

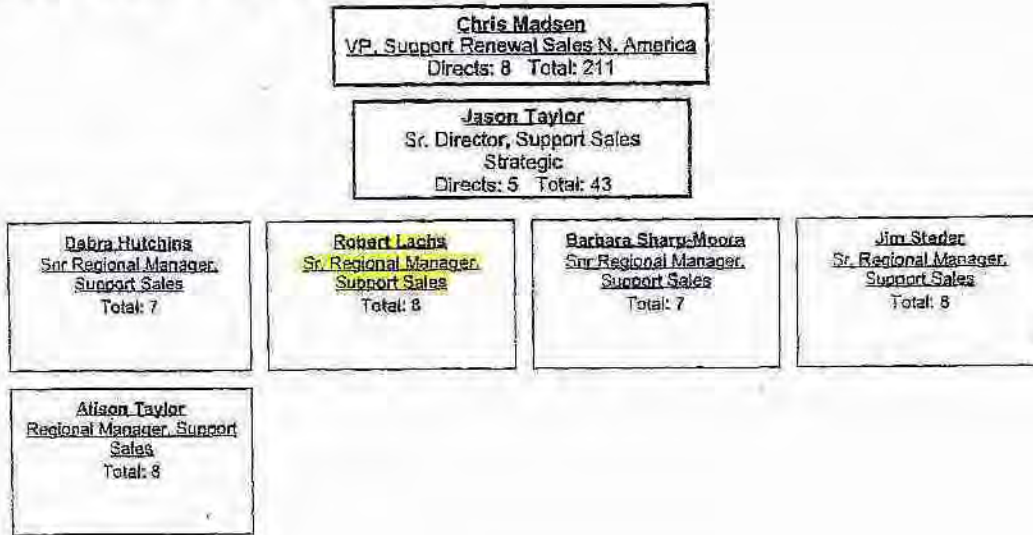
EXHIBIT 24

**Foundation for
A-0059 (Stora Enso)**

Defendants' Trial Exhibit A-0059 (Stora Enso) – Foundational Support

- ORCL00034316 (Oracle organizational chart identifying Robert Lachs as Oracle senior regional manager, support sales)
- ORCL00034318 (Oracle organizational chart identifying Robert Lachs as senior regional manager, support sales)
- Plaintiffs' Resp. & Objs. to Interrogatory No. 98 in Defs. 5th Set of Interrogatories (identifying Robert Lachs as support sales manager for Stora Enso)
- Cummins Sept. 16, 2008 Depo Tr. at 82:22-83:8 (Rule 30(b)(6) testimony identifying Robert Lachs as an Oracle regional manager)
- Cummins Sept. 16, 2008 Depo. Tr. at 85:13-14 (Rule 30(b)(6) testimony indicating that Robert Lachs left Cummins' organization in June 2007)
- Cummins Sept. 16, 2008 Depo. Tr. 34:5-25 (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



ORACLE[®] Aria People Search

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

Robert Lachs
Sr. Regional Manager, Support
Sales
Directs: 8 Total: 8

Barbara Altario
Services Renewal Rep

Amina Haque
Services Renewal Rep

Elaine Hogle
Services Renewal Rep.

Kristen Johansen
Services Renewal Rep

Philip John
Services Renewal Rep

Ellen Masucci
Services Renewal
Representative

Katy Reddy
Services Renewal Rep

Kathy Schwanke
Services Renewal Rep

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13

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

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 OAKLAND DIVISION
19

20 ORACLE USA, INC., *et al.*,
21 Plaintiffs,
22 v.
23 SAP AG, *et al.*,
24 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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SPX Corporation			Robert Lachs, Jennifer Mulhern, Chris Madsen, Todd Chapel, Rachel Romano
SPX Flow Technology			Oracle has not been able to locate the Support Sales Manager or Sales Representative for this name.
Standard Register Company	Standard Register	Standard Register	Alison Kugler, Robert Lachs, Jim Steder, Alicia Astrich
St. Lukes Cornwall Hospital	St. Luke's Hospital	St Luke's Hospital	James McLeod, Rachel Romano
Stanley Electric Company	Stanley Electric Us Co Inc	Stanley Electric Us Co Inc	Robert Lachs
StarHub Limited	Starhub Pte Ltd	Starhub Pte Ltd	Joseph Kwek
Stora Enso North America Corp		Stora Enso North America Corp.	Robert Lachs
Suburban Propane, L.P.	Suburban Propane	Suburban Propane	Chris Madsen, Nancy Schebe, Todd Chapel
Susquehanna Pfaltzgraff Company		Susquehanna Pfaltzgraff Co	James McLeod
Sybase, Inc.			James Blackford
Syngenta Crop Protection, Inc.		SYNGENTA CROP PROTECTION INC	Robert Lachs, Alicia Astrich
TA Operating Corporation d/b/a TravelCenters of America		TRAVELCENTERS OF AMERICA	Robert Lachs, Rachel Romano
Telapex			See, e.g., ORCL0029018

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			Chandler, Dan Chup*, Diane Howell- Watkins*, Jordan Rowe-McCune
Smart Centers, LLC			Betty Simpson*, John Humphrys
Standard Register Company			Stephen Keane*, Jennie Edwards
Watson Laboratories, Inc.			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 EMEA 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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Tharan Gregory Lanier, Esq.
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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 continuously?

2 A. Yes.

3 Q. And have your direct reports changed in that
11:09 4 time other than Chris Burr?

5 A. Yes.

6 Q. Have there been a lot of changes or a few?

7 A. A few.

8 Q. Can you tell us what they've been?

11:09 9 A. I have to remember all this. I had
10 PeopleSoft direct reports in 2005 --

11 Q. Okay. Let's just start at the beginning.
12 When you came to Oracle, your boss was Mr. --

13 A. It was Kevin -- well, it was -- Andy
11:09 14 Allbritten when I moved over, right before I moved
15 over.

16 Q. And who did he report to?

17 A. Andy reported to the head of sales in
18 PeopleSoft. I don't recall his name.

11:10 19 Q. Okay. But Mr. Allbritten had responsibility
20 for support renewal sales?

21 A. Yes.

22 Q. And who were your direct reports at that
23 time? At the time of the acquisition.

11:10 24 A. At the time of the acquisition, James McLeod,
25 Rob Lachs and Jamie Blackford.

1 Q. Were those regional managers?

2 A. Yes.

3 Q. And then how did the organization change
11:10 4 after that?

5 A. Jamie left and Jordan Rowe-McCune replaced
6 Jamie.

7 Q. When was that?

8 A. Sometime in 2006.

11:10 9 Q. What other changes do you recall?

10 A. LeeAnn Miloradovitch began reporting to me.

11 Q. Did she replace one of the other regional
12 managers?

13 A. No, she was more involved in operations on
11:11 14 the PeopleSoft side.

15 Q. How long did she report to you?

16 A. For roughly a year.

17 Q. So that was a fourth direct report you had
18 then --

11:11 19 A. Yes.

20 Q. -- for a time? At what point in time did the
21 person to whom you reported change? Was that June of
22 '05?

23 A. Yes.

11:11 24 Q. And then it became Mr. Madsen?

25 A. Yes.

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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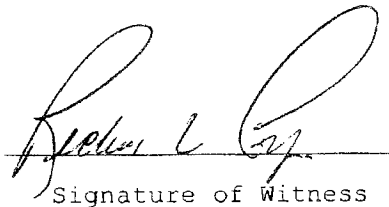
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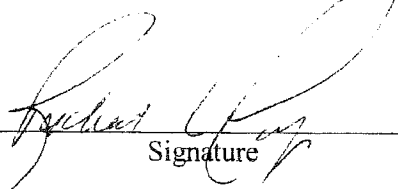
Signature of Witness

Errata Sheet

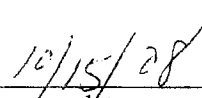
Deposition of Rick Cummins, September 16, 2008

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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

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,
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CORPORATION, TOMORROWNOW, INC.,
a Texas Corporation, and DOES
1-50, Inclusive,

Defendants.
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VIDEOTAPED RULE 30(b)(6) DEPOSITION OF

ORACLE CORPORATION

Designee: RICHARD CUMMINS

Tuesday, September 16, 2008

Volume I, Pages 1 - 255

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

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1 Rowe-McCune?
2 A. It was sometime in 2007, I believe.
3 Q. And when did Alicia Rago replace Rachel
11:14 4 Romano?
5 A. It was in June of 2007.
6 Q. When did Chris Burr replace Alan Horsnail?
7 A. Very recently. It was August 1st.
8 Q. Of '08?
11:14 9 A. Yes.
10 Q. And when did James McLeod leave your
11 organization?
12 A. 2006, I believe.
13 Q. When did Rob Lachs leave your organization?
11:14 14 A. I believe that was June of 2007.
15 Q. And when did Jamie Blackford leave your
16 organization?
17 A. Testing my memory here. Jamie left in, I'm
18 guessing, 2006.
11:15 19 Q. Are there org charts that you're aware of
20 that have these historical reporting relationships?
21 A. Not that I'm aware of.
22 Q. You can only get current, to your knowledge?
23 A. To my knowledge, yes.
11:16 24 Q. Now, the whole time you've been reporting to
25 Mr. Madsen since June of '05, were your reports

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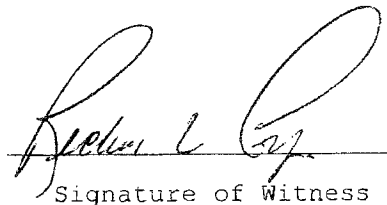
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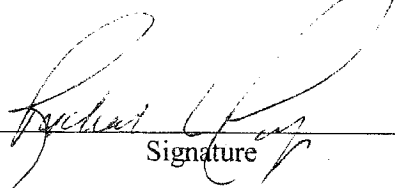
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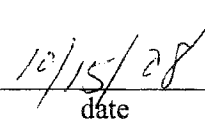
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That before completion of the deposition, review of the transcript [] was [] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
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Volume I, Pages 1 - 255

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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--

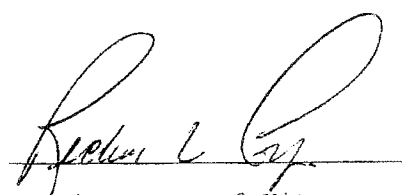
11

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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 Signature of Witness

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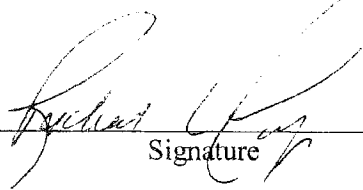
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Errata Sheet

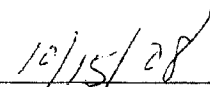
Deposition of Rick Cummins, September 16, 2008

<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.



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

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)

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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, 4th 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
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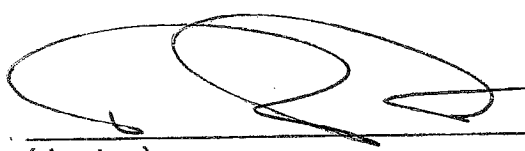
Reason: _____

Change: _____

Reason: _____

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.



(signature)

8/31/09

(date)

1 CERTIFICATE OF REPORTER

2 I, SARAH LUCIA BRANN, a Certified Shorthand
3 Reporter, hereby certify that the witness in the
4 foregoing deposition was by me duly sworn to tell the
5 truth, the whole truth, and nothing but the truth in the
6 within-entitled cause;

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

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16 appended hereto.

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

22 DATED: August 13, 2009.

23
24 Sarah Lucia Brann

25 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,
09:50:26 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

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

--oOo--

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Paul Duggan

Merrill Legal Solutions



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8/31/09

(date)

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22 DATED: August 13, 2009.

23 Sarah Lucia Brann

24 SARAH LUCIA BRANN, CSR No. 3887
25