

# EXHIBIT 55

THOMAS GENE HURST II      April 30, 2008  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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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.

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Rule 30(b)(6) Deposition of  
THOMAS GENE HURST II  
Volume I, Pages 1-282

\_\_\_\_\_  
Wednesday, April 30, 2008

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REPORTED BY: JOHN WISSENBACH, CSR 6862 (01-408572)

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11:19:42 1

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11:19:53 7 Q. Does this confirm that from the inception

11:19:58 8 of the acquisition of TomorrowNow by SAP, that SAP

11:20:03 9 featured TomorrowNow prominently in its Safe Passage

11:20:03 10 program?

11:20:05 11 MR. McDONELL: Vague and ambiguous,

11:20:06 12 argumentative, document speaks for itself.

11:20:12 13 THE WITNESS: Yes, it does.

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15:14:56 1

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15:15:35 12 And if you turn to the second page, there's

15:15:39 13 a reference under 12 that "Starting in 2006,

15:15:42 14 TomorrowNow has two programs, each specifically

15:15:47 15 designed to avoid any SAP VSOE issues." One is "The

15:15:51 16 'Sunset' program is specifically designed for 'zero

15:15:55 17 dollar' pure Safe Passage transactions. In a pure

15:15:58 18 Safe Passage deal, the customer does not pay any

15:16:01 19 fees to TomorrowNow as part of the Safe Passage

15:16:03 20 transaction. In this case a customer does not have

15:16:06 21 the right to upgrade to new releases."

15:16:09 22 And then the second is, quote, "The

15:16:13 23 'Standard' program is can be used either stand-alone

15:16:16 24 or in conjunction with an SAP transaction, and in

25 this case the customer pays TomorrowNow directly at

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15:16:22 1 the 50 percent off current Oracle fees. Under the  
15:16:25 2 standard program, a customer may upgrade while using  
15:16:27 3 TomorrowNow support services."

15:16:29 4 Are you -- are you familiar with those two  
15:16:30 5 programs?

15:16:34 6 A. Yes, I am.

15:16:40 7 Q. And did those start in 2006?

15:17:02 8 MR. McDONELL: Compound.

15:17:03 9 THE WITNESS: Yes, I believe in -- starting  
15:17:06 10 in 2006, that's when there was two options  
15:17:07 11 available.

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1 5:16 p.m.)

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3 I declare under penalty of perjury that the  
4 foregoing is true and correct. Subscribed at

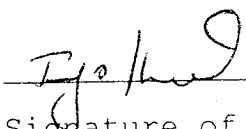
5 Palo Alto, California, this 20 day of

6 may, 2008.

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Signature of the witness

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1 CERTIFICATE OF REPORTER

2 I, JOHN WISSENBAACH, a Certified Shorthand  
3 Reporter, hereby certify that the witness in the  
4 foregoing deposition was by me duly sworn to tell  
5 the truth, the whole truth, and nothing but the  
6 truth in the within-entitled cause;

7 That said deposition was taken down in  
8 shorthand by me, a disinterested person, at the time  
9 and place therein stated, and that the testimony of  
10 the said witness was thereafter reduced to  
11 typewriting, by computer, under my direction and  
12 supervision;

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

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

23 DATED: 5/5/08

24

25

  
JOHN WISSENBAACH, CSR No. 6862