

EXHIBIT 9

From: "Donnelly, Amy" <amy.donnelly@bingham.com>
To: "Jason McDonell" <jmcdonell@JonesDay.com>, "House, Holly" <holly.house@bingham.com>
Cc: "Howard, Geoff" <geoff.howard@bingham.com>, "Alinder, Zachary J." <zachary.alinder@bingham.com>, "Hann, Bree" <bree.hann@bingham.com>, "Scott Cowan" <swcowan@JonesDay.com>, "Greg Lanier" <tglanier@JonesDay.com>, "Elaine Wallace" <ewallace@JonesDay.com>, "Jane L Froyd" <jfroyd@JonesDay.com>, "Joshua L Fuchs" <jlfuchs@JonesDay.com>, "Jacqueline K. S. Lee" <jkslee@JonesDay.com>
Date: 06/26/2009 11:47 AM
Subject: RE: Agreements concerning discovery

Jason,

Plaintiffs accept the agreements specified below.

Regards,
Amy

Amy K. Donnelly | Associate

Bingham McCutchen LLP

Three Embarcadero Center

San Francisco CA 94111

T 415.393.2262 direct | F 415.393.2286

amy.donnelly@bingham.com

From: Jason McDonell [mailto:jmcdonell@JonesDay.com]

Sent: Thursday, June 25, 2009 5:12 PM

To: House, Holly; Donnelly, Amy

Cc: Howard, Geoff; Alinder, Zachary J.; Hann, Bree; Scott Cowan; Greg Lanier; Elaine Wallace; Jane L Froyd; Joshua L Fuchs; Jacqueline K. S. Lee

Subject: Agreements concerning discovery

Holly and Amy,

This email sets forth the agreements we reached during today's meet and confer regarding SAP customer discovery and Safe Passage discovery. Please confirm Plaintiffs' acceptance

of these agreements in reply to this email.

With regard to SAP customer discovery, Plaintiffs agree that they will not seek customer specific discovery (such as financial information, contracts, CRM data and customer-specific win/loss reports) of SAP customers beyond those customers who purchased TomorrowNow service and SAP products/support simultaneously or were existing TomorrowNow customers at the time they purchased new SAP software or service. With Plaintiffs' agreement on this matter, Defendants will not file a motion for a protective order on June 30 on this issue.

With regard to Safe Passage discovery, Defendants confirm that they have produced the following types of high-level, non-privileged Safe Passage documents, regardless of whether TomorrowNow was mentioned in the documents, to the extent that such documents exist and were found in the custodian production: documents containing summary sales and profit numbers for the Safe Passage program, high level win/loss documents concerning the Safe Passage program (as opposed to customer-specific win/loss documents), documents containing projections of Plaintiffs' losses resulting from the Safe Passage program, and pro formas and forecasts regarding the Safe Passage program. Further, Defendants confirm that, based upon a reasonably diligent search, Defendants have not located any central repositories of Safe Passage documents. With Defendants' confirmation on this matter, Plaintiffs will not file a motion to compel on June 30 on this issue.

Jason McDonell, Esq.
Jones Day
555 California Street, 26th Floor
San Francisco, CA 94104-1500
SF Office Main Tel.: (415) 626-3939
Direct Dial: (415) 875-5820
Fax: (415) 875-5700
Email: jmcdonell@jonesday.com

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