

EXHIBIT U

JONES DAY

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July 23, 2009

VIA E-MAIL

Holly A. House, Esq.
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Re: Case No. 07-CV-1658; *Oracle USA, Inc., et al. v. SAP AG, et al.*;
U. S. District Court, Northern District of California, San Francisco Division

Dear Holly:

This responds to your July 22, 2009 letter concerning damages discovery and our pending motion to compel.

We continue to disagree with your assertions that we have only recently begun to seek the information that is subject of our motion to compel. You have not and cannot dispute that all of the information we seek is responsive to, among other requests, the document requests we served on July 26, 2007. The fact that Oracle for many months denied the existence of much of this information and forced Defendants to ferret it out and demand it in ever more specific follow up requests is no excuse for not having produced it long ago.

General Ledger Information

We continue to be frustrated by Plaintiffs' shifting positions with respect to discovery of general ledger information. As of May 11, Plaintiffs agreed to work with us informally to identify general ledger accounts. Yet on July 9, you withdrew that offer. As of May 26, 2009, Plaintiffs refused to produce a corporate designee to testify about Oracle's charts of accounts.¹ Now in your letter of yesterday, you reverse your positions again and offer to produce a Rule 30(b)(6) witness and to engage in informal discussions with us. You asked us to limit the request to the three Plaintiff entities, and when we did so in our motion you now argue that that request is "broader and more burdensome" than the original request. We are concerned that without some clear directive from the Court, this chase will go on indefinitely.

Nevertheless, we are encouraged that you have again agreed to work with us informally. As we have made clear, the objective of this discovery is to obtain the financial information that will allow Defendants to assess the Plaintiffs' claims of lost profits from alleged lost sales to the

¹ See Plaintiffs' Responses and Objections to Defendants' Third Notice of Deposition of Plaintiff Oracle USA, Inc. Pursuant to Fed. R. Civ. Proc. 30(b)(6), p. 5.

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former TomorrowNow customers. Oracle knows what records it has that bear on a determination of those lost profits and should simply tell us. Please let us know when you are available to meet and confer by phone.

Product Profitability Reports and Underlying Source Documents

I do not accept your explanation for not having produced these documents previously. Your assertion that you did not do so because you limited your production to custodian based documents is unpersuasive. Indeed, you have asserted that your initial document collections (prior to the advent of the Targeted Search process) in response to our documents requests included non-custodial searches of "Financial reports generally."² It is true that we have asked for the same types of information over and over again, including in our Third Targeted Search Request. But this information should have been produced long before then.

In your July 10 letter, you state that you have been searching for this information in response to our Third Targeted Search Request, which was served on May 20, 2009. Yet you have indicated that you will not produce the documents until mid-August. Plaintiffs appear to have unlimited time to pursue offensive discovery against Defendants, but it takes months to produce documents to Defendants. Again, depending on if and when you produce the documents there may be an opportunity for us to notify the Court in advance of the hearing that this issue is resolved.

Plaintiff Specific Financial Statements

Thank you for confirming that Plaintiffs do in fact have "Detailed Income Statement Reports" and that they will be produced.

Now that you have confirmed the existence of such reports, can you confirm whether Plaintiffs have detailed balance sheets and, if so, are Plaintiffs willing to produce them? Also, do such detailed income statements and balance sheets exist for the other Oracle entities that either contracted directly with the former TomorrowNow customers or who received some portion of the revenues that those entities received from those customers? If so, is Oracle willing to produce those detailed financial statements? We assume that you agree that such additional reports are also germane to the analysis of lost profits and as such are also response to our various requests.

OIC Rule 30(b)(6) Testimony

This issue appears to be joined. We do not agree to limit further questioning to the subjects of Siebel and the inter-company agreements that have been produced since the Kishore deposition. There appears to be a difference of opinion as to whether OIC must produce a witness to testify about the "royalty payments, received by or due to OIC in connection with the

² See Plaintiffs' Responses and Objections to Defendants' "First" Targeted Search Request, p. 2.

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Registered Works” and “[i]dentification of each source of such payments” You have consistently maintained that no such testimony is required from OIC and we disagree.

Interrogatories Nos. 119-121

We would also like to include in our discussions of the foregoing issues your responses to Interrogatories Nos. 119-121. As you can see, we are trying to discover the split of revenues among the various Oracle entities. We would like to discuss with you why you believe that the documents referenced in your responses are adequate.

Again, please let me know if you are available to discuss any of these issues by telephone either tomorrow or as early as possible next week and we will do our best to make additional progress, if possible. Thank you.

Very truly yours,

/s/ Jason McDonell

Jason McDonell

cc: Zachary Alinder
Bree Hann
Donn Pickett
Geoff Howard
Nitin Jindal
Greg Lanier
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