

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

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OAKLAND, CALIFORNIA
WEDNESDAY, SEPTEMBER 30, 2010

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

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REPORTED BY:

RAYNEE H. MERCADO, CSR NO. 8258

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1 WITH YOU THAT IT SEEMS TO ME TO BE ENTIRELY UNFAIR TO ALLOW THE
2 EXPERT TO OPINE ON THE SUBJECT WHO'S RELIED UPON THIS
3 INFORMATION WITHOUT BEING ABLE TO CROSS-EXAMINE HIM ON IT. I'M
4 NOT EXACTLY SURE, THOUGH, THAT THAT'S A BASIS FOR PERMITTING THE
5 EVIDENCE IN.

6 I'LL GIVE SOME FURTHER THOUGHT TO THAT WHOLE
7 STATE-OF-MIND ISSUE. I TEND TO THINK THAT TRUTH OF THE MATTER
8 STATE OF MIND IS -- TENDS TO MELD IN THESE CIRCUMSTANCES. WELL,
9 THERE VERY WELL MIGHT, HOWEVER, BE A BASIS UNDER THE RESIDUAL
10 EXCEPTION PERHAPS GIVEN HOW MUCH RELIANCE THERE IS ON THE REPORT
11 AND EVERYTHING CONTAINED THEREIN. THAT MIGHT BE A BASIS FOR
12 ALLOWING IT IN.

13 I'LL LET YOU KNOW. IT WILL BE INCLUDED -- MY RULING
14 WILL BE IN THE PRETRIAL ORDER.

15 **MR. McDONELL:** SUBMITTED, YOUR HONOR. THANK YOU.

16 **THE COURT:** OKAY. ALL RIGHT. THE NEXT ONE, NO. 4,
17 IS THE MOTION TO EXCLUDE EVIDENCE REGARDING SETTLEMENT
18 DISCUSSIONS. THAT WAS EITHER -- THAT'S MOOTED OR WITHDRAWN.

19 **MR. HOWARD:** YES. YES, YOUR HONOR.

20 **MR. LANIER:** YES, YOUR HONOR.

21 **THE COURT:** IT'S MOOTED?

22 **MR. HOWARD:** IT'S MOOTED.

23 **THE COURT:** OKAY.

24 THE FIFTH ONE IS THE MOTION TO EXCLUDE EVIDENCE OF
25 THE LICENSE DEFENSE. THAT'S WITHDRAWN?

