

# EXHIBIT E

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. ) No. 07 CV 1658 (PJH)  
 )  
SAP AG, a German corporation, )  
SAP AMERICA, INC., a Delaware )  
corporation, TOMORROWNOW, )  
INC., a Texas corporation, and )  
DOES 1 50, inclusive, )  
 )  
Defendants. )  
 )

VIDEOTAPED 30(b)(6) DEPOSITION OF  
ORACLE INTERNATIONAL CORPORATION  
THROUGH ITS DESIGNEE  
UYEN NGOC ANN KISHORE

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TUESDAY, APRIL 14, 2009

HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY  
REPORTED BY: HOLLY THUMAN, CSR No. 6834, RMR, CRR  
(1 417372)

TEXT REMOVED - NOT RELEVANT TO MOTION

14:27:11            16                                      MR. McDONELL: Q. What is your  
14:27:11            17                                      understanding of what OEMEA is, what that business  
14:27:16            18                                      is?  
14:27:17            19                                      A. Generally speaking, OEMEA is a principal in  
14:27:24            20                                      a commissionaire arrangement in I -- believe there's  
14:27:32            21                                      a copy of some commissionaire agreements herein.  
14:27:36            22                                      And it also is a licensor to other Oracle  
14:27:40            23                                      affiliates.

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14:32:03 5 Q. OEMEA has certain concessionaire  
14:32:07 6 agreements. Is that right?  
14:32:08 7 A. Commissionaire --  
14:32:10 8 Q. I'm sorry -- what did I call them?  
14:32:15 9 A. Concessionaire.  
14:32:16 10 Q. How do you pronounce the term?  
14:32:18 11 A. Commissionaire.  
14:32:19 12 Q. Commissionaire agreements. And what's the  
14:32:22 13 basic idea of those agreements?  
14:32:24 14 A. Generally speaking, commissionaire  
14:32:27 15 agreement is probably most similar but -- you know,  
14:32:31 16 I think it's a defined term, defined legal terms  
14:32:37 17 within the respective jurisdiction. But it is  
14:32:39 18 probably most similar to what we generally  
14:32:42 19 understand it to be as an undisclosed agency  
14:32:46 20 agreement.  
14:32:49 21 Q. Is it like a distribution agreement, in  
14:32:51 22 that it gives the other entity the right to  
14:32:54 23 distribute Oracle products?  
14:32:57 24 A. In the broadest term of distribution  
14:32:59 25 agreement, yes.

14:33:01 1 Q. Okay. So who are the end -- who are the  
14:33:05 2 end customers of OEMEA through these commissionaire  
14:33:11 3 relationships?

14:33:11 4 MR. HOWARD: Objection.

14:33:12 5 MR. McDONELL: Q. Companies that purchase  
14:33:13 6 Oracle products and services?

14:33:14 7 MR. HOWARD: Objection. Beyond the scope,  
14:33:15 8 lacks foundation.

14:33:19 9 THE WITNESS: Generally speaking, yes.

14:33:20 10 MR. McDONELL: Q. Okay. And then -- so  
14:33:22 11 those customers make license and support fees to --  
14:33:30 12 what are the parties called that are parties to the  
14:33:33 13 commissionaire agreements?

14:33:35 14 A. So if you take, for example, the  
14:33:38 15 commissionaire agreements, the Amended & Restated  
14:33:41 16 Commissionaire Agreement Between OEMEA and Oracle  
14:33:45 17 France.

14:33:45 18 Q. Okay.

14:33:46 19 A. And the question is?

14:33:49 20 Q. Okay. So the end user, we'll call  
14:33:51 21 customer, customer makes a payment to Oracle France  
14:33:55 22 for software.

14:33:56 23 A. Yes.

14:33:57 24 Q. Oracle France pays some kind of royalty to  
14:34:01 25 OEMEA on that. Is that right?

14:34:04 1 A. That's not correct.

14:34:05 2 Q. Okay. What happens next in the flow of

14:34:07 3 funds?

14:34:08 4 A. Sure. So under the agreement -- so OEMEA

14:34:21 5 appoints Oracle France as a commissionaire to

14:34:27 6 promote, market and distributes the program and

14:34:30 7 support in its own name, but for the account of

14:34:35 8 OEMEA.

14:34:36 9 Q. Okay. So OEMEA effectively is receiving

14:34:39 10 the proceeds directly from the customer?

14:34:41 11 A. That's my general understanding.

14:34:43 12 Q. And then OEMEA pays a royalty to Oracle

14:34:47 13 Finance?

14:34:48 14 A. That's not correct.

14:34:49 15 Q. Okay. How do the funds flow from OEMEA, if

14:34:53 16 at all?

14:34:53 17 A. I'm sorry, could you repeat that question?

14:34:56 18 Maybe I misheard.

14:34:57 19 Q. Okay. So I'm just trying to see if the

14:34:59 20 funds that started out as a payment from OEMEA's

14:35:03 21 customer, how those payments flow through the Oracle

14:35:07 22 network of companies.

14:35:09 23 A. Okay.

14:35:09 24 Q. Okay?

14:35:10 25 A. A French customer? I'm sorry.

14:35:17 1 Q. I thought I said OEMEA's customer.  
14:35:20 2 A. Okay.  
14:35:21 3 Q. So we're talking about OEMEA has a  
14:35:27 4 commissionaire agreement with Oracle France which --  
14:35:32 5 through which they make a sale to a customer.  
14:35:35 6 Right? Are you with me so far?  
14:35:37 7 A. Okay. Oracle France makes a sale to the  
14:35:40 8 customer?  
14:35:41 9 Q. Yes, as OEMEA's undisclosed agent. Right?  
14:35:45 10 A. As a commissionaire.  
14:35:48 11 Q. Commissionaire. Okay. The customer makes  
14:35:50 12 a payment, and that money goes to OEMEA. Is that  
14:35:54 13 right?  
14:35:54 14 A. That's my general understanding.

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