

EXHIBIT F

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE PHYLLIS J. HAMILTON, JUDGE

ORACLE CORPORATION, ET AL.)	
)	
PLAINTIFFS,)	NO. C 07-01658 PJH (EDL)
)	
VS.)	
)	
SAP AG, ET AL.,)	PAGES 1 - 56
)	
DEFENDANTS.)	OAKLAND, CALIFORNIA
)	WEDNESDAY, MAY 5, 2010

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

FOR PLAINTIFFS: BINGHAM MUCCUTCHEN LLP
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FOR DEFENDANTS: JONES DAY
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BY: JANE L. FROYD,
THARAN GREGORY LANIER,
ELAIN WALLACE, ATTORNEYS AT LAW

REPORTED BY: RAYNEE H. MERCADO, CSR NO. 8258

1 RULED THAT WE'RE ALLOWED TO HAVE THAT AS A CLAIM, AND THAT IT,
2 IN FACT, IT ACTS AS SORT OF A SAFETY NET AGAINST THE OTHER
3 CALIFORNIA CLAIMS, AND WE ONLY GET TO ITS APPLICATION, DEPENDING
4 ON WHAT WE PREVAIL ON ON THOSE OTHER CALIFORNIA CLAIMS. THE
5 ONLY THINGS THAT WE HAVE TO DECIDE NOW IS THAT POTENTIALLY DOWN
6 THE ROAD, WHEN YOU'RE -- WHEN WE'RE AT TRIAL, AND WE'RE -- WE'VE
7 PUT THE EVIDENCE ON, WHETHER OR NOT UNJUST ENRICHMENT CAN
8 INCLUDE THE CONCEPT OF SAVED DEVELOPMENT COSTS. AND UNDER THE
9 CASE LAW THAT WE PROVIDED YOU, IT CLEARLY CAN.

10 THE SECOND POINT WAS WE JUST WANT TO MAKE SURE IF
11 YOUR HONOR DOES ISSUE AN ORDER RELATED TO THE UNNAMED PLAINTIFFS
12 BEING UNABLE TO GET LOST PROFITS DAMAGES, THERE'S BEEN SOME
13 INEXACTITUDE IN THE WAY THAT THE DEFENDANTS HAVE SAID THEY
14 WANTED THAT TO BE PHRASED. WE WANT TO MAKE SURE THAT IT'S A
15 NARROW PHRASING SO THAT THERE'S NO DANGER --

16 **THE COURT:** I'M SORRY. WE'RE TALKING ABOUT THE --

17 **MS. HOUSE:** THE FIRST THING --

18 (SIMULTANEOUS COLLOQUY.)

19 **THE COURT:** -- EXCUSE ME -- THEIR ARGUMENT THAT
20 UNPLED DEFENDANTS WHO HAVE NOT BEEN NAMED IN THE COMPLAINT --

21 **MS. HOUSE:** CAN SEEK --

22 **THE COURT:** AND WASN'T THERE A CONCESSION ON YOUR
23 PART?

24 **MS. HOUSE:** RIGHT, THERE -- THERE WAS, BUT THE ONLY
25 ISSUE WE HAVE IS THE PHRASEOLOGY OF THE ORDER. BECAUSE WE'RE

1 AFRAID THAT THE WAY THE DEFENDANTS HAVE PHRASED IT IS IT'S GOING
2 TO BE POTENTIALLY INTERPRETED IN A OVERBROAD WAY THAT THEN WE'LL
3 HAVE -- YOU KNOW, THAT'S ATTEMPTED TO USE AGAINST US.

4 WE WANT TO MAKE SURE AGAIN THEY'VE BROUGHT IT
5 SPECIFICALLY AS TO LOST PROFITS. YOU KNOW, THEY SAY THAT IN
6 THEIR LITTLE CHEAT SHEET TO YOU TODAY. WE WANT TO MAKE SURE
7 THAT INSOFAR AS THERE IS AN ORDER ISSUED -- AND WE DON'T THINK
8 THERE NEEDS TO BE BECAUSE WE'VE CONCEDED THAT WE'RE NOT EVEN
9 SEEKING THIS, BUT IF THERE IS AN ORDER, WE THINK IT SHOULD SAY
10 THAT NO ORACLE PLAINTIFF CAN SEEK LOST PROFITS TO WHICH IT'S NOT
11 ENTITLED UNDER THE LAW.

12 AND -- AND THAT CLARIFICATION IS BECAUSE THERE'S A --
13 A CASE THAT WAS CITED AND THEY DON'T DISPUTE, WHICH IS THE MARS
14 CASE, WHICH ALLOWS FOR NAMED PLAINTIFFS TO GET LOST PROFITS
15 THAT, QUOTE, **INEXORABLY FLOW UP FROM OTHER ENTITIES**. AND WE
16 DON'T WANT THERE TO BE ANY AMBIGUITY THAT SOMEHOW OR OTHER THOSE
17 TYPES OF LOST PROFITS, WHICH ARE AVAILABLE UNDER THE LAW TO
18 NAMED PLAINTIFFS, ARE SOMEHOW PRECLUDED.

19 AND SO OUR BIG CONCERN THERE IS --

20 **THE COURT:** I HAVE NO IDEA WHAT YOU'RE TALKING ABOUT.
21 WHO ARE THE NON-PARTY ENTITIES IN THIS CASE?

22 **MS. HOUSE:** YOU KNOW, ORACLE IS AN ENORMOUS COMPANY
23 WITH MULTIPLE, MULTIPLE SUBSIDIARIES, MULTIPLE, MULTIPLE --

24 **THE COURT:** I MEAN, THIS CASE IS ALMOST READY FOR
25 TRIAL. DON'T WE ALL KNOW -- DON'T YOU ALL KNOW -- I DON'T KNOW

CERTIFICATE OF REPORTER

I, RAYNEE H. MERCADO, OFFICIAL REPORTER FOR THE UNITED STATES COURT, NORTHERN DISTRICT OF CALIFORNIA, HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS IN C07-01658PJH(EDL), ORACLE CORPORATION, ET AL. V. SAP AG, ET AL., WERE REPORTED BY ME, A CERTIFIED SHORTHAND REPORTER, AND WERE THEREAFTER TRANSCRIBED UNDER MY DIRECTION INTO TYPEWRITING; THAT THE FOREGOING IS A FULL, COMPLETE AND TRUE RECORD OF SAID PROCEEDINGS AS BOUND BY ME AT THE TIME OF FILING.

THE VALIDITY OF THE REPORTER'S CERTIFICATION OF SAID TRANSCRIPT MAY BE VOID UPON DISASSEMBLY AND/OR REMOVAL FROM THE COURT FILE.



RAYNEE H. MERCADO, CSR, RMR, CRR, FCRR, CCRR

MONDAY, MAY 10, 2010