

# **EXHIBIT 27**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION  
CIVIL ACTION NO. 07-CV-1658 PJH (EDL)

ORACLE CORPORATION, a ) DEPOSITION TAKEN ON  
Delaware corporation, ) BEHALF OF DEFENDANTS  
ORACLE USA, INC., a )  
Colorado corporation, )  
and ORACLE INTERNATIONAL )  
CORPORATION, a )  
California corporation, )  
)  
PLAINTIFFS )  
) BY: NOTICE  
VS. )  
)  
SAP AG, a German )  
corporation, SAP ) HIGHLY CONFIDENTIAL  
AMERICA, INC., a )  
Delaware corporation, ) ATTORNEYS' EYES ONLY  
TOMORROWNOW, INC., a )  
Texas corporation, and )  
DOES 1-50, inclusive, ) WITNESS:  
)  
)  
DEFENDANTS ) JEFFREY O'DONNELL

\* \* \* \* \*

The deposition of JEFFREY O'DONNELL was taken before Robyn Barrett, CSR, Court Reporter and Notary Public in and for the State of Kentucky at Large, and by videotape recording, at the offices of Stoll, Keenon & Ogden, located at 250 West Main Street, Lexington, Kentucky, on Tuesday, September 15, 2009, commencing at the approximate hour of 9:00 a.m. Said examination was taken pursuant to notice for any and all purposes consistent with the Kentucky Rules of Civil Procedure.

TEXT REMOVED - NOT RELEVANT TO MOTION

09:13:15	23	Q	How long have you been employed by Lexmark?
09:13:17	24	A	Approximately six years, two months.
09:13:20	25	Q	And what's your title at Lexmark?

09:13:25            1            A            Commodity manager.

09:13:28            2            Q            What does that mean?

09:13:30            3            A            In the procurement area of Lexmark, they just

09:13:36            4                            refer to our roles as commodity managers, so

09:13:39            5                            in particular my commodity is technology.

09:13:42            6            Q            What are your responsibilities for Lexmark?

09:13:44            7            A            Sourcing, negotiating, executing relevant

09:13:48            8                            agreements for goods or services.

09:13:51            9            Q            Generally in the technology area?

09:13:52            10           A            Only in the technology area.

TEXT REMOVED - NOT RELEVANT TO MOTION

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09:58:32 14 Q What factors to your understanding influenced  
09:58:37 15 the decision to go with SAP?  
09:58:40 16 A There were over 300 data points that were  
09:58:43 17 measured -- excuse me -- and scored.  
09:58:47 18 Q Were those same 300 data points measured and  
09:58:53 19 scored for Oracle?  
09:58:53 20 A Yes.  
09:58:54 21 Q What factors made Lexmark decide against  
09:58:58 22 Oracle?  
09:58:59 23 A Other than the score itself, I wouldn't have  
09:59:07 24 any knowledge.  
09:59:07 25 Q Let me make sure I understand that we're

09:59:14 1 saying the same thing.

09:59:15 2 A Okay.

09:59:16 3 Q The score is generated based on an evaluation  
09:59:20 4 of certain data points?

09:59:22 5 A Yes.

09:59:22 6 Q 300 data points?

09:59:25 7 A Approximately.

09:59:26 8 Q And those data points are evaluated and a  
09:59:32 9 score is assigned to each point?

09:59:34 10 A Yes.

09:59:35 11 Q The scores are added up?

09:59:38 12 A Yes.

09:59:38 13 Q Apples to apples?

09:59:41 14 A Yes.

09:59:42 15 Q SAP scored higher on those 300 data points?

09:59:49 16 A Yes.

TEXT REMOVED - NOT RELEVANT TO MOTION

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10:04:23	22	Q	When selecting SAP, what role, if any, did
10:04:35	23		the existence of TomorrowNow have to do with
10:04:39	24		Lexmark's decision to transition to SAP?
10:04:41	25	A	Nothing to my knowledge.

10:04:43	1	Q	Not a positive, not a negative?
10:04:46	2	A	It was not a data point.

TEXT REMOVED - NOT RELEVANT TO MOTION

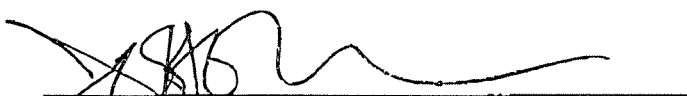


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\_\_\_\_\_ Subject to the above changes, I certify that the transcript is true and correct.

X No changes have been made. I certify that the transcript is true and correct.

  
\_\_\_\_\_  
(signature)

10/19/2009  
\_\_\_\_\_  
(date)

1 STATE OF KENTUCKY)

2 COUNTY OF FAYETTE)

3 I, ROBYN BARRETT, CSR, the undersigned Notary  
4 Public in and for the State of Kentucky at Large,  
5 certify that the facts stated in the caption hereto  
6 are true; that at the time and place stated in said  
7 caption the witness named in the caption hereto  
8 personally appeared before me, and after being by me  
9 duly sworn, was examined by counsel for the parties;  
10 that said testimony was taken down in stenotype by me  
11 and later reduced to computer-aided transcription  
12 under my direction, and the foregoing is a true record  
13 of the testimony given by said witness.

14 Upon request of counsel, the witness herein was  
15 furnished a copy of the foregoing deposition to read  
16 and sign. An errata sheet was also furnished for any  
17 corrections the witness wished to make and will be  
18 filed with the deposition upon receipt.

19 My Commission Expires: January 14, 2012.

20 IN TESTIMONY WHEREOF, I have hereunto set my hand  
21 and seal of office on this the 28th day of September,  
22 2009.

23   
24 \_\_\_\_\_

25 ROBYN BARRETT, CERTIFIED SHORTHAND  
REPORTER, NOTARY PUBLIC, STATE AT  
LARGE, KENTUCKY