

EXHIBIT 22

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

GREGORY NELSON

FEBRUARY 19, 2009

ORAL VIDEOTAPED DEPOSITION OF GREGORY 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 19th
day of February, 2009, from 8:36 a.m. to 5:03 p.m., before
Dana Richardson, Certified Shorthand Reporter in and for the
State of Texas, reported by computerized stenotype machine at
the Hilton Hotel, 801 University Drive East, College Station,
Texas, pursuant to the Federal Rules of Civil Procedure and
the provisions stated on the record or attached hereto.

Job No. 1603-90335

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10:11:53 23 Q. (By Mr. Howard) Was Titan implemented for use at

10:12:03 24 TomorrowNow?

10:12:03 25 A. Yes.

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10:49:22 1

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10:51:04 25

Q. (By Mr. Howard) Well, you sought advice relating to
Titan, did you not?

GREGORY NELSON February 19, 2009

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10:51:06 1 MR. FUCHS: Yes-or-no question.

10:51:11 2 A. Yes.

10:51:13 3 Q. (By Mr. Howard) The result of that advice was
10:51:15 4 Mr. Faye said: Go communicate these policies?

10:51:21 5 MR. FUCHS: Hold on a second.

10:51:28 6 Objection to the extent that that question
10:51:31 7 invades the attorney/client privilege. You've already stated
10:51:38 8 the directive, but you can't answer where you're revealing the
10:51:45 9 substance of communications where you're seeking legal advice
10:51:48 10 or -- or receiving legal advice and, therefore, I instruct you
10:51:51 11 not to answer the question.

10:51:57 12 Q. (By Mr. Howard) Are you going to take your counsel's
10:51:59 13 instruction on that question?

10:52:00 14 A. Yes.

10:52:14 15 Q. Was the result of the advice that you sought from
10:52:16 16 Mr. Faye relating to Titan the communication from Mr. Faye to
10:52:21 17 you of the three policies that you've described?

10:52:27 18 MR. FUCHS: Objection to the extent that
10:52:29 19 question invades the attorney/client privilege. It's
10:52:32 20 essentially the same question as was just asked and it doesn't
10:52:36 21 appear that there's any way to answer that question without
10:52:39 22 revealing the substance of legal advice sought and legal
10:52:43 23 advice received and, therefore, I instruct you not to answer.

10:53:00 24 Q. (By Mr. Howard) At the time that you sought
10:53:00 25 Mr. Faye's advice relating to Titan, were you aware of any

GREGORY NELSON February 19, 2009

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10:53:07 1 activity that would constitute a violation of any of the
10:53:12 2 policies that Mr. Faye told you to communicate back out to
10:53:16 3 TomorrowNow?
10:53:40 4 A. I don't recall.
10:53:47 5 Q. Is that the best answer you can give as you sit here
10:53:51 6 today?
10:53:52 7 A. Yes.
10:53:56 8
10:54:00 9
10:54:02 10
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10:54:09 13
10:54:11 14
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Q. Did you have any discussions with anybody else at

11:39:34 21

TomorrowNow other than Andrew Nelson about the possibility of

11:39:39 22

Oracle suing TomorrowNow prior to the actual lawsuit?

11:39:47 23

MR. FUCHS: It's a yes-or-no question.

11:39:51 24

A. Yes.

11:39:53 25

Q. (By Mr. Howard) Who did you have those discussions

GREGORY NELSON February 19, 2009

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11:39:55 1 with?

11:40:05 2 A. SAP legal.

11:40:07 3 Q. Anybody else?

11:40:17 4 A. Not that I can recall at the moment.

11:40:20 5 Q. Who at SAP legal?

11:40:30 6 A. Chris Faye and Scott Trainor.

11:40:36 7 Q. When did you have the discussion with Chris Faye?

11:40:44 8 A. Are you referring to a specific conversation?

11:40:46 9 Q. Fair enough.

11:40:47 10 How many discussions did you have with Mr. Faye
11:40:51 11 on the topic of the possibility of Oracle suing TomorrowNow
11:40:55 12 prior to the actual lawsuit?

11:40:57 13 MR. FUCHS: Objection, form.

11:41:04 14 A. I couldn't say with certainty. Half a dozen.

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11:53:25 1 Q. And how many times do you now recall you discussed
11:53:29 2 with Mr. Faye the possibility of Oracle suing TomorrowNow?

11:53:41 3 A. Three or four of those times.

11:53:44 4 Q. In each instance, was that at a -- one of the
11:53:47 5 in-person meetings that you had with Mr. Faye?

11:53:56 6 A. Yes.

11:53:57 7

11:54:02 8

11:54:07 9

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11:54:26 11

11:54:34 12

11:54:38 13

11:54:42 14

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11:55:02 16

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GREGORY NELSON February 19, 2009

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13:36:07 1 Q. What was the change that you advocated for in the
13:36:09 2 revised Rules of Engagement?

13:36:19 3 A. And, again, I'm paraphrasing but something --
13:36:22 4 something to the effect that TomorrowNow would have the
13:36:29 5 ability to go outside of SAP's procurement process for certain
13:36:32 6 items.

13:36:36 7 Q. How was that a change?

13:36:41 8 A. As I recall the original version, it indicated that
13:36:45 9 TomorrowNow would utilize SAP for procurement.

13:36:51 10 Q. What did that mean in practical terms? If you wanted
13:36:54 11 a computer, you had to call up SAP to get it?

13:36:58 12 A. Or a Coke or a glass of -- a bottle of water or an
13:37:02 13 eraser.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND 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 - ATTORNEYS' EYES ONLY"

ORAL VIDEOTAPED DEPOSITION

GREGORY NELSON - VOLUME 2

DECEMBER 3, 2009

ORAL VIDEOTAPED DEPOSITION OF GREGORY 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 December, 2009, from 8:29 a.m. to 10:59 a.m., before
Dana Richardson, Certified Shorthand Reporter in and for the
State of Texas, reported by computerized stenotype machine at
the Hilton Hotel & Conference Center, 801 University Drive
East, College State, Texas 77840, pursuant to the Federal
Rules of Civil Procedure and the provisions stated on the
record or attached hereto.

Job No. 1603-93486

GREGORY NELSON December 3, 2009

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Q. And now I want to look at Exhibit 1242. And starting at the back of that exhibit, the second page from the end, do you see that there's the same language from that first sentence of your e-mail, "Hi Paul, the ORACLE licenses are urgently needed to support our PeopleSoft customers using this technology"?

A. Yes.

Q. And then going one page further, the Bates page ending in 491, towards the front, not the back, do you see that there's an e-mail there from Paul Bigos dated March 30, 2006, on which you're copied, to George Lester in which Mr. Bigos says: "Attached is a quote from a software reseller (SHI) for your Oracle request"?

Do you see that?

A. Yes.

Q. Do you recall reviewing that quote when it came in from Mr. Bigos on March 30, 2006?

A. No.

Q. Let me show you the attachment to that, which I'll mark as Exhibit 1833.

(Exh.1833 marked)

Q. (BY MR. HOWARD) Mr. Nelson, do you recall seeing a quote for -- from SHI that was sent by Mr. Bigos for a quantity of eight Oracle Database standard edition processors.

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10:08:44 1 that totalled around \$110,000?

10:08:47 2 A. No. This doesn't look familiar.

10:09:01 3 Q. Now, Mr. Lester responds to Mr. Bigos' e-mail in

10:09:04 4 Exhibit 1242, in an e-mail that begins on page 2 of that

10:09:09 5 exhibit. So, if you could turn to page 2 of Exhibit 1840 --

10:09:15 6 of -- at 1242.

10:09:16 7 Do you see Mr. Lester's e-mail that begins at

10:09:18 8 the bottom of page 2?

10:09:24 9 A. Yes.

10:09:26 10 Q. And you're -- you're copied on that e-mail?

10:09:30 11 A. Yes.

10:09:31 12 Q. And he says: "Paul, following a license review

10:09:35 13 conducted last year, we determined the need to procure Oracle

10:09:39 14 Standard Edition licenses for development."

10:09:43 15 Do you see that?

10:09:47 16 A. Yes.

10:09:50 17 Q. What license review is he referring to there, to your
10:09:55 18 understanding?

10:09:56 19 A. I'm not sure what George was talking about.

10:10:00 20 Q. Was there determined a need to procure Oracle
10:10:04 21 standard edition?

10:10:10 22 A. I'm not sure if there was an independent analysis
10:10:16 23 done outside of the one that we've already discussed.

10:10:20 24 Q. Okay. And then Mr. Lester then says: "We have been
10:10:24 25 pursuing channels to obtain these licenses through SAP since

10:10:30 1 October of 2005."

10:10:31 2 Do you see that?

10:10:32 3 A. Yes.

10:10:34 4 Q. And that was true, so far as you knew at the time?

10:10:43 5 A. Apparently, yes.

10:10:45 6 Q. And then he says, "...please consider this an

10:10:52 7 unfilled urgent purchasing request."

10:10:54 8 Do you see that?

10:10:55 9 A. Yes.

10:10:57 10 Q. And that was true, so far as you knew at the time?

10:11:00 11 A. I don't -- I'm not sure what I -- I knew at the time.

10:11:03 12 Q. Well, you had -- ten days earlier, you had also
10:11:06 13 communicated to Mr. Bigos that this was an urgent need; is
10:11:11 14 that right?

10:11:12 15 A. Yes. But I wouldn't necessarily have put the two
10:11:15 16 together.

10:11:17 17 Q. Okay. So, you wouldn't put together your forwarding
10:11:21 18 a request for 4 CPUs, standard edition license, with
10:11:24 19 Mr. Lester's request ten days later to the same person for
10:11:29 20 4 CPUs; standard edition license?

10:11:33 21 A. I don't recall what I thought about it.

10:11:35 22 Q. Okay. And you certainly did agree with his
10:11:37 23 statement, didn't you, that "this is a critical need to
10:11:39 24 support our customers running PeopleSoft on Oracle"?

10:11:46 25 MR. FUCHS: Objection, form.

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10:11:46 1 A. Yes. Well, if -- if the subject matter expert tells
10:11:50 2 me that it's urgent, then I'm going to agree that it's urgent.

10:11:55 3 Q. (BY MR. HOWARD) Okay. So, that's my question: You
10:11:56 4 don't have any reason to doubt the accuracy of what Mr. Lester
10:11:57 5 was saying in this e-mail here regarding TomorrowNow's need
10:12:00 6 for these licenses?

10:12:02 7 A. That's a fair statement.

10:12:03 8

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10:13:24 25

1 STATE OF TEXAS
2 COUNTY OF HARRIS

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
14 party at the deposition is as follows:

15 Mr. Geoffrey Howard - 07:04
16 Mr. Joshua Fuchs - 00:00

17 SUBSCRIBED AND SWORN TO under my hand and seal of office
18 on this the 24 day of February,
19 2009.

20 Dana Richardson



21 Dana Richardson, CSR
22 Texas CSR 5386
23 Expiration: 12/31/09
24 Merrill Legal Solutions, Firm No. 210
25 315 Capitol, Suite 100
Houston, Texas 77002
Phone (713) 426-0400
Fax (713) 426-0600

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.

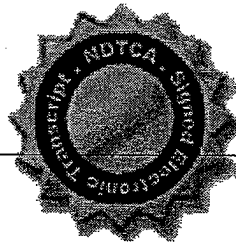
I further certify that the amount of time used by each party at the deposition is as follows:

Mr. Geoff Howard - 02:19

Mr. Josh Fuchs - 00:00

SUBSCRIBED AND SWORN TO under my hand and seal of office on this the 8th day of December, 2009.

Dana Richardson



Dana Richardson, CSR
Texas CSR 5386
Expiration: 12/31/11
Merrill Legal Solutions, Firm No. 210
315 Capitol, Suite 100
Houston, Texas 77002
Phone (713) 426-0400
Fax (713) 426-0600

Page Line

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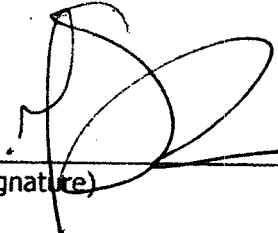
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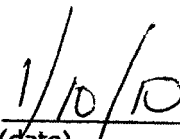
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Reason: _____

____ Subject to the above changes, I certify that the transcript is true and correct.

~~____~~ No changes have been made. I certify that the transcript is true and correct.


(signature)


(date)


**SIGN
& DATE**