

EXHIBIT 11

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 30(b)(6) DEPOSITION OF DEFENDANTS

SAP AG AND SAP AMERICA,

BY AND THROUGH ITS CORPORATE DESIGNEE

CHRISTOPHER FAYE

WEDNESDAY, MARCH 18, 2009

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

REPORTED BY: HOLLY THUMAN, CSR No. 6834, RMR, CRR

(1-417606)

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10:59:41 11 Q. SAP did have control of TomorrowNow once it
10:59:42 12 acquired it. True?

10:59:43 13 A. Yes.

10:59:46 14 Q. And SAP could have insisted on compliance
10:59:51 15 with its directive to TomorrowNow. True?

10:59:53 16 A. Yes, I believe that's true.

10:59:55 17 Q. They could do whatever had to be done to
10:59:59 18 make sure that its subsidiary was following the
11:00:00 19 Board's order?

11:00:02 20 A. Yes, I believe that's true.

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Q. Isn't it true that SAP could direct

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TomorrowNow to operate its business in a particular

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way?

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MS. FROYD: Objection. Assumes facts,

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lacks foundation.

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THE WITNESS: Yes. I think it's also fair

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to say that as a wholly owned subsidiary, SAP would

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expect TomorrowNow to do what they say, yeah.

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13:47:12 10 Q. And what is SAP's position as a corporation
13:47:14 11 with respect to whether it had ultimate
13:47:16 12 accountability and responsibility for the
13:47:19 13 TomorrowNow business?

13:47:21 14 MS. FROYD: Okay. I'm going to object one
13:47:22 15 more time that it calls for a legal conclusion, but
13:47:25 16 you can answer that in your capacity as a 30(b)(6)
13:47:28 17 witness, Mr. Faye, if you know the answer to the
13:47:30 18 question.

13:47:33 19 THE WITNESS: I'd say that as a subsidiary,
13:47:35 20 we're ultimately responsible for it.

13:47:36 21 MR. PICKETT: Q. You owned all of it.
13:47:37 22 Right?

13:47:38 23 A. Yes, as far as I know.

13:47:39 24 Q. And SAP could tell TomorrowNow to do
25 whatever SAP wanted. Right?

13:47:41 1 MS. FROYD: Objection. Argumentative,
13:47:48 2 lacks foundation, and calls for a legal conclusion.

13:47:51 3 THE WITNESS: They're a wholly owned sub,
13:47:53 4 and yes, I believe that they would have to do what
13:47:55 5 we told them to do.

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15:36:04 1 Q. Does SAP agree that it ultimately had
15:36:08 2 responsibility for compliance with its Board's
15:36:11 3 directive?

15:36:13 4 A. Yes, ultimately we were responsible for
15:36:18 5 TomorrowNow and, through them, compliance with the
15:36:22 6 directive.

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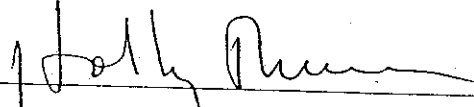
CERTIFICATE OF REPORTER

1
2 I, HOLLY THUMAN, a Certified Shorthand
3 Reporter, hereby certify that the witness in the
4 foregoing deposition was by me duly sworn to tell the
5 truth, the whole truth, and nothing but the truth in the
6 within-entitled cause; that said deposition was taken
7 down in shorthand by me, a disinterested person, at the
8 time and place therein stated, and that the testimony of
9 the said witness was thereafter reduced to typewriting,
10 by computer, under my direction and supervision;

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

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

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22 DATED March 20, 2009

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HOLLY THUMAN, CSR No. 6834

Corrections to the Transcript of the Deposition of

Christopher Fayé

Taken on March 18, 2009

Page	Line(s)	Reads	Should Read
87	7	Legal	Leadership
87	25	Legal	Leadership
88	7	Legal	Leadership
94	9	Legal	Leadership


_____ **Witness Signature**

April 24, 2009
_____ **Date**