

EXHIBIT 12

SHAI AGASSI January 5, 2009
HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

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.)	No. 07-CV-1658 (PJH)
)	
)	
SAP AG, a German corporation,)	
SAP AMERICA, INC., a Delaware)	
corporation, TOMORROWNOW,)	
INC., a Texas corporation, and)	
DOES 1-50, inclusive,)	
)	
Defendants.)	
)	

VIDEOTAPED DEPOSITION OF
SHAI AGASSI

MONDAY, JANUARY 5, 2009

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

REPORTED BY: HOLLY THUMAN, CSR No. 6834, RMR, CRR
(1-415445)

08:57:03 1

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08:57:09 4

Q. You're also quoted as having said, quote:

08:57:12 5

"I work for an IP company, and we believe

08:57:14 6

in the importance of investors owning the IP

08:57:17 7

they create. At SAP, we believe that without

08:57:19 8

the ability to protect IP, most companies

08:57:23 9

will no longer invest so much of their

08:57:24 10

current revenues in future product

08:57:27 11

innovation."

08:57:28 12

Do you recall saying that?

08:57:28 13

A. Uh-huh.

08:57:29 14

Q. That would be a yes?

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A. Yes.

08:57:31 16

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13:43:18 1

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MR. PICKETT: Q. Now, Mr. Word tells you

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to pay special attention to the last 3 paragraphs.

13:43:33 7

So let me direct your attention to those last three

13:43:37 8

paragraphs.

13:43:38 9

Do you know why he thought those were

13:43:40 10

very -- potentially very important?

13:43:42 11

A. Uh-huh.

13:43:42 12

Q. Why?

13:43:43 13

A. Because it's -- it shows that Oracle is

13:43:46 14

actually assuming that it will keep most of the

13:43:48 15

PeopleSoft customers, and that had they -- that they

13:43:54 16

ran this model on keeping at least 90 percent if not

13:43:58 17

more of the PeopleSoft customers.

13:44:00 18

Q. Did you think that was realistic?

13:44:02 19

A. No.

13:44:02 20

Q. Why not?

13:44:04 21

A. Because I thought we'd be able to offer a

13:44:07 22

better proposition by offering PeopleSoft and

13:44:11 23

J.D. Edwards in particular customers to move over to

13:44:15 24

SAP.

13:44:17 25

Q. By offering them maintenance options?

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13:44:20 1 A. No. By offering them a roadmap for a
13:44:23 2 future product that actually has an investment in
13:44:25 3 it.

13:44:26 4 Q. The beginning of the roadmap was a
13:44:27 5 maintenance offering that --

13:44:29 6 A. You buy into a full roadmap.

13:44:31 7 Q. The beginning of the roadmap was what?

13:44:34 8 A. The beginning of the roadmap is an
13:44:36 9 agreement with SAP to become a customer, that we
13:44:40 10 will take you through a whole set of steps to be a
13:44:44 11 full-fledged SAP customer. That includes a
13:44:48 12 short-term maintenance of your existing software, a
13:44:52 13 conversion of your data, movement into a new
13:44:55 14 technology platform, and eventually a transition to
13:44:59 15 a full-blown SAP software across the board.

13:45:01 16 Q. So was it fair to say that getting the
13:45:03 17 ability to offer that maintenance was a part of the
13:45:06 18 roadmap that you were offering?

13:45:08 19 A. Yes.

13:45:09 20

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Q. And why was the board more interested in numbers of converted customers rather than revenues?

16:49:35 18

16:49:37 19

A. Because it was a better guidance as to whether we are successful in getting the original goal, which was to get customers for SAP.

16:49:40 20

16:49:45 21

16:49:49 22

Q. It was more important to get the customers converted rather than the maintenance revenues?

16:49:51 23

16:49:54 24

A. Yes.

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Q. And did you have any reason to question those projections, either the one presented in the January 7, 2005 business plan or subsequently?

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A. I thought we could -- we could do better.

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16:50:28 17

Q. And better than the original projection, January 7?

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A. And better than the execution.

16:50:31 19

16:50:33 20

Q. Why did you think you could do better than the original projection January 7?

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16:50:39 22

16:50:42 23

A. Because I thought that given the disruption Oracle has put on the market, there will be better acceptance by PeopleSoft's customers.

16:50:44 24

16:50:50 25

Q. Did you have any assessment of how many of the 12,000 PeopleSoft customers might be subject to

16:50:56 1 conversion by SAP?

16:50:57 2 A. No. No exact number.

16:50:59 3 Q. Half?

16:51:00 4 A. I -- I thought that if Oracle would do a

16:51:04 5 bad job, we could see a similar distribution of the

16:51:07 6 customers as the share of customers between SAP and

16:51:10 7 Oracle.

16:51:13 8 Q. And what's that ratio? You're bigger than

16:51:17 9 Oracle.

16:51:18 10 A. Yes.

16:51:19 11 Q. Do you know what roughly that is? 60/40?

16:51:22 12 A. Yeah, something like that.

16:51:23 13 Q. Something like that?

16:51:24 14 A. Yeah.

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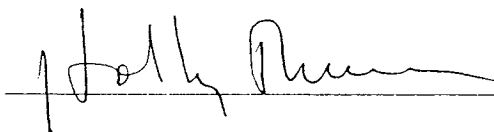
CERTIFICATE OF REPORTER

I, HOLLY THUMAN, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript was [] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED January 8, 2009.


HOLLY THUMAN, CSR No. 6834