EXHIBIT B

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

--oOo--

ORACLE CORPORATION, a Delaware corporation, ORACLE USA, INC., a Colorado corporation, and ORACLE INTERNATIONAL CORPORATION, a California corporation,	)	
Plaintiffs,	)	
vs.	)	07-CV-1658 (PJH)
SAP AG, a German corporation, SAP AMERICA, INC., a Delaware corporation, TOMORROWNOW, INC., a Texas corporation, and DOES 1-50, inclusive,	)	
Defendants.	)	

VIDEOTAPED DEPOSITION OF DONALD REIFER

JUNE 18, 2010

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

REPORTED BY: SARAH LUCIA BRANN, CSR 3887 (#427125)

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11:59:36
11:59:56 Q. Have you ever estimated the cost of
11:59:58 development for PeopleSoft software before?
12:00:00 A. No.
12:00:01 Q. Have you ever estimated the cost of

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12:00:02 development for JDEdwards software before?
12:00:05 A. No, I have not.
12:00:06 Q. Have you ever estimated the cost of
12:00:08 development for Siebel software before?
12:00:11 A. No, I have not.
12:00:12 Q. Have you ever estimated the cost of
12:00:15 development for SAP software before?
12:00:17 A. No, I have not.
12:00:34 Q. Have you ever worked as an employee of an
12:00:38 enterprise software company like Oracle?
12:00:40 A. No.
12:00:52 Q. How many times have you run a COCOMO II
12:00:56 cost estimate?
12:01:00 A. Hundreds. It's just -- a lot of times.
12:01:09 Q. How many times have you run it with COCOMO
12:01:10 II '97?
12:01:14 A. Hundreds.
12:01:15 Q. And COCOMO II.2000?
12:01:21 A. Oh, '97, none. Sorry. My apologies. Let
12:01:22 me correct that answer.
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12:11:00
12:11:01 Q. Excuse me. Let me finish.
12:11:03 You developed an estimate using
12:11:05 COCOMO II.2000 for certain software for the
12:11:10 government, and then you managed the project through
12:11:14 to deliver that software and -- against your
12:11:18 estimate.
12:11:19 A. That is correct.
12:11:19 Q. Okay. And tell me what you did to do
12:11:21 that.
12:11:22 A. Okay.
12:11:23 MR. BUTLER: Before you do that, I don't
12:11:26 know whether you have any confidentiality
12:11:28 obligations, but I caution you to think about that
12:11:31 before disclosing information. I don't know what
12:11:34 agreements might bind you or not, but I urge you to
12:11:37 keep that in mind.
12:11:38 THE WITNESS: Thank you, sir.
12:11:43 Let's see what's a matter of public
12:11:45 record.
12:11:47 MR. ALINDER: Q. It's fine. I don't need
12:11:48 to know the details of it.
12:11:50 Is that the only time that you have used
12:11:54 COCOMO II.2000 to develop an estimate and then
12:11:58 managed the project to completion?

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12:12:01 A. That is correct. Most of the other
12:12:02 estimates were used as estimating exercises to
12:12:06 develop estimates for clients, estimates --
12:12:10 independent estimates which were used to look at the
12:12:14 reasonableness of the client's offer, or the
12:12:17 reasonableness of the operational organization, in
12:12:21 some cases their ability to deliver estimates, to
12:12:27 look at competitiveness.
12:12:29 But in terms of "in charge of the delivery
12:12:33 of the product," these are small R&D projects that
12:12:37 are less than 10 people that I have managed the
12:12:41 delivery of.
12:12:41 Q. And you haven't used COCOMO II.1997 in
12:12:46 order to develop an estimate and then deliver on
12:12:48 that; correct?
12:12:49 A. The 1992 -- 1997 model is an antiquated
12:12:55 model that has been basically put on the shelf, put
12:12:59 on the shelf for history purposes that, of the 43
12:13:07 firms that are in the USC affiliates, no one uses
12:13:11 1997. I checked that.
12:13:13 MR. ALINDER: Okay. I object and move to
12:13:16 strike as non-responsive.
12:13:17 Q. The question was whether you had used that
12:13:19 before.
12:13:20 A. 1997? No.

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13:30:52 MR. ALINDER: Q. Can you turn to page 18
13:30:53 of your report? In your step two on page 18 you
13:31:17 say, "I next tried to acquire copies of the
13:31:19 specialized counting utilities that Mr. Pinto
13:31:25 developed to tally source lines of code."
13:31:27 A. Yes.
13:31:28 MR. BUTLER: Sorry. Objection to the
13:31:30 form. Mischaracterizes the document.
13:31:33 MR. ALINDER: Q. Do you see that?
13:31:41 A. Mm-hmm. Yes.
13:31:45 Q. Did you look at Mr. Pinto's code counters
13:31:48 that we produced with his report?

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13:31:52 A. Yes, we did.
13:31:56 Q. And so you looked at the -- which versions
13:32:05 of his code counters did you look at?
13:32:07 A. We looked at the -- in his attachments he
13:32:12 has parsing rules and he has the counting rules.
13:32:17 And then we looked -- we believe -- I believe they
13:32:26 are on his -- in one of the Pinto attachments there
13:32:30 are text files with some of the counters on it.
13:32:33 There are other files. We could never figure out in
13:32:39 total what the source code was for those files, nor
13:32:44 could we get them to execute.
13:32:46 Q. So you received the flat files of code and
13:32:48 you also received dot EXE versions of the counters;
13:32:53 right?
13:32:55 MR. BUTLER: Objection.
13:32:56 THE WITNESS: That is correct.
13:32:56 MR. BUTLER: Sorry, Don.
13:32:59 Objection. Vague. Ambiguous.
13:33:02 THE WITNESS: Okay. Could you elaborate,
13:33:03 please?
13:33:05 MR. ALINDER: Q. You don't understand
13:33:06 what I mean by flat files of code and dot EXE
13:33:11 versions?
13:33:11 A. What do you mean by flat files?
13:33:13 Q. Text files.

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13:33:14 A. We received text files and EXEs.
13:33:19 Q. So do you actually run --
13:33:21 A. We didn't --
13:33:22 Q. Hold on. You have to wait for me to
13:33:23 finish, and then you get to respond. And probably
13:33:27 pause in between for Mr. Butler to object, if he has
13:33:30 an objection.
13:33:31 MR. BUTLER: Thank you, Zac.
13:33:34 MR. ALINDER: Q. Did you actually run
13:33:35 Mr. Pinto's utilities against any code for your
13:33:39 report?
13:33:40 A. No. We were unable to run those
13:33:43 utilities, because we kept getting execution errors.
13:33:47 And our queries for clarification on the environment
13:33:54 were insufficient to get the execution errors
13:33:58 resolved.
13:34:00 Q. Did you ever ask anyone about why you were
13:34:04 unable to execute the code counters that Mr. Pinto
13:34:09 provided?
13:34:11 A. We --
13:34:12 MR. BUTLER: Objection.
13:34:12 Sorry, Don.
13:34:14 Objection to the form. Vague. Ambiguous.
13:34:16 THE WITNESS: Who do you mean by "anyone"?
13:34:19 MR. ALINDER: Q. Anyone is anyone.

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13:34:24 A. Yeah. We kept querying about -- so, for
13:34:28 example, we asked about environment. We were told
13:34:31 it was a Windows XP environment. But we didn't know
13:34:34 if SP2 was installed, SP1 was installed, if there
13:34:39 were any specialized drivers. To resolve the
13:34:44 execution errors in those counters would have
13:34:47 required a great deal of dialogue, and going through
13:34:53 various levels of people to get other people to
13:34:56 get -- provide answers. We felt it would be simpler
13:35:01 just to replicate Mr. Pinto's counting rules and
13:35:04 parsing rules and develop our own. It just was too
13:35:09 difficult a situation.
13:35:12 Q. So in the end you didn't end up using
13:35:14 Mr. Pinto's actual code counters?
13:35:17 A. We did not --
13:35:18 MR. BUTLER: Objection.
13:35:18 Sorry, Don. Please give me a break to --
13:35:21 chance to object.
13:35:24 Objection. Vague. Ambiguous.
13:35:25 Mischaracterizes the testimony.
13:35:28 THE WITNESS: Okay. Could you elaborate,
13:35:30 please?
13:35:31 MR. ALINDER: Q. You don't have to ask
13:35:32 for elaboration if you actually understand. If you
13:35:34 can answer the question despite Mr. Butler's

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13:35:39 objections --
13:35:40 A. Well, but there are objections. Because
13:35:42 if you look at using Mr. Pinto's counters, Mr. Pinto
13:35:47 only used counters on two of the four suites of
13:35:51 products. Two of the suites of products he inferred
13:35:54 size estimates.
13:35:55 So there were -- and that's World and
13:35:59 that's Siebel. They were never counted.
13:36:03 So the question is, which products are you
13:36:06 saying we should have used counters for and, you
13:36:11 know, can you elaborate?
13:36:14 Q. You never used the counters, Mr. Pinto's
13:36:17 counters, on any of the software here; right?
13:36:19 MR. BUTLER: Objection to the form.
13:36:21 Vague, ambiguous, and mischaracterizes the Reifer
13:36:24 report.
13:36:25 THE WITNESS: We were never able to get
13:36:27 the Pinto counters to execute in a Windows XP
13:36:32 environment, so we never used those counters because
13:36:35 of that root cause.
13:36:38 MR. ALINDER: Q. So instead what you did
13:36:39 is you created your own replica counters that you
13:36:43 believe followed Mr. Pinto's rules; correct?
13:36:50 A. For the Java and -- for some of the
13:36:52 programming languages, yes, we did.

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13:36:56 Q. Did you recreate Mr. Pinto's code counters
13:36:59 using the source code for those counters that
13:37:02 Mr. Pinto produced?
13:37:04 A. No, we did not.
13:37:05 Q. Why not?
13:37:06 A. We couldn't get the -- we couldn't get the
13:37:09 code to execute or compile. I don't know if -- we
13:37:13 couldn't get it to execute. I don't think we
13:37:18 created a different compilation version, because we
13:37:21 didn't know which version of the compiler, or which
13:37:24 compiler he was using. We were using Visual Studio,
13:37:30 which is a standard in the university world.
13:38:00 Q. On page 18, the second paragraph after
13:38:06 Mr. Pinto's step two, it starts off, "Why Mr. Pinto
13:38:12 developed his own source lines of code counters
13:38:15 puzzled me." Do you see that?
13:38:18 A. Yes, I do.
13:38:21 Q. Have you ever developed your own code
13:38:25 counters from scratch before?
13:38:27 A. Personally?
13:38:28 Q. Personally.
13:38:28 A. I have led teams that have developed them,
13:38:30 but I have not personally written the code for
13:38:33 those.
13:38:36 Q. What code counters did you use for your

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13:38:41 analysis in this report?
13:38:43 A. We used the UCC counter. The UCC counter
13:38:47 is a public domain piece of software that was
13:38:50 developed by the Aerospace Corporation under
13:38:55 contract to the US government and given to USC to
13:39:02 distribute free. It's a copyleft open source piece
13:39:10 of software.
13:39:11 Q. Would the UCC USC counter you used allow
13:39:16 you to count of all the languages that Mr. Pinto
13:39:21 counted?
13:39:23 MR. BUTLER: Objection to the form.
13:39:23 Vague. Ambiguous.
13:39:24 THE WITNESS: Could you list the
13:39:24 languages, please?
13:39:26 MR. ALINDER: Q. You don't know all the
13:39:27 languages that are in the software that Mr. Pinto
13:39:29 provided?
13:39:29 A. I have an idea of the languages, but I
13:39:31 would like to make sure that my list is complete.
13:39:34 Q. What languages do you believe exist in
13:39:37 PeopleSoft, JDEdwards, and Siebel?
13:39:39 A. Well, there is confusion in Mr. Pinto's
13:39:44 report. And let me point to a number of paragraphs
13:39:46 in his report about moving from RPG to COBOL, and
13:39:51 then listing World also in Java and C++.

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13:39:58 So throughout his report there is
13:40:00 confusion that in his deposition he clarified by
13:40:06 saying that the language that was used in World was
13:40:10 Java and C++. But that was after my report was
13:40:15 written.
13:40:19 So, to answer your question, COBOL would
13:40:21 have been one of the languages we would have looked
13:40:23 for at that time, but at this time we wouldn't look
13:40:28 for because of the confusion.
13:40:31 Of course, Java, C, C++ are languages we
13:40:34 would look for. SQL and some of the other XML type
13:40:39 languages we would look for. And if we didn't find
13:40:43 those languages, because there is a common framework
13:40:46 for developing -- and others, is PeopleSoft, of
13:40:54 course, which is a proprietary language, which we
13:40:57 couldn't have developed a count for.
13:41:00 But there is a unified framework for code
13:41:04 counting, and the ability to put your unique parser
13:41:08 into the counter and take advantage of all the
13:41:10 reusable software and tools that are provided by
13:41:12 that counter. And there is a provision to take that
13:41:15 software and put it copyleft open source so other
13:41:21 people could use it.
13:41:23 And that's how I would have developed it.
13:41:25 I would have developed it using UCC, because a

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13:41:29 majority of the counters existed. And then for
13:41:32 specialized languages I would have built my own and
13:41:36 put it in the framework, because then I could have
13:41:39 used a code comparator. I could have used the other
13:41:42 tools that are provided with the UCC tool.
13:41:49 Q. Okay. That was quite an answer, and I
13:41:51 would actually move to strike everything before you
13:41:55 said, "To answer your question."
13:41:58 MR. BUTLER: Did you believe that was a
13:41:59 response to Mr. Alinder's question?
13:42:02 THE WITNESS: Yes, I believe it was a
13:42:03 valid response.
13:42:05 MR. BUTLER: Okay.
13:42:07 MR. ALINDER: Q. Does the USC UCC counter
13:42:12 count lines of PeopleCode?
13:42:14 MR. BUTLER: Objection to form. Vague.
13:42:15 Ambiguous.
13:42:20 THE WITNESS: The UCC counter currently
13:42:24 does not count PeopleCode, because it's a
13:42:27 proprietary language. It could very well be
13:42:30 instrumented to count it by taking and putting in a
13:42:34 parser and a counter in the framework. The
13:42:37 framework is structured to accommodate any language.
13:42:41 MR. ALINDER: Q. Does the USC UCC counter
13:42:45 count MDL code?

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13:42:49 A. Same answer. It can easily be
13:42:52 accommodated within the framework.
13:42:54 Q. Does the USC UCC counter count DMS code?
13:43:01 MR. BUTLER: Objection. Vague.
13:43:02 Ambiguous.
13:43:02 THE WITNESS: Same answer. It does not
13:43:04 currently count DMS code.
13:43:06 MR. ALINDER: Q. Does the USC UCC counter
13:43:11 count COBOL code?
13:43:14 MR. BUTLER: Same --
13:43:14 THE WITNESS: The UCC --
13:43:14 MR. BUTLER: Wait.
13:43:15 THE WITNESS: I turned to you.
13:43:17 MR. BUTLER: I wanted to see what was
13:43:18 being transcribed first.
13:43:20 THE WITNESS: I am sorry.
13:43:21 MR. BUTLER: Objection. Vague.
13:43:22 Ambiguous. Thank you.
13:43:23 THE WITNESS: So the answer to your
13:43:25 question is, the predecessor counter does. There is
13:43:28 a counter which was -- the UCC counter replaced,
13:43:32 that does count COBOL code. And we acquired that
13:43:37 counter and were trying to use it, but we couldn't
13:43:42 find any COBOL code.
13:43:48 So we do have a counter that's open

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13:43:50 source, downloadable, available, and it's the
13:43:53 predecessor counter to UCC, which has been available
13:43:57 since probably '03.
13:44:01 MR. ALINDER: Q. The one that you used,
13:44:03 though, doesn't count COBOL code; correct?
13:44:07 A. Well, we did download the predecessor
13:44:09 counter and load it on our machine to count COBOL
13:44:14 code, but we couldn't find COBOL code. We tried.
13:44:19 Q. Does the USC UCC counter that you used
13:44:24 counted RPT code?
13:44:25 MR. BUTLER: Same objection. Vague.
13:44:26 Ambiguous.
13:44:26 THE WITNESS: Same answer. It could. It
13:44:31 does count, not that format, but other report
13:44:34 generators and other type codes like that.
13:44:38 MR. ALINDER: Q. Does the USC UCC counter
13:44:40 that you used count SQR code?
13:44:44 MR. BUTLER: Same objection.
13:44:45 THE WITNESS: Same answer.
13:44:47 MR. ALINDER: Q. By same answer you mean
13:44:49 it could be changed or customized in order to do
13:44:51 that?
13:44:52 A. Not customized. It could -- the structure
13:44:55 accommodates the counter, and it's relatively simple
13:45:00 work to develop.

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13:45:00 Q. You would have to do some additional
13:45:02 development in order to make that counter count?
13:45:05 A. Yeah, but it would be substantially less,
13:45:08 in my opinion, than developing a custom counter.
13:45:13 Q. You have never developed a custom counter,
13:45:16 though, yourself; correct?
13:45:18 A. I have had teams develop custom counters.
13:45:21 I have not myself.
13:45:22 Q. Would the USC UCC counter that you used
13:45:26 count SQC code?
13:45:29 MR. BUTLER: Same objection.
13:45:29 THE WITNESS: Same answer. The answer is,
13:45:31 it could.
13:45:32 MR. ALINDER: Q. It could, but it didn't.
13:45:34 A. Yeah.
13:45:38 Q. In your report do you identify
13:45:40 alternatively commercially available code counters
13:45:44 for each of the languages in JDEdwards and
13:45:47 PeopleSoft code?
13:45:48 A. No, we do not.
13:45:52 Q. Did you only look at Mr. Pinto's code
13:45:55 counters for certain languages?
13:45:57 A. Could you elaborate, please?
13:46:01 Q. Which specific code counters of
13:46:02 Mr. Pinto's did you review and replicate?

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13:46:13 A. We replicated the C++ language counter and
13:46:17 we replicated the Java counter, and we made an
13:46:21 attempt to do an SQL counter and bring in a COBOL
13:46:26 counter, but because of time we gave up on those
13:46:29 efforts.
13:46:30 Q. When did you start your attempts to create
13:46:36 these counters?
13:46:37 A. Mr. Tan was my assistant, was brought on
13:46:45 in mid-February. And as you saw, my report was due
13:46:48 on the 26th of March.
13:46:49 Q. And this is Tom Tan?
13:46:52 A. Yes, sir.
13:46:53 Q. This is the same person we were talking
13:46:56 about before; correct?
13:46:59 A. Tom Tan, yes, sir.
13:47:05 Q. Did Tom run all of the code counter --
13:47:16 strike that.
13:47:17 Did Tom Tan do all of the runs using the
13:47:20 code counters for your report?
13:47:23 MR. BUTLER: Objection to the form.
13:47:24 Vague. Ambiguous.
13:47:25 THE WITNESS: Yes.
13:47:38 MR. ALINDER: Q. Do all the code counters
13:47:41 for -- that you looked at relate to the JDEdwards
13:47:45 products?

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13:47:50 A. There's -- they relate to more than the
13:47:54 JDEdwards products, but we didn't have time to do
13:47:58 more.
13:48:00 Q. Do you believe that they relate to
13:48:02 PeopleSoft products in some way, too?
13:48:06 A. Well, I didn't dig into PeopleSoft. We
13:48:08 looked at World. We saw that World was supposed to
13:48:13 be in COBOL. We saw that in PeopleSoft there was
13:48:17 SQL. So, we looked. We just had a month, didn't
13:48:26 have enough time.
13:48:33 Q. What is Tom Tan's background?
13:48:36 A. He is a PhD candidate at USC. He has been
13:48:40 in the program with a bachelor's degree in 2002 in
13:48:46 computer science, and he has been in the PhD and
13:48:52 master's program since then, with an expected
13:48:54 graduation date of this year. He has industrial
13:48:58 experience summers and part time, working as a
13:49:03 programmer. He is a member of the COCOMO team. He
13:49:06 is one of the people who help write the code
13:49:10 counters.
13:49:11 Q. By write the code counters, you mean the
13:49:13 replicas of Mr. Pinto's.
13:49:17 A. No, I am talking about UCC. I am talking
13:49:19 about the USC code counters. He is part of the code
13:49:23 counting project as well as the COCOMO project,

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13:49:27 where he is defending his PhD.
13:49:29 Q. And he was the one who built the replicas
13:49:34 of Mr. Pinto's code counters.
13:49:38 A. Yes, he is.
13:50:05 Q. Do you agree that a custom code counter
13:50:07 that is tailored to count lines of code written in a
13:50:11 certain language could be more accurate than a
13:50:14 commercially available code counter that was not
13:50:15 designed or tested specifically for the program
13:50:18 language?
13:50:18 A. No.
13:50:18 Q. Why not?
13:50:19 A. It all depends on the counting conventions
13:50:22 that are observed.
13:50:25 Q. Okay. And the question was, could a
13:50:27 customized tool like the one I described be more
13:50:30 accurate than a commercially available code counter?
13:50:34 MR. BUTLER: Objection. Incomplete
13:50:35 hypothetical. Vague. Ambiguous.
13:50:38 THE WITNESS: The answer is, there is more
13:50:40 data needed. So, for example, if it's a commercial
13:50:43 code counter that was poorly designed and built and
13:50:50 that didn't observe the language standards, it could
13:50:57 produce trash, basically. You know, the real goal
13:51:05 of a code counter is to observe language standards.

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13:51:08 And if you look at the UCC counter, what
13:51:12 you will see is, for each language, that we have a
13:51:17 counting tool. We have a counting conventions
13:51:21 document supplied with it and downloadable, free.
13:51:27 I have examples -- I provided examples in
13:51:30 my report, I am pretty sure.
13:51:47 Yes. If you look at Pinto 8, a SAP-DJR
13:51:52 triple or quadruple, whatever the number of zeros
13:51:56 is -- how many zeros is there?
13:52:07 MR. BUTLER: Why don't you point to the
13:52:09 page number? And I will help. Point to where the
13:52:15 Bates number is.
13:52:17 THE WITNESS: It was a CD. It had all the
13:52:18 it's 08 -- 07. I am sorry. SAP-DJR-000007.
13:52:27 What you have is examples of those files,
13:52:33 code counting standards.
13:52:39 MR. ALINDER: Okay. I object and move to
13:52:40 strike that answer as non-responsive.
13:52:43 MR. BUTLER: I think it was responsive.
13:52:46 We will just agree to disagree on that.
13:52:49 MR. ALINDER: Okay.
13:52:50 MR. BUTLER: If you don't like the answer,
13:52:51 that doesn't make it non-responsive.
13:52:55 MR. ALINDER: I agree. When it's
13:52:57 non-responsive, it's non-responsive.

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13:53:00 Q. The bottom of page 19, the second-to-last
13:53:05 full sentence, you state, "There was also some
13:53:08 confusion over how Mr. Pinto counted compiler
13:53:12 directives and data declarations." Do you see that?
13:53:20 A. Yes, I do.
13:53:21 Q. Can you explain what confusion you are
13:53:23 talking about there?
13:53:25 A. Well, there are very specific standards
13:53:30 for counting data declarations in languages. There
13:53:35 is what's called a terminal semicolon versus a
13:53:39 delimiter.
13:53:40 If you count just a delimiter semicolon,
13:53:45 you would count everything in a list as a single
13:53:49 line of code. If you count the terminal semicolon,
13:53:52 you may count hundreds of lines of code as a single
13:53:57 statement. So until we could resolve what the
13:54:00 delimiter was for the language -- and languages are
13:54:04 different in how they delimit -- we had problems in
13:54:08 comparing what he did to what we did.
13:54:11 The big issue we had with Mr. Pinto's
13:54:15 counters were embedded constants, which are
13:54:18 explicitly excluded in languages -- and that's noted
13:54:25 in my report, by the way -- and that were counted in
13:54:31 Mr. Pinto's counters and which were not counted in
13:54:34 the UCC. And those embedded statements added size

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13:54:39 to the code that made his counts higher than our
13:54:46 counts.
13:54:46 Q. Are embedded constants related to compiler
13:54:52 directives or data declarations?
13:54:55 A. No, they are not.
13:54:56 Q. Okay. Then I move to strike the end of
13:54:58 your response as non-responsive.
13:55:00 The question is, what was the confusion
13:55:02 over compiler directives and data declarations?
13:55:06 A. We needed to understand the rules in the
13:55:07 specific languages. And we were able to figure
13:55:09 those out after a while, but it took us some time.
13:55:12 Q. And you attended Mr. Pinto's deposition;
13:55:16 correct?
13:55:16 A. Yes, I did.
13:55:17 Q. Mr. Pinto wasn't asked about compiler
13:55:19 directives, that you recall or were aware of.
13:55:24 A. We were -- that is correct.
13:55:25 Q. He wasn't asked about data declarations
13:55:27 that you are aware of; right?
13:55:28 A. That is correct.
13:55:29 Q. You assert in your report that you tested
13:55:31 Mr. Pinto's source lines of code counters and
13:55:35 parsing rules; right?
13:55:37 MR. BUTLER: Objection to form. Vague and

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13:55:39 ambiguous.
13:55:41 THE WITNESS: What do you mean by that,
13:55:42 please?
13:55:46 MR. ALINDER: I will withdraw that
13:55:48 question.
13:55:53 Q. Did anyone else besides Mr. Tan assist
13:55:56 with creating these code counters?
13:55:58 A. No.
13:55:59 Q. Did anyone else but Mr. Tan assist with
13:56:01 running the code counters?
13:56:03 A. No.
13:56:10 Q. What does Mr. Tan do to develop those code
13:56:14 counters?
13:56:15 A. Well, he actually wrote counters. He
13:56:17 wrote them, and we supplied them. You have them.
13:56:22 Q. Did you ever test them against Mr. Pinto's
13:56:25 code counters?
13:56:26 A. We didn't have Mr. Pinto's code counters.
13:56:29 We couldn't get them to run.
13:56:30 Q. You had them, but you just couldn't get
13:56:32 them to run; correct?
13:56:34 A. They would not execute for us.
13:56:35 Q. Did you ever ask Jones Day to provide
13:56:41 technical assistance with regard to those code
13:56:44 counters?

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13:56:48 A. By the time we -- the answer is no.
13:56:58 We asked them for -- to get
13:57:01 clarification --
13:57:02 MR. BUTLER: Excuse me.
13:57:03 THE WITNESS: Sorry.
13:57:04 MR. BUTLER: Do not disclose the contents
13:57:05 of discussions we had. If you have a question about
13:57:07 whether it's subject to some --
13:57:09 THE WITNESS: I understand.
13:57:10 MR. BUTLER: -- it needs to be withheld
13:57:12 from discovery, mention it to Mr. Alinder, and we
13:57:15 can have a discussion of it.
13:57:16 But do you think you answered his
13:57:18 question?
13:57:19 THE WITNESS: My answer is complete.
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14:04:43 Q. Why did you perform a test on the
14:04:46 FlightGear code?
14:04:48 A. . We looked at FlightGear just to see if we
14:04:52 should go any further. We were having difficulties
14:04:56 finding the code in EnterpriseOne. And we didn't
14:05:03 know whether or not it would be a fruitful exercise
14:05:07 to continue that effort, so what we did is we took
14:05:16 the two counters and counted a public domain open
14:05:20 source package to see if there were major
14:05:23 differences in the counts. And based on that, then
14:05:27 what we did is we, you know, continued with our
14:05:33 counting experiments.
14:05:44 Q. Isn't it true that open source code like
14:05:47 FlightGear can be structurally different than
14:05:50 proprietary code?
14:05:52 MR. BUTLER: Objection. Vague.
14:05:52 Ambiguous.
14:05:53 THE WITNESS: I think that has no -- it's
14:05:56 not relevant. We were just running an experiment to
14:06:00 see the difference. And then what we said, based on
14:06:03 the difference, let's look at the actual code. So
14:06:06 the experiment was not germane to anything in my
14:06:10 report. It just was -- we were running an
14:06:14 experiment to see if we should go any further.
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14:11:07 Q. Right below the "Notes" you say, "The main
14:11:10 difference in Logical Source Lines of Code ('SLOC')
14:11:15 calculation occurred due to how embedded comments
14:11:18 were counted by Mr. Pinto's utility software." Do
14:11:22 you see that?
14:11:22 A. Yes, I do.
14:11:37 Q. Is that based on this experiment using the
14:11:42 FlightGear code?
14:11:46 A. Yes, it is, I would imagine.
14:11:53 Let me read it again, because...
14:12:16 Yes, it is. It's on the C code.
14:12:22 Q. The C++ code?
14:12:26 A. C and C++ code, yes. There is both in
14:12:28 there.
14:12:29 Q. You agree that FlightGear is not at issue
14:12:31 in this case?
14:12:32 MR. BUTLER: Objection to the form. Vague
14:12:35 and ambiguous.
14:12:36 THE WITNESS: What do you mean by "at
14:12:37 issue"?
14:12:38 MR. ALINDER: Q. It's not part of the
14:12:39 case at all, other than in your report here;
14:12:41 correct?
14:12:42 MR. BUTLER: Same objection.
14:12:45 THE WITNESS: It's -- the only reason that

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14:12:48 it's in here is that it was an experiment on --
14:12:52 leading to further experiments.
14:12:54 MR. ALINDER: Q. You just said that
14:12:55 FlightGear contains C++ code; correct?
14:12:59 A. Both C and C++ code.
14:13:02 Q. Are you aware of whether there was any C++
14:13:05 code in JDEdwards, PeopleSoft, or Siebel?
14:13:09 A. I'm not aware. In this code -- I know
14:13:12 this code very well. That's why we selected it.
14:13:16 Q. Did you differentiate between C and C++
14:13:20 code when you tested the replicas of Mr. Pinto's C
14:13:25 code counter?
14:13:26 A. The C and C++ are separate counters in
14:13:28 USC, because they observe different counting rules
14:13:34 and parsing rules. So by definition we have
14:13:38 differentiated.
14:13:39 Q. And my question refers to Mr. Pinto's
14:13:43 replicas of the -- or the replicas that you made of
14:13:49 Mr. Pinto's C code counter, not the UCC one.
14:13:53 A. I would have to go look at the counters
14:13:54 themselves to answer that definitively.
14:13:56 Q. You are aware that Mr. Pinto's counter was
14:13:58 designed for C code, and not C++?
14:14:01 A. Yes, I understand that. We have two
14:14:02 separate counters. Again, C and C++ are separate

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14:14:07 counters, because they are different languages with
14:14:10 different syntax and different semantics.
14:14:13 Q. But Mr. Pinto's code counters, you
14:14:15 understand, were for C and not C++.
14:14:18 A. I understand that. But the FlightGear is
14:14:24 written in C and C++.
14:14:26 Q. Right. So for the UCC you used C and C++
14:14:31 counters.
14:14:32 A. That's correct.
14:14:35 Q. And there was no C++ counter for Pinto;
14:14:38 correct?
14:14:39 A. Not to my knowledge, if that's what you
14:14:41 are driving at.
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44 (Pages 170 to 173)

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Q. Can you turn to page 23, please, of your report? On table -- page 23 of your report, you analyze Mr. Pinto's step four regarding the number of pages of documentation. Is that right?
A. Under the second bullet, that is correct.
Q. Did the number of pages of documentation from Mr. Pinto's report result in a number that is an input into the COCOMO model?
A. No, it does not.
Q. So, do your statements here about number of pages of documentation directly influence your COCOMO model at all?
MR. BUTLER: Objection. Vague, ambiguous, and mischaracterizes the expert report.
THE WITNESS: I can refresh you on page 17. It's my comments on the 10-step method proposed by Mr. Pinto. And what I was doing as I was going

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through the steps was noting differences between COCOMO and what Mr. Pinto was proposing.
If one looks at the table that's cited here from Capers Jones, which was not cited by Mr. Pinto in his report and should have been, one sees that, you know, the thing -- items in his table for documentation in terms of manuals, et cetera, that he said were extra are normally produced as a normal part of the software development process, and normally encompassed within the scope of COCOMO. So there is some double counting there.
MR. ALINDER: Q. So they don't directly influence the COCOMO model; correct?
MR. BUTLER: Objection. Mischaracterizes the testimony. Vague. Ambiguous.
THE WITNESS: It impacts the estimate, in the sense that if Mr. Pinto -- and I don't know how he arrived at his numbers on his extreme end of his estimate. That was never explained in his report, when we get to that.
I quoted it before, you know, this extreme range, where he goes -- doubles his cost as the most pessimistic cost. I don't know if that includes COCOMO estimate plus documentation as a separate entity, or what it includes. So the answer is, it

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could.
The important point here is there is the potential for double counting.
MR. ALINDER: Q. So you are saying, if Mr. Pinto included additional documentation costs on top of the COCOMO estimate, that would be double counting.
A. In his total estimate, that would be, yes.
Q. But you are not aware that Mr. Pinto actually did that.
MR. BUTLER: Objection. Objection. Vague. Ambiguous. Mischaracterizes the prior testimony.
THE WITNESS: I am not aware that he did or didn't do that.
I also note that, you know, if you look at the volume of documentation in the last, next to the last sentence, you are talking 5,000 volumes of user documentation of 400 pages. That seems a little excessive to me.
MR. ALINDER: Q. Did you talk to Mr. Garmus about the 7,000 volumes that he had for his analysis?
A. No, I did not.
Q. He didn't tell you about that?

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A. No. I didn't talk to him at all about this analysis, nor did I read his report.
Q. Would that have been helpful in you determining whether 5,000 volumes was too many?
A. Mr. Garmus has a stellar reputation in the function point community. If he has said that 7,000 volumes of documentation were needed, which I doubt, I would have confidence in his ability to come up with that number.
Q. I didn't say that he said 7,000 were needed. I said over that many were in his possession for use in his analysis.
A. Oh, I would be surprised.
MR. BUTLER: Also mischaracterizes the prior testimony.
MR. ALINDER: Q. Did you look on any of the software CDs to see how much documentation was provided with any of the PeopleSoft or JDEdwards software?
A. There were instructions on one of the JDEdwards software, the second CD, I believe. There was documentation. But this is pretty standard, you know. I did not look at the PeopleSoft.
Again, we focused our energy on EnterpriseOne because of the barriers put up that

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15:31:27 would basically limit our ability to do a detailed
15:31:31 analysis of the size counts.
15:31:34 Q. Did you ask anyone for the PeopleSoft or
15:31:37 PeopleBook libraries that related to the software
15:31:41 that you had?
15:31:41 A. No.
15:31:52 Again, let me state that we did a COCOMO
15:31:56 analysis to verify Mr. Pinto's estimates. And
15:32:00 within the scope of the COCOMO estimate there is
15:32:03 documentation. And it was apparent that, within the
15:32:09 documentation step four that Mr. Pinto had in his
15:32:15 table, that there was the potential for double
15:32:18 counting some of that documentation that the COCOMO
15:32:21 estimate already estimated.
15:32:23 Q. So other than this potential for double
15:32:25 counting if Mr. Pinto had counted additional
15:32:29 documentation and added it to the COCOMO model which
15:32:34 you have described, is there any other double
15:32:37 counting that you are referring to in your report
15:32:39 here?
15:32:39 A. You mean in terms of documentation or --
15:32:43 Q. Yes. Correct.
15:32:45 MR. BUTLER: Objection to the form.
15:32:46 Vague, ambiguous, and mischaracterizes the
15:32:49 testimony.

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15:32:50 THE WITNESS: Well, I would have to study
15:32:51 the report and look. There may be. There may not
15:32:56 be. I don't remember.
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CERTIFICATE OF REPORTER

I, SARAH LUCIA BRANN, 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 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: June 25, 2010

Sarah Lucia Brann

SARAH LUCIA BRANN, CSR No. 3887