

# **EXHIBIT 17**

H I G H L Y C O N F I D E N T I A L

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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ORACLE CORPORATION, a Delaware  
corporation, ORACLE USA, INC., a  
Colorado corporation, and ORACLE  
INTERNATIONAL CORPORATION, a  
California corporation,

Plaintiffs,

No. 07-CV-1658  
(PJH)

-against-

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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November 12, 2008  
9:14 a.m.

Videotaped deposition of WERNER BRANDT,  
taken by Plaintiffs, pursuant to notice, at the  
offices of Bingham McCutchen, LLP, 399 Park  
Avenue, New York, New York, before Jack Finz and  
Otis Davis, Shorthand Reporters and Notaries  
Public within and for the State of New York.

TEXT REMOVED - NOT RELEVANT TO MOTION

23           Q.     Are you generally involved from the  
24     outset of SAP's consideration of a potential  
25     acquisition target?

1 WERNER BRANDT - HIGHLY CONFIDENTIAL

2 A. Generally, yes.

3 Q. Do you direct the due diligence?

4 A. Jim Mackey and his team are  
5 responsible for doing the due diligence for each  
6 project, and I monitor the due diligence and  
7 provide input and advice. Input and advice.

8 Q. Do you participate in the  
9 determination of how much SAP should offer to  
10 acquire the company?

11 A. Yes.

12 Q. Do you create or review financial  
13 forecasts related to the acquisition target?

14 A. I don't prepare forecasts. I review  
15 forecasts for plausibility.

TEXT REMOVED - NOT RELEVANT TO MOTION

TEXT REMOVED - NOT RELEVANT TO MOTION

15           Q.     Are you aware of any  
16 pre-acquisition financial projections for  
17 TomorrowNow as part of SAP that were  
18 created by SAP, not TomorrowNow?

19           A.     According to my recollection,  
20 there are no such analysis, and I did not  
21 perform any analysis like that myself.

TEXT REMOVED - NOT RELEVANT TO MOTION

1 WERNER BRANDT - HIGHLY CONFIDENTIAL  
2 basis for the discussion (in English).

3 Q. Other than the ones we've  
4 looked at, do you recall receiving any  
5 other summaries or other information  
6 connected to due diligence?

7 MR. LANIER: It's a yes-or-no  
8 question, Mr. Brandt.

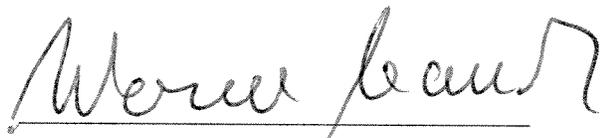
9 A. I can't recall.

10 MS. HOUSE: Why don't we break  
11 for the day.

12 MR. LANIER: Good.

13 THE VIDEOGRAPHER: Going off  
14 the record at 5:39, and this will mark  
15 the end of tape number 4.

16 (Time noted: 5:39 p.m.)

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19 WERNER BRANDT  
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22 Subscribed and sworn to before me  
23 this \_\_\_ day of \_\_\_\_\_ 2008.  
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C E R T I F I C A T E

STATE OF NEW YORK )

: ss.

COUNTY OF NEW YORK )

I, JACK FINZ, a Certified Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That WERNER BRANDT, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 17<sup>th</sup> day of November, 2008.



JACK FINZ, C.S.R.

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C E R T I F I C A T E

STATE OF NEW YORK )

: ss.

COUNTY OF NEW YORK )

I, OTIS DAVIS, a Notary Public  
within and for the State of New York,  
do hereby certify:

That WERNER BRANDT, the witness  
whose deposition is hereinbefore set  
forth, was duly sworn by me and that  
such deposition is a true record of  
the testimony given by the witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage, and that  
I am in no way interested in the  
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 17th day of November 2008.



OTIS DAVIS