

# **EXHIBIT 7**

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.	)

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ORAL VIDEOTAPED DEPOSITION

JOHN BAUGH - (VOLUME 2)

DECEMBER 3, 2009

ORAL VIDEOTAPED DEPOSITION OF JOHN BAUGH, 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 12:25 a.m. to 4:08 p.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 Station, Texas 77840, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

Job No. 1603-93486

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Q. Okay. And how about for Oracle Database 9.2, was there a subrelease within that that you worked on at TomorrowNow?

A. 9.2.0.4. I think we had a 9.2.0.6.

Q. Any others that you recall?

A. None that I recall.

Q. Okay. So, as you sit here, the Oracle database versions that you worked on at TomorrowNow, as I understand them, are 8.1.7.4, 9.2.0.4, 9.2.0.6 and some of 10?

A. Correct.

Q. And were each of those installed instances on TomorrowNow servers?

A. Those -- those database servers were installed on TomorrowNow servers, yes.

Q. When you say, "Those database servers were installed on TomorrowNow servers," what -- what do you mean by that?

A. Those versions represent versions of the Oracle

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12:32:20 1 RDBMS, the Relational Database Management System; and those  
12:32:28 2 versions represent the database server versions.

12:32:30 3 Q. Okay. So, the database -- database server versions  
12:32:36 4 of each of those four Oracle database releases that you had  
12:32:41 5 indicated were installed on TomorrowNow servers?

12:32:44 6 A. Yes.

12:32:46 7 Q. To your knowledge, were any other instances of any  
12:32:50 8 other Oracle database software installed on TomorrowNow  
12:32:54 9 servers?

12:32:56 10 MR. FUCHS: Objection, form.

12:33:00 11 A. To my knowledge, that's the only versions we had  
12:33:02 12 installed.

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12:33:32 20 Q. Okay. Do you know where TomorrowNow obtained the  
12:33:39 21 Oracle Database Version 8.1.7.4 that it had installed on its  
12:33:46 22 servers?

12:33:48 23 A. We obtained the Oracle database server software from  
12:33:52 24 the Oracle OTN website.

12:33:57 25 Q. Is that true for all of the four releases that you've

12:34:02 1 indicated were installed on TomorrowNow servers?

12:34:05 2 A. As far as I'm aware, yes.

12:34:09 3 Q. And do you know who -- so, this software was  
12:34:15 4 downloaded from Oracle's website; is that right?

12:34:18 5 A. Yes.

12:34:18 6 MR. FUCHS: Objection, form.

12:34:21 7 Q. (BY MR. HOWARD) And -- and that's true for all four  
12:34:23 8 releases you've identified?

12:34:24 9 A. Yes.

12:34:25 10 Q. All right. Do you know who downloaded each version  
12:34:31 11 of the Oracle database software that you've identified?

12:34:35 12 A. I know I downloaded the Oracle 8i, the 8 -- 8.1, and  
12:34:45 13 the -- and the 9i. I'm not sure who downloaded the 10g  
12:34:49 14 servers.

12:34:52 15 Q. So, when you refer to 8i, you're referring to the  
12:34:56 16 Oracle Database 8.1.7.4 that you previously identified?

12:35:01 17 A. Yes.

12:35:01 18

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Q. How did you access the Oracle MetaLink website in order to obtain the patches to get the downloaded version of 8.1.7 up current to 8.1.7.4?

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A. I -- I logged in with my user ID.

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Q. How did you obtain a user ID?

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A. I'm not sure of the process by which I initially got that user ID. I know I had had it for some time.

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Q. Had you had that user ID prior to your employment with TomorrowNow?

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A. Yes.

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Q. And do you know where -- where you work -- did you receive that user ID in the course of your employment at some other company?

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A. Yes. I was employed at another company.

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Q. And what did you understand was the purpose for which you were installing the 8.1.7 Oracle database software on those two TomorrowNow servers?

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A. For development of updates and fixes.

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Q. Development of which updates and fixes?

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A. Of the TomorrowNow-generated updates and fixes.

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Q. And what was your understanding as to why TomorrowNow needed to have an installed instance of Oracle database on its servers in order to generate updates and fixes?

12:41:53 18

12:42:04 19

A. Well, it wasn't, I guess, essential because we had been using SQL server to that point and some of our clients used the Oracle database servers in their environments and we wanted to emulate their environments as closely as possible --

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Q. Why --

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A. -- from a -- from a database version perspective.

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Q. And why was it helpful to have an emulated

12:42:36 1 environment on the TomorrowNow systems, including the  
12:42:39 2 installed Oracle database software, in relation to providing  
12:42:43 3 the updates and fixes to the TomorrowNow customers?

12:42:47 4 A. That would allow us to -- to test the updates and  
12:42:50 5 fixes using the -- the same database platform as our  
12:42:56 6 customers.

12:43:01 7 Q. And am I correct that these are the same updates and  
12:43:05 8 fixes for which TomorrowNow's customers were paying  
12:43:08 9 TomorrowNow through their contract with TomorrowNow to receive  
12:43:11 10 from TomorrowNow?

12:43:13 11 MR. FUCHS: Objection, form.

12:43:15 12 A. At this point, it was during the -- the time frame  
12:43:21 13 where customers were still on support with PeopleSoft and --  
12:43:26 14 and Oracle. And, so, those were the updates and fixes we  
12:43:30 15 generated during that time frame.

12:43:33 16 Q. (BY MR. HOWARD) Right. That's sometimes referred to  
12:43:35 17 as the retrofit model?

12:43:37 18 A. Yes.

12:43:37 19 Q. So, the database was -- was installed -- the Oracle  
12:43:40 20 database was installed to support certain of the generic  
12:43:48 21 retrofit PeopleSoft environments that were being used to  
12:43:51 22 generate the retrofit updates and fixes?

12:43:56 23 MR. FUCHS: Objection, form.

12:43:57 24 A. Yes. That was the intention, yes.

12:43:58 25 Q. (BY MR. HOWARD) And the -- the customers who are



12:44:00 1 receiving those updates and fixes were paying TomorrowNow to  
12:44:03 2 receive them, right?  
12:44:06 3 MR. FUCHS: Objection, form.  
12:44:07 4 A. Yes.  
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Q. So, TomorrowNow had clients who ran their PeopleSoft software on different versions of Oracle's database, right?

A. Yes.

Q. And within that category, those customers also ran on different operating systems, right?

A. Yes.

Q. And, so, am I correct that TomorrowNow was trying as

12:55:20 1 best it could to mimic both the operating system and the  
12:55:24 2 database platform to match those PeopleSoft customers that it  
12:55:30 3 was supporting?

12:55:32 4 A. As best we could, yes.

12:55:34 5 Q. All right. Now, did you download Oracle's Database  
12:55:46 6 Software 9.2 server edition more than once from Oracle's  
12:55:52 7 website?

12:55:55 8 A. I would have downloaded it at that time for different  
12:56:02 9 hardware platforms.

12:56:05 10 Q. So, how many times did you download it and for which  
12:56:08 11 platforms?

12:56:11 12 MR. FUCHS: Objection, form.

12:56:17 13 A. I think I downloaded the 9.2 for AIX, HPUX and  
12:56:29 14 Solaris, Windows and possibly Tru64 UNIX.

12:56:41 15 Q. (BY MR. HOWARD) And did you install all of those on  
12:56:43 16 TomorrowNow servers?

12:56:44 17 A. No.

12:56:45 18 Q. Did you install more than the Windows and UNIX?

12:56:51 19 A. I installed the -- the database server on the -- the  
12:56:55 20 Windows machine, the TN-Dell2650-01, and the AIX server.

12:57:01 21 Q. On the PSDEV01?

12:57:02 22 A. On the PSDEV01, yes.

12:57:05 23 Q. And did you similarly download multiple versions of  
12:57:07 24 the 8.1.7 for different operating systems?

12:57:11 25 A. Yes.

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12:57:13 1 Q. And which ones do you recall downloading -- which --  
12:57:16 2 which versions of 8.1.7 do you recall downloading from the  
12:57:21 3 Oracle website?

12:57:23 4 A. It should have been about the same with Windows, AIX,  
12:57:27 5 HPUX, Solaris, possibly Tru64. I'm not sure.

12:57:46 6 Q. And did you install the same two versions of 8.1.7 on  
12:57:52 7 the same two servers as you did 9.2?

12:57:54 8 A. Yes.

12:57:57 9 Q. Now, you referred earlier to two different point  
12:58:00 10 releases of 9.2. You referred to 9.2.0.4 and 9.2.0.6.

12:58:08 11 A. Correct.

12:58:09 12 Q. Were those separate downloads from Oracle's website,  
12:58:12 13 or were they separate patches?

12:58:18 14 A. To -- to the best of my knowledge, the 9.2.0.4 was  
12:58:23 15 the database server version that was actually downloaded and  
12:58:28 16 installed; and then at -- at some point later, the patch was  
12:58:33 17 applied to -- to upgrade that server version to 9.2.0.6.

12:58:39 18 Q. And how -- how was the patch obtained to upgrade  
12:58:43 19 9.2.0.4 to 9.2.0.6?

12:58:48 20 A. From Oracle MetaLink.

12:58:49 21 Q. And was that by you using the same credential that  
12:58:52 22 you used to obtain the 8.1.7 patch?

12:58:56 23 A. I -- I think so, yes.

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Q. (BY MR. HOWARD) Did you -- in the course of downloading the Oracle database version 8.1.7, the various versions of it that you downloaded, were you asked to click or sign any license agreement?

MR. FUCHS: Objection, form.

A. I think so, yes.

Q. (BY MR. HOWARD) And what's your understanding of the terms of the license agreement that you clicked or signed?

A. My understanding was that the -- the terms and conditions allowed use of the database server for development purposes.

Q. And what did you understand was meant by "development purposes"?

A. Any nonproduction use.

Q. And was it the same license agreement -- did you -- did you read and sign the same license agreement for each

13:00:42 1 version of the Oracle database software that you downloaded?

13:00:47 2 MR. FUCHS: Objection, form.

13:00:48 3 A. There was a terms and conditions that I had to click  
13:00:52 4 "okay." There was nothing signed or anything like that.

13:00:57 5 Q. (BY MR. HOWARD) Okay. But you did that -- you --  
13:01:00 6 you clicked "okay" on those terms and conditions for each  
13:01:03 7 version of the Oracle database software that you downloaded?

13:01:07 8 A. Yes.

13:01:07 9 Q. And in each case, that was what you referred to as a  
13:01:11 10 development license?

13:01:13 11 A. Correct, yes.

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If you took a list of all of the TomorrowNow

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customers who ran their software under the Oracle database

13:11:05 10

platform --

13:11:07 11

A. Uh-huh.

13:11:07 12

Q. -- is it fair to say that -- that TomorrowNow was

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supporting each of them with at least one of the installed

13:11:15 14

instances of Oracle database server software that you've

13:11:19 15

identified was installed on TomorrowNow's systems?

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MR. FUCHS: Objection, form.

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A. We did try to emulate our -- our customer's Oracle

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platform. There were some customers that we only supported

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remotely; and I think there were some customers that were

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supported on, for example, SQL Server instead of Oracle. But

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the majority of our Oracle customers were supported on the

13:11:56 22

Oracle -- one Oracle database server.

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Q. (BY MR. HOWARD) Okay. And -- and would you estimate

13:12:00 24

that that was -- more than 90 percent of the Oracle customers

13:12:03 25

were supported on using at least one instance of the Oracle

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13:12:08 1 database software on TomorrowNow's machines?  
13:12:14 2 A. I don't know --  
13:12:16 3 MR. FUCHS: Object to form.  
13:12:18 4 A. -- if I would say 90 percent. I would say definitely  
13:12:23 5 over 50 percent of our customers that ran Oracle did have a  
13:12:27 6 demo support environment on -- on the Oracle database server.  
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Q. (BY MR. HOWARD) Right. And, so, viewed in that way, is it fair to say that all of the retrofit customers running Oracle were being supported in some fashion through the use of the installed instances of the Oracle database on the TomorrowNow servers --

MR. FUCHS: Objection, form.

Q. (BY MR. HOWARD) -- in the sense that those databases were being used to help generate the deliverables that were being sent out to the customers?

MR. FUCHS: Objection, form.

A. I don't know whether I would say all; but once the Oracle database servers were installed in -- in 2004, then those database servers were used to support our customers, yes.

Q. (BY MR. HOWARD) Okay. And -- and that was true all

13:15:32 1 the way up through the wind-down of the business in October of  
13:15:37 2 2008?

13:15:39 3 MR. FUCHS: Objection, form.

13:15:41 4 A. The -- the database servers served the same purpose  
13:15:46 5 until the wind-down, yes.

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Q. Do you know whether TomorrowNow ever received from  
SAP or anybody else licenses to Oracle standard edition  
database software?

A. Not that I'm aware, no.

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13:33:40 1 Q. So far as you know, the installed -- TomorrowNow  
13:33:44 2 continued to use the installed instances of the Oracle  
13:33:47 3 database software that you had originally downloaded pursuant  
13:33:53 4 to a development license through the wind-down of TomorrowNow?

13:33:57 5 MR. FUCHS: Objection, form.

13:33:58 6 A. Those same database versions were used through the  
13:34:02 7 wind-down, yes.

13:34:03 8 Q. (BY MR. HOWARD) And there was never any new license  
13:34:06 9 obtained for those database versions, so far as you know; is  
13:34:10 10 that right?

13:34:11 11 A. Right. Our database server licenses were still the  
13:34:17 12 developer edition; and no standard edition was acquired, as  
13:34:23 13 far as I know.

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Q. Did you ever discuss the issue of licenses to

13:37:32 1 Oracle's database software with anybody from SAP?

13:37:36 2 A. Did I personally?

13:37:38 3 Q. Yes.

13:37:41 4 A. Not that I'm aware, no.

13:37:44 5 Q. Never discussed the installed instances of Oracle

13:37:49 6 database software on TomorrowNow servers with Mark White?

13:37:54 7 A. Well, maybe I misunderstood the previous question.

13:38:02 8 Mark White was involved in meetings that I was in where we

13:38:06 9 discussed the Oracle database and database servers for using

13:38:15 10 for support for our customers.

13:38:17 11 Q. Okay. And what do you recall being said about the

13:38:23 12 Oracle database software in those meetings with Mark White?

13:38:30 13 MR. FUCHS: Objection, form.

13:38:31 14 A. I do recall one meeting where I -- I mentioned that

13:38:38 15 we, you know, needed to look into getting another Oracle

13:38:41 16 database license; but there was no real discussion between

13:38:44 17 myself and Mark White on that.

13:38:47 18 Q. (BY MR. HOWARD) All right. Was your comment

13:38:50 19 directed to Mark White when -- when you made it?

13:38:59 20 A. Not specifically to Mark White, just to the -- the

13:39:01 21 group in -- in general.

13:39:04 22 Q. Was Mark White leading the meeting when you made that

13:39:07 23 comment?

13:39:08 24 A. Yes.

13:39:08 25 Q. What was the purpose of the meeting?

13:39:15 1 A. It was a -- a post-lawsuit meeting. I don't remember  
13:39:22 2 the exact purpose of the meeting.

13:39:24 3 Q. Was it soon after Mark White arrived to take over the  
13:39:27 4 operations of TomorrowNow?

13:39:32 5 A. I'm -- I'm not sure.

13:39:33 6 Q. Who else do you recall was in attendance at that  
13:39:36 7 meeting?

13:39:41 8 A. I'm thinking Shelley Nelson and Kathy Williams.

13:39:46 9 Q. Anybody else?

13:39:49 10 A. I don't recall.

13:39:50 11 Q. What did you say --

13:39:52 12 A. There could have been.

13:39:53 13 Q. I'm sorry?

13:39:54 14 A. There may have been. I don't recall.

13:39:55 15 Q. Was it a meeting about how TomorrowNow would operate  
13:39:58 16 its business going forward?

13:40:03 17 A. Well, during that time after the lawsuit, we did have  
13:40:06 18 a lot of those meetings. I'm sure it was something related to  
13:40:15 19 the operation of the, you know, support services side of the  
13:40:18 20 business, but I can't be -- I don't know exactly what it was  
13:40:22 21 about.

13:40:23 22 Q. Was the subject of the -- the local environments  
13:40:27 23 installed on TomorrowNow's systems discussed at that meeting?

13:40:31 24 A. Probably or else I wouldn't have been in that  
13:40:33 25 meeting.

13:40:34 1 Q. And what did you say, as best you can recall, about  
13:40:41 2 the issue of licenses for Oracle's database software in that  
13:40:46 3 meeting?

13:40:57 4 A. I really can't recall exactly what I said, but I  
13:41:02 5 guess the gist of it was that we needed to look into our  
13:41:05 6 current license that we were using for -- for the Oracle  
13:41:08 7 database software.

13:41:10 8 Q. Did anybody respond to your comment in the meeting?

13:41:15 9 A. Not that I recall, no.

13:41:16 10 Q. Did you mention that that was something that you had  
13:41:21 11 raised in the past?

13:41:24 12 A. No.

13:41:28 13 Q. Do you believe Mr. White heard your comment?

13:41:35 14 A. He physically heard it. He was in the room. Whether  
13:41:40 15 I had his attention at the time, I don't know.

13:41:44 16 Q. Did he say, "John, what are you talking about Oracle  
13:41:48 17 licenses for database software?"

13:41:51 18 A. No, not that I recall.

13:42:00 19 Q. Are you aware of whether he took any follow-up action  
13:42:02 20 to investigate the license status of TomorrowNow for the  
13:42:08 21 Oracle database software it was running on its servers?

13:42:14 22 A. Not that I'm aware, but generally I wouldn't be aware  
13:42:22 23 of what he did.

13:42:27 24 Q. Are you aware of anybody, after the lawsuit was  
13:42:31 25 filed, addressing the issue of the license status of the



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13:42:34 1 Oracle database software on TomorrowNow servers?  
13:42:39 2 A. Not that I recall.  
13:42:41 3  
13:42:44 4  
13:42:47 5  
13:42:50 6  
13:42:53 7  
13:42:57 8  
13:43:00 9  
13:43:02 10  
13:43:02 11  
13:43:07 12  
13:43:10 13  
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13:59:36 15  
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14:21:56 21  
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14:22:00 23  
14:22:06 24  
14:22:10 25

Q. (BY MR. HOWARD) Mr. Baugh, do you recognize the e-mail chain in the attached document that's been marked as Exhibit 1839?

A. I -- I don't recall it, but it looks like an e-mail from -- between George Lester and myself.

Q. And there's a -- in the e-mail between you and him at

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14:22:13 1 the bottom of the first page of Exhibit 1839, you attach a  
14:22:17 2 document titled "PS Environments Build." Do you see that?  
14:22:20 3 A. Yes.  
14:22:21 4 Q. And then there's an attached spreadsheet there with  
14:22:26 5 the title of "PS Environments Build." Do you see that?  
14:22:29 6 A. The PS Environments.xls?  
14:22:33 7 Q. Correct.  
14:22:34 8 A. Okay.  
14:22:34 9 Q. Is that a spreadsheet that you prepared?  
14:22:37 10 A. I would assume so, yes.  
14:22:39 11 Q. And does this reflect the downloading of the various  
14:22:42 12 Oracle database software versions that you described earlier?  
14:22:53 13 A. Are you talking about the -- this spreadsheet?  
14:22:58 14 Q. Yes, the -- the attached spreadsheet.  
14:23:02 15 A. Okay. Well, this -- this attachment, unless I'm  
14:23:04 16 missing something, is -- looks like a screenshot or part of a  
14:23:10 17 Microsoft project -- project plan.  
14:23:13 18 Q. Okay. You -- you referred to it as an Excel  
14:23:18 19 spreadsheet. So, I -- I --  
14:23:19 20 A. Okay. I'm sorry. I --  
14:23:20 21 Q. Maybe we're talking about two different things.  
14:23:23 22 Let's -- let's start over.  
14:23:24 23 Looking at your e-mail on July 22nd, 2004, I'm  
14:23:28 24 looking at the first attachment --  
14:23:29 25 A. Okay.

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14:23:29 1 Q. -- which is a -- a .mpp document.

14:23:33 2 A. Okay. That's a Microsoft project --

14:23:34 3 Q. Okay.

14:23:34 4 A. -- document.

14:23:34 5 Q. That's the one I want to talk about.

14:23:36 6 A. Okay.

14:23:36 7 Q. That's the one that's attached to the e-mail.

14:23:39 8 A. Right. Okay.

14:23:39 9 Q. Did you prepare that document?

14:23:43 10 A. I must have pulled that out of the Microsoft project,

14:23:46 11 yes.

14:23:46 12 Q. Okay. And does this reflect your downloading of the

14:23:53 13 various Oracle database software versions that you described

14:23:57 14 in your testimony earlier?

14:23:59 15 A. Yes.

14:24:03 16 Q. Does this indicate that those downloads generally

14:24:05 17 occurred in -- on March 1st, 2004, for the underlying

14:24:11 18 software?

14:24:12 19 A. That's what it would seem to indicate, yes.

14:24:14 20

14:24:59 21

14:25:00 22

14:25:00 23

14:25:01 24

14:25:05 25

14:48:51 1  
14:48:53 2  
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14:49:24 9  
14:49:28 10  
14:49:31 11  
14:49:37 12  
14:49:42 13  
14:49:48 14  
14:49:58 15  
14:50:19 16  
14:50:21 17  
18  
14:51:04 19  
14:51:06 20  
14:51:08 21  
14:51:10 22  
14:51:19 23  
14:51:23 24  
14:51:25 25

Q. (BY MR. HOWARD) Mr. Baugh, did Mr. Lester instruct you not to install a development licensed version of Oracle 10g on PSDEV01?

A. This e-mail would seem to -- to indicate we wanted to -- we did not want to install the download version on PSDEV01, yes.

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14:51:27 1 Q. And you -- you were about to do that, and then you  
14:51:30 2 put that installation on hold so that you could get pricing  
14:51:34 3 information for 10g?

14:51:36 4 A. Yes.

14:51:38 5 Q. Did he -- did Mr. Lester tell you why he did not want  
14:51:41 6 you to install the download version of 10g on PSDEV01?

14:51:49 7 A. I don't recall us speaking about that specifically,  
14:51:53 8 other than we were looking into getting -- purchasing 10g,  
14:51:57 9 Oracle 10g.

14:51:59 10 Q. Did you understand that that was related to the  
14:52:01 11 concern expressed in his earlier e-mail that you should be  
14:52:06 12 getting away from the development licenses?

14:52:08 13 MR. FUCHS: Objection, form.

14:52:08 14 A. Yes.

14:52:30 15

14:52:33 16

17

14:53:06 18

14:53:20 19

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14:56:43 1

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14:57:43 6

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14:58:14 8

14:58:15 9

14:58:16 10

Did TomorrowNow have customers that were

14:58:19 11

running on Oracle 10g?

14:58:23 12

A. I think we did, yes.

14:58:25 13

Q. How did you support those customers without having

14:58:27 14

a -- an instance of Oracle 10g installed at TomorrowNow?

14:58:33 15

A. We would have had to create their support environment

14:58:38 16

on -- if it was UNIX, we would have had to create it on 99. I

14:58:44 17

think we did have Oracle 10g running on Windows.

14:58:52 18

Q. Was that a downloaded version of 10g that you had

14:58:56 19

running on the Windows server?

14:58:58 20

A. Yes, it would have been. I did not perform that

14:59:00 21

install.

14:59:00 22

Q. Do you know who did?

14:59:02 23

A. No, I'm not sure.

14:59:04 24

Q. Who would be the candidates?

14:59:07 25

A. Nhat Vuong.

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14:59:14 1 Q. Do you know when that 10g software was installed on  
14:59:19 2 the Windows machine?

14:59:20 3 A. It would have -- I think it would have been on --  
14:59:27 4 after we got one of the DCPS TEMP boxes. I'm not sure exactly  
14:59:33 5 when we acquired those servers, though.

14:59:36 6 Q. DCPS TEMP01 or DCPS TEMP02?

14:59:41 7 A. That would be my guess, yes.

14:59:43 8 Q. So, the -- the -- the TomorrowNow customers running  
14:59:48 9 10g on Windows were supported through the download version  
14:59:53 10 installation of 10g on one of the DCPS TEMP machines?

14:59:59 11 A. Well, I think we only had maybe one or two 10g  
15:00:04 12 databases running on that 10g server. I'm not sure if there  
15:00:08 13 are other customers that were on Oracle 10g that we were  
15:00:14 14 supporting with the Oracle 9i environment.

15:00:21 15 Q. But you were -- were you able, then, to support  
15:00:24 16 customers running their environments on 10g with local  
15:00:32 17 environments for those customers running on 9i on the  
15:00:34 18 TomorrowNow servers?

15:00:36 19 A. Yes.

15:00:48 20

15:00:51 21

15:00:58 22

15:00:59 23

15:01:08 24

15:01:10 25



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15:12:49 24

15:12:51 25

Q. So, is it fair to say that as of March 14, 2007,  
there was no Oracle standard edition or other license for the  
Oracle database software?

MR. FUCHS: Objection, form.

A. Yes. We -- we had not purchased a license. We were  
still working on -- off the development-type license.

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15:58:39 1

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16:03:24 16

16:03:28 17

Q. (BY MR. HOWARD) Mr. Baugh, you have in front of you what's been previously marked as Exhibit 1544; and I believe you provided some testimony about this exhibit previously.

16:03:29 18

16:03:34 19

16:03:37 20

A. Yes.

16:03:37 21

Q. Do you recall it?

16:03:38 22

A. Yes.

16:03:38 23

Q. And this is an exhibit you participated in creating?

16:03:40 24

A. Yes.

16:03:41 25

Q. All right. There is a -- and if I recall your

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16:03:44 1 testimony, this is your attempt to identify all of the local  
16:03:48 2 PeopleSoft environments at TomorrowNow?

16:03:51 3 MR. FUCHS: Objection, form.

16:04:00 4 A. Right. This was an attempt to identify all of the --  
16:04:03 5 the support environments; but it does have environments listed  
16:04:11 6 that are just database only, I think, as well as some remote  
16:04:15 7 environments, right here.

16:04:17 8 Q. (BY MR. HOWARD) Right. But included within the  
16:04:20 9 environments on here, if they're not designated as -- as blue,  
16:04:22 10 are, as best you could determine at the time that you created  
16:04:27 11 this, all of the local PeopleSoft environments at TomorrowNow?

16:04:32 12 A. Yes.

16:04:35 13 Q. And as part of that process, you identified what  
16:04:40 14 database server platform those environments would run on?

16:04:43 15 A. Yes.

16:04:44 16 Q. And that's indicated by the column titled "Database  
16:04:49 17 Server Platform"?

16:04:50 18 A. Yes.

16:04:50 19 Q. And, so, where Oracle is indicated in the database  
16:04:55 20 server platform for a particular environment, that's an  
16:05:02 21 environment that would be running on the Oracle database  
16:05:05 22 platform?

16:05:06 23 A. Yes.

16:05:06 24 Q. And so long as that was a local environment at  
16:05:09 25 TomorrowNow, it would be running off of one of the installed

16:05:13 1 instances of the database software that you had downloaded and  
16:05:20 2 installed on TomorrowNow systems?

16:05:22 3 A. Yes.

16:05:22 4 Q. And the particular instance that it would be running  
16:05:27 5 on that you had downloaded and installed would be indicated  
16:05:32 6 under the "Database Server Release" column?

16:05:35 7 A. Well, in compiling this document, we pulled  
16:05:38 8 information from several sources, including, I think, SAS; and  
16:05:45 9 this "Database Server Release" column would indicate the  
16:05:52 10 client's database server release, not necessarily indicative  
16:06:00 11 of our Oracle database server platform running.

16:06:04 12 Q. Is it fair to say that for any 8-dot release  
16:06:09 13 indicated in the "Database Server" column, that would be an  
16:06:14 14 environment running on your installed version of 8.1.7?

16:06:18 15 A. That's what we would be -- have tried to do, yes.

16:06:22 16 Q. And is it fair to say that for any 9-dot release  
16:06:27 17 indicated in the "Database Server Release" column, that would  
16:06:30 18 be an environment running on your installed version of Oracle  
16:06:36 19 Database 9.2.0.4 or 0.6?

16:06:42 20 A. Yes.

16:06:42 21 Q. And to the extent that there's any -- and I haven't  
16:06:46 22 looked; but to the extent there's any 10-dot releases  
16:06:52 23 indicated here, would those be running either on the installed  
16:06:57 24 version of 10g for Windows or on one of your earlier 9-dot  
16:07:03 25 releases that you had downloaded?

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16:07:05 1 A. Yes.

16:07:15 2

16:07:16 3

16:07:23 4

16:07:26 5

16:07:30 6

16:07:32 7

16:07:45 8

16:07:46 9

16:07:46 10

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STATE OF TEXAS  
COUNTY OF HARRIS

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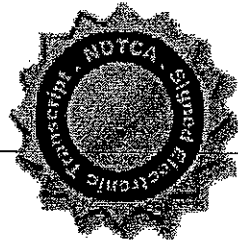
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I further certify that the amount of time used by each party at the deposition is as follows:

Mr. Geoffrey M. Howard - 02:59  
Mr. Joshua L. Fuchs - 00:00

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

*Dana Richardson*



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171 17

Change: 2000--2004 / 2004

Reason: INTENDING ONLY 2004

171 21

Change: CORRECT ? / CORRECT.

Reason: NOT A QUESTION

175 25

Change: AIX, UNIX / AIX UNIX

Reason: REFORMING TO ONLY ONE O/S

Page Line

207 16

Change: GCPSDBO1/DCPSDBO1

Reason: SERVER NAME INCORRECT

219 11

Change: DEVELOPED/DEVELOPMENT

Reason: REFERRING TO DEVELOPMENT LICENSE

227 16

Change: 99/9i

Reason: REFERRING TO ORACLE 9i

240 15

Change: DATABASE CONSULTANTS/DATABASECONSULTANTS

Reason: A COMPANY NAME

Change: \_\_\_\_\_

Reason: \_\_\_\_\_

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