

Exhibit F

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 7
)	
SAP AG, ET AL.,)	PAGES 1188 - 1420
)	
DEFENDANTS.)	OAKLAND, CALIFORNIA
)	FRIDAY, NOVEMBER 12, 2010

CERTIFIED COPY

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

FOR PLAINTIFFS:

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(APPEARANCES CONTINUED NEXT PAGE)

REPORTED BY:

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1 **THE COURT:** THAT'S RIGHT, YOU KNOW, BECAUSE I TOOK A
2 PART FROM YOURS AND A PART FROM YOURS.

3 I DID ALREADY.

4 **MR. PICKETT:** THAT'S RIGHT.

5 **MR. LANIER:** DOES YOUR HONOR WANT US TO FIND IT IN
6 THE TRANSCRIPT?

7 **MR. MITTELSTAEDT:** OKAY. WE'LL DO THAT.

8 **MR. PICKETT:** THANK YOU, YOUR HONOR.

9 **THE COURT:** OKAY. LET'S CALL THE JURY BACK IN, MADAM
10 CLERK.

11 (THE FOLLOWING PROCEEDINGS WERE HEARD IN THE PRESENCE
12 OF THE JURY:)

13 **THE COURT:** ALL RIGHT. BE SEATED.

14 **BY MR. MITTELSTAEDT:**

15 **Q.** MR. MEYER, LET ME SEE IF I CAN DO THIS AS SIMPLY AS
16 POSSIBLE. YOU'VE PREPARED A LOT OF SCHEDULES WITH LISTING (SIC)
17 OF CUSTOMERS AND A LOT OF DATA ABOUT THE CUSTOMERS, CORRECT?

18 **A.** THAT'S CORRECT.

19 **Q.** AND YOU PREPARED ONE SCHEDULE THAT WAS CALLED "SUMMARY OF
20 EXCLUDED CUSTOMERS."

21 **A.** THAT'S CORRECT.

22 **Q.** AND YOU LISTED THE REASONS FOR EXCLUSION.

23 **A.** THAT'S CORRECT.

24 **Q.** AND ONE OF THE REASONS YOU LISTED WAS CAUSATION, CORRECT?

25 **A.** I BELIEVE THAT'S ON THERE; THAT'S CORRECT.

1 ADOPTED A PARTICULAR SERVICE GAP.

2 **Q.** BUT AS IT TURNED OUT, THE ONLY CUSTOMERS YOU EXCLUDED
3 BECAUSE OF SERVICE GAP ARE CUSTOMERS WHO JUST HAPPENED TO HAVE A
4 SERVICE GAP OF FOUR YEARS OR LONGER; IS THAT CORRECT?

5 **A.** NO, THERE'S STILL ONE IN THAT'S OVER FOUR YEARS. I NEVER
6 ADOPTED A SERVICE-GAP METHODOLOGY.

7 **Q.** OKAY. WELL, WHY DIDN'T YOU EXCLUDE THAT OTHER ONE ON A
8 SERVICE-GAP BASIS?

9 **A.** BECAUSE THEY WERE TAKING TOMORROWNOW SERVICE THAT BUT FOR
10 TOMORROWNOW, THEY DIDN'T HAVE A SERVICE PROVIDER THAT CAN
11 PROVIDE VENDOR-LEVEL SERVICE.

12 **Q.** WHAT WAS IT ABOUT THE TWO YOU EXCLUDED?

13 **A.** I --

14 **Q.** -- HAD BEEN GONE FOR MORE THAN FOUR YEARS.

15 **A.** I MENTIONED SIEBEL A FEW MINUTES AGO. THE EVERGREEN
16 CUSTOMER LEFT SIEBEL IN 2002, AND THEN FIVE YEARS LATER, THEY
17 GO -- THEY TAKE A CONTRACT WITH -- WITH TOMORROWNOW. AND AS I
18 MENTIONED A MOMENT AGO, SAP BEGAN OFFERING TOMORROWNOW SERVICES
19 I BELIEVE IN THE FALL OF 2006. SO FROM THAT PERSPECTIVE, I TOOK
20 THEM OUT, JUST BASED ON THOSE FACTS.

21 **Q.** YOU AGREE THAT USING FOUR YEARS AS A SERVICE-GAP CUTOFF
22 WOULD BE INFLATED, CORRECT?

23 **A.** I AGREE THAT ONCE YOU GET OUT IN TIME, THE FURTHER YOU GET
24 OUT, THERE'S MORE REASON TO TAKE A CUSTOMER OUT. I'LL AGREE
25 WITH THAT.

1 Q. AND WHAT GAP ARE YOU USING FOR THIS CAUSATION ANALYSIS
2 EXCLUSION?

3 A. I THINK THE TWO WE JUST MENTIONED, THOSE TWO CUSTOMERS ON
4 THE OTHER SCHEDULE.

5 Q. NO, WHAT YEAR ARE YOU DOING? WHAT YEAR CUTOFF ARE YOU
6 DOING -- ARE YOU USING?

7 A. THOSE TWO HAD A SERVICE PERIOD OVER FOUR YEARS.

8 Q. AND SO YOU SAY, "CAUSATION, FOUR-YEAR GAP."

9 A. FOR THOSE TWO, THAT'S CORRECT.

10 OKAY. LET'S GO -- IF WE GO BACK TO THE ORIGINAL.
11 YOU'LL SEE DOWN AT THE BOTTOM, YOU ADD UP THE TOTAL --

12 LET'S JUST DO THE LAST FOUR OR FIVE LINES, PLEASE.

13 (EXHIBIT PUBLISHED TO JURY.)

14 **BY MR. MITTELSTAEDT:**

15 Q. OKAY. SO --

16 GO UP A LITTLE BIT. I'M SORRY.

17 (EXHIBIT PUBLISHED TO JURY.)

18 **BY MR. MITTELSTAEDT:**

19 Q. I GUESS THIS IS ACTUALLY A SUBTOTAL. BUT FOR THE 358
20 CUSTOMERS WE STARTED WITH, YOU'RE PUTTING 253 IN YOUR
21 LOST-PROFITS ANALYSIS, MR. CLARKE IS PUTTING 167 IN HIS ANALYSIS
22 BECAUSE YOU'RE USING DIFFERENT CAUSATION POOLS OR DIFFERENT
23 EXCLUSIONS, RIGHT? OR YOU'RE COUNTING THE CUSTOMERS
24 DIFFERENTLY.

25 A. I AGREE.

