

Exhibit D

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

CERTIFIED COPY

TRANSCRIPT OF PROCEEDINGS

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REPORTED BY:

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DIANE E. SKILLMAN, CSR NO. 4909

RAYNEE H. MERCADO, CSR, RMR, CRR, FCRR, CCRR (510) 451-7530

1 TOMORROWNOW AND THEY INTENTIONALLY AND MATERIALLY CONTRIBUTED
2 TO TOMORROWNOW'S INFRINGING ACTIVITY.

3 NOW YOU MUST DETERMINE, YOU MUST DETERMINE ORACLE'S
4 DAMAGES RESULTING FROM THE COPYRIGHT INFRINGEMENT AGREED TO BY
5 THE DEFENDANTS. ORACLE IS ENTITLED TO RECOVER THE ACTUAL
6 DAMAGES SUFFERED AS A RESULT OF THE INFRINGEMENT.

7 AS THE MEASURE OF ITS ACTUAL DAMAGES, ORACLE, AS THE
8 PLAINTIFF, HAS THE RIGHT TO SEEK TO RECOVER EITHER THE FAIR
9 MARKET VALUE OF A LICENSE FOR THE RIGHTS INFRINGED OR ITS LOST
10 PROFITS.

11 IF YOU AWARD ORACLE ACTUAL DAMAGES BASED ON ITS LOST
12 PROFITS, THEN ORACLE IS ALSO ENTITLED TO RECOVER ANY PROFITS
13 THAT EACH DEFENDANT MADE THAT ARE ATTRIBUTABLE TO THE
14 INFRINGEMENT.

15 IF YOU AWARD ORACLE ACTUAL DAMAGES BASED ON THE FAIR
16 MARKET VALUE OF A LICENSE FOR THE RIGHTS INFRINGED, THAT AWARD
17 TAKES INTO ACCOUNT THE DEFENDANTS' PROFITS ATTRIBUTABLE TO
18 THEIR INFRINGEMENT AND ORACLE IS NOT ENTITLED TO ANY ADDITIONAL
19 AWARD.

20 ORACLE MUST PROVE DAMAGES BY A PREPONDERANCE OF THE
21 EVIDENCE.

22 NOW, ORACLE IS ENTITLED TO RECOVER THE ACTUAL
23 DAMAGES SUFFERED AS A RESULT OF THE INFRINGEMENT. ACTUAL
24 DAMAGES MEANS THE AMOUNT OF MONEY ADEQUATE TO COMPENSATE ORACLE
25 FOR THE REDUCTION OF THE FAIR MARKET VALUE OF THE COPYRIGHTED

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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