

For Immediate Release

NAD RECOMMENDS ORACLE DISCONTINUE CERTAIN COMPARATIVE PRICING CLAIMS AGAINST IBM

New York, NY – April 11, 2012 – The National Advertising Division of the Council of Better Business Bureaus has recommended that Oracle Corporation discontinue certain pricing and comparative performance claims for the Oracle SPARC SuperCluster T4-4 computer system.

NAD, the advertising industry's self-regulatory forum, opened an inquiry into advertising claims that appeared on the front page and in a full interior page of *The Wall Street Journal*, in *The Economist* and on the Oracle.com website, following a challenge from the International Business Machines Corporation.

The following express and implied claims served as the basis for the inquiry:

Express Claims

- *Oracle's SPARC SuperCluster T4-4 computer system "runs Oracle & Java twice as fast as IBM's fastest computer," which the advertising identifies as the IBM "P795" server.*
- *Oracle's SPARC SuperCluster T4-4 system costs \$1.2 million, whereas IBM's "P795" server costs \$4.5 million*

Implied Claims

- *Oracle's SPARC SuperCluster T4-4 computer system runs all Oracle and Java software products twice as fast as all of IBM's Power 795 server designs (including all TurboCore mode designs).*
- *Oracle's SPARC SuperCluster T4-4 computer system runs all Oracle and Java software products twice as fast as any IBM computer.*

The challenged claims, which appeared in *The Wall Street Journal*, *The Economist* and at the advertiser's website "conveyed a very powerful message regarding the comparative price and performance of the SSC T4-4 and the IBM Power 795 line: for \$3.3 million less, [one] could purchase a SSC T4-4 that runs Oracle and Java twice as fast as any IBM system in the Power 795 line," NAD noted in its decision.

While the case appeared "at first blush ... to focus on complex technical issues laden with the language of 'computerese,'" upon closer review NAD determined that it presented issues similar to those NAD examines on a regular basis – express and implied comparative price and performance claims, line claims and disclosures.

Both the advertiser and challenger produce high-quality computer systems for businesses; at issue was whether the advertiser's superior comparative performance and pricing claims conveyed a truthful, accurate and non-misleading message regarding the performance and price of Oracle Corporation's SPARC SuperCluster T4-4 computer systems compared to the featured IBM computer system.

In the print publications, the advertising copy stated:

“SPARC SuperCluster Runs Oracle & Java Twice as Fast as IBM’s Fastest Computer.”

Images of the Oracle SSC T4-4 and the IBM Power 795 computer systems were accompanied by the following pricing information:

“SSC T4-4 \$1.2M.”

“IBM P795 \$4.5M*”

“* *Building planets is expensive*”

“8x Better Price/Performance.”

The bottom of the page provided a link to the Oracle website: “oracle.com/sunbeatsibm.” No additional disclosure was provided.

An image of the challenged print advertisement also appeared on the Oracle website under the heading: “SPARC SuperCluster versus IBM,” accompanied by the following bullet points:

- *Twice as Fast – SPARC SuperCluster T4-4 runs Java Applications and Oracle Database twice as fast as IBM Power 795.*
- *\$3.3 Million Lower Purchase Price – A sample deployment of a similar IBM Power 795 and SPARC SuperCluster T4-4 can be \$3.3 million less.*
- *8X Better Price/Performance – Based on the SuperCluster T4-4 performance and price advantage, SuperCluster results in 8 times better price to performance than the IBM Power 795*

The site also offered this disclosure:

“Sources for Comparison of Systems: Systems cost based on server, software and comparable storage list prices (without discounts), as well as third party research. Performance comparison based on Oracle internal testing together with publicly available information about IBM Power 795 TurboCore system with highest processor speed commercially available (4.25 GHz) as of Sept 28, 2011.”

Following its review of the evidence in the record, NAD determined that at least one reasonable interpretation of the challenged “twice as fast” claim is that the SSC T4-4 runs all Oracle and Java applications twice as fast as any IBM computer configuration in the Power 795 line – a claim that was not supported by the advertiser’s evidence and could not be cured by the disclosure at the advertiser’s website. NAD recommended that the advertiser permanently discontinue the use of claim “SPARC SuperCluster T4-4 runs Oracle and Java twice as fast as IBM’s fastest computer.”

To avoid conveying the misleading message that the IBM Power 795 system costs \$4.5 million dollars, NAD recommended that the advertiser expressly inform consumers, in the main body of the advertisement, that a separate storage unit was included in the price.

In addition, in order to avoid consumer confusion regarding future price comparisons for the SSC T4-4 and the IBM Power 795, NAD recommended that the advertiser provide consumers with the following information: 1) the specific model and configuration of the IBM Power 795; 2) the specific storage unit included in the price comparison; and 3) the assumed prices for both units.

Oracle, in its advertiser’s statement, said the company disagreed with certain of NAD’s findings. “Nevertheless, Oracle wishes to inform the NAD that the advertisement at issue in this proceeding has been discontinued and Oracle does not intend to disseminate it in that form in the future. Oracle supports the NAD and the self-

regulatory process, and will take the NAD's concerns into account should it disseminate the advertisement in the future," the company said.

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NAD's inquiry was conducted under NAD/CARU/NARB Procedures for the Voluntary Self-Regulation of National Advertising. Details of the initial inquiry, NAD's decision, and the advertiser's response will be included in the next NAD/CARU Case Report.

About Advertising Industry Self-Regulation: The National Advertising Review Council (NARC) was formed in 1971. NARC establishes the policies and procedures for the National Advertising Division (NAD) of the Council of Better Business Bureaus, the CBBB's Children's Advertising Review Unit (CARU), the National Advertising Review Board (NARB) and the Electronic Retailing Self-Regulation Program (ERSP).

The NARC Board of Directors is composed of representatives of the American Advertising Federation, Inc. (AAF), American Association of Advertising Agencies, Inc., (AAAA), the Association of National Advertisers, Inc. (ANA), Council of Better Business Bureaus, Inc. (CBBB), Direct Marketing Association (DMA), Electronic Retailing Association (ERA) and Interactive Advertising Bureau (IAB). Its purpose is to foster truth and accuracy in national advertising through voluntary self-regulation.

NAD, CARU and ERSP are the investigative arms of the advertising industry's voluntary self-regulation program. Their casework results from competitive challenges from other advertisers, and also from self-monitoring traditional and new media. NARB, the appeals body, is a peer group from which ad-hoc panels are selected to adjudicate NAD/CARU cases that are not resolved at the NAD/CARU level. This unique, self-regulatory system is funded entirely by the business community; CARU is financed by the children's advertising industry, while NAD/NARC/NARB's primary source of funding is derived from membership fees paid to the CBBB. ERSP's funding is derived from membership in the Electronic Retailing Association. For more information about advertising industry self-regulation, please visit www.narcpartners.org.