

EXHIBIT 25

General At-Risk Report Foundation

- Feb. 13, 2008 Hrg. Tr. at 152:24-154:11 (Oracle arguing that the at-risk report is a “gift,” and contains information on “what were the various customers that were actually in play; what happened to them.”)
- Sept. 30, 2010 Hrg. Tr. at 10:15-12:14 (Oracle is “not saying they’re [at-risk report] not business records”)
- Shippy March 5, 2009 Depo. Tr. at 40:3-41:10 (Rule 30(b)(6) testimony indicating that Shippy had responsibility for at-risk report)
- Shippy Sept. 25, 2008 Depo. Tr. at 81:4-82:3, 82:5-15 (Rule 30(b)(6) testimony explaining origin of data in “Notes” field of at-risk report)
- Shippy Sept. 25, 2008 Depo. Tr. at 88:12-23, 89:4-11 (Rule 30(b)(6) testimony indicating that Shippy created report entries from information transmitted by knowledgeable individuals as part of her regularly conducted business activity)
- Cummins Sept. 23, 2008 Depo. Tr. at 309:21-23 (Rule 30(b)(6) testimony indicating that information in at-risk report comes from support sales representatives)
- Cummins Sept. 23, 2008 Depo. Tr. at 303:15-304:3 (Rule 30(b)(6) testimony indicating that information in at-risk report comes from support sales representatives)
- Cummins Sept. 23, 2008 Depo. Tr. at 305:7-18 (Rule 30(b)(6) testimony indicating that sales representatives knew about customer information because it was their account)
- Cummins Sept. 23, 2008 Depo. Tr. at 320:23-321:2, 321:5-9, 321:11-17 (Rule 30(b)(6) testimony indicating that at-risk report included customers at risk of leaving Oracle support for a third party provider)
- Cummins Sept. 16, 2008 Depo. Tr. at 74:2-75:14 (Rule 30(b)(6) testimony indicating that a person should contact the support sales representative to find out information on a given customer)
- Cummins Sept. 23, 2008 Depo. Tr. at 269:19-270:8 (Rule 30(b)(6) testimony indicating that providing information for the at-risk report was part of sales representatives’ normal job responsibilities)
- Shippy Sept. 25, 2008 Depo. Tr. at 106:4-14 (Rule 30(b)(6) testimony indicating report was kept in course of regularly conducted business activity)

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

BEFORE: CHARLES A. LEGGE, JUDGE (Ret.)

---oOo---

ORACLE CORPORATION, a Delaware)
 corporation; ORACLE, USA, INC.,)
 a Colorado corporation, and)
 ORACLE INTERNATIONAL)
 CORPORATION, a California) No. 07-CV-01658-MJJ
 corporation,)
)
 Plaintiffs,)
)
 vs.)
)

SAP AG, a German corporation,
 SAP AMERICA, INC., a Delaware
 corporation, TOMORROWNOW, INC.,
 a Texas corporation, and DCES
 1-50, inclusive,

Defendants.

HEARING IN RE DISCOVERY ISSUES

Wednesday, February 13, 2008

At:

JAMS
 2 Embarcadero Center, 14th Floor
 San Francisco, California

Reported by:
 GEORGE SCHUMER, CSR 3326 (406308)

TEXT REMOVED - NOT RELEVANT TO MOTION

24 Moreover, I think it is very important that you
25 understand that one of the key documents that we're going

1 to be producing -- we call it internally, or Oracle calls
2 it internally, an "at-risk report." I won't give it to
3 you, because otherwise you will have to keep it; right?

4 JUDGE LEGGE: Yes, if you give it to me I have to
5 keep it.

6 MS. HOUSE: This is a hard copy; it is actually a
7 vibrant electronic document, as you have seen theirs.
8 This is a document that is sort of a historical
9 compilation of all of the losses to third parties -- not
10 just TomorrowNow, but indeed, Rimini Street and others
11 that talks about -- has detailed notes about every single
12 one of those customers that was lost, and about what was
13 the perception about why they were lost, or what were the
14 concessions in terms of finances, to try to keep the
15 customer -- or effectively kept the customer.

16 JUDGE LEGGE: What is it called?

17 MS. HOUSE: Third-party risk analysis. And this
18 is a document that is not specific to the 69 customers;
19 has enormous detail about all customers lost to all third
20 parties. This is a gift.

21 JUDGE LEGGE: You are producing it?

22 MS. HOUSE: We are producing it. This is
23 something that is an internal Oracle document. that is --
24 goes a very long way in compiling, and in one unit --
25 unlike what we have to work with, with their stuff -- what

1 were the various customers that were actually in play;
2 what happened to them; what kind of financial losses on a
3 one-year period were associated with those customers.

4 So again, the notion that we need to go any
5 farther afield than this incredibly detailed document --
6 that I won't show you, so you don't have to keep it -- is
7 highly premature.

8 Again, if there's a problem with the documents --
9 you have heard them say they'll come back, and you will
10 hear about it. But there is absolutely nothing to order
11 today, beyond what we have already agreed to produce.

TEXT REMOVED - NOT RELEVANT TO MOTION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE PHYLLIS J. HAMILTON, JUDGE

ORACLE CORPORATION, ET AL.)

PLAINTIFFS,)

VS.)

SAP AG, ET AL.,)

DEFENDANTS.)

NO. C 07-01658 PJH

Certified Copy

PAGES 1 - 124

OAKLAND, CALIFORNIA

WEDNESDAY, SEPTEMBER 30, 2010

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

FOR PLAINTIFFS:

BOIES, SCHILLER & FLEXNER, LLP
1999 HARRISON STREET, SUITE 900
OAKLAND, CALIFORNIA 94612

BY: STEVEN C. HOLTZMAN, ATTORNEY AT LAW

BINGHAM MCCUTCHEM LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO, CALIFORNIA 94111-4607

BY: ZACHARY J. ALINDER,
ANTHONY FALZONE,
HOLLY A. HOUSE,
GEOFFREY M. HOWARD,
DONN P. PICKETT, ATTORNEYS AT LAW

FOR DEFENDANTS:

JONES DAY
SILICON VALLEY OFFICE
1755 EMBARCADERO ROAD
PALO ALTO, CALIFORNIA 94303

BY: THARAN GREGORY LANIER, ATTORNEY AT LAW

(APPEARANCES CONTINUED NEXT PAGE)

REPORTED BY:

RAYNEE H. MERCADO, CSR NO. 8258

RAYNEE H. MERCADO, CSR, RMR, CRR, FCRR, CCRR (510) 451-7530

1 THE TOMORROWNOW SERVERS AND COMPUTERS.

2 WITH REGARD TO -- IS THIS STILL AN ISSUE GIVEN THE
3 STIPULATION?

4 **MR. LANIER:** I THINK FOR THE SAME REASON THAT
5 MR. PICKETT JUST ARTICULATED IT PROBABLY IS. IT GOES TO THE --
6 SINCE THERE IS A CLAIM FOR CONTRIBUTORY LIABILITY AGAINST SAP.

7 **THE COURT:** OKAY. THEN MY RULING'S THE SAME.

8 **MR. PICKETT:** IF I MIGHT JUST --

9 **THE COURT:** OKAY. YOU KNOW, I JUST HAVE A FEW
10 QUESTIONS ON THESE, AND I JUST WANT TO MAKE SURE THAT THE ONES
11 THAT I THINK ARE MOOT ARE -- ARE, IN FACT, MOOT. SINCE YOU ALL
12 HAVE GIVEN ME THE EXPLANATION WITH REGARD TO ONE, I'M SIMPLY
13 GOING TO RULE THE SAME WAY WITH REGARD TO THE SECOND.

14 **MR. PICKETT:** THE --

15 **THE COURT:** THE THIRD ONE IS THE MOTION TO EXCLUDE
16 THE CUSTOMER STATEMENTS IN ORACLE'S AT-RISK REPORTS. I REVIEWED
17 THE ARGUMENTS. IT CERTAINLY DOES APPEAR TO ME THAT THOSE
18 STATEMENTS ARE HEARSAY IF THEY'RE OFFERED TO PROVE THE TRUTH,
19 THAT IS, THAT THE CUSTOMERS WERE LEAVING FOR PARTICULAR REASONS.
20 BUT IT DOES APPEAR TO ME THAT SAP IS CORRECT THAT THERE ARE
21 NON-HEARSAY PURPOSES FOR WHICH THESE CUSTOMER STATEMENTS
22 CERTAINLY COULD BE PERTINENT.

23 BUT MOST IMPORTANTLY, THE -- MEYER'S REPORT, AS I --
24 AS I UNDERSTAND IT, RELIES VERY HEAVILY UPON THESE STATEMENTS;
25 ISN'T IT CORRECT?

1 AND AS I -- AS I UNDERSTAND IT, WASN'T THE AT-RISK
2 REPORT THAT CONTAINS THESE STATEMENTS PREPARED BY ORACLE? SO
3 ISN'T THERE A HIGH DEGREE OF RELIABILITY, I MEAN, GIVEN THE
4 EXPERT RELIED UPON THAT THEY WERE PREPARED BY PLAINTIFF?

5 (OFF-THE-RECORD DISCUSSION.)

6 MR. HOWARD: I'M SORRY. JEFF HOWARD.

7 YOUR HONOR, WE'RE NOT CONTENDING THAT THE REPORTS
8 THEMSELVES ARE NOT --

9 THE COURT: -- COMING INTO EVIDENCE, RIGHT?

10 MR. PICKETT: YEAH, THEY'RE NOT -- WE'RE NOT SAYING
11 THEY'RE NOT BUSINESS RECORDS. WE'RE FOCUSED ON JUST THIS ONE
12 PART OF THE REPORT WHICH ARE TRANSCRIBED COMMENTS FROM
13 CUSTOMERS.

14 AND WHAT THE CASES SAY IS THAT THAT THIRD-PARTY
15 STATEMENT IS HEARSAY UNLESS THAT THIRD PARTY WAS UNDER A DUTY TO
16 STATE IT IN THE REGULAR COURSE OF THEIR BUSINESS, WHICH THERE'S
17 NO EVIDENCE ON, OR ORACLE WAS UNDER A DUTY TO VERIFY IT OR DID
18 VERIFY IT IN SOME WAY, WHICH THEY DID NOT DO. TO THE CONTRARY,
19 THEY DIDN'T -- THEY DID NOT RELY ON THOSE STATEMENTS AS THE
20 CUSTOMER SAID THEM BECAUSE THEY WERE SHOWN TO BE NOT TRUE FROM
21 TIME TO TIME BECAUSE CUSTOMERS SAY CERTAIN THINGS IN THE COURSE
22 OF NEGOTIATING THAT THEY DON'T REALLY MEAN OR KNOW.

23 AND SO IT'S JUST THOSE SPECIFIC STATEMENTS IN THE
24 REPORT WHICH DON'T RISE TO THE LEVEL OF RELIABILITY OR MEET
25 THESE STANDARDS WHICH WE'RE SEEKING TO EXCLUDE.

1 **THE COURT:** AND YOUR EXPERT DIDN'T RELY UPON THOSE
2 STATEMENTS?

3 **MR. HOWARD:** HE RELIED -- HE USED THE REPORTS BUT DID
4 NOT RELY ON OR ASCRIBE VERACITY TO ANY OF THE COMMENTS THAT ARE
5 IN THERE AND -- AND THE -- THE -- MR. CLARKE, THE DEFENDANT'S
6 EXPERT, IS NOT USING THOSE STATEMENTS TO SHOW THE -- THE
7 REASONS -- AND IF HE WAS, THEN IT WOULD BE FOR THE TRUTH -- BUT
8 FOR THE FACT THAT CUSTOMERS WERE GOING TO LEAVE ANYWAY.

9 AND SO THAT GETS RIGHT BACK TO THE TRUTH OF THE
10 MATTER ASSERTED. AND THERE IS NO INDICIA OF RELIABILITY, AND
11 YOU HAVEN'T HAD THESE OTHER CRITERIA MET, EITHER FROM THE
12 THIRD-PARTY SIDE OR FROM THE ORACLE SIDE, TO MAKE THAT
13 ADMISSIBLE.

14 **THE COURT:** OKAY.

15 WHAT IS THE DIFFERENCE BETWEEN -- YOU SAY THAT -- IN
16 YOUR PAPERS THAT THE STATEMENTS ARE PERTINENT TO THE STATE OF
17 MIND THAT THE CUSTOMERS -- HOW IS THAT DIFFERENT FROM THE TRUTH
18 OF THE MATTER, WHICH IS THEIR REASONS FOR LEAVING?

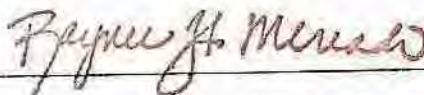
19 **MR. LANIER:** VERY BRIEFLY, YOUR HONOR, IT'S BECAUSE
20 THE FACT THAT THE CUSTOMERS HAD CONCERNS OR EXPRESSED CONCERNS
21 IS RELEVANT TO THE MARKET BACKGROUND. IT'S RELEVANT TO WHAT WAS
22 GOING ON, WHETHER OR NOT THOSE STATEMENTS WERE ACTUALLY
23 INDIVIDUALLY TRUE, WHICH IS WHY MR. MEYER RELIED ON THEM IN THE
24 AGGREGATE AND IN SOME PARTICULAR CIRCUMSTANCES.

25 **THE COURT:** OKAY.

CERTIFICATE OF REPORTER

I, RAYNEE H. MERCADO, OFFICIAL REPORTER FOR THE UNITED STATES COURT; NORTHERN DISTRICT OF CALIFORNIA, HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS IN C07-01658 PJH, ORACLE CORPORATION, ET AL. V. SAP AG, ET AL., WERE REPORTED BY ME, A CERTIFIED SHORTHAND REPORTER, AND WERE THEREAFTER TRANSCRIBED UNDER MY DIRECTION INTO TYPEWRITING; THAT THE FOREGOING IS A FULL, COMPLETE AND TRUE RECORD OF SAID PROCEEDINGS AS BOUND BY ME AT THE TIME OF FILING.

THE VALIDITY OF THE REPORTER'S CERTIFICATION OF SAID TRANSCRIPT MAY BE VOID UPON DISASSEMBLY AND/OR REMOVAL FROM THE COURT FILE.



RAYNEE H. MERCADO, CSR, RMR, CRR, FCRR, CCRR

MONDAY, OCTOBER 4, 2010

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE CORPORATION, a)
Delaware corporation, ORACLE)
USA, INC., a Colorado)
corporation, and ORACLE)
INTERNATIONAL CORPORATION, a)
California corporation,)
)
Plaintiffs,)
)
vs.) No. 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
ELIZABETH ANN SHIPPY

THURSDAY, MARCH 5, 2009

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

REPORTED BY: HOLLY THUMAN, CSR No. 6834, RMR, CRR
(1-416868)

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(800) 869-9132

10:03:40 1 summer of 2005?

10:03:42 2 A. I don't recall.

10:03:55 3 Q. Ms. Shippy, are you familiar with the "At
10:03:57 4 Risk" report, or what is referred to within Oracle
10:03:59 5 as the "At Risk" report?

10:04:00 6 A. Yes.

10:04:01 7 Q. Did any of your job responsibilities
10:04:02 8 pertain to the "At Risk" report?

10:04:04 9 A. Yes.

10:04:06 10 Q. Can you describe some of those
10:04:07 11 responsibilities?

10:04:14 12 A. At one point in time, I was able to take
10:04:17 13 over the reporting. So I managed the report,
10:04:24 14 received the information from the support sales rep,
10:04:26 15 updated the report, and then shared that with the
10:04:28 16 appropriate management team.

10:04:31 17 Q. You said at some point in time. Do you
10:04:33 18 remember the point in time that you undertook those
10:04:36 19 responsibilities?

10:04:39 20 A. It's roughly late '05, early '06, I would
10:04:42 21 say. Calendar year.

10:04:50 22 Q. Did you have any interaction with the "At
10:04:53 23 Risk" report prior to taking over those
10:04:56 24 responsibilities in late '05, early '06?

10:04:59 25 A. Yes.

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10:05:01 1 Q. What was the nature of those interactions?

10:05:06 2 A. I believe I would assist Rick or Patricia

10:05:09 3 if they had any follow-up items, anything that I

10:05:13 4 could help from an operations perspective.

10:05:18 5 Q. When you say Rick, are you referring to

10:05:24 6 Rick Cummins?

10:05:25 7 A. I am.

10:05:26 8 Q. And whom are you referring to when you

10:05:27 9 refer to Patricia?

10:05:29 10 A. Patricia Murguia.

10:05:31 11 Q. Can you spell her last name, if you know?

10:05:34 12 A. M-U-R-G-U-I-A.

10:05:41 13 Q. If you recall, what was her position within

10:05:43 14 Oracle?

10:05:44 15 A. She's on the reporting team within support

10:05:49 16 sales operations.

10:05:52 17 Q. What does the reporting team do?

10:05:55 18 MS. HOUSE: Vague as to time.

10:05:56 19 MR. DELAHUNTY: Q. Generally speaking?

10:05:57 20 MS. HOUSE: Vague as to time, overbroad.

10:06:00 21 THE WITNESS: They run reports which allow

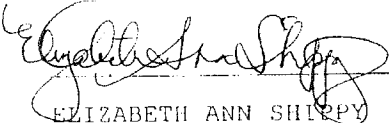
10:06:05 22 the support sales business to understand the

10:06:09 23 forecasting, the workload, the cancellations,

10:06:13 24 et cetera.

10:06:19 25 MR. DELAHUNTY: Q. While you were working

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16:01:28 1 third time. But I just don't know right now.
16:01:31 2 THE WITNESS: Okay.
16:01:31 3 MR. DELAHUNTY: So I will leave the
16:01:33 4 deposition open.
16:01:34 5 MS. HOUSE: Obviously we will reserve all
16:01:36 6 rights and disagree. But we don't have to do this.
16:01:39 7 So --
16:01:40 8 MR. DELAHUNTY: Thanks. Let's go off the
16:01:41 9 record.
16:01:42 10 THE VIDEO OPERATOR: This concludes Volume
16:01:42 11 1 in the deposition of Elizabeth Shippy. We are off
16:01:45 12 the record at 4:01.
16:02:01 13 (Time noted, 4:01 p.m.)
16:02:04 14
16:02:04 15 --oOo--
16:02:04 16 I declare under penalty of perjury that
16:02:04 17 the foregoing is true and correct. Subscribed at
16:02:04 18 Tucson, Az., ~~California~~, this 1st day of
16:02:04 19 April 2009.
16:02:04 20
16:02:04 21 
16:02:04 22 ELIZABETH ANN SHIPPY
23
24
25

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Errata Sheet

Page Line

p.69, line 11: Change: Add after "Yes" "depending on the time. The few other service providers for PeopleSoft or JD Edwards application besides TomorrowNow came in and out of existence at different time periods."

Reason: Clarification

p 121, line 14: Change: Add after "Possibly" "-- depending on whether, at the time, any other third party support provider existed which could credibly offer support in the manner, in the location and on the products that the customer required."

Reason: Clarification

p 124, lines 9, 11, 18: Change: Add after "Yes" "again, depending on the time. The few other service providers for PeopleSoft or JD Edwards application besides TomorrowNow came in and out of existence at different time periods. And, again, it also depends on whether any other third party support provider existed which could credibly offer support in the manner, in the location and on the products that the customer required."

Reason: Clarification

p.133, line 22: Change: Add after Yes" "again, depending on the time. The few other service providers for PeopleSoft or JD Edwards application besides TomorrowNow came in and out of existence at different time periods. And, again, it also depends on whether any other third party support provider existed which could credibly offer support in the manner, in the location and on the products that the customer required."

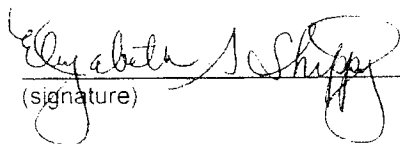
Reason: Clarification

p 135, line 24: Change: Add after "Possibly" "-- but, as I explained before, given the SAP - TomorrowNow connection and the Safe Passage program for just this situation, Tomorrow Now seems the only likely candidate."

Reason: Clarification

X

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



(signature)

4/1/09

(date)

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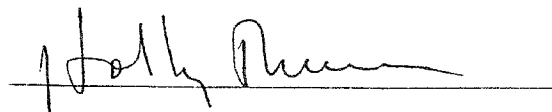
CERTIFICATE OF REPORTER

I, HOLLY THUMAN, 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 March 11th, 2009



HOLLY THUMAN, CSR No. 6834

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: ELIZABETH ANN SHIPPY

Thursday, September 25, 2008

HIGHLY CONFIDENTIAL INFORMATION - ATTORNEYS' EYES ONLY

Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
Job 413273

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1 that that manual was created. That is cumulative and
2 that's the end of it. It has been posted, so it's
10:57 3 available for reference, but that was it.

4 Q. And the information that went into that
5 report, for example, there is, I think it's called
6 the notes field, it would have the comments by the
7 sales rep, is that information -- since February of
10:57 8 '08, is that information collected anywhere?

9 And I'm talking about communications have
10 happened between the sales rep and the customer, for
11 example, since February '08, is that recorded
12 anywhere as part of the at risk reporting process in
10:57 13 OKS?

14 A. So let me make sure I understand your
15 question. So in February of '08, even though the
16 report, the manual report was going to be ended,
17 there may have been some customers that were still in
10:57 18 negotiation, right, that we were still working.

19 So the renewal rep would include notes as
20 attachments into OKS. So that even though the notes
21 no longer are being tracked in this manual form, reps
22 are still able to add notes and attach and them in
10:58 23 the OKS contract. So if you and were going to look
24 up a deal and see where it's at, we should be able to
25 check the notes through the attachments in OKS.

1 Does that answer your question?

2 Q. Yes. Are the sales reps required to attach
10:58 3 those notes, though?

4 MS. HOUSE: Calls for speculation.

5 THE WITNESS: The management team has
6 requested that if a contract is at risk that the
7 renewal rep needs to document what's been going on
10:58 8 with the account, what steps have been taken, and
9 that once again goes in as notes into the attachment
10 itself. Or it could be e-mails, right, it could be
11 any form of whatever is appropriate for that
12 particular deal.

10:58 13 Q. MS. WALLACE: But it ends up in OKS in some
14 form.

15 A. Correct.

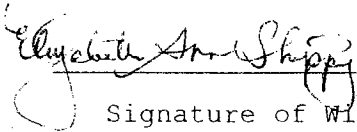
16 Q. Okay. The at risk analysis report that's
17 listed on page 79, does that identify the customers
10:59 18 by name who are at risk?

19 A. Yes.

20 Q. It does. Okay. And so if someone in
21 management was reading that report and saw that a
22 particular customer had been identified as at risk
10:59 23 and it wasn't yet cancelled, it was still active,
24 that person could then go to OKS and find the
25 relevant communications between the customer and the

1 (Whereupon, the deposition was adjourned at
2 11:50 a.m.)

3
4 I declare under penalty of perjury that
5 the foregoing is true and correct. Subscribed at
6 _____, California, this ____ day of
7 _____, 2008.

8
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10 
11 _____
12 Signature of Witness

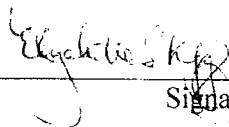
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Errata Sheet

Deposition of Elizabeth Shippy, September 25, 2008

<u>Page</u>	<u>Line</u>	<u>Change</u>	<u>Reason</u>
30	20	Change "Oracle contracts for service" to "Oracle Contract System"	Correction
31	11-12	Change "Oracle contracts for service" to "Oracle Contract System"	Correction

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



Signature

10/23/08

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 2, 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, 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: ELIZABETH ANN SHIPPY

Thursday, September 25, 2008

HIGHLY CONFIDENTIAL INFORMATION - ATTORNEYS' EYES ONLY

Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
Job 413273

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1 enter the information. It was always through Rick,
2 Patricia or me literally copying and pasting
11:05 3 information or talking to the rep and putting the
4 information in. We owned the database.

5 There was a time that we tried to have the
6 reps enter the information online, and it just didn't
7 fly. We weren't able to get multiple users in at the
11:05 8 same time. So it just didn't work. We just kept it
9 manual -- that's why I've been referring to it as
10 manual is because somebody is literally keying that
11 information in.

12 Q. Okay. And how did the reps gets the
11:06 13 information to you, Patricia, or Rick?

14 A. Okay. So when I was running the report, I
15 would send a notice out to the renewal reps reminding
16 them that if they had at risk accounts to send that
17 information to me, and I would give them a template,
11:06 18 if you will, of the spreadsheet of the fields that I
19 needed their input in.

20 They would enter it into the spreadsheet in
21 some cases, some cases they would just type a free
22 form e-mail, and then I would go back into the master
11:06 23 report and copy and paste the information in.

24 Q. So when they e-mailed the information, did
25 they e-mail it to your e-mail address?

1 A. Personal account, correct.

2 Q. Personal account.

11:06 3 A. Uh-huh.

4 Q. Do the e-mails still exist?

5 A. No, they do not.

6 Q. What happened to those e-mails?

7 A. As you can imagine, I've been doing this

11:06 8 several years and we have 200 plus reps in North

9 America. And as I would get the information, I would

10 take from it the e-mail, place it into the report and

11 then delete the e-mail.

12 Q. Okay. Now, I've seen in some document an

11:07 13 e-mail address At-Risk_us@oracle.com. Does that

14 sound familiar to you?

15 A. Yes.

16 Q. What is that e-mail address for?

17 A. It doesn't exist.

11:07 18 Q. Oh, okay. Did anyone ever try and e-mail to

19 it?

20 A. No, it evolved to renewal alert.

21 Q. Okay. And so when you say renewal alert, is

22 there a new e-mail address for renewal alert?

11:07 23 A. There is an e-mail address for renewal alert.


24 Q. Okay. But it's not At Risk_us@oracle?

25 A. No.

1 (Whereupon, the deposition was adjourned at
2 11:50 a.m.)

3
4 I declare under penalty of perjury that
5 the foregoing is true and correct. Subscribed at
6 _____, California, this ____ day of
7 _____, 2008.

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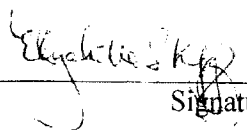
Signature of Witness

Errata Sheet

Deposition of Elizabeth Shippy, September 25, 2008

<u>Page</u>	<u>Line</u>	<u>Change</u>	<u>Reason</u>
30	20	Change "Oracle contracts for service" to "Oracle Contract System"	Correction
31	11-12	Change "Oracle contracts for service" to "Oracle Contract System"	Correction

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



Signature

10/23/08

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 2, 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,
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 23, 2008

Volume II, Pages 256 - 436

HIGHLY CONFIDENTIAL INFORMATION - ATTORNEYS' EYES ONLY

Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
Job 412497

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1 Q. Also in OKS?

2 A. Mostly from OKS. Some reps were more
3 specific and may have narrowed it down to strategic
10:53 4 or something within that territory.

5 The next columns then, because it was an
6 Access database, our reps told Beth whether it was
7 E-1, World and then the Enterprise stuff. The Access
8 database, if there's nothing in that field, it shows
10:53 9 up as true/false. That's why these look like true/
10 false.

11 Q. And you explained that to us previously, but
12 again on these columns that refer to the Oracle
13 products, columns O through AC --

10:53 14 A. Okay.

15 Q. Correct? That information -- is that
16 information in OKS?

17 MS. HOUSE: Calls for speculation.

18 THE WITNESS: Yeah, I -- the specific release
10:54 19 is not. The product, product family, I don't know
20 how that's indicated in there.

21 Q. MR. McDONELL: So to your knowledge, that
22 information just comes from the sales reps?

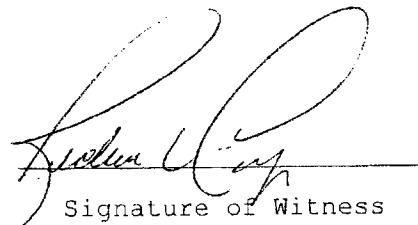
23 A. To my knowledge, yes.

10:54 24 Q. So then we're on AD.

25 A. Column AD product notes, as we indicated

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I declare under penalty of perjury that
the foregoing is true and correct. Subscribed at
Denver, ^{Colorado}~~California~~, this 15th day of
October, 2008.


Signature of Witness

1 CERTIFICATE OF REPORTER

2 I, WENDY E. ARLEN, 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
9 and place therein stated, and that the testimony of the
10 said witness was thereafter reduced to typewriting, by
11 computer, under my direction and supervision.

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13 review of the transcript [] was [] was not
14 requested. If requested, any changes made by the
15 deponent (and provided to the reporter) during the
16 period allowed are 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: October 2nd, 2008

23
24 Wendy E Arlen

25 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
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SAP AMERICA, INC., a Delaware
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1-50, Inclusive,

Defendants.

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

Designee: RICHARD CUMMINS

Tuesday, September 23, 2008

Volume II, Pages 256 - 436

HIGHLY CONFIDENTIAL INFORMATION - ATTORNEYS' EYES ONLY

Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
Job 412497

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1 A. You could ask her. I don't know for sure.

2 Q. Who's responsible in this at risk reporting
3 for tracking actual losses against projected losses?

10:46 4 A. I would be.

5 Q. Let's go back to Exhibit 55.

6 A. Okay.

7 Q. And let's go to the data columns of which
8 there were many that we talked about last time.

10:46 9 A. Okay.

10 Q. Okay. I want to do this as quickly and with
11 the least burden on you as possible, but what I want
12 to know for each of these columns is -- and you've
13 already told us what the column headings mean.

10:46 14 A. Yes.

15 Q. Can you run through and tell us, to the best
16 of your knowledge, what the source of information is
17 for each one, so where the information comes from at
18 Oracle? And if it helps you at all, I'll tell you
19 one of the reasons I'm curious is because you don't
20 have every customer of Oracle on this list, right?

10:46

21 For example, you said there might be some
22 non-U.S. customers who didn't get reported because
23 somebody didn't report on them, right?

10:47

24 A. Yes, this is information that was reported
25 from our support sales reps. So it's as accurate as

1 what we were given. It doesn't -- it's not a data
2 pull from anywhere. There's no other source. It was
3 given from our support sales reps.

10:47 4 Q. So walk me through the columns starting with
5 A and tell me where that information comes from
6 within Oracle before it gets to this report and just
7 go right through the columns. If you don't know the
8 answer to any, just say you don't know. Starting
10:47 9 with A. A.

10 A. So customer -- I can tell you that -- let me
11 look at these.

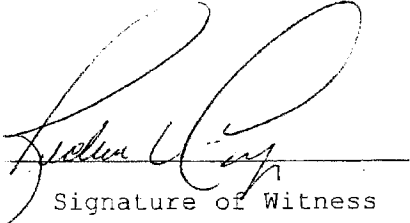
12 MS. HOUSE: Do you have the actual exhibit?
13 (Discussion off the record.)

10:48 14 Q. MR. McDONELL: So we're on page Data 1. And
15 what I want to know is what you know about the source
16 of the information starting with column A.

17 A. The reason I looked through all these is all
18 of these come from support sales reps. So there is
10:48 19 no other source of information. Beth didn't go back
20 and pull information from anywhere else. It all came
21 from information that was given to her from support
22 sales reps.

23 Q. Okay. But do you know what sources of
10:48 24 information the sales reps would have?

25 A. Okay.

1
2 I declare under penalty of perjury that
3 the foregoing is true and correct. Subscribed at
4 Denver, ^{Colorado} California, this 15th day of
5 October, 2008.
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Signature of Witness
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DATED: October 2nd, 2008

Wendy E Arlen

WENDY E. ARLEN CSR, No. 4355

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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ORACLE CORPORATION, a Delaware
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ORACLE INTERNATIONAL CORPORATION,
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Plaintiffs,

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

SAP AG, a German Corporation,
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VIDEOTAPED RULE 30(b)(6) DEPOSITION OF
ORACLE CORPORATION

Designee: RICHARD CUMMINS

Tuesday, September 23, 2008

Volume II, Pages 256 - 436

HIGHLY CONFIDENTIAL INFORMATION - ATTORNEYS' EYES ONLY

Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
Job 412497

Merrill Legal Solutions
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1 Q. So, for example, revenue amount in column D,
2 where would they get that?

3 MS. HOUSE: Calls for speculation.

10:48

4 Q. MR. McDONELL: Again, if you don't know, just
5 say you don't know.

6 MS. HOUSE: It's overbroad, too.

10:49

7 Q. MR. McDONELL: Just to be systematic about
8 this, if you could start with customer A and just
9 take us through it.

10 A. Okay. So a support sales rep would -- they
11 would get this information because it was -- this is
12 their account.

13 Q. So they know who their customers are.

10:49

14 A. Yes. And then they're working on any given
15 renewal, they would know the start date, and this
16 information would be given to them. In OKS, it shows
17 the start date which includes the year, which is the
18 next column.

10:49

19 Q. Okay. But I'm talking about how the
20 information gets into OKS, not what's in OKS.

21 MS. HOUSE: That's not what you asked him.
22 You asked how it got into this particular report.

23 MR. McDONELL: This report is not from OKS.

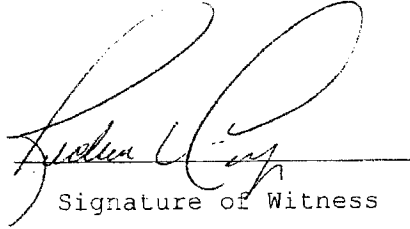
10:49

24 This is pre-OKS, right?

25 Q. I want to know where the information came

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DATED: October 2nd, 2008

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

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Designee: RICHARD CUMMINS

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Volume II, Pages 256 - 436

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Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
Job 412497

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1 the e-mail from you.

2 A. Yes.

3 Q. Can you identify that, please?

11:10 4 A. It's an e-mail that was -- that went to the
5 third party distribution list, and it gave some
6 highlights of the current report.

7 Q. Is this a report that you did on a regular
8 basis?

11:10 9 A. Yes.

10 Q. How frequently would you send out a report
11 like this?

12 A. It depends on the time frame, but it was
13 roughly -- roughly monthly.

11:10 14 Q. Would you send it along with the at risk
15 report or how would that work?

16 A. Yes, I said -- here it says attached is the
17 latest third party at risk analysis.

18 Q. So would you typically send out a summary
11:10 19 report along with the at risk analysis?

20 A. I typically would send out some bullet
21 points, which is what you see here, kind of some
22 summary bullets.

23 Q. I think we covered this a little before, but

11:11 24 I want to make sure we're clear. The third party at
25 risk report was intended to capture information by

1 customers who were at risk of leaving Oracle support
2 for any reason; is that right?

11:12 3 MS. HOUSE: Objection, asked and answered,
4 misstates his testimony.

5 THE WITNESS: It was designed for those
6 customers that were at risk of going to a third party
7 provider, which was primarily TomorrowNow.

11:12 8 Q. MR. McDONELL: And did it also include
9 customers at risk of going to self support?

10 MS. HOUSE: Objection, asked and answered.

11:12 11 THE WITNESS: If a customer -- yeah, as I
12 said before, if a customer indicated that they were
13 looking at a third party provider, then they would go
14 on this list. It could be that they ended up, you
15 know, in any number of situations, but the way they
16 got on this report is indicating they had talked to a
17 third party provider.

11:12 18 Q. MR. McDONELL: In at least one of the reports
19 it reflects customers who went to other software
20 vendors such as Microsoft. Are you familiar with
21 that?

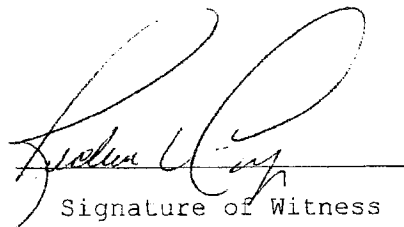
22 A. I am.

23 Q. And what would be the circumstance there?

11:12 24 MS. HOUSE: Objection, calls for speculation,
25 vague and overbroad. You can answer.

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Signature of Witness

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DATED: October 2nd, 2008

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

UNITED STATES DISTRICT COURT
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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

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1 a customer. So I'm sure there could be, yeah.

2 Q. MR. McDONELL: So the spreadsheet you've
3 described, how much detail is on there? Does it have
10:41 4 like a narrative that explains what the
5 communications have been with the customers?

6 A. It depends on the feedback the rep is given.
7 In some situations it will -- it could be very
8 detailed. In others it's -- could be simply, you

10:41 9 know, talked to the customer and there is some
10 interest or, you know, talked to the customer and we
11 need to get back with them in the next three months.

12 Q. Is there some kind of standard recordkeeping
13 that the reps are supposed to do in terms of their
10:41 14 communications with customers?

15 A. With customers just in general?

16 Q. Yeah.

17 A. Any customer?

18 Q. Uh-huh. Yes.

10:41 19 A. They keep notes on their renewals in OKS.

20 Q. Beyond that, is there any kind of
21 recordkeeping that the reps are supposed to maintain
22 about their communications with customers?

23 A. That's the official process is to keep them
10:42 24 in OKS.

25 Q. Do you have access to that OKS data?

1 A. I do.

2 Q. So give me an example. If you wanted to find
3 out -- you're very interested in the status of
10:42 4 Oracle's discussions with Waste Management and you
5 wanted to be fully apprised on where things stood in
6 terms of whether Waste Management was going to come
7 back to Oracle, what sources of information would you
8 look to?

10:42 9 A. I would contact the support sales rep who is
10 responsible for them, and if there is a license rep
11 assigned, I would contact that license rep as well.

12 Q. Okay. And you mean you just have a verbal
13 conversation with them?

10:42 14 A. I would.

15 Q. What if -- what if they were out sick and all
16 you could do is look at written records? What
17 written records would you go to?

18 A. The spreadsheet we discussed.

10:43 19 Q. Anything else?

20 A. No.

21 Q. How about information on the OKS database?

22 A. No.

23 Q. Why not?

10:43 24 A. As I said, the OKS is focused on existing
25 customers, existing renewals.

17:01

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

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.

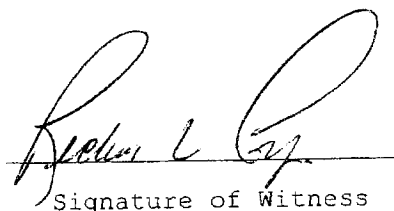
7 --o0o--

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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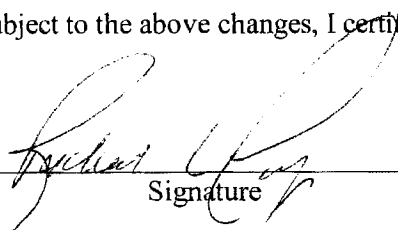
Signature of Witness

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



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 23, 2008

Volume II, Pages 256 - 436

HIGHLY CONFIDENTIAL INFORMATION - ATTORNEYS' EYES ONLY

Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
Job 412497

Merrill Legal Solutions
(800) 869-9132

1 Q. Do you know when that occurred?

10:03 2 A. Beth kept them over the course of time. So
3 she would be the best one to answer when. I can
4 assume, but I don't know for sure.

5 Q. And was it a manual process to take the data
6 from those e-mails and put that into the Access
7 database?

10:03 8 A. Yeah, that's what we discussed last week,
9 too, that it comes in through an e-mail and that's
10 how it gets into the database.

11 Q. So would you agree with me the best record of
12 what the sales rep was saying was the e-mail itself
13 because something could be lost in translation?

10:04 14 MS. HOUSE: Objection, calls for speculation,
15 overbroad.

16 THE WITNESS: The information came in, Beth
17 told me that she cut and pasted it directly from the
18 e-mail into the database.

10:04 19 Q. MR. McDONELL: Okay. What else did you talk
20 to Beth Shippy about?

21 A. We talked about the limitation of what she
22 was given, the information came from customers as
23 best we could get it. Customers were not, you know,
10:04 24 customers give you what they want -- want you to
25 have. So there's certainly limitations with that.

1 Sales reps reported this as part of their
2 overall job. It wasn't that there was a task force
3 or anything that -- that solely did that. So as a
10:04 4 sales rep I would have, you know, typically a sales
5 rep has several hundred renewals over the course of
6 the year. So this is part of what they did in the
7 course of their normal job. So information was only
8 as good as what they gave her.

10:05 9 Q. Are you trying to tell us that they didn't
10 necessarily always give the information?

11 A. No, I'm not saying that. I said they gave
12 the information, but, you know, this isn't -- they
13 didn't spend every day going back to this subset of
10:05 14 customers or anything as part of their -- part of
15 their daily job.

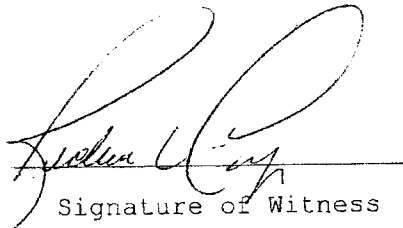
16 Q. Okay. Then what's the next point under the
17 limitations you discussed with Beth?

18 A. I was -- I was primarily responsible for
10:05 19 North America, and I'm not certain that the
20 information we got from non-U.S. based sales reps
21 captured everything that was out there. So we asked
22 for information, but, you know, it's only as good as
23 what we got back.

10:05 24 Q. But you did ask for information from sales
25 reps globally, true?

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I declare under penalty of perjury that
the foregoing is true and correct. Subscribed at
Denver, ^{Colorado} ~~California~~, this 15th day of
October, 2008.


Signature of Witness

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CERTIFICATE OF REPORTER

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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, 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: ELIZABETH ANN SHIPPY

Thursday, September 25, 2008

HIGHLY CONFIDENTIAL INFORMATION - ATTORNEYS' EYES ONLY

Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
Job 413273

1 report."

2 Do you see that?

11:29 3 A. I do.

4 Q. What is the separate report that is referred
5 to there?

6 A. So going back to our Exhibit 79, page 3,
7 which is the portal, you will see a cancellations
11:29 8 report on there.

9 Q. Okay.

10 A. So Oracle, long before we were ever doing an
11 at risk report, always tracks their cancellations.

12 And so the at risk report was to really focus on

11:29 13 accounts that were being looked at at going to
14 TomorrowNow.

15 Q. Okay. And are those two the only
16 cancellation reports that exist? There's the one
17 that was always there and then there's the at risk;
11:30 18 is that correct?

19 MS. HOUSE: Calls for speculation.

20 THE WITNESS: Yeah, I don't know if there's
21 others, but these -- I'm definitely aware of these
22 two.

11:30 23 Q. MS. WALLACE: Okay. So those are the only
24 two that you're aware of?

25 A. Correct.

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CERTIFICATE OF REPORTER

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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, 2008

Wendy E Arlen

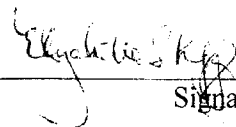
WENDY E. ARLEN CSR, No. 4355

Errata Sheet

Deposition of Elizabeth Shippy, September 25, 2008

<u>Page</u>	<u>Line</u>	<u>Change</u>	<u>Reason</u>
30	20	Change "Oracle contracts for service" to "Oracle Contract System"	Correction
31	11-12	Change "Oracle contracts for service" to "Oracle Contract System"	Correction

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



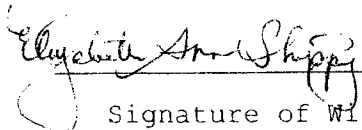
Signature

10/23/08

date

1 (Whereupon, the deposition was adjourned at
2 11:50 a.m.)

3
4 I declare under penalty of perjury that
5 the foregoing is true and correct. Subscribed at
6 _____, California, this ____ day of
7 _____, 2008.

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10  _____
11 Signature of Witness

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