

EXHIBIT 12

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16 Systems, Inc.

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 OAKLAND DIVISION
20

21 ORACLE USA, INC., *et al.*,
22 Plaintiffs,
23 v.
24 SAP AG, *et al.*,
25 Defendants.

Case No. 07-CV-1658 (PJH) EDL

**ORACLE'S SUPPLEMENTAL INITIAL
EXPERT DISCLOSURES**

1 **TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:**

2 Pursuant to the June 11, 2009 Pretrial Scheduling Order ("Pretrial Order") and the
3 parties' agreement, Plaintiffs Oracle USA, Inc., Oracle International Corporation, Oracle EMEA
4 Limited, and Siebel Systems, Inc. (collectively, "Oracle") make the following supplemental
5 initial expert witness designations. Oracle will provide expert reports for the following experts
6 as ordered by the Court in the Pretrial Order. Further, Oracle provides these designations based
7 on its present information and based on its present understanding. Oracle has not completed its
8 investigation and discovery of all facts relating to this case, and has not completed its preparation
9 for trial. Moreover, Oracle provides these initial designations without disclosure by Defendants
10 TomorrowNow, Inc., SAP America, Inc., and SAP AG (collectively, "Defendants") regarding
11 those individuals Defendants intend to use at trial to present evidence pursuant to Federal Rules
12 of Evidence 702, 703, and 705. Oracle is also without disclosure by Defendants of those lay
13 persons Defendants intend to use at trial to present evidence. Therefore, in addition to the
14 experts designated herein, Oracle reserves the right to designate additional witnesses pursuant to
15 the Pretrial Order, and Federal Rule of Civil Procedure 26, for rebuttal or other purposes.

16 Subject to and without waiving the foregoing, Oracle provides the following
17 supplemental information about the previously disclosed person(s) who Oracle may call at trial
18 to present evidence under Federal Rule of Evidence 702, 703, or 705:

19 1. Name: Dan Levy, PhD

20 Address: Advanced Analytical Consulting Group Inc.

21 211 Congress Street

22 Boston, MA 02110

23 General Subject of Testimony: Dr. Levy will testify about statistical
24 analyses used to extrapolate occurrences and rates of infringement or misuse of
25 Oracle's intellectual property, from a sample to a larger population.

26 Rate for Deposition/Trial Testimony: TEXT REMOVED - NOT RELEVANT TO MOTION

27 Revised CV with publications for last 10 years attached as Exhibit B

2. Name: Doug Lichtman
Address: UCLA School of Law
405 Hilgard Avenue
Los Angeles, CA 90095

General Subject of Testimony: Mr. Lichtman will testify about damages related to intellectual property, including the harm associated with infringement or misuse and the benefits of enforcement against infringement or misuse.

Rate for Deposition/Trial Testimony: TEXT REMOVED - NOT RELEVANT TO MOTION
List of relevant testimony and publications for last 10 years attached as Exhibit C

3. Name: Kevin Mandia
Address: Mandiant, Inc.
675 North Washington Street
Suite 210
Alexandria, VA 22314

General Subject of Testimony Mr. Mandia will analyze, calculate, and testify about the types and scope of Defendants' infringement and misuse of Oracle's intellectual property and about Defendants' access to Oracle's support websites.

Rate for Deposition/Trial Testimony: TEXT REMOVED - NOT RELEVANT TO MOTION
List of relevant testimony attached as Exhibit D

4. Name: Paul Meyer
Address: Navigant Consulting, Inc.
One Market Street
Spear Street Tower, Suite 1200
San Francisco, CA 94105

General Subject of Testimony: Mr. Meyer will analyze, calculate, and

1 testify to the ways and amounts by which Oracle has been damaged by
2 Defendants' actions, including under its various causes of actions, and according
3 to its various measures of harm.

4 Rate for Deposition/Trial Testimony: TEXT REMOVED - NOT RELEVANT TO MOTION

5 List of relevant testimony attached as Exhibit E

6
7 5. Name: Paul Pinto

8 Address: Sylvan V.I., Inc.

9 13525 Blakmaral Lane

10 Alpharetta, GA 30004

11 General Subject of Testimony: Mr. Pinto will analyze, calculate, and
12 testify to the costs associated with software product development.

13 Rate for Deposition/Trial Testimony: TEXT REMOVED - NOT RELEVANT TO MOTION

14 List of relevant testimony attached as Exhibit F

15
16 6. Name: Francoise Tourniaire

17 Address: FT Works

18 71 Cody Lane

19 Los Altos, CA 94022

20 General Subject of Testimony: Ms. Tourniaire will testify as to industry
21 standards for customer-facing website security, including use of passwords or
22 other credentials.

23 Rate for Deposition/Trial Testimony: TEXT REMOVED - NOT RELEVANT TO MOTION

24 List of publications for last 10 years attached as Exhibit G

1 DATED: October 16, 2009

2 Bingham McCutchen LLP

3
4 By: Bree Hann
5 Bree Hann
6 Attorneys for Plaintiffs
Oracle USA, Inc., Oracle International Corporation,
Oracle EMEA Limited, and Siebel Systems, Inc.

PROOF OF SERVICE

I am over 18 years of age, not a party to this action and employed in the County of San Francisco, California at Three Embarcadero Center, San Francisco, California 94111-4067. I am readily familiar with the practice of this office for collection and processing of correspondence by U.S. Mail and Electronic Mail, and they are deposited and/or sent that same day in the ordinary course of business.

Today I served the following document:

**ORACLE'S SUPPLEMENTAL INITIAL
EXPERT DISCLOSURES**

☒ (BY ELECTRONIC MAIL) by transmitting via electronic mail document(s) in portable document format (PDF) listed below to the email address set forth below on this date.

☒ (BY MAIL) by causing a true and correct copy of the above to be placed in the United States Mail at San Francisco, California in sealed envelope(s) with postage prepaid, addressed as set forth below. I am readily familiar with this law firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence is deposited with the United States Postal Service the same day it is left for collection and processing in the ordinary course of business.

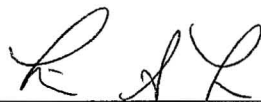
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I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made and that this declaration was executed on October 16, 2009, at San Francisco, California.



Lisa S. Lee