

EXHIBIT 6

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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION
18

19 ORACLE USA, INC., a Colorado corporation, *et*
20 *al.*,

21 Plaintiffs,

22 v.

23 SAP AG, a German corporation, *et al.*,

24 Defendants.
25
26
27
28

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

**AMENDED NOTICE OF
DEPOSITION OF SAP AG AND SAP
AMERICA PURSUANT TO FED. R.
CIV. P. 30(b)(6) RE PROJECT BLUE**

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that Plaintiffs Oracle USA, Inc., Oracle International
3 Corporation, and Oracle EMEA Limited (collectively, "Oracle"), through its counsel, shall
4 conduct the deposition of defendant SAP AG and SAP America ("You") regarding the topics of
5 examination set forth below. The deposition will take place at the law offices of Bingham
6 McCutchen LLP, Three Embarcadero Center, San Francisco, CA 94111, on March 18, 2009
7 commencing at 9:00 a.m. or such other time and place as may be agreed upon. The deposition
8 will continue day after day, Sundays and holidays excepted, until completed. SAP AG and SAP
9 America are directed, pursuant to Federal Rule of Civil Procedure 30(b)(6), to designate one or
10 more officers, directors, managing agents, or other persons who can testify on behalf of SAP AG
11 and SAP America with respect to the matters set forth below.

12 The examination shall be conducted before an officer or other person authorized to
13 administer oaths pursuant to Rule 28 of the Federal Rules of Civil Procedure. The testimony at
14 the deposition will be recorded stenographically by a qualified certified shorthand reporter who
15 is authorized to administer the oath, through instant visual display means (Live Note), and by
16 video. Parties wishing to see the real time display must supply their own computer. Oracle
17 reserves the right to use the written transcript or video as evidence in the trial of this matter.

18

19 **DEFINITIONS**

20 For purposes of this Notice of Deposition, the following definitions shall apply, unless otherwise
21 indicated:

22 1. The use of the singular form of any word includes the plural and vice versa.
23 The past tense shall include the present tense and vice versa. The masculine gender includes the
24 feminine and neuter genders; the neuter gender includes the masculine and feminine genders.

25 2. "All," "Any," and "Each" shall be construed as "any and every."

26 3. "And" and "Or," shall be construed both conjunctively and disjunctively and
27 each shall include the other whenever such construction will serve to bring within the scope of
28 these interrogatories any information that would not otherwise be brought within their scope.

1 4. “Communications” means any and all contact or transmission of information
2 between two or more Persons, whether in a face-to-face meeting, telephone conversation, or
3 otherwise, or whether by letter, electronic mail, instant messaging system, facsimile
4 transmission, cable, letters, correspondence, video conference, message, or any other method or
5 medium of information transfer or exchange.

6 5. “Document(s)” is used in this Notice as broadly as is allowed under the
7 Federal Rules of Civil Procedure, and thus includes without limitation writings; records; files;
8 correspondence; reports; memoranda; calendars; diaries; minutes; electronic messages;
9 voicemail; email; telephone message records or logs; computer and network activity logs; data
10 on hard drives; backup data; data on removable computer storage media such as tapes, disks, and
11 cards; printouts; document image files; web pages; databases; spreadsheets; software; hardware;
12 books; ledgers; journals; orders; invoices; bills; vouchers; checks; statements; worksheets;
13 summaries; compilations; computations; charts; diagrams; graphic presentations; drawings;
14 films; charts; digital or chemical process photographs; video, phonographic, tape, or digital
15 records or transcripts thereof; drafts; jottings; and notes. “Document(s)” also includes any copies
16 that differ in any respect from the original or other versions of the Document(s), such as, but not
17 limited to, copies containing notations, insertions, corrections, marginal notes, or any other
18 variations.

19 6. “Oracle” means Plaintiffs Oracle USA, Inc., Oracle International
20 Corporation, and Oracle EMEA Limited, their predecessors, and their successors.

21 7. “Person(s)” means, without limitation, any individual or entity.

22 8. “SAP TN” refers to defendant TomorrowNow, Inc., its employees, directors,
23 managers, consultants, agents, and any other Person acting on its behalf, after it was acquired by
24 SAP AG and/or SAP America.

25 9. “You” and/or “Yours” refers to defendant SAP AG and/or SAP America, its
26 predecessors, successors, employees, directors, managers, consultants, agents, and any other
27 Person acting on its behalf.

1 SCOPE OF TESTIMONY

2 Unless otherwise stated, the time period covered by this Notice of Deposition shall be from
3 January 1, 2004 to and including the date of the examination:

4 The investigation and action that resulted in Your executive board directives and orders
5 referenced in paragraphs 2 and 4 of Defendants' Amended Response to Oracle's Interrogatory
6 No. 4 (see Plaintiffs Depo. Ex. 522, attached as Exhibit A), including without limitation:
7

- 8 a. all related discussions, analyses, Documents or Communications leading up to the
9 decisions to issue the referenced March 2005 and August 2007 Board directives,
10 including without limitation any assessments of the advantages, disadvantages
11 and/or costs You and/or SAP TN would face with the decision to issue or not
12 issue each directive and any such discussion, analysis or action taken prior to the
13 close of the SAP TN acquisition;
14
15 b. the actual content of the directives, including differences between the directives,
16 if any, and reasons for any such differences;
17
18 c. the name(s) of the individual(s) who conveyed the directives, the date each was
19 issued, the method of conveyance, and the recipient(s) of each directive;
20
21 d. the method and frequency discussed, envisioned and/or expressed by You for how
22 progress of the Board directives' implementation would be conveyed from SAP
23 TN to You, as well as the actual method and frequency of how progress of the
24 directives was monitored and/or communicated including any conclusions,
25 written evaluations or reports made of the progress of efforts to implement the
26 directives and including all Communications You had internally and with SAP
27 TN regarding this topic;
28

- 1 e. the timeframe and/or deadlines discussed, envisioned and/or expressed by You for
2 the completion of the Board directives at the time each was issued, or at any other
3 time during the implementation stages;
4
5 f. any incentives, warnings, or reprimands that were discussed and/or put in place
6 for SAP TN personnel and/or for Your personnel in order to facilitate the
7 implementation of the directives (including details as to what those incentives or
8 reprimands were and who received them);
9
10 g. reasons why the directives were not implemented in whole or in part and/or the
11 delay in their implementation, including any related discussions, analyses,
12 Documents or Communications regarding this topic;
13
14 h. the name(s) of Your Board member(s), executive(s) or other personnel who were
15 responsible for any aspect of the Board directives, including their approval,
16 issuance and implementation, and his/her knowledge of or involvement in any of
17 the above activities; and
18
19 i. any efforts made, analyses undertaken, or Communications regarding any change
20 in SAP TN's practices regarding hosting and use of local environments, even if
21 not considered part of or contained within the directives.

21 DATED: February 25, 2009

22 By: _____



Bree Hann

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Attorneys for Plaintiffs

Oracle USA, Inc., *et al.*

1 **PROOF OF SERVICE**

2 I am over 18 years of age, not a party to this action and employed in the
3 County of San Francisco, California at Three Embarcadero Center, San Francisco, California
4 94111-4067. I am readily familiar with the practice of this office for collection and processing
5 of correspondence by U.S. Mail and Electronic Mail, and they are deposited and/or sent that
6 same day in the ordinary course of business.

7 On February 25, 2009, I served the following document:

8 **AMENDED NOTICE OF DEPOSITION OF SAP AG AND SAP**
9 **AMERICA PURSUANT TO FED. R. CIV. P. 30 (B) (6) RE**
10 **PROJECT BLUE**

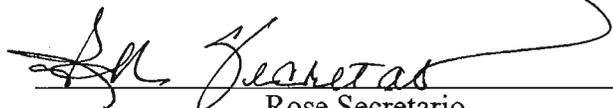
11 (BY ELECTRONIC MAIL) by transmitting via electronic mail document(s) in
12 portable document format (PDF) listed below to the email addresses set forth
below on this date.

13 (BY MAIL) by causing a true and correct copy of the above to be placed in the
14 United States Mail at San Francisco, California in sealed envelope(s) with postage
15 prepaid, addressed as set forth below. I am readily familiar with this law firm's
16 practice for collection and processing of correspondence for mailing with the
United States Postal Service. Correspondence is deposited with the United States
Postal Service the same day it is left for collection and processing in the ordinary
course of business.

17 Jane L. Froyd
18 JONES DAY
19 1755 Embarcadero Road
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ewallace@JonesDay.com
23 tglanier@JonesDay.com

24 I declare that I am employed in the office of a member of the bar of this court at
25 whose direction the service was made and that this declaration was executed on February 25,
26 2009, at San Francisco, California.

27 
28 _____
Rose Secretario