

EXHIBIT B-5

Mark Kreutz

October 29, 2007

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JOB NO. 94795

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

| | | |
|----------------------------|---|----------------------------|
| ORACLE CORPORATION, a |) | Case No. 07-CV-01658 (MJJ) |
| Delaware corporation, |) | |
| ORACLE USA, INC., a |) | |
| Colorado corporation, and |) | |
| ORACLE INTERNATIONAL |) | |
| CORPORATION, a California |) | |
| corporation, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| VS. |) | |
| |) | |
| SAP AG, a German |) | |
| corporation, SAP AMERICA, |) | |
| INC., a Delaware |) | |
| corporation, TOMORROWNOW, |) | |
| INC., a Texas corporation, |) | |
| and DOES 1-50, inclusive, |) | |
| |) | |
| Defendants. |) | |

ORAL AND VIDEOTAPED DEPOSITION OF
TOMORROWNOW BY AND THROUGH MARK KREUTZ
VOLUME
OCTOBER 29, 2007

ORAL AND VIDEOTAPED DEPOSITION OF TOMORROWNOW BY AND THROUGH MARK KREUTZ, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above styled and numbered cause on October 29, 2007, from 3:28 p.m. to 5:32 p.m., before RENE WHITE MOAREFI, CSR, CRR, RPR in and for the State of Texas, reported by machine shorthand, at Jones Day, 717 Texas, Suite 3300 Houston, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record herein.

10 Q. What do you say to the customer in the course
11 of this guidance phone call to guide them to do their
12 own download of Oracle support materials?

13 A. We -- a couple bullet points on this.
14 Primary -- you know, we start with, you know, make sure
15 you have your original media for the items that you're
16 currently running in production. So that could be
17 anything, you know, any release, any software, you know,
18 World, OneWorld, whatever. And that -- so that -- that
19 list in itself can mean your original media, base level
20 software, plus any updates on top of that. So that
21 update list may include, you know, their cumulative
22 update and any patches they've got applied and any
23 third-party products that may be integrating with their
24 production environment. So that one bullet item
25 basically covers those items.

1 And then we -- then we -- you know, given
2 that your maintenance hasn't expired with Oracle,
3 work -- work with Oracle to retrieve and download the
4 items that you're licensed to from Customer Connect. If
5 you have problems with that, you can work with Oracle
6 in -- in resolving it.

7 Q. Do you direct them to Change Assistant as a way
8 of accomplishing these downloads?

9 A. We -- we might discuss Change Assistant, yes.
10 We have -- I have mentioned that on a phone call.

11 Q. Anything else that you've discussed with them
12 in the course of this phone call?

13 A. Yes, in some cases, you know, they -- we give
14 them -- let them know, you know, these are the -- these
15 are the items, the types that you'll want to be
16 interested in --

17 Q. Uh-huh.

18 A. -- the patches. And then we also mention
19 things like PeopleBooks, you know, their -- their user
20 guides. If they don't have original CDs as part of that
21 first bullet item, then, you know, obtain them
22 through -- you know, either by ordering a new set of
23 CDs. And I think -- I think you can download the
24 PeopleBooks also from -- from a customer's Web site.

Mark Kreutz

October 29, 2007

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SIGNATURE PAGE

I, TOMORROWNOW BY AND THROUGH MARK KREUTZ, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted on the correction page.

Mark Kreutz

TOMORROWNOW BY AND THROUGH MARK KREUTZ

THE STATE OF ^{Colorado} TEXAS)
COUNTY OF Arapahoe)

Before me Molly Nichols on this day personally appeared Mark Kreutz known to me [or proved to me on the oath of CO Driver licence or through COM 921264651 (description of identity card or other document)] to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 26th day of November, 2007.

Molly Nichols
NOTARY PUBLIC IN AND FOR
THE STATE OF ~~TEXAS~~
Colorado

My Commission Expires:
7/17/11

