

EXHIBIT 7

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE PHYLLIS J. HAMILTON, JUDGE

ORACLE CORPORATION, ET AL.)	JURY TRIAL
)	
PLAINTIFFS,)	NO. C 07-01658 PJH
)	
VS.)	VOLUME 12
)	
SAP AG, ET AL.,)	PAGES 2021 - 2230
)	
DEFENDANTS.)	OAKLAND, CALIFORNIA
)	MONDAY, NOVEMBER 22, 2010

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

FOR PLAINTIFFS:

BINGHAM MCCUTCHEN LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO, CALIFORNIA 94111-4607
BY: ZACHARY J. ALINDER,
HOLLY A. HOUSE,
GEOFFREY M. HOWARD,
DONN P. PICKETT, ATTORNEYS AT LAW

BOIES, SCHILLER & FLEXNER LLP
1999 HARRISON STREET, SUITE 900
OAKLAND, CALIFORNIA 94612
BY: DAVID BOIES,
STEVEN C. HOLTZMAN, ATTORNEYS AT LAW

(APPEARANCES CONTINUED NEXT PAGE)

REPORTED BY:

RAYNEE H. MERCADO, CSR NO. 8258
DIANE E. SKILLMAN, CSR NO. 4909

1 YEAH, MOVE IT UP HIGHER.

2 **MR. BOIES:** THAT WORK BETTER?

3 (OFF-THE-RECORD DISCUSSION.)

4 **MR. BOIES:** THE COST OF THE DEVELOPING SOFTWARE AND
5 CONTINUOUSLY IMPROVING THAT SOFTWARE IS VERY EXPENSIVE.

6 NOW, BECAUSE THE COST ASSOCIATED WITH SERVICING
7 ADDITIONAL CUSTOMERS IS LOW, SOFTWARE SUPPORT IS A VERY, VERY
8 HIGH-MARGIN BUSINESS. YOU HEARD MR. ELLISON SAY THAT. YOU'VE
9 HEARD SEVERAL WITNESSES, INCLUDING THE DEFENDANTS' WITNESSES,
10 SAY THIS.

11 THIS MEANS THAT THE PROFITS THAT YOU GET FROM
12 INDIVIDUAL CUSTOMERS, THE ADDITIONAL CUSTOMERS IS VERY HIGH.
13 YOU NEED THAT PROFIT TO PAY FOR THE RESEARCH AND DEVELOPMENT
14 THAT GOES INTO BUILDING SOFTWARE IN THE FIRST PLACE. ONCE YOU
15 DESIGN, DEVELOP, TEST SOFTWARE, THE ADDITIONAL COST OF
16 DELIVERING IT IS VERY SMALL. THE REASON THAT THAT'S IMPORTANT
17 IS IT MEANS EACH INCREMENTAL CUSTOMER, EACH ADDITIONAL CUSTOMER,
18 IS VERY, VERY VALUABLE.

19 IF CUSTOMERS ARE LOST, THE SUPPLIER LOSES THE PROFIT
20 FROM THOSE CUSTOMERS. AND IF ALL CUSTOMERS WERE THE SAME --
21 LIKE, FOR EXAMPLE, IF YOU'RE BUILDING AN AUTOMOBILE, BECAUSE SO
22 MUCH OF THE COST OF THE AUTOMOBILE GOES INTO EACH CAR THAT'S
23 MANUFACTURED, IF YOU LOSE A CUSTOMER, AN ADDITIONAL CUSTOMER IN
24 THE AUTOMOBILE INDUSTRY, YOU SIMPLY LOSE THE PROFIT FROM THAT
25 ONE CAR.

1 VALUE.

2 THE FAIR VALUE MARKET VALUE IS AN OBJECTIVE MEASURE
3 OF ORACLE'S DAMAGES THAT IS MEANT TO APPROXIMATE THE FAIR
4 MARKET VALUE OF A LICENSE FOR ALL OF THE COPYRIGHTS DEFENDANTS'
5 INFRINGED CALCULATED AT THE TIME THE INFRINGEMENT COMMENCED,
6 WHICH THE PARTIES AGREE IS JANUARY 19TH, 2005 FOR THE
7 PEOPLESOFT, J.D. EDWARDS AND THE DATABASE COPYRIGHTS, AND
8 SEPTEMBER 29TH, 2006 FOR THE SIEBEL COPYRIGHTS.

9 THE VALUE OF A HYPOTHETICAL LICENSE IS NOT
10 NECESSARILY THE AMOUNT THE DEFENDANTS IN THIS CASE WOULD HAVE
11 AGREED TO PAY OR THAT ORACLE WOULD HAVE ACTUALLY AGREED TO
12 ACCEPT. YOU MAY CONSIDER EVIDENCE OF EVENTS AND FACTS THAT
13 HAPPENED AFTER THE DATE OF THE HYPOTHETICAL NEGOTIATION ONLY TO
14 THE EXTENT THAT IT PROVIDES INSIGHT INTO THE EXPECTATIONS OF
15 THE PARTIES AT THE TIME THE INFRINGEMENT FIRST BEGAN OR INSIGHT
16 INTO THE AMOUNT A WILLING BUYER WOULD HAVE BEEN REASONABLY
17 REQUIRED TO PAY A WILLING SELLER AT THE TIME OF INFRINGEMENT.
18 AND YOU MAY NOT LIMIT OR INCREASE THE FAIR MARKET VALUE OF THE
19 RIGHTS INFRINGED BASED ON THE ACTUAL PROFITS DEFENDANTS MADE.

20 IF YOU DECIDE THAT THE BEST MEASURE OF ORACLE'S
21 DAMAGES IS LOST PROFITS, YOU MUST DETERMINE WHAT PROFITS ORACLE
22 PROVES IT WOULD HAVE MADE WITHOUT THE INFRINGEMENT.

23 LOST PROFITS ARE THE REVENUE ORACLE WOULD HAVE MADE
24 WITHOUT THE INFRINGEMENT LESS ANY ADDITIONAL EXPENSES IT WOULD
25 HAVE INCURRED IN MAKING THE SALES.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

WE, RAYNEE H. MERCADO AND DIANE E. SKILLMAN, OFFICIAL REPORTERS FOR THE UNITED STATES COURT, NORTHERN DISTRICT OF CALIFORNIA, HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS IN C07-01658PJH, ORACLE USA, INC., ET AL. V. SAP AG, ET AL., WERE REPORTED BY US ON, MONDAY, NOVEMBER 22, 2010, CERTIFIED SHORTHAND REPORTERS, AND WERE THEREAFTER TRANSCRIBED UNDER OUR DIRECTION INTO TYPEWRITING; THAT THE FOREGOING IS A FULL, COMPLETE AND TRUE RECORD OF SAID PROCEEDINGS AS BOUND BY US AT THE TIME OF FILING.

THE VALIDITY OF THE REPORTER'S CERTIFICATION OF SAID TRANSCRIPT MAY BE VOID UPON DISASSEMBLY AND/OR REMOVAL FROM THE COURT FILE.



RAYNEE H. MERCADO, CSR, RMR, CRR, FCRR, CCRR



DIANE E. SKILLMAN, CSR, RPR, FCRR

TUESDAY, NOVEMBER 23, 2010