Oracle integrated the Concentra SellingPoint

Configurator over the 1999-2001 time period.) I am personally familiar with the documentation, having written or managed it while at Concentra and Oracle.

6. I have reviewed Ex. 1003, which is a copy of “Oracle Configurator Developer: User’s Guide Release 11i for Windows 95/98 and Windows NT 4.0” dated April 2000 with part No. A73280-05. This is a true and accurate copy of the published user guide, which I wrote along with my co-authors Denise Boyer, Mark Sawtelle, and Jan Stetson, and that was published in 2000. A copy is at [https://docs.oracle.com/cd/A85683\\_03/acrobat/115czocdug.pdf](https://docs.oracle.com/cd/A85683_03/acrobat/115czocdug.pdf).

7. I have reviewed Ex. 1004, which is a copy of “Oracle Configuration Interface Object (CIO) Developer’s Guide Release 11i” dated March 2000 with part No. A81001-03. This is a true and accurate copy of the published user guide that was published in 2000. A copy is at [https://docs.oracle.com/cd/A85683\\_03/acrobat/115czciodg.pdf](https://docs.oracle.com/cd/A85683_03/acrobat/115czciodg.pdf). In my role as manager for Configurator Documentation back at that time, I oversaw the creation of that document.

8. These manuals (Exhibits 1003 and 1004) were part of Release 11i of the Oracle Product Documentation set, and reference each other in the “Related Documents” section of each manual.

9. My recollection is that Exs. 1003 and 1004 were publicly available in 2000 in at least three different ways: (1) via CD-ROM, (2) via download from Oracle’s website docs.oracle.com, and in (3) printed books. I have reviewed Exhibit 1016, which is the “Oracle Applications Product Update Notes” from May 2000 (part of the same set of documentation found here:

[https://docs.oracle.com/cd/A85683\\_03/html/homeset.html](https://docs.oracle.com/cd/A85683_03/html/homeset.html)) linked here:

[https://docs.oracle.com/cd/A85683\\_03/acrobat/r115pun.pdf](https://docs.oracle.com/cd/A85683_03/acrobat/r115pun.pdf). That exhibit (which also discusses the Oracle Configurator at 23-1 and 23-2) states at page xiv:

### **Related Documents**

*All Release 11i documentation is included on the Oracle Applications Document Library CD, supplied in your Release 11i CD Pack. You can download soft-copy documentation from <http://docs.oracle.com>. Or, you can purchase hard-copy documentation from the Oracle Store at <http://oraclestore.oracle.com>.*

10. That statement is consistent with my recollection as to how Exs. 1003 and 1004 would have been available to interested persons in 2000.

11. I have reviewed Ex. 1017, which is a “capture” of the text of the docs.oracle.com page by the Internet Archive’s “Wayback Machine” from October 19, 2000, with the URL <https://web.archive.org/web/20001019084740/http://docs.oracle.com:80/>. (It appears that only the text was captured by the Internet Archive at the address above and the pages are missing the images.) At that time, the main page of the website had a link to an explanation of a CD Pack, which is referenced in Exhibit 1016 above. I have reviewed Ex. 1018, which I understand to be a “capture” of the page that appears when the user clicks “CD Pack” docs.oracle.com/help\_media.html, as captured by the Internet Archive on October 19, 2000, at [https://web.archive.org/web/20001019040314fw\\_/http://docs.oracle.com/help\\_media.html](https://web.archive.org/web/20001019040314fw_/http://docs.oracle.com/help_media.html).

12. That docs.oracle.com page states that “Your CD Pack contains: 1) a ‘How To Get Started’ guide, 2) a red ‘Quick Suite Install’ CD-ROM, and 3) product CD-ROMs with soft copy documentation.” That page also states that ‘CD packs were sold for \$39.95 per set.’ That page also states that “In other words, we have unbundled the license from media and documentation, and they are now sold separately.” That page also states that “You may not have purchased a license to use all the products in the pack. However, you are welcome to install and evaluate, on a trial basis, any of the products in the CD Pack for 30 days at no charge.”:

The screenshot shows the Oracle website's navigation bar with tabs for Home, CRM, Database, ERP, Gateways, Industries, Relation, Security, Tools, and Other. The main content area is titled 'Help Desk' and 'CD Pack'. It includes links for 'CD Pack Description', 'CD Pack Contents', and 'CD Packs Quantity'. The 'CD Pack Description' section explains that for every product license sold in the Oracle Store, there is a corresponding CD Pack containing media for that product. It notes that products are now sold separately, and combining the Database CD Pack and Tools Media Pack would give access to all products under the 'Database' and 'Tools' tabs. A highlighted yellow box states: 'With the introduction of CD Packs, you can now order additional copies of media at \$39.95 per set.' The 'CD Pack Contents' section lists: '1) a "How To Get Started" guide, 2) a red "Quick Suite Install" CD-ROM, and 3) product CD-ROMs with soft copy documentation.' Another highlighted yellow box states: 'You may not have purchased a license to use all the products in the pack. However, you are welcome to install and evaluate, on a trial basis, any of the products in the CD Pack for 30 days at no charge. You will need to purchase licenses if you wish to continue using these products after the evaluation period. If you are adding users to an existing license and do not need media, you are not required to order additional CD Packs.' The 'CD Packs Quantity' section states: 'Generally, you will order one (1) CD Pack for each software license that will reside on each different computer. If you have purchased a license for several computers on different operating systems, you will probably want to order a CD Pack corresponding to each operating system. It is not necessary to order multiple CD Packs if you order multiple products that are contained on the same CD Pack. For information on what is contained in the CD Pack, please refer to the question and answer above.' A final note states: 'Trial licenses do not include a CD Pack. You will need to purchase one separately if you need the CD-ROM. Some products are also available for download at http://oracle.com/download.'

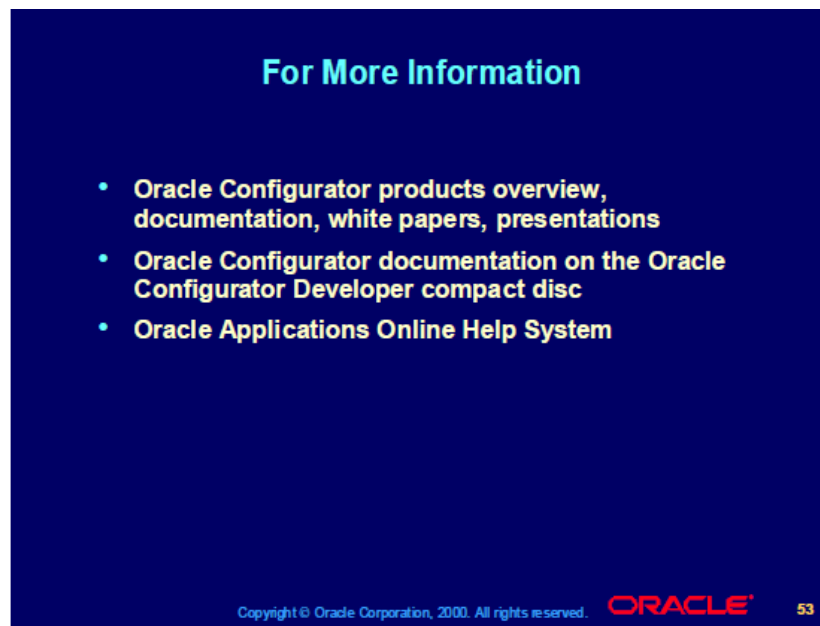
13. These statements comport with my recollection that in 2000, an interested consumer could acquire Ex. 1003 and 1004, by CD-ROM. I recall the discussions around the earlier decision to make the documentation available easily in this way. The reason the documentation was available easily in this way was essentially for product marketing. The aim was to help persuade customers to buy the product by making the documentation available so that the potential customer could review the documentation to learn about the features in the product before they bought a license.

14. In addition, in 1999-2000 I wrote training materials that were given to interested persons about Oracle Configurator. This is referenced in Exhibit 1003 at page xiii:

## Intended Audience

This guide assumes you have a working knowledge of your business processes, tools, and your product configurations. It also assumes you are familiar with product configurator applications. If you have never used configurator applications, we suggest you attend one or more of the Oracle Configurator training classes available through Oracle Education.

15. I wrote some of the training materials for those Oracle Configurator training classes. I have reviewed training slide materials that I wrote in 2000, and which directs training participants to the “Oracle Configurator documentation on the Oracle Configurator Developer compact disc,” which also comports with my recollection that an interested customer could acquire Ex. 1003 and 1004 by CD-ROM at that time. I also recall that people in the training class had this documentation that they could refer to during the class in addition to the training materials.



16. As to web distribution, the website docs.oracle.com was very familiar site to me in the early 2000s including because of my duties as Documentation Manager for the Configurator product. My recollection is that in 2000, Exhibits 1003 and 1004 were also available via Oracle’s website docs.oracle.com. I also recall during customer trainings that we directed participants to that website to download these two manuals.

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