

# **EXHIBIT EE**

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. )

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY  
ORAL VIDEOTAPED DEPOSITION  
ANDREW NELSON  
VOLUME 2  
APRIL 29, 2009

ORAL VIDEOTAPED DEPOSITION OF ANDREW NELSON, produced as  
a witness at the instance of the Plaintiffs and duly sworn,  
was taken in the above-styled and numbered cause on the 29th  
day of April, 2009, from 7:58 a.m. to 5:40 p.m., before Dana  
Richardson, Certified Shorthand Reporter in and for the State  
of Texas, reported by computerized stenotype machine at the  
Hilton Hotel, 801 University Drive East, College Station,  
Texas, pursuant to the Federal Rules of Civil Procedure and  
the provisions stated on the record or attached hereto.

Job No. 1603-91104

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11:29:02		11:32:15
11:29:04		11:32:19
11:29:09		11:32:22
11:29:10		11:32:27
11:29:14		11:32:33
11:29:19		11:32:37
11:29:24		11:32:42
11:29:27	8 Q. All right. And did you have an understanding that in	11:32:48
11:29:31	9 the general way that you've described it, same servers would	11:32:51
11:29:35	10 stay at the Managed Network Solutions facility and TomorrowNow	11:32:53
11:29:39	11 would have access to them, that that was a solution that was	11:32:55
11:29:42	12 acceptable to SAP?	11:32:59
11:29:45	13 MR. FUCHS: Object to the extent that that	11:33:04
11:29:47	14 question invades the attorney-client privilege. Mr. Nelson,	11:33:09
11:29:49	15 to the extent you can answer that question from a business or	11:33:14
11:29:52	16 technical perspective apart from seeking legal advice from	11:33:18
11:29:56	17 anyone at SAP and receiving legal advice -- as -- as an	11:33:30
11:30:01	18 example to that, would this be legal was, would this not be	11:33:32
11:30:06	19 legal, et cetera -- then I instruct you not to answer if -- if	11:33:38
11:30:09	20 answering that question is going to reveal legal advice. If	11:33:42
11:30:12	21 it is purely business and technical discussion, then you can	11:33:45
11:30:15	22 answer the question.	11:33:48
11:30:16	23 A. It was an alternative option we were considering.	11:33:55
11:30:20	24 Q. (By Mr. Howard) And did you understand that it was	11:33:59
11:30:20	25 acceptable to SAP?	11:34:02
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11:30:23	1 MR. FUCHS: Same objection, same instruction.	11:34:07
11:30:29	2 A. Yes, it was my understanding that it would be	11:34:13
11:30:33	3 acceptable.	11:34:22
11:30:33		11:34:26
11:30:39		11:34:33
11:30:42		11:34:49
11:30:48		11:34:51
11:30:51		11:34:54
11:31:00		11:35:14
11:31:08		11:35:17
11:31:13		11:35:23
11:31:18		11:35:34
11:31:25		11:35:37
11:31:28		11:35:39
11:31:31		11:35:44
11:31:33		11:35:47
11:31:37		11:35:52
11:31:38		11:35:57
11:31:38		11:36:03
11:31:44		11:36:09
11:31:48		11:36:14
11:31:57		11:36:19
11:32:03		11:36:24
11:32:09		11:36:27
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STATE OF TEXAS

COUNTY OF HARRIS

REPORTER'S CERTIFICATE

I, Dana Richardson, a Certified Shorthand Reporter in and for the State of Texas, do 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 or counsel for, related to, nor employed by any parties to the action in which this testimony is taken and, further, that I am not a relative or employee of any counsel employed by the parties hereto or financially interested in the action.

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

Mr. Geoffrey M. Howard - 07:25

Mr. Joshua L. Fuchs - 00:00

Mr. Reid Wittliff - 00:00

SUBSCRIBED AND SWORN TO under my hand and seal of office on this the 4th day of May, 2009

Dana Richardson

Dana Richardson, CSR

Texas CSR 5386

Expiration: 12/31/09

Merrill Legal Solutions, Firm No. 210

315 Capitol, Suite 100

Houston, Texas 77002

Phone (713) 426-0400

Fax (713) 426-0600