

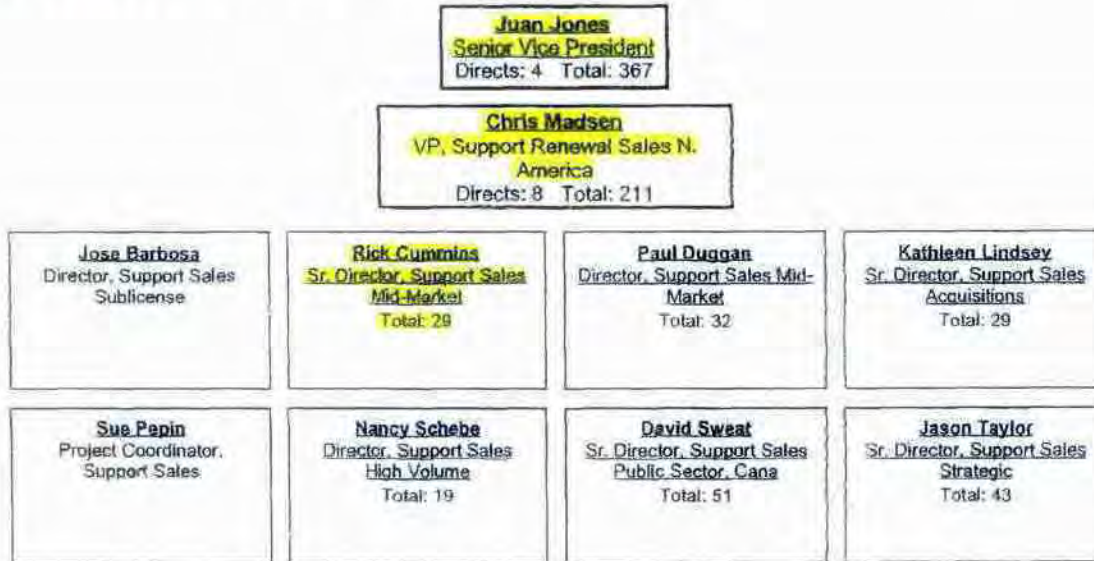
EXHIBIT 12

**Foundation for
A-6205-1**

Defendants' Trial Exhibit A-6205-1 – Foundational Support

- ORCL00034305 (Oracle organizational chart identifying Richard (Rick) Cummins as an Oracle Senior Director, Support Sales Mid-Market)
- Cummins Sept. 16, 2008 Depo. Tr. at 10:2-11; 14:3-23, 14:25-15:11; 27:6-23; 49:11-13 (Rule 30(b)(6) testimony by Cummins identifying Cummins as Oracle's senior director of support renewals/sales in North America, describing his responsibilities, and discussing the support sales/renewals team and reporting structure)
- Feb. 23, 2010 Oracle Expert Report of Paul Meyer (redacted excerpt) (identifying Richard Cummins as Senior Director, Support Renewals for North America)

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

--00o--

ORACLE CORPORATION, a Delaware
Corporation; ORACLE, USA, INC.,
a Colorado Corporation, and
ORACLE INTERNATIONAL CORPORATION,
a California Corporation,

Plaintiffs,

Vs.

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

SAP AG, a German Corporation,
SAP AMERICA, INC., a Delaware
CORPORATION, TOMORROWNOW, INC.,
a Texas Corporation, and DOES
1-50, Inclusive,

Defendants.
_____ /

VIDEOTAPED RULE 30(b)(6) DEPOSITION OF
ORACLE CORPORATION

Designee: RICHARD CUMMINS

Tuesday, September 16, 2008

Volume I, Pages 1 - 255

HIGHLY CONFIDENTIAL INFORMATION - ATTORNEYS' EYES ONLY

Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
Job 412495

Merrill Legal Solutions
(800) 869-9132

1 Q. Understood?

2 Where do you work?

3 A. Oracle Corporation.

09:13 4 Q. What is your job?

5 A. I'm a senior director of support renewals for
6 North America.

7 Q. How long have you had that position?

8 A. Within Oracle, since 2005. I was with JD
09:13 9 Edwards, which was acquired by PeopleSoft which was
10 acquired by Oracle. So I've been in the job in the
11 industry for ten years. With Oracle since 2005.

12 MR. McDONELL: Can we have this marked?

13 (Defendant's Exhibit 42 marked for
09:14 14 identification.)

15 Q. MR. McDONELL: I'm showing you what's been
16 marked as Exhibit 42. Can you identify that for the
17 record?

18 A. Yes.

09:14 19 MS. HOUSE: So what is that?

20 THE WITNESS: This is my document I brought
21 in this morning with various notes.

22 Q. MR. McDONELL: It's a document you prepared?

23 A. Yes.

09:14 24 Q. When did you prepare it?

25 A. Yesterday.

1 those offerings, really developed the business side
2 of support.

09:18 3 Q. When you came to Oracle, did it have any kind
4 of existing separate support renewals team?

5 A. Yes.

6 Q. And what happened? Did your group merge into
7 it or replace it? What happened?

8 A. We merged into it.

09:19 9 Q. Who was the head of the Oracle team?

10 A. At what level? At the highest level?

11 Q. Well, I'm talking about this -- you said that
12 you started the support renewal team --

13 A. Uh-huh.

09:19 14 Q. -- at JD Edwards, right?

15 A. Right.

16 Q. Then you moved to Oracle upon the acquisition
17 of PeopleSoft.

18 A. Right.

09:19 19 Q. And at that time your group merged into
20 Oracle's similar group.

21 A. Yes.

22 Q. Was there a head of that support renewals
23 team?

09:19 24 MS. HOUSE: At that time?

25 Q. MR. McDONELL: At that time.

1 A. At that time I worked for Chris Madsen and
2 Chris reported into Juergen -- well, Juan Jones who
3 reported in to Juergen Rottler.

09:19

4 Q. And has that reporting structure changed
5 since then?

6 A. No.

7 Q. You still report to Chris Madsen?

8 A. I do.

09:20

9 Q. Has the basic nature of your job changed
10 since you joined Oracle?

11 A. No.

12 Q. Since the time you were part of forming the
13 support renewals group at PeopleSoft --

09:20

14 A. At JD Edwards.

15 Q. At JD Edwards, I'm sorry. Have you remained
16 in that function until today?

17 A. I --

18 MS. HOUSE: Objection, vague. You can
19 answer.

09:21

20 THE WITNESS: Yeah, essentially.

21 Q. MR. McDONELL: Do you have any kind of
22 certifications or special training for your job?

23 A. I'm not sure that there is a special
24 certification or training that's specific to that.

09:21

25 Q. But if there is one, you don't have it.

1 Q. MR. McDONELL: I thought you said your job
2 hasn't changed in terms of your responsibilities
3 since you've been at Oracle. Am I mistaken about
4 that?

09:35

5 A. My base responsibilities haven't changed.

6 Q. Okay. Then let's talk about your base
7 responsibilities. What are your base
8 responsibilities as senior director of support
9 renewals for North America?

09:35

10 A. Ensuring that we renew our customers that are
11 in my space for support renewals.

12 Q. And how do you do that?

13 A. There's a whole process, but do you want me
14 go through the details of the process or what are you
15 looking for?

09:36

16 Q. Give me the general outline, please.

17 A. The general outline is that customers are
18 contacted regarding their renewal for the upcoming
19 time frame. We then work with the customer to ensure
20 that we get a purchase order before the start date of
21 their contract, and if there are any questions on
22 contracts or questions about the services, we answer
23 those questions.

09:36

09:36

24 Q. Do you deal directly with customers in your
25 job?

1 managers and then the business side of support for
2 North America. So support renewals.

3 Q. And what's Mr. Rottler's job?

10:05

4 A. He's the EVP of all of support, support
5 delivery as well as support renewals.

6 Q. Where are Mr. Rottler and Mr. Jones
7 physically located for their business offices?

8 A. At our headquarters here in California.

10:05

9 Q. Redwood City?

10 A. Yes.

11 Q. And what's Mr. Madsen's job?

12 A. He's a vice president of North America
13 support renewals.

10:06

14 Q. And you report to Mr. Madsen.

15 A. I do.

16 Q. In terms of the other individuals listed on
17 this page of Exhibit 43, which is Bates number
18 ORCL00087625, which of these individuals, if any,
19 have responsibility for support renewals for legacy
20 PeopleSoft and JD Edwards products?

10:06

21 A. At this point Kathy Lindsey is no longer part
22 of this organizational chart, but the other
23 individuals -- all the other individuals here have
24 some responsibility for PeopleSoft and JD Edwards.

10:07

25 Q. For support renewals.

1 MR. McDONELL: Counsel, I'm going to then
 2 break for the day. See you next week. Thank you,
 3 sir.

17:01

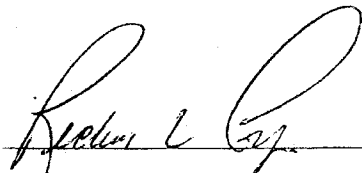
4 VIDEOGRAPHER: This marks the end of
 5 videotape number four in the deposition of Richard
 6 Cummins. Going off the record, the time is 5:02.

7 --o0o--

8 (Whereupon, the deposition was adjourned at
 9 5:02 p.m.)

10 --o0o--

11
 12 I declare under penalty of perjury that
 13 the foregoing is true and correct. Subscribed at
 14 Denver, Colorado, California, this 15th day of
 15 October, 2008.

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 19 Signature of Witness

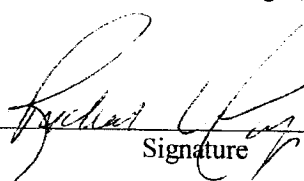
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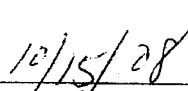
Errata Sheet

Deposition of Rick Cummins, September 16, 2008

<u>Page</u>	<u>Line</u>	<u>Change</u>	<u>Reason</u>
41	21-22	Change "Juan's responsibility is service delivery manager." to "Juan is responsible for service delivery managers."	Clarification
124	14	Change "No, I haven't talked to customers." to "No, I haven't talked to hundreds of customers about TomorrowNow."	Clarification
151	1	Change "less" to "more"	Correction
174	23	Change "welcome" to "Oracle"	Correction
176	4	Change "Hutton" to "Hunt"	Correction
207	9	Change "McGee" to "Murquia"	Correction
219	22	Change "were new" to "renew"	Correction
232	4	Change "or doesn't" to "does or doesn't"	Correction
245	14	Change "IP" to "IT"	Correction

Subject to the above changes, I certify that the transcript is true and correct.


Signature


date

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CERTIFICATE OF REPORTER

I, WENDY E. ARLEN, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision.

That before completion of the deposition, review of the transcript [] was [] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition nor in any way interested in the event of this cause and that I am not related to any of the parties thereto.

DATED: October 2nd, 2008

Wendy E Arlen
WENDY E. ARLEN CSR, No. 4355

ORACLE USA, INC., ET AL

V.

SAP AG, ET AL

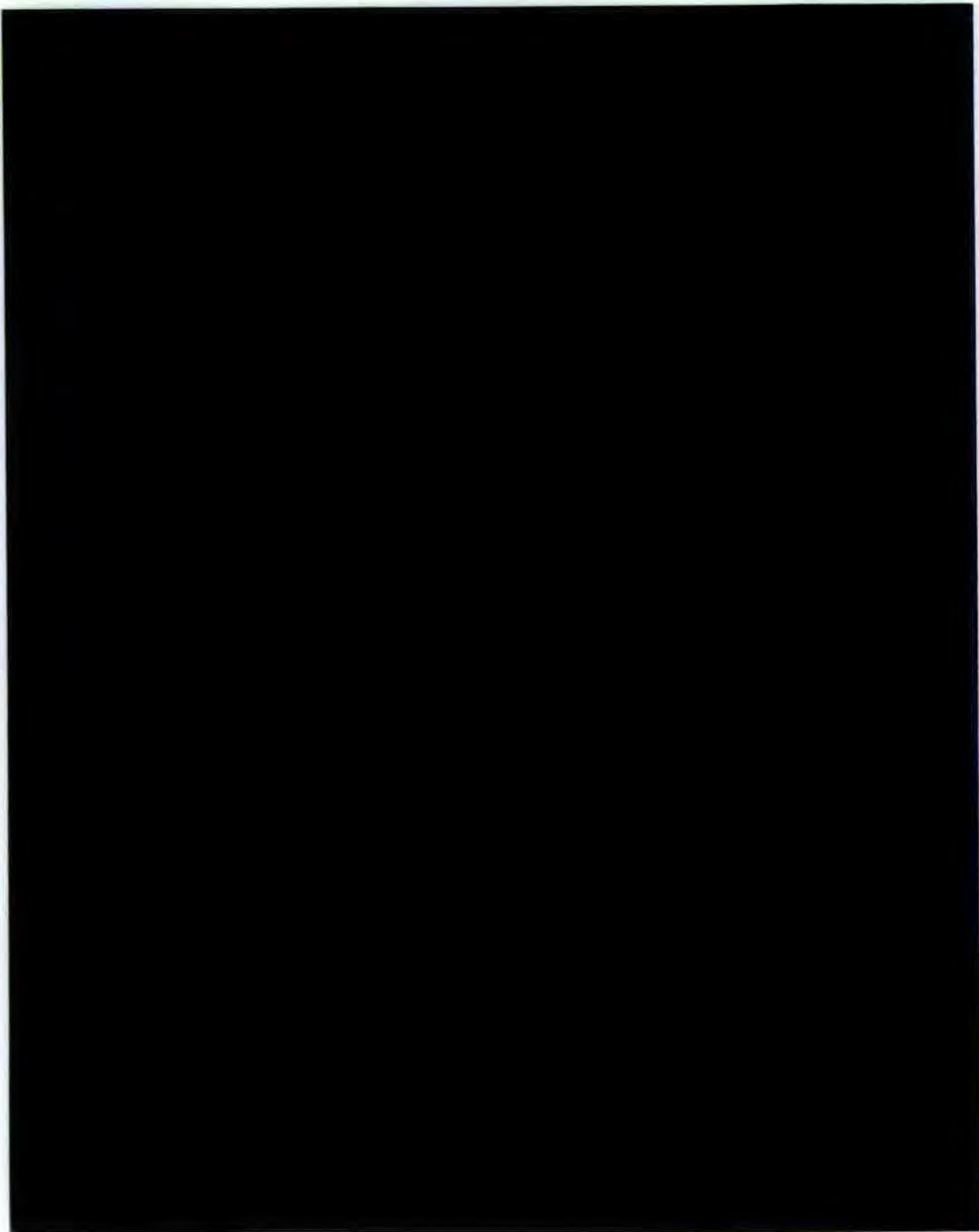
CASE NO. 07-CV-01658

SUPPLEMENTAL EXPERT REPORT OF PAUL K. MEYER

TM FINANCIAL FORENSICS, LLC.

FEBRUARY 23, 2010


PAUL K. MEYER



- Rick Cummins (Senior Director, Support Renewals for North America)

