

# **EXHIBIT 22**

**Foundation for  
A-0059 (Merck)**

**Defendants' Trial Exhibit A-0059 (Merck) – Foundational Support**

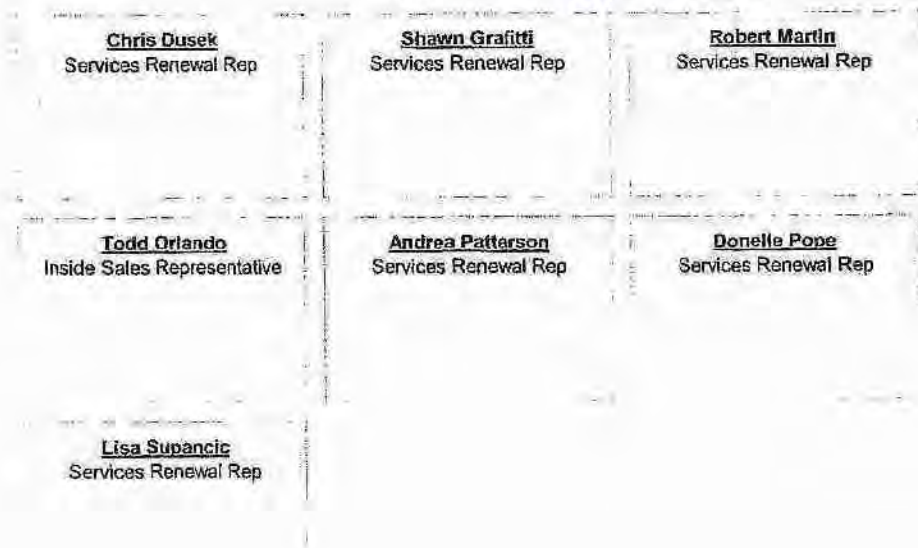
- ORCL00034317 (Oracle organizational chart identifying Barbara Sharpe-Moore as Oracle Senior Regional Manager, Support Sales)
- ORCL00318663 (Oracle production document identifying Barbara Sharpe-Moore as regional sales manager, Oracle Strategic Support Sales, located at ORCL00318663)
- Plaintiffs' Resp. & Objs. to Interrogatory No. 98 in Defs. 5th Set of Interrogatories (identifying Barbara Sharpe-Moore as support sales manager for Merck)
- Cummins Sept. 16, 2008 Depo. Tr. 34:5-22, 24-25 (Rule 30(b)(6) testimony indicating that support renewal/sales representatives report to regional managers and associated job responsibilities)
- Duggan Aug. 7, 2009 Depo. Tr. 21:23-22:25 (Rule 30(b)(6) testimony describing the job responsibilities of supports sales representatives and managers)
- Duggan Aug. 7, 2009 Depo. Tr. 23:16-24 (Rule 30(b)(6) testimony identifying duties of support sales representatives with regard to communications with Oracle customers)



# ORACLE Aria People Search

**Jason Taylor**  
Sr. Director, Support Sales Strategic  
Directs: 5 Total: 43

**Barbara Sharp-Moore**  
Snr Regional Manager, Support Sales  
Directs: 7 Total: 7





---

**From:** Barbara Sharp-Moore [barbara.sharp-moore@oracle.com]  
**Sent:** Wednesday, October 12, 2005 5:24 PM  
**To:** OSSINFO\_US\_APPR  
**Subject:** Fed Ex pricing

**Attachments:** Fed Ex Pricing details for 2005 4213695.xls



Fed Ex Pricing  
details for 200...

for discussion

Barbara Sharp-Moore  
Regional Sales Manager  
Oracle Strategic Support Sales  
Phone 703-364-0108  
Fax 703-364-7057





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jennifer.gloss@oracle.com

Attorneys for Plaintiffs  
Oracle USA, Inc., Oracle International Corporation,  
Oracle EMEA Limited, and Siebel Systems, Inc.

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)  
  
**PLAINTIFFS' SUPPLEMENTAL  
RESPONSES AND OBJECTIONS TO  
INTERROGATORY NO. 98 IN  
DEFENDANTS' FIFTH SET OF  
INTERROGATORIES (SIEBEL)**

**CONTAINS HIGHLY  
CONFIDENTIAL INFORMATION  
DESIGNATED PURSUANT TO  
PROTECTIVE ORDER**

1 **PROPOUNDING PARTY:** Defendants

2 **RESPONDING PARTY:** Plaintiffs

3 **SET NO:** Five

4 Pursuant to Federal Rule of Civil Procedure 33, Plaintiffs Oracle USA, Inc.,  
5 Oracle International Corporation, Oracle EMEA Limited, and Siebel Systems, Inc. (collectively,  
6 "Oracle") supplement their response and objections to Interrogatory No. 98 of Defendants' Fifth  
7 Set of Interrogatories with respect to Oracle's Siebel software product line, pursuant to the June  
8 11, 2009 between the parties.

9 **GENERAL OBJECTIONS**

10 1. The following General Objections are incorporated into each specific  
11 Response below as if fully repeated in each Response. Any failure to repeat all or any part of  
12 these General Objections in a specific Response shall not constitute a waiver or relinquishment  
13 of such objections.

14 2. Oracle's answers to any Interrogatory shall be without prejudice to, and  
15 shall preserve, any objections that it may have to the competence, relevance, materiality, or  
16 admissibility of any of the Interrogatories, the Responses, and their subject matter at any hearing  
17 or trial in this action.

18 3. Oracle objects to the Interrogatories to the extent they purport to obligate  
19 Oracle to respond in any manner that exceeds or is inconsistent with the requirements of the  
20 Federal Rules of Civil Procedure or any other applicable laws. Oracle shall respond to the  
21 Interrogatories to the extent and in the manner required by the Rules.

22 4. Oracle objects to each Interrogatory to the extent that Defendants seek  
23 information that is not within Oracle's possession, custody, or control, including without  
24 limitation information that is in the possession of any party's customers. Oracle will respond to  
25 the Interrogatories based only on information in its own possession, custody, or control, as  
26 required by the Federal Rules of Civil Procedure.

27 5. Oracle objects to these Interrogatories to the extent they are compound.

28



1 litigation. Accordingly, Oracle's responses will be for the time period January 1, 2004 to  
2 March 22, 2007, unless the discovery is covered by the Expanded Discovery Timeline  
3 Agreement.

4           4. Oracle objects that the relevant time frame for Siebel starts from January  
5 1, 2006.

6           **RESPONSES AND OBJECTIONS TO INTERROGATORY NO. 98 IN DEFENDANTS'**

7                           **FIFTH SET OF INTERROGATORIES**

8           **INTERROGATORY NO. 98:**

9           Identify the Regional Managers responsible for Support Sales for each customer listed in  
10 Defendant TomorrowNow, Inc.'s Supplemental Exhibit 1 to its First Sets of Requests for  
11 Production and Interrogatories to Plaintiffs between January 1, 2002 and October 31, 2008.

12           **RESPONSE TO INTERROGATORY NO. 98:**

13           In addition to its General Objections, which Oracle incorporates here by reference, Oracle  
14 objects to the use of the undefined terms "Regional Managers" and "responsible" on the grounds  
15 that they are vague, ambiguous, overbroad and unduly burdensome. Oracle further objects to  
16 this Interrogatory to the extent it calls for information that is not in the possession, custody or  
17 control of Oracle. Oracle further objects to this Interrogatory to the extent that it purports to  
18 require Oracle to do anything beyond the reasonable search for responsive information required  
19 by the Federal Rules of Civil Procedure, in particular with respect to historical information  
20 related to PeopleSoft, J.D. Edwards and/or Siebel. Oracle also objects to this Interrogatory to the  
21 extent it seeks disclosure of information protected from discovery by any privilege, protection or  
22 immunity, including but not limited to attorney-client privilege and work product protection.  
23 Oracle also objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome  
24 and seeks information that is neither relevant nor reasonably calculated to lead to the discovery  
25 of admissible evidence. Oracle further objects to the extent the Interrogatory purports to require  
26 Oracle to create a compilation, abstract, or summary from business records that Oracle has  
27 already produced or will produce.

28           Subject to and without waiver of the foregoing General and Specific objections, Oracle

1 responds as follows:

2           Following a reasonable search, Oracle lists below its understanding of which sales  
3 managers were connected with the TomorrowNow customers identified by Defendants during  
4 the relevant time period. Where no sales manager had been assigned to the customer or where  
5 Oracle could not locate the name of a sales manager associated with the customer, Oracle has, to  
6 the extent it could do so without undue burden, included the name of any sales representatives  
7 that it could identify related to that customer. Such sales representatives have been identified  
8 with a "\*" next to their name below. Further, to the extent no sales representative had been  
9 assigned either or that information could not be located following a reasonable search, Oracle  
10 has attempted to identify documents in Oracle's production that identify support sales manager  
11 or sales representative information related to the customer. In addition, the names of the sales  
12 managers and sales representatives related to the customers on TomorrowNow's customer list  
13 are identified in numerous documents throughout Oracle's production, including, for example, at-  
14 risk reports (*see, e.g.*, ORCL00274684), bookings reports (*see, e.g.*, ORCL00131330),  
15 cancellation reports (*see, e.g.*, ORCL00131416), support revenue lists (*see, e.g.*,  
16 ORCL00267953), territory spreadsheets (*see, e.g.*, ORCL00184144), and renewal letters (*see,*  
17 *e.g.*, ORCL00149099 and ORCL00016776). Therefore, pursuant to Fed. R. Civ. Proc. Rule  
18 33(d), Oracle refers Defendants to those documents in Oracle's production.

19

<u>Customer Name</u>	<u>Name Discrepancy (If Any)</u>	<u>Alternate Customer Name</u>	<u>Sales Manager Name</u>
<u>5 Star Quality Care</u>		Five Star Quality Care, Inc.	Chris Madsen, Nancy Schebe, Deena Marchese
<u>A O Smith</u>		AO Smith Corporation	Robert Lachs, Jordan Rowe-McCune
<u>Abbott Laboratories, Limited</u>		Abbott Laboratories Limited Canada	James Blackford, John Humphrys

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			Robert Lachs, Jordan Rowe-McCune
<b>Manugistics Group, Inc</b>			
<b>Markel Corporation</b>			Robert Lachs, Kersten Knickerbocker, Camelia Stefanescu
<b>McLennan County</b>			Chris Madsen
		<b>State of Texas Department of Information Resources</b>	James McLeod, Lars McCulloch, Marjorie Gauthier, Eric Szafran
		<b>Texas Dept of Health and Human Services Commision</b>	Lars McCulloch
<b>Medicine Hat, City of</b>			James Blackford
<b>Merck &amp; Company, Inc.</b>			Chris Madsen, James McLeod, Robert Lachs, Barbara Sharp-Moore, Kersten Knickerbocker, Jim Steder, James Blackford
<b>Metex Corporation</b>		<b>United Capital Corp.</b>	James Blackford
<b>Metro Machine Corporation</b>	<b>Metro Machine</b>		Robert Lachs, Rachel Romano
<b>Mieco Inc</b>			James Blackford
	<b>MIECO</b>		Chris Madsen
<b>Mortice Kern Systems, Inc.</b>			James Blackford, John Humphrys
<b>Municipality of Anchorage</b>			Oracle has not been able to locate the Support Sales Manager or Sales Representative for this name.
<b>Murphy-Brown LLC</b>			Chris Madsen, Alison Kugler
		<b>Smithfield Foods</b>	Robert Lachs, Jim Steder
<b>Mutual of Omaha</b>	<b>Mutual Of Omaha</b>		Robert Lachs, Jordan

			Chandler, Dan Chup*, Diane Howell- Watkins*, Jordan Rowe-McCune
	<b>Smart Centers, LLC</b>		Betty Simpson*, John Humphrys
	<b>Standard Register Company</b>		Stephen Keane*, Jennie Edwards
	<b>Watson Laboratories, Inc.</b>		Costa Apostolos, Chrissy Bernazzani*, Jennie Edwards

DATED: September 18, 2009

BINGHAM McCUTCHEN LLP

By: Zach Alinder /ns  
 Zachary J. Alinder  
 Attorneys for Plaintiffs  
 Oracle USA, Inc., Oracle International  
 Corporation, Oracle EMFA Limited, and Siebel  
 Systems, Inc.

1 I am over eighteen years of age, not a party in this action, and employed in  
2 San Francisco County, California at Three Embarcadero Center, San Francisco, California  
3 94111-4067. I am readily familiar with the practice of this office for collection and processing  
4 of correspondence for mail/fax/hand delivery/next business day FedEx delivery, and they are  
5 deposited that same day in the ordinary course of business.

6 On September 18, 2009, I served the attached:

7 **PLAINTIFFS' SUPPLEMENTAL RESPONSES AND**  
8 **OBJECTIONS TO INTERROGATORY NO. 98 IN**  
9 **DEFENDANTS' FIFTH SET OF INTERROGATORIES**  
10 **(SIEBEL)**

- 11  (BY FAX) by transmitting via facsimile the document(s) listed above to the fax  
12 number(s) set forth below on this date before 5:00 p.m.
- 13  (BY MAIL) by causing a true and correct copy of the above to be placed in the  
14 United States Mail at San Francisco, California in sealed envelope(s) with postage  
15 prepaid, addressed as set forth below. I am readily familiar with this law firm's  
16 practice for collection and processing of correspondence for mailing with the  
17 United States Postal Service. Correspondence is deposited with the United States  
18 Postal Service the same day it is left for collection and processing in the ordinary  
19 course of business.
- 20  (EXPRESS MAIL/OVERNIGHT DELIVERY) by causing a true and correct copy  
21 of the document(s) listed above to be delivered by FedEx in sealed envelope(s)  
22 with all fees prepaid at the address(es) set forth below.
- 23  (PERSONAL SERVICE) by causing a true and correct copy of the above  
24 documents to be hand delivered in sealed envelope(s) with all fees fully paid to the  
25 person(s) at the address(es) set forth below.
- 26  (VIA EMAIL) by transmitting via email the document(s) listed above on this date  
27 to the person(s) at the email address(es) set forth below.

22 Robert A. Mittelstaedt, Esq.  
23 Jason McDonell, Esq.  
24 Elaine Wallace, Esq.  
25 Jones Day  
26 555 California Street  
27 26th Floor  
28 San Francisco, CA 94104  
Tel: (415) 626.3939

ramittelstaedt@JonesDay.com  
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I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made and that this declaration was executed on September 18, 2009, at San Francisco, California.

  
\_\_\_\_\_  
Shilyn Kim



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 likely ways for customers to return to Oracle from  
2 TomorrowNow is through some kind of relationship with  
3 either a license rep or a support rep, correct?

09:44

4 A. Correct.

5 Q. Then how does that relate to you? How do you  
6 get in the loop?

7 A. The license reps report up to me through a  
8 regional manager, and so -- did I say the license  
9 rep?

09:44

10 Q. You did.

11 A. I meant support reps. I apologize. So the  
12 support reps report up to a regional manager to me.

13 And so if the customer is trying to come back, a

09:45

14 support rep understands how to bring a customer back  
15 onto support. If there are issues with bringing them  
16 back or if they're trying to structure something  
17 that's out of -- outside of their parameters of what  
18 they can do, then -- then I will get involved.

09:45

19 Q. Is there -- is there any other group other  
20 than the group that reports up through you that would  
21 be responsible for trying to make new license sales  
22 to returning customers?

23 MS. HOUSE: Objection, vague.

09:45

24 THE WITNESS: Other than the stuff I already  
25 mentioned, I don't believe so.

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--

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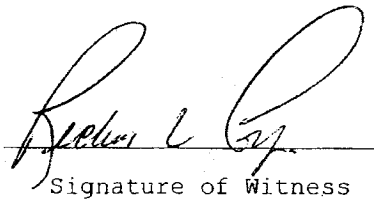
12 I declare under penalty of perjury that  
 13 the foregoing is true and correct. Subscribed at  
 14 Denver, Colorado, California, this 15<sup>th</sup> day of  
 15 October, 2008.

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Signature of Witness

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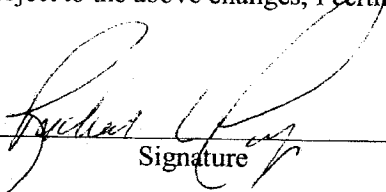
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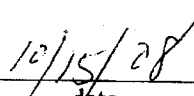
Errata Sheet

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.

  
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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 [X] 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 2<sup>nd</sup>, 2008

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





IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

--oOo--

ORACLE CORPORATION, a )  
Delaware corporation, ORACLE )  
USA, INC., a Colorado )  
corporation, and ORACLE )  
INTERNATIONAL CORPORATION, a )  
California corporation, )  
Plaintiffs, )  
vs. ) 07-CV-1658 (PJH)  
SAP AG, a German corporation, )  
SAP AMERICA, INC., a Delaware )  
corporation, TOMORROWNOW, )  
INC., a Texas corporation, and )  
DOES 1-50, inclusive, )  
Defendants. )

VIDEOTAPED DEPOSITION OF PAUL DUGGAN

August 7, 2009

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

REPORTED BY: SARAH LUCIA BRANN, CSR 3887 (#421893)

Merrill Legal Solutions  
(800) 869-9132

09:46:32 1 Siebel customers?

09:46:33 2 MR. ALINDER: Objection. Vague and  
09:46:34 3 ambiguous.

09:46:35 4 THE WITNESS: Can you restate the  
09:46:36 5 question?

09:46:37 6 MR. DELAHUNTY: Q. Is there any other  
09:46:41 7 type of employee that has more interaction with  
09:46:43 8 Siebel customers than the support sales  
09:46:44 9 representatives?

09:46:45 10 MR. ALINDER: Objection. Calls for  
09:46:48 11 speculation. Vague and ambiguous.

09:46:49 12 THE WITNESS: If you are speaking in  
09:46:53 13 regard to support renewals, typically this would be  
09:46:56 14 the person that would have the most contact with  
09:47:04 15 those customers.

09:47:06 16 MR. DELAHUNTY: Q. And then they are in  
09:47:09 17 turn managed by what you refer to as just managers.  
09:47:12 18 Do they have a more formal title than manager?

09:47:14 19 MR. ALINDER: Objection. Vague as to  
09:47:15 20 time.

09:47:16 21 THE WITNESS: To the best of my knowledge,  
09:47:24 22 they were regional managers.

09:47:25 23 MR. DELAHUNTY: Q. And your notes  
09:47:29 24 indicate that in the time period June 1st, 2006 to  
25 May 31st, 2007 there were two regional managers,

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09:47:36 1 Alicia Rago and Jennie Edwards. Is that correct?

09:47:37 2 A. Yes.

09:47:39 3 Q. Is that accurate across that time period?

09:47:46 4 A. Yes.

09:47:49 5 Q. Can you describe how their job

09:47:51 6 responsibilities differ from the support sales

09:47:52 7 representatives?

09:47:57 8 A. The support sales managers would manage

09:48:00 9 the support sales representatives from a day-to-day

09:48:06 10 basis, doing coaching sessions, reviewing the

09:48:10 11 representatives' forecasts and performance, those

09:48:14 12 sort of things.

09:48:16 13 Q. What are you referring to when you say

09:48:20 14 forecasts?

09:48:23 15 A. This -- you know, as in any sales

09:48:27 16 position, you have to forecast what deals will close

09:48:31 17 when. So, support sales is the same way.

09:48:33 18 Q. Who is responsible for creating those

09:48:37 19 forecasts?

09:48:41 20 A. The representatives will work with their

09:48:43 21 managers to build that forecast. Those managers

09:48:50 22 will then communicate those forecasts, roll up to

09:48:51 23 myself in this case. And at that time I would

09:48:55 24 review that forecast with Rick Cummins, and

25 eventually it would make it to Chris Madsen.

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(Whereupon, the deposition was  
concluded at 11:24 a.m.)

--oOo--

I declare under penalty of perjury the  
foregoing is true and correct. Subscribed at  
SAN FRANCISCO, California, this 7 day  
of AUGUST, 2009.



Paul Duggan

# Merrill Legal Solutions



## INSTRUCTIONS FOR READING/CORRECTING YOUR DEPOSITION

To assist you in making changes and /or corrections to your deposition testimony, please follow the directions below. If additional pages are necessary, please furnish them and attach the pages to the back of the errata sheet.

Please read your transcript carefully. If you find any errors or changes you wish to make, insert the changes and/or corrections on the errata sheet by listing the page and the line number reference and then the change you wish to make.

Please do not make any changes and /or corrections on the face of the transcript.

Please do NOT change any of the questions.

After completing your review, please sign the last page of the errata sheet, above the designated "Signature" line and return the Errata sheets to Merrill Legal Solutions at 135 Main Street, 4<sup>th</sup> Floor, San Francisco, CA 94105 or fax them to (415) 357.4301.

### ERRATA SHEET

Page Line

25 7

Change: 'INTERNET' → 'INTRANET'

Reason: CLARIFY THIS IS INTERNAL SITE

26 12

Change: 'AVERAGE' → 'AT-RISK'

Reason: TYP0

36 22

Change: 'JUNE 1st, 2003' → 'JUNE 1st, 2008'

Reason: TYP0

Page Line

44 4

Change: 'IRISH' → 'AT RISK'

Reason: TYPO

44 13

Change: 'IRISH' → 'AT RISK'

Reason: TYPO

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

\_\_\_\_\_ No changes have been made. I certify that the transcript is true and correct.



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CERTIFICATE OF REPORTER

I, SARAH LUCIA BRANN, 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: August 13, 2009.

Sarah Lucia Brann

SARAH LUCIA BRANN, CSR No. 3887





IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

--oOo--

ORACLE CORPORATION, a	)	
Delaware corporation, ORACLE	)	
USA, INC., a Colorado	)	
corporation, and ORACLE	)	
INTERNATIONAL CORPORATION, a	)	
California corporation,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	07-CV-1658 (PJH)
	)	
SAP AG, a German corporation,	)	
SAP AMERICA, INC., a Delaware	)	
corporation, TOMORROWNOW,	)	
INC., a Texas corporation, and	)	
DOES 1-50, inclusive,	)	
	)	
Defendants.	)	
	)	

VIDEOTAPED DEPOSITION OF PAUL DUGGAN

August 7, 2009

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

REPORTED BY: SARAH LUCIA BRANN, CSR 3887 (#421893)

Merrill Legal Solutions  
(800) 869-9132

09:49:05 1 Q. Can you describe the methodology in  
09:49:06 2 creating one of those forecasts?

09:49:07 3 MR. ALINDER: Objection. Vague and  
09:49:13 4 ambiguous.

09:49:15 5 THE WITNESS: Can you clarify that?

09:49:16 6 MR. DELAHUNTY: Q. How do the managers  
09:49:20 7 and support service representatives create one of  
09:49:25 8 these forecasts that you refer to?

09:49:29 9 A. The representatives will track the  
09:49:34 10 forecasting close date and likelihood in terms of a  
09:49:38 11 percentage in the OKS system, which is the system we  
09:49:45 12 use to track our support renewals. And there are  
09:49:47 13 typically verbal conversations between the reps and  
09:49:50 14 the managers and the directors, based on roll-up of  
09:50:03 15 those numbers in our standard reporting.

09:50:04 16 Q. How do those individuals who are  
09:50:06 17 responsible for those forecasts or creating the  
09:50:09 18 forecasts determine the likelihood of closing a  
09:50:12 19 sale?

09:50:14 20 A. The support sales representative, and in  
09:50:19 21 some cases the manager, would be in constant contact  
09:50:21 22 with that customer and tracking the sales cycle,  
09:50:25 23 from quotation, to communications with the customer,  
09:50:31 24 to eventually getting a purchase order.

25 Q. Is a record created of those

11:34:57

1

(Whereupon, the deposition was

11:34:57

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concluded at 11:24 a.m.)

11:34:57

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--oOo--

11:34:57

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I declare under penalty of perjury the

11:34:57

5

foregoing is true and correct. Subscribed at

11:34:57

6

SAN FRANCISCO, California, this 7 day

11:34:57

7

of AUGUST, 2009.

11:34:57

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Paul Duggan

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## INSTRUCTIONS FOR READING/CORRECTING YOUR DEPOSITION

To assist you in making changes and /or corrections to your deposition testimony, please follow the directions below. If additional pages are necessary, please furnish them and attach the pages to the back of the errata sheet.

Please read your transcript carefully. If you find any errors or changes you wish to make, insert the changes and/or corrections on the errata sheet by listing the page and the line number reference and then the change you wish to make.

Please do not make any changes and /or corrections on the face of the transcript.

Please do NOT change any of the questions.

After completing your review, please sign the last page of the errata sheet, above the designated "Signature" line and return the Errata sheets to Merrill Legal Solutions at 135 Main Street, 4<sup>th</sup> Floor, San Francisco, CA 94105 or fax them to (415) 357.4301.

### ERRATA SHEET

Page Line

25 7

Change: 'INTERNET' → 'INTRANET'

Reason: CLARIFY THIS IS INTERNAL SITE

26 12

Change: 'AVERAGE' → 'AT-RISK'

Reason: TYPO

36 22

Change: 'JUNE 1st, 2003' → 'JUNE 1st, 2008'

Reason: TYPO

Page Line

44 4

Change: 'IRISH' → 'AT-RISK'

Reason: TYPO

44 13

Change: 'IRISH' → 'AT-RISK'

Reason: TYPO

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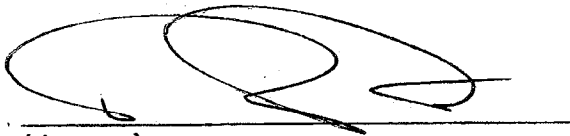
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Sarah Lucia Brann

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