

# **EXHIBIT BB**

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. )

CASE NO. 07-CV-01658 (MJJ)

SAP AG, A GERMAN CORPORATION, )  
SAP AMERICA, INC., A DELAWARE )  
CORPORATION, TOMORROWNOW, )  
INC., A TEXAS CORPORATION, AND )  
DOES 1-50, INCLUSIVE, )  
Defendants. )

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"HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY"  
ORAL VIDEOTAPED DEPOSITION OF  
MATTHEW BOWDEN  
December 5, 2008  
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ORAL VIDEOTAPED DEPOSITION OF MATTHEW BOWDEN, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above-styled and numbered cause on Friday, December 5, 2008, from 9:04 a.m. to 5:51 p.m., before JAMES M. PLAIR, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of JONES DAY, 717 Texas, Suite 3300, Houston, Texas 77002-2712, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

Job No. 1603-89469

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10:53		10:55	1 what question I understood. So I don't know anything else
10:53		10:55	2 to say. You know, I said -- I said that it's common
10:53		10:55	3 practice.
10:53		10:55	4 Q. (BY MR. POLITO) When you say it's common
10:53		10:55	5 practice, what are talking about, Mr. Bowden?
10:53		10:55	6 A. Modifying COBOL programs, modifying SQR
10:53		10:55	7 programs --
10:53		10:55	8 Q. So when you say --
10:53		10:55	9 A. -- creating new COBOL programs, creating new SQR
10:53		10:55	10 programs. It's common practice.
10:53		10:55	11 Q. So when you say it's common practice to modify
10:53	12 Q. Did you have an impression in your mind as to	10:55	12 COBOL programs, what do you mean specifically, talking
10:53	13 what it would take to do critical support?	10:55	13 about your impression at that lunch or after?
10:53	14 A. I probably had my own ill-formed opinion of it.	10:55	14 A. A -- well, it's not necessarily relevant. It
10:54	15 Q. Do you remember anything about that ill-formed	10:55	15 wasn't at that lunch. It's just my -- my formed opinion
10:54	16 opinion?	10:55	16 that was true at that time and probably still is true, is
10:54	17 A. Well, it's -- you know, it is -- it is open	10:55	17 that the customers have many programs that have been
10:54	18 source and it can be -- you can modify it.	10:56	18 provided to them by PeopleSoft.
10:54	19 Q. What is open source?	10:56	19 They don't all work as they need to work.
10:54	20 A. Open source means that the -- the customer	10:56	20 They don't necessarily work as designed, so they may have
10:54	21 has -- has the source and has the rights to modify the	10:56	21 to modify them to correct bugs. They also may want to
10:54	22 source.	10:56	22 extend the functionality and prove the functionality to be
10:54	23 Q. So when you say "it" is open source, do you	10:56	23 more suitable to their business needs. So they may modify
10:54	24 mean --	10:56	24 the programs for that reason. They may actually add
10:54	25 A. PeopleSoft.	10:56	25 additional programs to it for that reason. So, to me,
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10:54	1 Q. PeopleSoft is open source. So we're talking	10:56	1 this is common practice open source behavior in -- in the
10:54	2 about your impression.	10:56	2 IT world.
10:54	3 A. The PeopleSoft COBOL programs are open source.	10:56	3 Q. When we were just talking about COBOL, the same
10:54	4 Q. So what's the basis for your understanding that	10:56	4 comments. Are those true for SQR modifications by --
10:54	5 PeopleSoft customers -- that PeopleSoft was open source?	10:56	5 A. Yes.
10:54	6 A. Common practice.	10:56	6 Q. -- customers as well? What about creation of
10:54	7 Q. Tell me more about that.	10:56	7 new COBOL programs by customers?
10:54	8 MR. ARMSTRONG: Objection.	10:56	8 A. Yes.
10:54	9 A. You mentioned earlier the --	10:56	9 MR. ARMSTRONG: Objection. Vague and
10:54	10 MR. ARMSTRONG: Counsel --	10:56	10 ambiguous.
10:54	11 A. -- number of customers that customize their	10:56	11 Q. (BY MR. POLITO) What about modification -- I'm
10:54	12 programs.	10:56	12 sorry -- creation of new SQRs by customer?
10:54	13 MR. ARMSTRONG: Objection. Vague and	10:56	13 A. Yes, and PeopleCode, too.
10:54	14 ambiguous. Please ask a question.	10:56	14 Q. When you say "and PeopleCode, too," what did you
10:54	15 Q. Could you go on, Mr. Bowden?	10:56	15 mean?
10:54	16	10:56	16 A. PeopleCode is a language that's provided to the
10:54	17 MR. ARMSTRONG: Please, vague and	10:56	17 customers for their use in modifying and managing their
10:54	18 ambiguous. What's the question?	10:57	18 programs. They're -- they're encouraged to write their
10:55	19 Q. You can answer, if you can.	10:57	19 own PeopleCode programs. It's common, done all the time.
10:55	20 MR. FUCHS: Counsel, restate the question.	10:57	20 There is -- many GSC cases are resolved by telling the
10:55	21 MR. POLITO: Is that an objection?	10:57	21 customer, "Well, you can write a PeopleCode program to do
10:55	22 A. I think I gave you --	10:57	22 that."
10:55	23 MR. FUCHS: The objection is there's been a	10:57	23 Q. "GOC" means?
10:55	24 request for you to restate the question.	10:57	24 A. Global Support Center. GSC. I'm sorry.
10:55	25 A. If you read back the record, I think I answered	10:57	25 Q. Is it your understanding that people who had



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STATE OF TEXAS  
COUNTY OF HARRIS

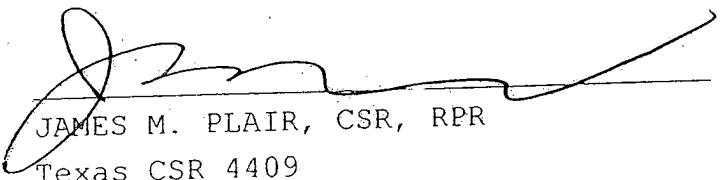
I, JAMES M. PLAIR, a Certified Shorthand Reporter in and for the State of Texas, do hereby certify that this deposition transcript is a true record of the testimony given by the witness named herein, after said witness was duly sworn by me. The witness was requested to review the deposition.

I further certify that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition is taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

I further certify that the amount of time used by each counsel at the time of the deposition is as follows:

Mr. John Polito (06:52:28)  
Attorney for PLAINTIFFS  
Mr. Sean P. Armstrong (00:00:00)  
Attorney for DEFENDANTS

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 12th day of December, A.D., 2008.

  
JAMES M. PLAIR, CSR, RPR  
Texas CSR 4409

Expiration: 12/31/2009  
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