

CATHERINE LEE HYDE April 2, 2008

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE CORPORATION, ET AL, *
Plaintiffs, *
VS. * CASE NO. 07-CV-01658 (MJJ)
SAP AG, ET AL, *
Defendants. *

HIGHLY CONFIDENTIAL
ORAL AND VIDEOTAPED 30 (b) (6)
DEPOSITION OF
CATHERINE LEE HYDE
VOLUME 2
APRIL 2, 2008

REPORTED BY:
CAROL JENKINS, CSR, RPR, CRR
CERTIFICATE NO. 2660

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08:18:05

25

Q. Now, back to the D810DATM environment, was that

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08:18:19 1 environment created before TomorrowNow had any 810

08:18:27 2 clients?

08:18:29 3 A. I'd have to look back at Backtrack and then

08:18:33 4 look in SAS and determine that.

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09:41:50 19 Q. And is the one below that, HPA, a
09:41:58 20 customer-specific environment?
09:42:00 21 A. I think it might have been for a particular
09:42:03 22 project. I couldn't find anything on it, but I was
09:42:06 23 thinking it was a HIPAA project.
09:42:08 24 Q. A which project?
09:42:10 25 A. HIPAA.

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09:42:11 1 Q. Could you explain what you mean?

09:42:13 2 A. HIPAA. It would have been some kind of
09:42:16 3 regulatory thing for our extended support clients.

09:42:20 4 Q. So is HR751HPA an environment created to re --
09:42:25 5 research HIPAA issues that could then be used to provide
09:42:31 6 better support to HR751 clients?

09:42:34 7 MR. McDONELL: Vague and ambiguous,
09:42:35 8 compound.

09:42:36 9 A. Not research. I believe we had hired a
09:42:40 10 contractor to develop something for whatever. This is
09:42:45 11 just all from memory because I couldn't find any
09:42:48 12 supporting documentation, but that's what I believe it
09:42:50 13 was.

09:42:50 14 Q. (By Mr. Howard) So you hired a contractor to
09:42:53 15 develop what related to HIPAA for 751 clients?

09:43:01 16 A. It would have been to modify or create new
09:43:04 17 objects to meet the criteria set by whoever puts out
09:43:13 18 HIPAA. I can't really --

09:43:15 19 Q. Which client's software was used to create
09:43:19 20 HR751HPA?

09:43:20 21 A. If it's what I think it is, it would have been
09:43:23 22 from the original one, which would be Washington Gas
09:43:28 23 Light or Safeway.

09:43:31 24 Q. Was there HIPAA-related objects developed for
09:43:39 25 use in supporting HR751 customers?

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09:43:43 1 MR. McDONELL: Vague and ambiguous.
09:43:44 2 A. I'd have to look back into SAS and see what was
09:43:47 3 delivered.

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14:52:56 15 Q. (By Mr. Howard) So which environments were
14:53:03 16 used to create the 8399 retrofit fix?

14:53:12 17 A. 05C, like HR81005C. I'm not sure why it's
14:53:20 18 compared to 751, but I'm 99.9 percent sure we didn't
14:53:26 19 deliver it to anybody in 751.

14:53:29 20 Q. And in addition to the HR810C environment, what
14:53:36 21 other environments were used to create this fix?

14:53:38 22 A. HR702CSS.

14:53:41 23 Q. Any others?

14:53:42 24 A. No.

14:53:44 25 Q. Well, it looks like HR751CSS was used?

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14:53:54 1 A. I don't believe so. They're comparing it here,
14:54:03 2 but I don't know why.

14:54:04 3 Q. That's what I meant, that the HR751CSS
14:54:08 4 environment was used for comparison purposes?

14:54:09 5 A. They were probably looking to see if it needed
14:54:13 6 to be done to the 751 extended support clients, also.

14:54:17 7 Q. And you believe that, when that comparison was
14:54:20 8 done using the HR751CSS environment, the determination
14:54:24 9 was made that this retrofit did not need to be delivered
14:54:27 10 to those clients?

14:54:29 11 A. The original reason that it was for 702 only is
14:54:35 12 because we couldn't get the original version to work in
14:54:38 13 702. So it's on its wheels for a while, and even though
14:54:44 14 it's a retrofit, it's not really. It's one of those
14:54:48 15 ones where you have to really work hard to get it to be
14:54:50 16 what the client wants.

14:54:52 17 Q. So is that a "yes," the determination was made
14:54:57 18 after using the HR751CSS environment to compare that it
14:55:02 19 did not need to be delivered to the HR751 clients?

14:55:09 20 MR. McDONELL: Vague and ambiguous.

14:55:09 21 A. I'm not sure that development even looked at
14:55:12 22 751 other than this screen shot, which I'm not sure who
14:55:14 23 did this.

14:55:15 24 Q. (By Mr. Howard) Well, let me -- maybe I can
14:55:16 25 refresh you. Let's look at the 11th page of

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14:55:33 1 Exhibit 103.

14:56:14 2 Does reviewing the notes on this page

14:56:15 3 refresh your recollection as to whether the 3899 -- 8399

14:56:26 4 fix was retrofitted for the 751 clients?

14:56:29 5 A. It looks like Sid did it, but I'm not sure that

14:56:32 6 we ever delivered it.

14:56:34 7 Q. So it was -- the fix was retrofitted for the

14:56:38 8 751 clients and tested, but you don't think it was ever

14:56:41 9 delivered to any customers?

14:56:43 10 A. I don't think so.

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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.)	CASE NO. 07-CV-01658 (MJJ)
)	
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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ORAL VIDEOTAPED DEPOSITION
30(B)(6) TOMORROWNOW, INC.
LARRY GARCIA
JUNE 25, 2008

ORAL VIDEOTAPED DEPOSITION OF LARRY GARCIA, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above-styled and numbered cause on the 25th day of June, 2008, from 2:50 P.m. to 3:37 p.m., before Dana Richardson, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of Jones Day, 717 Texas, Suite 3300, Houston, Texas 77002, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

Job No. 1603-87429

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LARRY GARCIA June 25, 2008
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15:01:58 5 Q. (By Mr. Howard) All right. On Exhibit 302, there
15:02:13 6 was a note that we talked about earlier for the 8.81 release,
15:02:18 7 which is the release that Waste Management was on, and -- and
15:02:23 8 that testing wasn't going to be done in that release per an
15:02:28 9 instruction from you.
15:02:28 10 A. Yes, that's correct.

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15:15:09 17 Q. All right. So, Exhibit 287 is the -- is the master
15:15:12 18 fix view for the 6621 fix, right?
15:15:16 19 A. Yes.
15:15:16 20 Q. And it has a test plan as part of it, right?
15:15:18 21 A. Yes.
15:15:21 22 Q. And in that test plan, there are environments
15:15:24 23 identified as the environments to use for testing in that
15:15:28 24 particular release?
15:15:31 25 A. Yes.

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15:15:34 1 Q. And here for the 8.81 release, which is the one Waste
15:15:36 2 Management was on, that environment is the CCO environment?
15:15:42 3 A. Yes.

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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.)	CASE NO. 07-CV-01658 (MJJ)
)	
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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ORAL VIDEOTAPED DEPOSITION
30(B)(6) TOMORROWNOW, INC.
RODERIC RUSSELL
JUNE 25, 2008

ORAL VIDEOTAPED DEPOSITION OF RODERIC RUSSELL, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above-styled and numbered cause on the 25th day of June, 2008, from 8:42 a.m. to 2:40 p.m., before Dana Richardson, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of Jones Day, 717 Texas, Suite 3300, Houston, Texas 77002, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

Job No. 1603-87429

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09:25:18 19 Q. What did the developer do in order to develop the DAT
09:25:25 20 file and DMS file for the 8.8 SP1 clients?
09:25:35 21 A. In speaking with -- or actually, I was not able to
09:25:37 22 speak with the developer for this particular fix because he's
09:25:42 23 no longer employed with TomorrowNow. In reviewing the fix
09:25:51 24 itself, what they did was they entered into an 8.8
09:25:56 25 environment, H881BKBM, and they entered the data changes for

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09:26:08 1 this particular requirement for this Kentucky locality and
09:26:15 2 then they extracted the change that they made out of that
09:26:20 3 environment into what's called the DAT file.

09:26:32 4 Q. And I saw you refer back, I think, to Exhibit 287 to
09:26:36 5 remember the name of the environment that was initially used
09:26:39 6 for the development of the DAT file for the 8.81 clients.

09:26:46 7 A. Yes.

09:26:47 8 Q. Were you referring to the environments that are
09:26:49 9 listed on page 3 of Exhibit 287 immediately below this list of
09:26:56 10 releases and -- and -- and filenames under the "Development"
09:26:59 11 heading?

09:27:00 12 A. Yes, I did.

09:27:03 13 Q. And was Hadi Arakib the developer, to your
09:27:08 14 understanding, who developed these objects for this 6621 fix?

09:27:14 15 A. As I understand it from what's represented here, yes.

09:27:17 16 Q. And, so, looking at this list of environments on
09:27:20 17 page 3 of Exhibit 287, is it correct that that would then be
09:27:24 18 the list of environments that were initially used for each
09:27:27 19 release to develop these DAT files and DMS files?

09:27:31 20 A. It appears for this particular fix, that's what he
09:27:34 21 did.

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09:53:51 25 Q. (By Mr. Howard) Mr. Russell, do you recognize what's

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09:53:53 1 been marked as Exhibit 290?

09:53:56 2 A. Yes.

09:53:57 3 Q. What is it?

09:53:57 4 A. It is evidence of a unit test.

09:54:02 5 Q. And is this the -- this, then, is the document which

09:54:07 6 appears to be attached to the master fix view, which is

09:54:12 7 Exhibit 287, on page 3 of that document?

09:54:26 8 A. Yes, it does.

09:54:43 9 Q. And what does this document, then, show, referring

09:54:51 10 now to Exhibit 290?

09:54:53 11 A. On 290. Again, it shows evidence that a unit test

09:54:57 12 was performed by Hadi.

09:55:01 13 Q. Is this a standard form of -- of record for the

09:55:04 14 completion of unit testing for a data file?

09:55:09 15 MR. FUCHS: Objection, form.

09:55:10 16 A. At this particular time, this form was common for a

09:55:15 17 unit test.

09:55:18 18 Q. (By Mr. Howard) And, so, this -- this, then,

09:55:20 19 reflects -- is a -- is a further record of the environments

09:55:32 20 that were used for development of the data file for this 6621

09:55:36 21 fix?

09:55:41 22 A. He does specify here which environments that he was

09:55:43 23 using, yes.

09:55:44 24 Q. And then for each of those environments, for each

09:55:48 25 release, he then has a row reflecting the application of the

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09:55:55 1 DMS script in that environment to the new -- newly developed
09:56:01 2 data file?
09:56:06 3 A. Could you say that one more time?
09:56:07 4 Q. Yeah. Well, let me just ask you: What, then,
09:56:09 5 does -- under the "Test Plan" row, there's a series of rows
09:56:14 6 relating to each of these releases in which the development
09:56:17 7 was done; is that right?
09:56:19 8 A. That's correct.
09:56:19 9 Q. And in looking at the -- the -- on page 3, the
09:56:25 10 H881BKBM row, what does that show us where it says "Apply the
09:56:33 11 DMS scripts"?
09:56:33 12 A. That basically is indicating that he logged into the
09:56:36 13 BKBM environment and executed the DMS script that he had
09:56:43 14 created and that it completed successfully.
09:56:46 15 Q. All right. And is it at that point, then, that
09:56:49 16 the -- the newly developed data file which is still in the
09:56:55 17 development and staging path is turned over to the testing
09:56:59 18 team?
09:56:59 19 A. Yes.

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10:32:51 19 Let's look at page 6, page 6 of Exhibit 293.

10:32:59 20 And there's a heading here, again, "Development." Do you see

10:33:02 21 that?

10:33:06 22 A. Yes.

10:33:07 23 Q. And then there's a series of notes that appear to be

10:33:10 24 from Mr. Frank?

10:33:12 25 A. Yes.

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10:33:12 1 Q. And are these his unit testing notes?

10:33:14 2 A. Yes.

10:33:15 3 Q. All right. And is it fair to assume, then, that one
10:33:22 4 of the environments that he identifies here was the one that
10:33:26 5 he initially developed the tax810ks.sqr fix?

10:33:34 6 MR. FUCHS: Objection, form.

10:33:35 7 A. We could assume that based upon a unit test. And in
10:33:39 8 asking him that question, he believed that would be a safe
10:33:42 9 assumption as well.

10:33:43 10 Q. (By Mr. Howard) But among these environments, he
10:33:45 11 can't say which one was the very first?

10:33:49 12 A. Oh, no.

10:33:54 13 Q. All right. Now, it is true, isn't it, that, at least
10:34:12 14 according to his notes, the very first unit test is done in
10:34:16 15 the 7.02 environment?

10:34:23 16 MR. FUCHS: Objection, form.

10:34:24 17 A. It would be judging by the date/time stamp of where
10:34:27 18 he successfully tested it. That doesn't necessarily mean
10:34:31 19 that that was the first environment that he developed at. But
10:34:36 20 it does seem to indicate that's the first environment that he
10:34:39 21 successfully tested at.

10:34:41 22 Q. (By Mr. Howard) All right. And in looking at the
10:34:42 23 8.81 release, which is the one that Waste Management is on,
10:34:46 24 right --

10:34:47 25 A. Correct.

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10:34:47 1 Q. -- which environment did he unit-test for that
10:34:50 2 release?
10:34:51 3 A. The H881OXM environment.
10:34:56 4 Q. Okay. And that's a client-specific environment; is
10:34:58 5 that correct?
10:34:59 6 A. Yes, it was.
10:35:00 7 Q. Do you know which client?
10:35:01 8 A. Oxford.
10:35:04 9 Q. Oxford?
10:35:05 10 A. International.
10:35:11 11 Q. And there appears only to be unit testing done in one
10:35:14 12 8.81 release; is that right?
10:35:17 13 A. That appears to be the case.

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11:36:23 18 Q. (By Mr. Howard) Mr. Russell, do you recognize
11:36:24 19 Exhibit 299 as the unit test document for the 2594 fix?
11:36:30 20 A. Yes, I do.
11:36:37 21 Q. Does this document tell you which environment was
11:36:42 22 used to develop the 8.81 Source 1 2594 fix?
11:36:51 23 A. At -- on page 30, it does.
11:37:00 24 Q. Is that the CCO environment?
11:37:02 25 A. Yes.

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11:37:03 1 Q. Do you know which client that is?
11:37:07 2 A. CompuCom.

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13:08:39 1 Q. (By Mr. Howard) All right. So, does Exhibit 300,
13:08:42 2 then, appear to you to be the expanded set of information
13:08:46 3 that's partially depicted on page 6 of Exhibit 297 under the
13:08:50 4 heading "Test Plan"?
13:08:52 5 A. Yes, it does.
13:08:53 6 Q. All right. And for the 8.81 Source 1 group that was
13:09:01 7 the -- the group that Waste Management was in, which
13:09:05 8 environment was used as the testing environment?
13:09:09 9 A. H881COHM.
13:09:14 10 Q. That's a client-specific environment?
13:09:16 11 A. Yes, it is.
13:09:17 12 Q. Which client's software is that?
13:09:19 13 A. City of Huntsville.
13:09:20 14 Q. City of Huntsville.
13:09:23 15 So, that's a different environment, then, that
13:09:28 16 was used to develop the 2594 fix for the 8.81 Source 1 group
13:09:33 17 in the first place?
13:09:35 18 A. Yes, that is correct.