

EXHIBIT D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE CORPORATION, a)	
Delaware corporation,)	
ORACLE USA, INC., a)	
Colorado corporation, and)	
ORACLE INTERNATIONAL)	
CORPORATION, a California)	
corporation,)	
)	
Plaintiffs,)	
)	
vs.)	No. 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
KEVIN MANDIA

VOLUME 1; PAGES 1 - 290

THURSDAY, MAY 20, 2010

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

REPORTED BY: HOLLY THUMAN, CSR No. 6834, RMR, CRR

(1-427382)

KEVIN MANDIA May 20, 2010
HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

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14:39:16	14:41:46
14:39:21	14:41:48
14:39:26	14:41:51
14:39:27	14:41:52 11 Q. And are you aware of whether any Mandiant
14:39:32	14:41:54 12 employees have ever performed an abstract
14:39:40	14:41:56 13 filtration comparison test on source code?
14:39:43	14:42:01 14 A. In line with my prior answers, we weren't
14:39:45	14:42:03 15 tasked to do the analysis, and we made an
14:39:48	14:42:06 16 assumption on protected expression and an
14:39:52	14:42:08 17 assumption on derivative work. So I didn't poll my
14:39:55	14:42:11 18 employees in that regard, so I don't know their
14:39:59	14:42:14 19 expertise in that area.
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1 CERTIFICATE OF REPORTER

2 I, HOLLY THUMAN, a Certified Shorthand
3 Reporter, hereby certify that the witness in the
4 foregoing deposition was by me duly sworn to tell
5 the truth, the whole truth, and nothing but the
6 truth in the within-entitled cause;

7 That said deposition was taken down in
8 shorthand by me, a disinterested person, at the time
9 and place therein state, and that the testimony of
10 said witness was thereafter reduced to typewriting,
11 by computer, under my direction and supervision;

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

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

22
23 DATED: June 3, 2010

24 Holly Thuman
25 HOLLY THUMAN, CSR