

# **EXHIBIT 57**

GERHARD OSWALD      December 11, 2008  
HIGHLY CONFIDENTIAL

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,
	)	
v.	)	Case No.
	)	07-CV-01658 PJH (EDL)
	)	
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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VIDEOTAPED DEPOSITION OF MR. GERHARD OSWALD

VOLUME II

Thursday, December 11, 2008

AT: 8:28 a.m.

Taken at:

Bingham McCutchen LLP  
41 Lothbury

London EC2R 7HF

UNITED KINGDOM

GERHARD OSWALD      December 11, 2008  
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Page 278

14:13:21 1                    Q.  If you could turn to the first page of the  
14:13:25 2                    presentation, 141571, there is a slide titled "Management  
14:13:39 3                    Summary -- TomorrowNow".  And at the bottom is the  
14:13:42 4                    conclusion:  
14:13:44 5                    "TomorrowNow is a strategic investment and serves  
14:13:48 6                    as a strategic weapon against Oracle."  
14:13:53 7                    Do you see that?  
14:14:04 8                    A.  Yes.  
14:14:05 9                    Q.  And that was accurate?  
14:14:08 10                    A.  Yes.  
14:14:10 11                    Q.  And it continues that it is:  
14:14:13 12                    "Taking away maintenance revenue from Oracle."  
14:14:17 13                    Do you see that?  
14:14:24 14                    A.  Yes.  
14:14:24 15                    Q.  And that was also accurate as to TomorrowNow?  
14:14:30 16                    A.  Yes.  
14:14:31 17                    Q.  And it continues that TomorrowNow:  
14:14:35 18                    "Creates pre-pipeline of future SAP customers."  
14:14:48 19                    And that was also correct?  
14:14:51 20                    A.  Yes.  
14:14:53 21  
14:14:55 22  
14:15:00 23  
14:15:04 24  
14:15:07 25

GERHARD OSWALD            December 11, 2008  
HIGHLY CONFIDENTIAL

Page 288

14:56:42 1  
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14:57:39 7  
14:57:42 8  
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14:58:04 10  
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14:58:58 18  
14:59:04 19  
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Q. And exhibit 472 is a document, TN-OR00995250 through 5258, entitled "Business Case TomorrowNow -- Siebel. Board Area: Gerhard Oswald" and it appears to be a draft of the Siebel business case.

If you would turn to page 254, it is entitled "Business Opportunity -- TomorrowNow Offering for Siebel". And at the top left, under "Customer Analysis", there is the statement:

"The Siebel customer base consists of 4,000

15:00:00 1 customers (including large number of joint SAP/Siebel  
15:00:05 2 customers) and presents a huge market opportunity."

15:00:38 3            Did you agree that accessing that customer base  
15:00:41 4 was a huge opportunity for SAP?

15:00:56 5            A. Yes.

15:01:00 6            Q. And that opportunity was part of the basis for  
15:01:01 7 SAP's decision to have TomorrowNow service Oracle-owned  
15:01:05 8 Siebel applications?

15:01:07 9            MR. LANIER: Assume facts not in evidence. Go  
15:01:09 10 ahead.

15:01:37 11            MR. BUTLER: "Service" is a verb.

15:01:41 12            THE INTERPRETER: Shouldn't that say "service on  
15:01:43 13 Siebel applications"?

15:01:44 14            MR. LANIER: No, "service" is a verb.

15:01:58 15            A. Yes.

15:02:00 16            BY MS. HOUSE:

15:02:00 17            Q. And looking at the "Conclusions" portion of  
15:02:03 18 this page, the second conclusion reads:

15:02:07 19            "The Maintenance offering -- a key part of the  
15:02:10 20 Safe Passage program and provided by TomorrowNow -- can be  
15:02:14 21 used as enabler for future license revenue, to grow  
15:02:19 22 maintenance contract volume taken away from Oracle and to  
15:02:22 23 generate additional maintenance revenue for SAP."

15:03:07 24            Was that also a reason for SAP's decision to have  
15:03:10 25 TomorrowNow service Siebel applications?

GERHARD OSWALD December 11, 2008

HIGHLY CONFIDENTIAL

Page 290

15:03:22 1 A. Yes.

15:03:25 2

15:03:28 3

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15:03:58 6

15:04:01 7

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And so up until the eve of Oracle's lawsuit,

15:15:42 6

TomorrowNow was integral to SAP's efforts to attack Oracle;

15:15:47 7

correct?

15:15:48 8

MR. LANIER: Assume facts not in evidence.

15:15:49 9

Mischaracterizes. Go ahead.

15:16:05 10

A. Yes.

15:16:06 11

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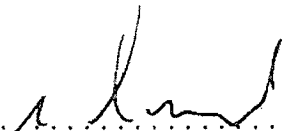
GERHARD OSWALD      December 11, 2008  
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Page 305

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CERTIFICATE OF DEPONENT

I, GERHARD OSWALD, hereby certify that I have read the foregoing pages, numbered 173 through 307, of my deposition of testimony taken in these proceedings on Thursday, December 11, 2008, and, with the exception of the changes listed on the next page and/or corrections, if any, find them to be a true and accurate transcription thereof.

Signed:  .....

Name: GERHARD OSWALD

Date: 12.11.2008 .....

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(800) 869-9132




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**CERTIFICATE OF COURT REPORTER**

I, ROSE HELEN CLAIRE KAY, an Accredited LiveNote Reporter with Merrill Legal Solutions (a LegaLink company) of London, England, and Asia, hereby certify that the testimony of the witness GERHARD OSWALD in the foregoing transcript, numbered pages 173 through 307, taken on Thursday, December 11, 2008 was recorded by me in machine shorthand and was thereafter transcribed by me; and that the foregoing transcript is a true and accurate verbatim record of the said testimony.

I further certify that I am not a relative, employee, counsel or financially involved with any of the parties to the within cause, nor am I an employee or relative of any counsel for the parties, nor am I in any way interested in the outcome of the within cause.

Signed: .....  .....

ROSE HELEN CLAIRE KAY

Dated: Thursday, December 11, 2008