EXHIBIT E

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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-01658 (MJJ)
)
)
SAP AG, a German corporation,   )
SAP AMERICA, INC., a Delaware   )
corporation, TOMORROWNOW, INC., a)
Texas corporation, and DOES 1-50,)
inclusive,   )
          Defendants.   )

"HIGHLY CONFIDENTIAL"

ORAL VIDEOTAPED DEPOSITION

CATHERINE HYDE

FEBRUARY 12, 2009

ORAL VIDEOTAPED DEPOSITION OF CATHERINE HYDE, produced as

a witness at the instance of the Plaintiffs and duly sworn,

was taken in the above-styled and numbered cause on the 12th

day of February, 2009, from 8:37 a.m. to 5:26 p.m., before

Dana Richardson, Certified Shorthand Reporter in and for the

State of Texas, reported by computerized stenotype machine at

the offices of 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. 1603-90347

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22   Q.   (By Mr. Howard) When I -- when I -- again, when I

23   say "fix," I'm referring to the objects that -- that comprise

24   the functionality that's being delivered to the client. Does

25   that makes sense?

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1   A.   Yes.

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15   Q.   And are those examples of the generic development

16   environments that were used to develop the initial fixes that

17   would be sent out as part of an HR payroll bundle of critical

18   support?

19   MS. LEE: Objection, form.

20   A.   I don't know if they were generic environments or if

21   they were for a particular client.

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10   Q.   And is that reflective of -- of the general practice,

11 that for -- for as large a group of clients as possible, a fix

12 would be developed one time and then delivered to that group

13 of clients?

14   MS. LEE: Objection, vague and ambiguous, lack

15 of foundation.

16   A.   This -- a group of clients could receive the same

17 fix, if it was identical.

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6   MR. HOWARD: Mark as Exhibit 930 the master fix

7   printout from SAS for the 8.83 fix.

8   (Exh.930 marked)

9   Q.   (By Mr. Howard) Now, you -- you were involved in

10   developing the 8.83 fix as indicated by the Exhibit 930?

11   A.   I don't think so.

12   Q.   Well, specifically I'm looking at the Bates page --

13   no, it's not Bates numbered -- well, four -- five pages in,

14   there's a note from you, "With regard to release 7.5, there

15   are 2 different projects. CCW, COA," POH [sic], "TEL will

16   receive the project which updates the record structure..."

17   Do you see that?

18   A.   Yes.

19   Q.   Those are your notes in red?

20   A.   Those are my notes.

21   Q.   All right. Now, did some clients receive a

22   TAX960LC.SQR file as part of this fix as opposed to a

23   TAX960LT.SQR file?

24   MS. LEE: Objection, vague and ambiguous.

25   A.   I'd have to look through here and figure out what

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1   this is. This is what I would call a kludge.

2   Q.   (By Mr. Howard) Thank you for that helpful

3   explanation.

4   Do you -- do you recognize TAX960LC.SQR as a

5   PeopleSoft file?

6   A.   Yes.

7   Q.   And do you know why the file referred to here in

8   Exhibit 930 and also in the e-mail that's Exhibit 929 is

9   referred to as TAX960LT.SQR?

10   A.   The "T" would be for TomorrowNow?

11   Q.   All right. So, does that indicate a modification by

12   TomorrowNow of the TAX960LC.SQR?

13   A.   No.

14   Q.   What does it mean?

15   A.   It's supposed to be a new program.

16   Q.   Well, does the e-mail that you received from

17   Ms. Shiels as Exhibit 929 indicate that it wasn't a new

18   program, that TAX960LT.SQR was derived from the PeopleSoft

19   960LC.SQR file?

20   MS. LEE: Objection, vague and ambiguous.

21   A.   No.

22   Q.   (By Mr. Howard) How do you suppose the PeopleSoft

23   confidentiality copyright notice appeared in the TomorrowNow

24   file?

25   A.   I didn't write it. I don't know.

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1   Q.   Would it surprise you if the TAX960LT.SQR was

2   substantially similar to the TAX960LC.SQR?

3   A.   Probably.

4   Q.   It would surprise you?

5   MR. HOWARD: Let's mark as Exhibit 931 a master

6   fix view of an 8.83 fix.

7   (Exh.931 marked)

8   Q.   (By Mr. Howard) Does this Exhibit 931 appear to be a

9   printout of the master fix view of the 314061883 fix?

10   A.   What number did you say?

11   Q.   0314061883 fix ID.

12   A.   Where do you see that?

13   Q.   On the "Fix ID" line.

14   A.   Oh, okay. Sorry.

15   Q.   Yes?

16   A.   Yes.

17   Q.   Now, turning to one, two, three, four, five pages in,

18   numbered 898, there's a heading titled "Fix Deliverables."

19   Do you see that?

20   A.   Yes.

21   Q.   And it says the fix for Pepsi consists of a UPD file

22   and a TAX960LC.SQR file?

23   A.   Yes.

24   Q.   And it says for the rest of the clients for 8.8 SP1,

25   there's the SQR in the -- this 962 fix and that's the

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1   TAX960LC.SQR.

2   Do you see that?

3   A.   Yes.

4   Q.   And then on the next page, at the top, it says for

5   8.3 SP1, for two clients, it -- there -- the -- the file is

6   TAX960LT.SQR?

7   A.   Yes.

8   Q.   And does that indicate that some clients are

9   receiving the PeopleSoft file, the LC file; and some clients

10   are receiving the TomorrowNow file, the LT file?

11   A.   Yes.

12   Q.   Why would that be true?

13   A.   It's the version they had.

14   Q.   But that file, if I read this correctly, is being

15   sourced from a TomorrowNow CSS-TN fix, right?

16   MS. LEE: Objection, vague and ambiguous.

17   A.   Yes.

18   Q.   (By Mr. Howard)   So, for some clients, you would go

19   get a PeopleSoft file out of a different TomorrowNow critical

20   support fix and provide it as part of a different fix?

21   MS. LEE: Objection, vague and ambiguous.

22   A.   I don't understand.

23   Q.   (By Mr. Howard)   Well, if I'm reading it right, at

24   the bottom of this page, under "Fixed Deliverables," it says

25   for 8.8 SP1, there's an SQR in the CSS-TN fix ending 962.   And

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1   that's TAX960LC.SQR.

2   Do you see that?

3   A.   Right.

4   Q.   And then that's what's being provided to the clients,

5   right?

6   A.   For that release.

7   Q.   Right.

8   A.   Yes.

9   Q.   And -- and that's -- so -- so for -- so, as part of

10   the 8.83 fix, which is what we're looking at here, the

11   developer would go to the 9.62 fix, pull out the PeopleSoft

12   TAX960LC.SQR file and provide it to those 8.8 SP1 clients?

13   MS. LEE: Objection, vague and ambiguous.

14   A.   That's not what this is saying.

15   Q.   (By Mr. Howard)   What is it saying?

16   A.   It's saying this is the program that's going to be

17   modified for these clients.

18   Q.   Then -- then why is it that in the next group, the

19   8.3 SP1 clients, the file is 960LT.SQR?

20   A.   That's the file that those clients have that they're

21   going to add that functionality or modify that functionality.

22   Q.   So, in some cases, you are modifying a prior

23   TomorrowNow modification of the TAX960LC.SQR, right?

24   A.   Yes.

25   Q.   And in some cases, you are modifying the original

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1   PeopleSoft TAX960LC.SQR?

2   MS. LEE: Objection, vague and ambiguous.

3   A.   Say that again.

4   Q.   (By Mr. Howard) Yeah. In -- in -- in -- in the

5   cases where you're not using the existing LT file, you're

6   taking the PeopleSoft-delivered LC file for modification?

7   MS. LEE: Objection, vague and ambiguous.

8   A.   Yes.

9   Q.   (By Mr. Howard) And ultimately, whether you're

10   modifying the 960LC file or modifying the previously modified

11   960LT file, you're delivering the same functionality in the

12   form of the modified file?

13   A.   Correct.

14   Q.   When -- in the critical support model, when fixes

15   were individually tested, did that testing result in output

16   files?

17   MS. LEE: Objection, vague and ambiguous.

18   A.   It could.

19   Q.   (By Mr. Howard) Would those output files take the

20   form of reports intended for regulatory agency?

21   A.   It could.

22   Q.   Did it?

23   A.   It could.

24   Q.   Well, the fact that it could hypothetically isn't as

25   helpful. We need to know whether it did or not.

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1   Do you know whether individual fix testing

2   resulted in output files in the course of TomorrowNow testing

3   of critical support fixes?

4   MS. LEE: Objection, vague and ambiguous.

5   A.   Some fix would have created files that we could

6   possibly submit to agencies, yes.

7   THE REPORTER: I'm sorry, I didn't hear.

8   THE WITNESS: I said some files could create

9   output that we could submit to agencies for testing, yes.

10   Q.   (By Mr. Howard) And were you involved in individual

11   fix testing of those types of fixes?

12   A.   I could have been. I don't recall a particular

13   instance.

14   Q.   Do you know the extent to which individual fix

15   testing resulted in output files?

16   A.   Not all fixes require a file.

17   Q.   For the fixes that did result in output files, can

18   you say with knowledge the extent to which testing those fixes

19   did result in output files?

20   MS. LEE: Objection, vague and ambiguous.

21   A.   No.

22   Q.   (By Mr. Howard) And do you know whether TN -- if

23   there was an output file that resulted from testing an

24   individual fix, do you know whether TN, TomorrowNow, would

25   compare that output file to the output files generated by

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1   tests in other releases or source groups?

2   MS. LEE: Objection, vague and ambiguous.

3   A.   I've seen that theory, but I don't know that it was

4   followed.

5   Q.   (By Mr. Howard) What do you mean, you've seen the

6   theory?

7   A.   I've seen the theory of the plan of doing that, but I

8   don't know that it was implemented.

9   Q.   Okay. Did you yourself do individual fix testing

10   that resulted in output files?

11   A.   Yes.

12   Q.   And -- and when you did that, did you ever compare

13   that output file to the analogous file generated by the test

14   in a different release?

15   A.   Not that I recall.

16   Q.   What would be the point of doing that?

17   A.   I don't know.

18   Q.   Just another part of the testing process?

19   MS. LEE: Objection, calls for speculation.

20   A.   I don't know.

21   Q.   (By Mr. Howard) Would output files ever be compared

22   using Araxis Merge?

23   A.   They could be.

24   Q.   Do you know whether they were?

25   A.   No.

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1   Q.   Were they compared to anything else other than other

2   output files?

3   A.   I don't know.

4   Q.   Are you aware that TomorrowNow used the Newmerix

5   program for bundle testing?

6   MS. LEE: Objection, lack of foundation.

7   A.   I believe so, yes.

8   Q.   (By Mr. Howard)   And when did it -- TomorrowNow begin

9   using Newmerix bundle testing?

10   MS. LEE: Same objection.

11   A.   I don't recall exactly.

12   Q.   (By Mr. Howard)   Are you familiar with the process by

13   which Newmerix was used to test bundles?

14   A.   Vaguely.

15   Q.   What do you know about it?

16   A.   There are scripts that they created based on

17   individual fixes.

18   Q.   And then what's done with the scripts?

19   A.   I couldn't say.

20   Q.   And was it part of the regular practice at

21   TomorrowNow, starting at a point in time, to use Newmerix to

22   bundle test?

23   A.   I couldn't say.

24   Q.   And was Newmerix used for individual fix testing?

25   A.   I don't know.

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1   Q.   Were project files created for one customer provided

2   to other customers as part of a sync-up bundle?

3   A.   Pieces and parts of them could have been, yes.

4   Q.   Did -- did you modify DMS files that originally were

5   delivered by PeopleSoft as part of creating data file

6   deliverables for customers?

7   A.   Data files?

8   Q.   Yes.

9   A.   No.

10   Q.   Did you ever modify a DMS file as part of creating a

11 deliverable for a customer?

12   A.   What do you mean by "modify"?

13   Q.   Modify it, take the DMS from PeopleSoft, change it in

14 some way, send it to the customer.

15   A.   For extended support, yes.

16   Q.   What about for critical support?

17   A.   No.

18   Q.   And if there -- if a DMS file was modified, would

19 that result in some kind of a modification log?

20   A.   I don't know.

21   Q.   Do you think it would?

22   MS. LEE: Objection, calls for speculation.

23   Q.   (By Mr. Howard) You have no idea?

24   A.   That's out of my area or whatever.

25   Q.   Okay.

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1   STATE OF TEXAS

    COUNTY OF HARRIS

2   REPORTER'S CERTIFICATE

3   I, Dana Richardson, a Certified Shorthand Reporter in and

4   for the State of Texas, do certify that this deposition

5   transcript is a true record of the testimony given by the

6   witness named herein, after said witness was duly sworn by me.

7   The witness was requested to review the deposition.

8   I further certify that I am neither attorney or counsel

9   for, related to, nor employed by any parties to the action in

10 which this testimony is taken and, further, that I am not a

11 relative or employee of any counsel employed by the parties

12 hereto or financially interested in the action.

13   I further certify that the amount of time used by each

    party at the deposition is as follows:

14

         Mr. Geoffrey Howard - 06:58

15   Ms. Jacqueline Lee - 00:00

16   SUBSCRIBED AND SWORN TO under my hand and seal of office

    on this the 17th day of February,

17 2009 .

18

19

20 _____

21   Dana Richardson, CSR

             Texas CSR 5386

22   Expiration: 12/31/09

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