

RICHARD CUMMINS September 23, 2008
HIGHLY CONFIDENTIAL INFORMATION - ATTORNEYS' EYES ONLY

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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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.

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

Designee: RICHARD CUMMINS

Tuesday, September 23, 2008

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Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
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1 Q. Do you know when that occurred?
2 A. Beth kept them over the course of time. So
3 she would be the best one to answer when. I can
10:03 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.

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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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1 A. We did. The next bullet point here was that
2 we confirmed the negotiated amount should be ATR for
3 all geographies, which we mentioned earlier in this
10:06 4 conversation. There was a question last --
5 Q. Let me stop there.
6 A. Sure.
7 Q. I must have misunderstood you. I thought you
8 said ATR was available to renew.
10:06 9 A. Yes.
10 Q. And that was not the negotiated amount.
11 A. It's not.
12 Q. Okay. So this says: "Negotiated amount
13 should be ATR for all geographies." What does that
14 mean?
15 A. On that exhibit --
16 MS. HOUSE: 55.
17 THE WITNESS: At the top of the first page.
18 Q. MR. McDONELL: Let's take a look at the
19 Exhibit 55. You're referring to the page in the
20 lower right-hand that says --
21 A. Worldwide 1.
22 Q. And let me remind you that we can't talk over
23 each other. Okay? Page Worldwide 1.
10:06 24 A. At the top of that page it says Americas and
25 then it has ATR. If you look at geographies, it says

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1 negotiated amount.
2 Q. Yes.
3 A. That should be ATR for all of those.
10:07 4 Q. I see. So those are not negotiated amounts.
5 Those are actually the available to renew amounts.
6 A. That's correct.
7 Q. That's a typo where it says negotiated amount
8 in those three columns?
10:07 9 A. Yes.
10 Q. Thank you. Then referring back to
11 Exhibit 56, what's the next bullet point mean, the
12 one that reads: "Timing of at risk going to OKS was
13 actually February 2008. Date on document was
14 incorrect."
15 A. When we discussed that document -- and do I
16 need to indicate what that exhibit is? Exhibit 30.
17 Q. Yes.
18 A. When I looked at this document, the timing on
19 it didn't make sense to me. As we discussed -- as I
20 discussed with Beth, Beth indicated that this
21 actually moved to OKS in February 2008 and not 2007
22 as the document reads here. So that's -- that's why
23 it didn't make sense to me last week.
10:07 24 Q. So it actually was 2008.
25 A. Yes. The process began much earlier, but it

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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 2nd, 2008

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