

# **EXHIBIT KK**

SHELLEY NELSON September 3, 2009  
HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

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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. ) CASE NO. 07-CV-01658PJH(EDL)

SAP AG, a German corporation, )  
SAP AMERICA, INC., a Delaware )  
corporation, TOMORROWNOW, INC., a )  
Texas corporation, and DOES 1-50, )  
inclusive, )  
Defendants. )

"HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY"

ORAL VIDEOTAPED DEPOSITION

SHELLEY NELSON

VOLUME 4

SEPTEMBER 3, 2009

ORAL VIDEOTAPED DEPOSITION OF SHELLEY NELSON, produced as  
a witness at the instance of the Plaintiffs and duly sworn,  
was taken in the above-styled and numbered cause on the 3rd  
day of September, 2009, from 8:04 a.m. to 12:26 p.m., before  
Dana Richardson, Certified Shorthand Reporter in and for the  
State of Texas, reported by computerized stenotype machine at  
the Jones Day, 717 Texas Avenue, Suite 3300, Houston, Texas  
77002, pursuant to the Federal Rules of Civil Procedure and  
the provisions stated on the record or attached hereto.

Job No. 1603-92416

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08:49:02 1  
08:49:04 2  
08:49:07 3  
08:49:11 4  
08:49:13 5  
08:49:16 6  
08:49:19 7  
08:49:25 8  
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08:49:38 14  
08:49:41 15  
08:49:42 16  
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08:49:50 18  
08:49:53 19  
08:49:56 20  
08:50:01 21  
08:50:08 22  
08:50:12 23  
08:50:16 24  
08:50:19 25

Q. (By Mr. Howard) How did you determine that the --  
that -- referring to (a), how did you determine that the  
download library was downloaded using the sign-on credentials  
from Wendy's International?

A. We determined that Wendy's had sent credentials prior  
to that date and that an assignment was made to do the  
downloads with those credentials.

Q. Because -- because there's no way to actually verify  
that that credential was used to download those particular

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08:50:24 1 items, right?  
08:50:28 2 A. I don't know of a way.  
08:50:48 3  
08:50:50 4  
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08:52:51 23  
08:52:56 24  
08:52:58 25

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09:04:14 1  
09:04:16 2  
09:04:16 3  
09:04:20 4  
09:04:22 5  
09:04:35 6  
09:04:42 7  
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09:04:53 9  
09:04:56 10  
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09:05:22 19  
09:05:23 20  
09:05:24 21  
09:05:26 22  
09:05:28 23  
09:05:32 24  
09:05:37 25

Q. (By Mr. Howard) Did you do anything to satisfy yourself that Titan had been developed in a way that did not involve improper downloading from Oracle?

MR. FUCHS: Objection, form.

A. No.

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09:11:31 1

09:11:38 2

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09:11:51 7

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09:12:13 9

09:12:15 10

09:12:19 11

09:12:21 12

09:12:22 13

09:12:24 14

09:12:24 15

09:12:30 16

09:12:34 17

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09:12:45 19

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09:12:59 24

09:13:07 25

Q. Did you view it as bending the rules at all to  
download materials from Customer Connection using a customer's  
ID after that customer's maintenance end date?

MR. FUCHS: Objection, form.

A. No.

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STATE OF TEXAS  
COUNTY OF HARRIS

REPORTER'S CERTIFICATE

I, Dana Richardson, a Certified Shorthand Reporter in and for the State of Texas, do certify that this deposition transcript is a true record of the testimony given by the witness named herein after said witness was duly sworn by me. The witness was requested to review the deposition.

I further certify that I am neither attorney or counsel for, related to, nor employed by any parties to the action in which this testimony is taken and, further, that I am not a relative or employee of any counsel employed by the parties hereto or financially interested in the action.

I further certify that the amount of time used by each party at the deposition is as follows:

Mr. Geoff Howard - 03:58

Mr. Josh Fuchs - 00:00

Mr. Reid Witliff - 00:00

SUBSCRIBED AND SWORN TO under my hand and seal of office on this the 9th day of September,

2009  
Dana Richardson

Dana Richardson, CSR  
Texas CSR 5386  
Expiration: 12/31/09  
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