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21 UNITED STATES DISTRICT COURT
 22 NORTHERN DISTRICT OF CALIFORNIA
 23 OAKLAND DIVISION

24 ORACLE USA, INC., *et al.*,

25 Plaintiffs,

26 v.

27 SAP AG, *et al.*,

28 Defendants.

Case No. 07-CV-01658 PJH (EDL)

**ORACLE'S [PROPOSED] JURY
 VERDICT FORM**

Date: September 30, 2010
 Time: 9:00 am
 Place: 3rd Floor, Courtroom 3
 Judge: Hon. Phyllis J. Hamilton

1 Pursuant to the Court’s Pretrial Instructions, Plaintiffs Oracle USA, Inc., Oracle
2 International Corporation, Oracle EMEA Limited, and Siebel Systems, Inc. (collectively,
3 “Oracle”) submit their proposed jury verdict form, attached hereto as Exhibit A, which contains
4 no reference to submitting party.

5 While reserving objections to the substance of Defendants’ proposed jury verdict form
6 for a later date, Oracle objects to the form of Defendants’ submission of their proposed jury
7 verdict form for at least two reasons.

8 First, Defendants have not submitted a final and complete jury verdict form. Their
9 proposed jury verdict form includes over 21 bracketed inserts to fill in later, for example “[Table
10 to be inserted that will solicit jurors to answer this question for each registration asserted at
11 trial.]” Oracle confirmed and re-confirmed with Defendants the list of copyright registrations
12 that they propose to include on the actual jury verdict form, so there is no reason why
13 Defendants’ proposed submission could not be submitted in final form. Oracle requested that
14 Defendants complete and submit the actual jury verdict form that they propose to have the jury
15 complete, but Defendants rejected that request.

16 Second, even in the form submitted, Defendants’ proposed jury verdict form contains 266
17 separate questions across over 66 pages for the jury to consider. If Defendants had completed
18 their form and included Oracle’s 111 current registrations for each of Defendants’ 21 proposed
19 bracket inserts that would have further expanded Defendants' submission to an estimated 171
20 pages. Defendants also leave blanks for tables to be inserted later for Oracle’s contract claims,
21 apparently intending to treat every version of Oracle’s website Terms of Use as requiring a
22 separate determination from the jury, regardless of whether there is any meaningful variation in
23 the relevant terms. Further, Defendants’ proposed jury verdict form is not internally consistent,
24 proposing relatively simple, general verdict form provisions for their defenses, while proposing
25 very complicated provisions for Oracle's claims. In short, the length, inconsistency and
26 complexity of Defendants’ proposed jury verdict form is unwarranted and would be prejudicial
27 to Oracle. Nor is it consistent with Defendants’ objections to Oracle’s request for additional trial
28 time.

EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ORACLE USA, INC., *et al.*,

Plaintiffs,

v.

SAP AG, *et al.*,

Defendants.

CASE NO. 07-CV-01658 PJH (EDL)

JURY VERDICT FORM

Ladies and gentlemen of the jury, it is your duty to answer the questions presented in this verdict form.

Copyright Infringement

1. Is it more likely than not that TomorrowNow infringed one or more of Oracle International Corporation's copyrights in the database software product family? ("Yes" is a finding for OIC; "No" is a finding for TomorrowNow.)

_____ Yes _____ No

2. Is it more likely than not that TomorrowNow infringed one or more of Oracle International Corporation's copyrights in the PeopleSoft enterprise application software product family? ("Yes" is a finding for OIC; "No" is a finding for TomorrowNow.)

_____ Yes _____ No

3. Is it more likely than not that TomorrowNow infringed one or more of Oracle International Corporation's copyrights in the J.D. Edwards enterprise application software product family? ("Yes" is a finding for OIC; "No" is a finding for TomorrowNow.)

_____ Yes _____ No

4. Is it more likely than not that TomorrowNow infringed one or more of Oracle International Corporation's copyrights in the Siebel Systems enterprise application software product family? ("Yes" is a finding for OIC; "No" is a finding for TomorrowNow.)

_____ Yes _____ No

If you answered "Yes" to any of questions 1, 2, 3, 4, please go to question 5. If you answered "No" to all of the above questions, please go to question 9.

Contributory Infringement

5. Is it more likely than not that SAP AG is contributorily liable to Oracle International Corporation for TomorrowNow's infringement? ("Yes" is a finding for OIC; "No" is a finding for SAP AG.)

_____ Yes _____ No

6. Is it more likely than not that SAP America is contributorily liable to Oracle International Corporation for TomorrowNow's infringement? ("Yes" is a finding for OIC; "No" is a finding for SAP America.)

_____ Yes _____ No

Vicarious Infringement

7. Is it more likely than not that SAP AG is vicariously liable to Oracle International Corporation for TomorrowNow's infringement? ("Yes" is a finding for OIC; "No" is a finding for SAP AG.)

_____ Yes _____ No

8. Is it more likely than not that SAP America is vicariously liable to Oracle International Corporation for TomorrowNow's infringement? ("Yes" is a finding for OIC; "No" is a finding for SAP AG America.)

_____ Yes _____ No

Please go to the next page.

Computer Fraud and Abuse Act

9. Is it more likely than not that TomorrowNow is directly liable to Oracle USA for violating the Federal Computer Fraud and Abuse Act? (“Yes” is a finding for Oracle USA; “No” is a finding for TomorrowNow.)

_____ Yes _____ No

10. Is it more likely than not that TomorrowNow is directly liable to Oracle International Corporation for violating the Federal Computer Fraud and Abuse Act? (“Yes” is a finding for OIC; “No” is a finding for TomorrowNow.)

_____ Yes _____ No

If you answered “Yes” to question 9 or 10, please go to question 11. If you answered “No” to both question 9 and 10, please go to question 13.

11. Is it more likely than not that SAP AG is indirectly liable for TomorrowNow’s violations of the Federal Computer Fraud and Abuse Act? (“Yes” is a finding for Oracle USA and/or OIC; “No” is a finding for TomorrowNow.)

_____ Yes _____ No

12. Is it more likely than not that SAP America is indirectly liable for TomorrowNow’s violations of the Federal Computer Fraud and Abuse Act? (“Yes” is a finding for Oracle USA and/or OIC; “No” is a finding for TomorrowNow.)

_____ Yes _____ No

Please go to the next page.

California Computer Data Access and Fraud Act

13. Is it more likely than not that TomorrowNow is directly liable to Oracle USA for violating the California Computer Data Access and Fraud Act? (“Yes” is a finding for Oracle USA; “No” is a finding for TomorrowNow.)

_____ Yes _____ No

14. Is it more likely than not that TomorrowNow is directly liable to Oracle International Corporation for violating the California Computer Data Access and Fraud Act? (“Yes” is a finding for OIC; “No” is a finding for TomorrowNow.)

_____ Yes _____ No

If you answered “Yes” to question 13 or 14, please go to question 15. If you answered “No” to both question 13 and 14, please go to question 17.

15. Is it more likely than not that SAP AG is indirectly liable for TomorrowNow’s violations of the California Computer Data Access and Fraud Act? (“Yes” is a finding for Oracle USA and/or OIC; “No” is a finding for SAP AG.)

_____ Yes _____ No

16. Is it more likely than not that SAP America is indirectly liable for TomorrowNow’s violations of the California Computer Data Access and Fraud Act? (“Yes” is a finding for Oracle USA and/or OIC; “No” is a finding for SAP America.)

_____ Yes _____ No

17. Is it more likely than not that SAP AG and/or SAP America is directly liable to Oracle USA Corporation for violating section 502(c)(6) of the California Computer Data Access and Fraud Act? (“Yes” is a finding for Oracle USA; “No” is a finding for SAP AG and/or SAP America.)

SAP AG _____ Yes _____ No

SAP America _____ Yes _____ No

18. Is it more likely than not that SAP AG and/or SAP America is directly liable to Oracle International Corporation for violating section 502(c)(6) of the California Computer Data Access and Fraud Act? (“Yes” is a finding for OIC; “No” is a finding for SAP AG and/or SAP America.)

SAP AG _____ Yes _____ No

SAP America _____ Yes _____ No

Please go to the next page.

Breach of Contract

19. Is it more likely than not that TomorrowNow is directly liable to Oracle USA for breaching one or more contracts and causing harm to Oracle USA? (“Yes” is a finding for Oracle USA; “No” is a finding for TomorrowNow.)

_____ Yes _____ No

If you answered “Yes” to question 19, please go to question 20. If you answered “No” to question 19, please go to question 22.

20. Is it more likely than not that SAP AG is indirectly liable for TomorrowNow’s breach of contract? (“Yes” is a finding for Oracle USA; “No” is a finding for SAP AG.)

_____ Yes _____ No

21. Is it more likely than not that SAP America is indirectly liable for TomorrowNow’s breach of contract? (“Yes” is a finding for Oracle USA; “No” is a finding for SAP America.)

_____ Yes _____ No

Please go to the next page.

Intentional Interference With Prospective Economic Advantage

22. Is it more likely than not that TomorrowNow, SAP AG, and/or SAP America is directly liable to Oracle USA for intentionally interfering with Oracle USA’s prospective economic advantage? (“Yes” is a finding for Oracle USA; “No” is a finding for TomorrowNow, SAP AG, and/or SAP America.)

TomorrowNow	_____	Yes	_____	No
SAP AG	_____	Yes	_____	No
SAP America	_____	Yes	_____	No

23. Is it more likely than not that TomorrowNow, SAP AG, and/or SAP America is directly liable to Oracle International Corp. for intentionally interfering with Oracle International Corp.’s prospective economic advantage? (“Yes” is a finding for OIC; “No” is a finding for TomorrowNow, SAP AG, and/or SAP America.)

TomorrowNow	_____	Yes	_____	No
SAP AG	_____	Yes	_____	No
SAP America	_____	Yes	_____	No

24. Is it more likely than not that TomorrowNow, SAP AG, and/or SAP America is directly liable to Oracle EMEA for intentionally interfering with Oracle EMEA’s prospective economic advantage? (“Yes” is a finding for Oracle EMEA; “No” is a finding for TomorrowNow, SAP AG, and/or SAP America.)

TomorrowNow	_____	Yes	_____	No
SAP AG	_____	Yes	_____	No
SAP America	_____	Yes	_____	No

If you found that TomorrowNow is liable in response to questions 22, 23, or 24, please go to question 25. If you answered “No” as to TomorrowNow in all three of those questions, please go to question 27.

25. Is it more likely than not that SAP AG is indirectly liable for TomorrowNow’s intentional interference with prospective economic advantage? (“Yes” is a finding for Oracle USA, Oracle International Corp., and/or OEMEA; “No” is a finding for SAP AG.)

_____ Yes _____ No

26. Is it more likely than not that SAP America is indirectly liable for TomorrowNow’s intentional interference with prospective economic advantage? (“Yes” is a finding for Oracle USA, Oracle International Corp., and/or OEMEA; “No” is a finding for SAP America.)

_____ Yes _____ No

Please go to the next page.

Negligent Interference With Prospective Economic Advantage

27. Is it more likely than not that TomorrowNow, SAP AG, and/or SAP America is directly liable to Oracle USA for negligently interfering with Oracle USA’s prospective economic advantage? (“Yes” is a finding for Oracle USA; “No” is a finding for TomorrowNow, SAP AG, and/or SAP America.)

TomorrowNow	_____	Yes	_____	No
SAP AG	_____	Yes	_____	No
SAP America	_____	Yes	_____	No

28. Is it more likely than not that TomorrowNow, SAP AG, and/or SAP America is directly liable to Oracle International Corp. for negligently interfering with Oracle International Corp.’s prospective economic advantage? (“Yes” is a finding for OIC; “No” is a finding for TomorrowNow, SAP AG, and/or SAP America.)

TomorrowNow	_____	Yes	_____	No
SAP AG	_____	Yes	_____	No
SAP America	_____	Yes	_____	No

29. Is it more likely than not that TomorrowNow, SAP AG, and/or SAP America is directly liable to Oracle EMEA for negligently interfering with Oracle EMEA’s prospective economic advantage? (“Yes” is a finding for Oracle EMEA; “No” is a finding for TomorrowNow, SAP AG, and/or SAP America.)

TomorrowNow	_____	Yes	_____	No
SAP AG	_____	Yes	_____	No
SAP America	_____	Yes	_____	No

If you found that TomorrowNow is liable in response to questions 27, 28, or 29, please go to question 30. If you answered “No” as to TomorrowNow in all three of those questions, please go to question 32.

30. Is it more likely than not that SAP AG is indirectly liable for TomorrowNow's negligent interference with prospective economic advantage? ("Yes" is a finding for Oracle USA, Oracle International Corp., and/or OEMEA; "No" is a finding for SAP AG.)

_____ Yes _____ No

31. Is it more likely than not that SAP America is indirectly liable for TomorrowNow's negligent interference with prospective economic advantage? ("Yes" is a finding for Oracle USA, Oracle International Corp., and/or OEMEA; "No" is a finding for SAP America.)

_____ Yes _____ No

Please go to the next page.

Trespass to Chattels

32. Is it more likely than not that TomorrowNow is directly liable to Oracle USA for trespass to chattels? (“Yes” is a finding for Oracle USA; “No” is a finding for TomorrowNow)

_____ Yes _____ No

If you answered “Yes” to question 32, please go to question 33. If you answered “No” to question 32, please go to question 35.

33. Is it more likely than not that SAP AG is indirectly liable for TomorrowNow’s trespass to chattels? (“Yes” is a finding for Oracle USA; “No” is a finding for SAP AG.)

_____ Yes _____ No

34. Is it more likely than not that SAP America is indirectly liable for TomorrowNow’s trespass to chattels? (“Yes” is a finding for Oracle USA; “No” is a finding for SAP America.)

_____ Yes _____ No

Please go to the next page.

Unjust Enrichment

35. Is it more likely than not that TomorrowNow, SAP AG, and/or SAP America were unjustly enriched at the expense of Oracle USA, Oracle International Corp., OEMEA, and/or Siebel Systems Inc.? (“Yes” is a finding for Oracle USA, Oracle International Corp., OEMEA, and/or Siebel Systems Inc.; “No” is a finding for TomorrowNow, SAP AG, and/or SAP America.)

TomorrowNow	_____	Yes	_____	No
SAP AG	_____	Yes	_____	No
SAP America	_____	Yes	_____	No

Please go to the next page.

Damages

If you found that any of the defendants are liable to any of the plaintiffs above (that is, if you answered any of the questions above with a “Yes,”), please answer the questions below.

36. On its claims for copyright infringement, we award Oracle International Corp. compensatory damages in the amount of _____.

37. On its claims for violation of the CFAA and/or the CDAFA, we award Oracle USA compensatory damages in the amount of _____.

38. On its claims for violation of the CFAA and/or the CDAFA, we award Oracle International Corp. compensatory damages in the amount of _____.

Do not award duplicate damages for the same injury. If you have already awarded Oracle International Corp. damages on other claims that together fully compensate Oracle International Corp. on these claims, write “0” in the blank above, even if you found liability.

If you already awarded Oracle International Corp. damages on other claims, that together do not fully compensate Oracle International Corp. on these claims, write in the blank above the additional amounts that you find are necessary to fully compensate Oracle International Corp. on this claim.

39. On its claims for breach of contract, interference with prospective economic advantage, negligent interference with prospective economic advantage, and trespass to chattels we award Oracle USA compensatory damages in the amount of _____.

Do not award duplicate damages for the same injury. If you have already awarded Oracle USA damages on other claims that together fully compensate Oracle USA on these claims, write “0” in the blank above, even if you found liability.

If you already awarded Oracle USA damages on other claims, that together do not fully compensate Oracle USA on these claims, write in the blank above the additional amounts that

you find are necessary to fully compensate Oracle USA on these claims.

40. On its claims for interference with prospective economic advantage and negligent interference with prospective economic advantage, we award Oracle International Corp. compensatory damages in the amount of _____.

Do not award duplicate damages for the same injury. If you have already awarded Oracle International Corp. damages on other claims that together fully compensate Oracle International Corp. on these claims, write "0" in the blank above, even if you found liability.

If you already awarded Oracle USA damages on other claims, that together do not fully compensate Oracle International Corp. on these claims, write in the blank above the additional amounts that you find are necessary to fully compensate Oracle International Corp. on these claims.

41. On its claims for interference with prospective economic advantage and negligent interference with prospective economic advantage, we award Oracle EMEA compensatory damages in the amount of _____.

42. On their claims for unjust enrichment, we award Plaintiffs _____.

Do not award duplicate damages for the same injury. If you have already awarded Plaintiffs damages on other claims that together award Plaintiffs the full amounts by which defendant(s) were unjustly enriched, write "0" in the blank above, even if you found liability.

If you already awarded Plaintiffs damages on other claims, that together do not award Plaintiffs the full amounts by which defendant(s) were unjustly enriched, write in the blank above the additional amounts that you find are necessary to fully compensate Plaintiffs on these claims.

Please go to the next page.

If you found any defendant liable, directly or indirectly, for violations of the CDAFA (questions 13-18), intentional interference with prospective economic advantage (questions 22-26), or trespass to chattels (questions 32-34), please answer the following questions:

43. We find that the following defendants engaged in conduct that was malicious, oppressive or in reckless disregard of the Plaintiffs' rights:

TomorrowNow	_____	Yes	_____	No
SAP AG	_____	Yes	_____	No
SAP America	_____	Yes	_____	No

If you answered "Yes" with respect to any defendant in response to question 43, please state the amount of punitive damages you award, if any, against that defendant:

44. We award punitive damages in the amount of

TomorrowNow	_____
SAP AG	_____
SAP America	_____

Dated _____

Foreperson