

EXHIBIT U

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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ORACLE CORPORATION, a Delaware
Corporation; ORACLE, USA, INC.,
a Colorado Corporation, and
ORACLE INTERNATIONAL CORPORATION,
a California Corporation,

Plaintiffs,

Vs.

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

SAP AG, a German Corporation,
SAP AMERICA, INC., a Delaware
CORPORATION, TOMORROWNOW, INC.,
a Texas Corporation, and DOES
1-50, Inclusive,

Defendants.

VIDEOTAPED RULE 30(b)(6) DEPOSITION OF
ORACLE CORPORATION

Designee: RICHARD CUMMINS

Tuesday, September 16, 2008

Volume I, Pages 1 - 255

HIGHLY CONFIDENTIAL INFORMATION - ATTORNEYS' EYES ONLY

Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
Job 412495

1 Q. Was there a particular organization within
2 Oracle that was responsible for that at risk report?

3 A. Yeah, it was our organization.

11:20 4 Q. Were you particularly -- in particular
5 responsible for that report?

6 A. Yes..

7 Q. When did that report first commence?

8 A. It was in 2005.

11:20 9 Q. Do you recall the month?

10 A. It was May of 2005. May -- May or June of
11 2005.

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1 Q. MR. McDONELL: So the at risk reporting began
2 in May of '05, a few months after Oracle acquired
3 PeopleSoft, right?

11:21 4 A. Yes.

5 Q. What was the genesis of it? How did it get
6 started?

7 A. We had significant concern because we were
8 seeing a lot of losses or we were seeing losses to
11:22 9 TomorrowNow, and so we wanted to make sure that we
10 tracked those losses very specifically.

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17 Q. MR. McDONELL: Are there any companies other

18 than the companies listed on your at risk report that

15:30 19 provide support for JD Edwards and PeopleSoft

20 products?

21 A. The -- the way they get on that at risk

22 report is that they are reported by a sales rep. And

23 so, you know, by no means do we go out and try and

15:30 24 list everybody we could possibly find. It's those

25 are the ones that have been identified by our at risk

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Q. So there was a distribution list for the
15:47 14 third party at risk group.

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A. There was.

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Q. And give me the time line. When did you
15:48 9 start -- first start compiling that information?

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A. It was roughly May or June of 2005.

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Q. Who designed the report?

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A. I did.

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16 Q. So you started out in May of '05 --

17 A. Yes.

18 Q. -- or so and you created an Excel

15:50 19 spreadsheet, right?

20 A. Yes.

21 Q. And then you updated that over time; is that
22 right?

23 A. We did.

15:50 24 Q. And it was the same spreadsheet that you just
25 modified over time?

1 A. It was.

2 Q. It never got copied and duplicated and become
3 a different document?

15:50 4 A. No.

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12 Q. MR. McDONELL: The last report I've seen is
13 from January this year, 2008.

15:51 14 A. Okay.

15 Q. Is there any subsequent report that you're
16 aware of?

17 A. I don't believe there is.

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8 Q. Was it also exposure to other support

15:56 9 providers or other software providers like, for
10 example, SAP?

11 A. It wasn't -- it wasn't intended for customers
12 that were going to another software provider. It was
13 intended for third party support.

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Q. For example, did you have any way of keeping track of which version you were on? Sometimes people

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will have a new version each time so it's one, two, three, four, five.

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A. As I said before, we didn't keep multiple versions. It's one version that we updated. So it's

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the same document there were updates to whenever

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there were updates.

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16 Q. And how was the data coming into you

17 worldwide?

18 A. It was coming in through support sales reps.

16:04 19 And so globally a support sales rep, if they came
20 across a customer that was deemed to be at risk, they
21 would submit that information into Beth Shippy.

22 Q. And how would they do that?

23 A. Via e-mail.

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CERTIFICATE OF REPORTER

I, WENDY E. ARLEN, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision.

That before completion of the deposition, review of the transcript [X] was [] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition nor in any way interested in the event of this cause and that I am not related to any of the parties thereto.

DATED: October 2nd, 2008

Wendy E. Arlen
WENDY E. ARLEN CSR, No. 4355

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Tuesday, September 23, 2008

Volume II, Pages 256 - 436

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Reported By: WENDY E. ARLEN, CSR #4355, CRR, RMR
Job 412497

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10:03 4

5 Q. And was it a manual process to take the data
6 from those e-mails and put that into the Access
7 database?

8 A. Yeah, that's what we discussed last week,
10:03 9 too, that it comes in through an e-mail and that's
10 how it gets into the database.

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10:04 14

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16 THE WITNESS: The information came in, Beth
17 told me that she cut and pasted it directly from the
18 e-mail into the database.

10:04 19 Q. MR. McDONELL: Okay. What else did you talk
20 to Beth Shippy about?

21 A. We talked about the limitation of what she
22 was given, the information came from customers as
23 best we could get it. Customers were not, you know,
10:04 24 customers give you what they want -- want you to
25 have. So there's certainly limitations with that.

1 Sales reps reported this as part of their
2 overall job. It wasn't that there was a task force
3 or anything that -- that solely did that. So as a
10:04 4 sales rep I would have, you know, typically a sales
5 rep has several hundred renewals over the course of
6 the year. So this is part of what they did in the
7 course of their normal job. So information was only
8 as good as what they gave her.

10:05 9 Q. Are you trying to tell us that they didn't
10 necessarily always give the information?

11 A. No, I'm not saying that. I said they gave
12 the information, but, you know, this isn't -- they
13 didn't spend every day going back to this subset of
10:05 14 customers or anything as part of their -- part of
15 their daily job.

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Q. Can you run through and tell us, to the best

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of your knowledge, what the source of information is

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for each one, so where the information comes from at

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Oracle? And if it helps you at all, I'll tell you

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one of the reasons I'm curious is because you don't

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have every customer of Oracle on this list, right?

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For example, you said there might be some

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non-U.S. customers who didn't get reported because

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somebody didn't report on them, right?

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A. Yes, this is information that was reported

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from our support sales reps. So it's as accurate as

1 what we were given. It doesn't -- it's not a data
2 pull from anywhere. There's no other source. It was
3 given from our support sales reps.

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10:48 14 Q. MR. McDONELL: So we're on page Data 1. And
15 what I want to know is what you know about the source
16 of the information starting with column A.

17 A. The reason I looked through all these is all
18 of these come from support sales reps. So there is
10:48 19 no other source of information. Beth didn't go back
20 and pull information from anywhere else. It all came
21 from information that was given to her from support
22 sales reps.

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2 A. Yes, when we sent these out to the
3 distribution list, we sent the at risk report out.

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10 Q. How frequently would you send out a report
11 like this?

12 A. It depends on the time frame, but it was
13 roughly -- roughly monthly.

11:10 14 Q. Would you send it along with the at risk
15 report or how would that work?

16 A. Yes, I said -- here it says attached is the
17 latest third party at risk analysis.

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23 Q. I think we covered this a little before, but
11:11 24 I want to make sure we're clear. The third party at
25 risk report was intended to capture information by

1 customers who were at risk of leaving Oracle support
2 for any reason; is that right?

3 MS. HOUSE: Objection, asked and answered,
11:12 4 misstates his testimony.

5 THE WITNESS: It was designed for those
6 customers that were at risk of going to a third party
7 provider, which was primarily TomorrowNow.

8 Q. MR. McDONELL: And did it also include
11:12 9 customers at risk of going to self support?

10 MS. HOUSE: Objection, asked and answered.

11 THE WITNESS: If a customer -- yeah, as I
12 said before, if a customer indicated that they were
13 looking at a third party provider, then they would go
11:12 14 on this list. It could be that they ended up, you
15 know, in any number of situations, but the way they
16 got on this report is indicating they had talked to a
17 third party provider.

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DATED: October 2nd, 2008

Wendy E Arlen
WENDY E. ARLEN CSR, No. 4355