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17 TOMORROWNOW, INC.

18   UNITED STATES DISTRICT COURT

19   NORTHERN DISTRICT OF CALIFORNIA

20   SAN FRANCISCO DIVISION

21 ORACLE CORPORATION, et al.,   Case No. 07-CV-1658 PJH

22   Plaintiffs,   **DEFENDANT TOMORROWNOW,
                                         INC.'S FIRST AMENDED AND
23   v.   SUPPLEMENTAL RESPONSE TO
                                         PLAINTIFF ORACLE USA, INC.'S
24 SAP AG, et al.,   SECOND SET OF
                                         INTERROGATORIES**
25   Defendants.

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8 **INTERROGATORY NO. 12:**

9   For each Customer for whom SAP TN has created one or more local PeopleSoft

10 environments on SAP TN's systems from copies of that Customer's PeopleSoft software, as

11 testified by Shelley Nelson (Shelley Nelson Dep. at 13:24-17:11 (Oct. 30, 2007)), Identify the

12 Customer, Identify each product name and release copied to create the local environment, and

13 state the total number of local environments created for the customer.

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

15   THIS RESPONSE IS DESIGNATED AS HIGHLY CONFIDENTIAL.

16   TomorrowNow objects that this interrogatory is compound, unduly burdensome and

17 oppressive to the extent that it seeks a narrative answer with respect to Peoplesoft environments

18 and each product name and release copied to each such environment. Subject to and without

19 waiving the foregoing objections and the General Responses and Objections, TomorrowNow

20 responds as follows: TomorrowNow has maintained approximately 183 Peoplesoft environments

21 on behalf of approximately 122 different customers, which have variously included one or more

22 of the CRM, EPM, FDM, SA, Portal, and HRMS products, with varying releases of each

23 (including CRM - releases 8.4, 8.8 SP1, and 8.9; EPM- release 8.9; FDM - releases 7.52, 7.53, 8

24 SP3, 8.4, 8.4 SP1, 8.4 SP2, 8.8 SP1, and 8.9; SA – releases 7.6 and 8 SP1; Portal – releases 8.4

25 and 9.9; and HRMS - releases 7.02, 7.50, 7.51, 8, 8 SP1, 8.3, 8.3 SP1, 8.8 SP1, and 8.9).

26 Additional information responsive to this interrogatory as to specific customers may be derived or

27 ascertained from TomorrowNow's business records, including specifically TomorrowNow's E

28 Portal .nsf file, produced at TN-OR 00169313, information contained at TN-OR 00169315,

1   TomorrowNow's emails among development and support engineers and its databases of customer

2   service information, including its SAS databases (which have been previously produced, in native

3   format, at TN-OR 00009569), which have been or will be included in TomorrowNow's

4   production of documents and on which TomorrowNow relies to further respond to this

5   interrogatory pursuant to Rule 33(d).

6   **<u>AMENDED AND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12</u>:**

7   TomorrowNow amends the confidentiality designation of its prior response to be

8   designated as Confidential Information.

9   THIS RESPONSE IS DESIGNATED AS CONFIDENTIAL.

10   TomorrowNow further responds that an Excel workbook that has been produced at

11   TN-OR06515456 that contains the most detailed information TomorrowNow has been able to

12   gather regarding the PeopleSoft environment components that might have existed on

13   TomorrowNow's network. Additional information responsive to this interrogatory may be

14   derived or ascertained from TomorrowNow's business records of local PeopleSoft environments

15   and their locations, including specifically TomorrowNow's BakTrack database, produced at TN-

16   OR 06125330, TomorrowNow's SAS database, produced at TN-OR 03775478, TN(Hard

17   drive).67, TN-OR 04446717, TN(Disc).173, TN-OR 04446719, TN(Hard drive).75,

18   TomorrowNow's SAS environment portals, produced at TN-OR 00169313, TN-OR 00871902,

19   TN-OR 03775478, and TN-OR04446719, TomorrowNow's Path Finder database, produced at

20   TN-OR 04498712, and TomorrowNow's DotProject database, produced at TN-OR06220764,

21   TN(Disc).214, as well as through the servers that have been made available in the "Data

22   Warehouse," all which have been included in TomorrowNow's production of documents or

23   otherwise made available to Plaintiffs and on which TomorrowNow relies to further respond to

24   this interrogatory pursuant to Rule 33(d).

25   Further, in response to these noticed topics and during the course of individual depositions

26   of TomorrowNow witnesses, TomorrowNow has provided more than sufficient testimony on the

27   local PeopleSoft environments. *See, e.g.,* February 6-7, 2008 Deposition of John Baugh Pursuant

28   to Rule 30(b)(6); June 25, 2008 Deposition of Rod Russell Pursuant to Rule 30(b)(6); April 1,

1   2008 Deposition of Kathy Williams Pursuant to Rule 30(b)(6); April 1, 2008 Deposition of

2   Catherine Hyde Pursuant to Rule 30(b)(6); December 5, 2008 Deposition of Matthew Bowden;

3   February 12, 2009 Deposition of Catherine Hyde; May 12, 2009 Deposition of Catherine Hyde;

4   February 5, 2009 Deposition of Rod Russell; April 18, 2008 Deposition of Shelley Nelson.

5   Pursuant to Rule 33(d), TomorrowNow relies on this testimony to further respond to this

6   interrogatory.

7   **INTERROGATORY NO. 13:**

8   For each Customer for whom SAP TN has created one or more local J.D. Edwards

9   environments on SAP TN's systems from copies of that Customer's J.D. Edwards software, as

10 testified by Mark Kreutz (Mark Kreutz Dep. at 90:14-94:12-18 (Oct. 30, 2007)), Identify the

11 Customer, Identify each product name and release copied to create the local environment, and

12 state the total number of local environments created for that customer.

13 **RESPONSE TO INTERROGATORY NO. 13:**

14   THIS RESPONSE IS DESIGNATED AS HIGHLY CONFIDENTIAL.

15   TomorrowNow objects that this interrogatory is compound, unduly burdensome and

16 oppressive to the extent that it seeks a narrative answer with respect to JDE environments and

17 each product name and release copied to each such environment. Subject to and without waiving

18 the foregoing objections and the General Responses and Objections, TomorrowNow responds as

19 follows: TomorrowNow has maintained JDE environments on behalf of three different customers:

20 Koontz-Wagner Electric, Inc., The Bonne Bell Company, Inc., and Praxair, Inc. For Koontz-

21 Wagner, there are nine environments, which include products Distribution, Financials, HRMS,

22 and Manufacturing, release A7.3, Cumulative Update 7. For Bonne Bell, there are three

23 environments, which include products Distribution, Financials, HRMS, and Manufacturing,

24 release A8.1, Cumulative Update 6. For Praxair, there are twelve environments, which include

25 products Distribution, Financials, HRMS, and Manufacturing, release Xe SP23G1. Additional

26 Information responsive to this interrogatory as to specific customers may be derived or

27 ascertained from TomorrowNow's business records, including TomorrowNow's emails among

28 development and support engineers and its databases of customer service information, including

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1   its SAS databases (which have been previously produced, in native format, at TN-OR 00009569),

2   which have been or will be included in TomorrowNow's production of documents and on which

3   TomorrowNow relies to further respond to this interrogatory pursuant to Rule 33(d).

4   **AMENDED AND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 13:**

5   TomorrowNow amends the confidentiality designation of its prior response to be

6   designated as Confidential.

7   THIS RESPONSE IS DESIGNATED AS CONFIDENTIAL.

8   TomorrowNow further responds that Plaintiffs have questioned TomorrowNow's

9   witnesses extensively in deposition on topics related to this interrogatory. For example, Plaintiffs

10 requested deposition testimony on TomorrowNow's "creation and use of Customer Local

11 Environments, including without limitation: b. The manner and method by which Customer Local

12 Environments were created, stored and Used by You; . . . d. The total number of Customer Local

13 Environments created for each identified customer; e. The name, release, and version of all PSFT

14 or JDE branded Software obtained and/or copied to create each identified Customer Local

15 Environment; f. The identity and description of all Customer Local Environments maintained in

16 any way by You relating to Customers for whom You had ceased to provide support services; g.

17 The identity and description of all Customer Local Environments Used by You in any way to

18 support any Customer other than the one that provided the Software used to create the Customer

19 Local Environment; . . . [and] l. The process by which Customer Local Environments were Used

20 as part of the ordinary course of business for SAP TN, including without limitation to on-

21 boarding of new Customers; support of Customer cases, issues, and problems; reactive and

22 proactive development of bug fixes, updates, patches, explanations, or regulatory changes for

23 Customers; and testing of other operating systems levels. . . ." *See* January 22, 2008 Amended

24 Notice of Deposition of TomorrowNow, Inc. Pursuant to Fed. R. Civ. P. 30(b)(6).

25   In response to these noticed topics and during the course of individual depositions of

26 TomorrowNow witnesses, TomorrowNow has provided more than sufficient testimony on the

27 creation and use of TomorrowNow's local JDE environments. *See, e.g.,* February 19, 2008

28 Deposition of Mark Kreutz Pursuant to Rule 30(b)(6); April 10, 2009 Deposition of Patti

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1 VonFeldt. *See also* Future Deposition of Keith Shankle. In addition, TomorrowNow has made

2 the relevant server partitions available through "Data Warehouse."   Pursuant to Rule 33(d),

3 TomorrowNow relies upon all testimony and each document cited in this Supplemental Response

4 to further respond to this interrogatory.

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