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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

ORACLE USA, INC., *et al.*,

Plaintiffs,

v.

SAP AG, *et al.*,

Defendants.

Case No. 07-CV-01658 PJH (EDL)

**JOINT PROPOSED JUROR  
 QUESTIONNAIRE**

Date: May 24, 2012  
 Time: 2:30 pm  
 Place: 3rd Floor, Courtroom 3  
 Judge: Hon. Phyllis J. Hamilton

1 Pursuant to the Court's Pretrial Instructions, Plaintiff Oracle International Corporation  
2 ("Oracle") and Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc. (collectively,  
3 "Defendants," and with Oracle, the "Parties") submit their Joint Proposed Juror Questionnaire,  
4 attached as Exhibit A. In lieu of submitting voir dire questions to be posed by the Court in  
5 addition to the Court's standard juror questionnaire, the Parties submit a jointly prepared  
6 questionnaire to be provided to venire members to complete prior to voir dire. See ECF No.  
7 1110 (Pretrial Order re Retrial).

8  
9 DATED: April 26, 2012

Bingham McCutchen LLP

10  
11 By: /s/ Geoffrey M. Howard  
12 Geoffrey M. Howard  
13 Attorneys for Plaintiff  
Oracle International Corporation

14 In accordance with General Order No. 45, Rule X, the above signatory attests that  
15 concurrence in the filing of this document has been obtained from the signatory below.

16  
17 DATED: April 26, 2012

JONES DAY

18  
19 By: /s/ Tharan Gregory Lanier  
20 Tharan Gregory Lanier  
21 Attorneys for Defendants  
22 SAP AG, SAP America, Inc.,  
23 and TomorrowNow, Inc.  
24  
25  
26  
27  
28

**EXHIBIT A**

## **JUROR QUESTIONNAIRE**

Full Name: \_\_\_\_\_  
(First) (Middle) (Last)

1. What is your age \_\_\_\_\_ and place of birth? \_\_\_\_\_

2. What is your marital status?

\_\_\_ single \_\_\_ married \_\_\_ separated \_\_\_ divorced \_\_\_ widowed

3. What is your current city of residence? \_\_\_\_\_  
How long have you lived in that city? \_\_\_\_\_

4. If you have lived at your current residence for fewer than five years, where did you live before?

\_\_\_\_\_

5. If you live with any other adults, please list them, and identify their relationship to you and their occupation/employer:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### **Knowledge Specific to this Case**

6. Have you heard of any of the companies involved in this case, any of the companies acquired by the companies in this case, or any of the current or former executives for these companies?

	<b><u>YES</u></b>	<b><u>NO</u></b>
<b>Oracle International Corp.</b>	_____	_____
<b>Oracle USA, Inc.</b>	_____	_____
<b>Siebel Systems, Inc.</b>	_____	_____
<b>J.D. Edwards</b>	_____	_____
<b>PeopleSoft</b>	_____	_____
<b>TomorrowNow, Inc.</b>	_____	_____
<b>SAP America, Inc.</b>	_____	_____
<b>SAP AG</b>	_____	_____
<b>Acquired company (write in):</b> _____	_____	_____

If you checked yes to any of the above, please explain (including any opinions you have about those companies):

\_\_\_\_\_

\_\_\_\_\_

7. Have you or anyone close to you ever worked for, owned stock in or done business with companies involved in this case or companies acquired by the companies in this case?

	<u>YES</u>	<u>NO</u>
Oracle International Corp.	_____	_____
Oracle USA, Inc.	_____	_____
Siebel Systems, Inc.	_____	_____
J.D. Edwards	_____	_____
PeopleSoft	_____	_____
TomorrowNow, Inc.	_____	_____
SAP America, Inc.	_____	_____
SAP AG	_____	_____
Acquired company (write in): _____	_____	_____

If you checked yes to any of the above, please explain:

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8. Have you heard or do you know anything about Larry Ellison?

\_\_\_\_ Yes \_\_\_\_ No

If you checked yes, please explain (including any opinions you have about Mr. Ellison):

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9. Do you know any of the attorneys representing the parties in this case?

David Boies	____ Yes ____ No
Steven C. Holtzman	____ Yes ____ No
Donn P. Pickett	____ Yes ____ No
Geoffrey M. Howard	____ Yes ____ No
Fred Norton	____ Yes ____ No
Dorian Daley	____ Yes ____ No
Jennifer Gloss	____ Yes ____ No
Robert A. Mittelstaedt	____ Yes ____ No
Jason McDonell	____ Yes ____ No
Elaine Wallace	____ Yes ____ No
Tharan Gregory Lanier	____ Yes ____ No
Jane L. Froyd	____ Yes ____ No
Scott W. Cowan	____ Yes ____ No
Joshua L. Fuchs	____ Yes ____ No

If you checked yes to any of the above, please explain:

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10. Have you ever been employed by or represented by or had any business dealings of any nature with the law firm of Jones Day, the law firm of Boies, Schiller & Flexner or the law firm of Bingham McCutchen?

\_\_\_ Yes \_\_\_ No

If yes, please state the firm with which you have (or had) the relationship, and briefly describe nature and extent of the relationship (without revealing anything confidential):

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11. Attached as Appendix 1 is a list of persons who are potential witnesses in this case. If you know, or think you may know, any of the persons listed, please circle their names.

Please indicate here whether you have circled any name(s): \_\_\_ Yes \_\_\_ No

12. Have you heard, read, or seen anything in the press or media about this lawsuit or any lawsuit that is similar?

\_\_\_ Yes \_\_\_ No

If so, what have you heard, read, or seen? \_\_\_\_\_

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Please state any opinions you have formed about this lawsuit based on what you have heard, read, or seen?

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### **Employment and Education**

13. What best describes your current employment status? (CHECK ALL THAT APPLY)

\_\_\_ Employed part-time                      \_\_\_ Employed full-time                      \_\_\_ Self-employed

\_\_\_ Full time student                      \_\_\_ Part time student                      \_\_\_ Homemaker

\_\_\_ Retired since \_\_\_\_\_(date)    \_\_\_ Unemployed, not looking for work

\_\_\_ Unemployed, looking for work    \_\_\_ Other (Please explain:  
\_\_\_\_\_)

14. What type of work do you do and who is your employer (or, if you are not currently working, what type of work did you do at your most-recent employer)?

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15. How long have you worked for your current employer or, if not currently working, how long did you work for your most recent employer?

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16. If you have worked for your current employer for less than five years, describe your previous employment.

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17. Have you studied, traveled, served in the military or worked abroad (*i.e.*, outside the United States)? If yes, where and when:

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18. Do you speak and/or read German? \_\_\_\_ Yes \_\_\_\_ No

If yes, please describe your level of fluency. \_\_\_\_\_

19. What is the highest level of education you have completed? \_\_\_\_\_

Please list colleges or vocational schools attended and specify major areas of study: \_\_\_\_\_

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20. What is the highest level of education your spouse, partner, or significant other has completed and what is his or her occupation, if any?

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21. If you have children, please list each child's age and gender and, if they are employed, please give their occupation/employer.

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22. Have you or any member of your family been affected by the recent economic downturn and/or mortgage crisis? \_\_\_\_ Yes \_\_\_\_ No

If yes, please explain: \_\_\_\_\_

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## Technical Knowledge and Opinion

23. When it comes to numerical calculations generally, would you describe yourself as someone who is comfortable estimating an answer or who likes to use a formula to get a precise answer? (PLEASE CHECK ONE)

☐ Comfortable estimating ☐ Likes to use a formula to get a precise answer

24. How knowledgeable are you about business software or databases in general?

☐ Very ☐ Somewhat ☐ Not very ☐ Not at all

If you have knowledge, please explain: \_\_\_\_\_

25. Have you ever worked for a “high tech” company? ☐ Yes ☐ No

If yes, which company(ies)? What did you do there? \_\_\_\_\_

26. Do you have any strong feelings about any computer software companies? ☐ Yes ☐ No

If yes, which companies? Please explain.

27. Have you, a family member, or someone close to you taken any courses or had any specialized training or experience (including work experience) involving the following?

*(If yes, please specify who and explain the training or experience you or they have had.)*

	YES	NO	Please Explain
Computer/Technical			
Software Systems and/or Development			
Information Technology (IT)			
Business/Management			
Sales			
Contracts			



Copyrights/Patents/ Trademarks			
Law			

28. Do you, a family member, or someone close to you have any knowledge, training, advanced education, or work experience with any of the following software systems?  
(Please check all that apply):

- ☐ Timekeeping software
- ☐ Enterprise software, including but not limited to Human Resource
- ☐ Management software (HRMS), accounting software, Customer Relationship
- ☐ Management software (CRM), Supply Chain Management software,
- ☐ Financials, Distribution and Manufacturing software, Enterprise Performance
- ☐ Management software (EPM), Student Administration software
- ☐ Database software
- ☐ Any Oracle product: (please specify) \_\_\_\_\_
- ☐ Any PeopleSoft product: (please specify) \_\_\_\_\_
- ☐ Any J.D. Edwards product: (please specify) \_\_\_\_\_
- ☐ Any Siebel product: (please specify) \_\_\_\_\_
- ☐ Any SAP product: (please specify) \_\_\_\_\_

If yes, please identify who and explain: \_\_\_\_\_

### **Business and Intellectual Property Experience**

29. Have you, a family member, or someone close to you ever purchased, owned, or run a business (either personally or on behalf of your/their employer)?

☐ Yes ☐ No

If yes, please explain: \_\_\_\_\_  
\_\_\_\_\_

Was the business successful? ☐ Yes ☐ No ☐ Not sure

30. Have you ever been:

a. An officer or director of a company

\_\_\_ Yes \_\_\_ No

b. A shareholder of a company

\_\_\_ Yes \_\_\_ No

c. An executive, manager, or supervisor of a company

\_\_\_ Yes \_\_\_ No

31. Have you ever had an experience where you believe a business competitor to either a business you owned or worked at competed in an unfair or improper manner? \_\_\_ Yes \_\_\_ No

If yes, please explain: \_\_\_\_\_

32. Have you ever held a job in which you negotiated licenses for intellectual property, such as patents, copyrights, or trademarks? \_\_\_ Yes \_\_\_ No

If yes, please explain: \_\_\_\_\_

33. Have you or anyone close to you ever applied for a patent, copyright or trademark?

\_\_\_ Yes \_\_\_ No

If yes: Who? What was it for (general description)? Was the application granted?

\_\_\_\_\_  
\_\_\_\_\_

34. Have you ever believed or had the experience that someone else has used your intellectual property or work product (or that of someone close to you) inappropriately?

\_\_\_\_ Yes \_\_\_\_ No

If so, what happened? Explain the circumstances and what you did about the situation, if anything. \_\_\_\_\_

### **Legal Experience and Opinions**

35. If you have served on a jury before:

How many times? \_\_\_\_\_

What type of case(s)? \_\_\_\_\_

In what court? (State/County or Federal) \_\_\_\_\_

Did you ever serve as a jury foreperson? \_\_\_\_ Yes \_\_\_\_ No

How many of the jury(ies) on which you served reached a verdict? \_\_\_\_\_

36. Have you, a family member, or close friend ever been involved in a lawsuit (either filed a lawsuit, been sued, been a witness in a civil or criminal case, or given deposition testimony)?

\_\_\_\_ Yes \_\_\_\_ No

If yes, please note who and explain the circumstances (including whether the outcome was satisfactory): \_\_\_\_\_

37. Generally speaking, do you think that money damage awards from lawsuits in the U.S. are:

\_\_\_\_ Too high \_\_\_\_ About right \_\_\_\_ Too low \_\_\_\_ No opinion

### **Memberships, Associations, and Activities**

38. Are you a member of a union? \_\_\_\_ Yes \_\_\_\_ No

If yes, have you ever been a shop steward, union representative, business agent or an elected union official (please specify which one)? \_\_\_\_\_

39. To what social, civic, professional, trade, volunteer, or other organizations do you or your significant other belong? Please list any offices you or your significant other have held in any organizations you identify.

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40. Do you participate in competitive sports activities on a regular basis? \_\_\_\_ Yes \_\_\_\_ No

**Sources of News, Use of Technology, and Opinions about the Marketplace**

41. Do you follow the news on a regular basis? \_\_\_\_ Yes \_\_\_\_ No

42. What types of television/radio programs, books, magazines, newspapers, and websites do you typically read/visit?

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43. Do you (CHECK ALL THAT APPLY):

If yes, how often?

Use a computer at work?	_____ Yes _____ No	_____
Use a computer at home?	_____ Yes _____ No	_____
Use the internet to find information?	_____ Yes _____ No	_____
Use the internet to download?	_____ Yes _____ No	_____
Troubleshoot or repair computers?	_____ Yes _____ No	_____
Feel comfortable using a computer?	_____ Yes _____ No	
Feel comfortable with computer terminology?	_____ Yes _____ No	

44. Do you regularly read and/or contribute to online blogs? If yes, what are the names or types of blogs you read?

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**Service on this Jury Panel**

45. Describe any vision, hearing, language, or other medical problems that may affect your jury service:

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46. Do you know anyone on this jury panel?

\_\_\_\_\_ Yes (Who? \_\_\_\_\_) \_\_\_\_\_ No

47. If you have relatives or close personal friends who are judges or attorneys or court personnel, what are their names and relationship to you, and where are they located? (If they are judges or court personnel, please indicate the court where they work, if you know.)

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48. One of the defendants in this case, SAP AG, is based in Germany. Do you believe you will be able to give fair and equal consideration to SAP AG, knowing it is a German company?

\_\_\_ Yes \_\_\_ No

49. Is there anything else you think the Court and parties in this dispute should know about you that would affect your ability to be a fair and impartial juror in this case?

\_\_\_ Yes \_\_\_ No

If yes, please describe. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### VERIFICATION

I, \_\_\_\_\_, declare under penalty of perjury under the laws of the State of California that the foregoing responses I have given on this Juror Questionnaire, and on any attached sheets, if any, are true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

*Thank you for your answers.*

Before returning this questionnaire to the Court, please check to see that you have answered all the questions.

## **APPENDIX 1**

**[Updated witness list to be inserted]**