

# **EXHIBIT 32**

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

CASE NO. 07-CV-0658

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HIGHLY CONFIDENTIAL, ATTORNEYS' EYES ONLY

ORAL/VIDEO DEPOSITION OF

JOSH TESTONE

JUNE 3, 2009

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ORAL/VIDEO DEPOSITION OF JOSH TESTONE, produced as  
a witness at the instance of the Plaintiffs, was duly  
sworn, was taken in the above-styled and numbered cause  
on the JUNE 3, 2009, from 8:33 a.m. to 12:52 p.m.,  
before Chris Carpenter, CSR, in and for the State of  
Texas, reported by machine shorthand, at the Rotunda

JOSH TESTONE June 3, 2009

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Q. (By Ms. Hann) Exhibit 1413 is an e-mail chain. It's Bates labeled TN-OR 00655671 through -72. The top e-mail is from Andrew Nelson to Bob Geib, G-E-I-B. It is dated November 7th, 2005. The subject is, "Re: TomorrowNow wins Waste Management, Inc. Company Confidential." Do you have that document in front of you?

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1 A. Yes, ma'am.

2 Q. Looking down at the e-mail that begins midway  
3 through a page that ends in -71, underneath the Waste  
4 Management logo, turning to the page that ends in -72,  
5 the first full paragraph at top of the page, it begins,  
6 "So who made this happen?" It describes some work, and  
7 then it begins, "Continuing the battle, we moved into  
8 August. Dave went to Houston and met with the support  
9 team, and we learned that Waste had not paid their  
10 maintenance bill to Oracle. That made us very nervous,  
11 and we called on Greg Nelson's team that was brought in,  
12 and specifically Josh Testone, who worked with WMI to  
13 guide them in downloading all available releases and  
14 fixes, a critical at-risk step in our onboarding  
15 process." Do you see that?

16 A. Yes.

17 Q. Do you recall working with Waste Management to  
18 guide them in downloading all available releases and  
19 fixes?

20 MR. WILKES: Objection, form.

21 A. I recall working with them to download some  
22 piece of what they needed. I don't know if it was  
23 everything or not.

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\_\_\_\_\_, 2009; and if returned, the original transcript will forwarded to Bree Hann, the custodial attorney;

That the amount of time used by each party at the deposition is as follows:

Ms. Hann: 3 hours, 14 minutes

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me this 8th day of June, 2009.



*Chris Carpenter*

Chris Carpenter, Texas CSR 1151  
Expiration Date: 12/31/2010  
805 W. 10th Street  
Austin, TX 78701  
(512)478-2762

Firm Registration No. 17

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