

# EXHIBIT 16

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND 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

JOHN BAUGH - (VOLUME 2)

DECEMBER 3, 2009

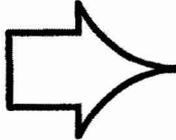
ORAL VIDEOTAPED DEPOSITION OF JOHN BAUGH, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above-styled and numbered cause on the 3rd day of December, 2009, from 12:25 a.m. to 4:08 p.m., before Dana Richardson, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the Hilton Hotel & Conference Center, 801 University Drive East, College Station, Texas 77840, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

Job No. 1603-93486

13:08:37 1 A. I don't know what the maximum number of CPUs it could  
13:08:41 2 hold.  
13:08:41 3 Q. And how about the DCPS TEMP01?  
13:08:45 4 A. I really don't know.  
13:08:46 5 Q. Okay. And you don't know for DCPS TEMP02?  
13:08:52 6 A. I -- I would just be guessing.  
13:08:53 7 Q. Okay. And then where -- where do you understand 10g  
13:09:04 8 server database was installed?  
13:09:07 9 A. The 10g database server was installed on one of the  
13:09:14 10 Windows servers, either DCPS TEMP01 or DCPS TEMP02. And then  
13:09:22 11 there was a partial install on one of the AIX servers, the  
13:09:29 12 PSDEV01, I think.  
13:09:34 13 Q. What do you mean, "a partial install"?  
13:09:37 14 A. It couldn't be -- the install could not be completed.  
13:09:41 15 Q. And why is that?  
13:09:43 16 A. We were missing some AIX operating system patches  
13:09:50 17 that were a prerequisite for the install, 10g.  
13:09:55 18 Q. And did you obtain those patches from somewhere?  
13:09:59 19 A. Not that I'm aware, no.  
13:10:06 20 Q. Was that installation ever completed, the  
13:10:09 21 installation of 10g on PSDEV01?  
13:10:15 22 A. I don't think so, no.  
13:10:26 23 Q. Is it fair to say that for all of TomorrowNow's  
13:10:30 24 clients who were on an Oracle database platform, that  
13:10:36 25 TomorrowNow was supporting those clients with one of the

1 I declare under penalty of perjury that the foregoing is  
2 true and correct.

3  
4 **SIGN  
& DATE**

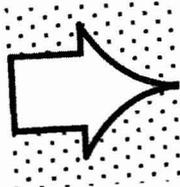


*John Baugh*

JOHN BAUGH

5  
6  
7  
8 SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned  
9 authority, by the witness, JOHN BAUGH, on this the 14<sup>th</sup> day  
10 of JANUARY, 2010.

11  
12 **NOTARIZE**

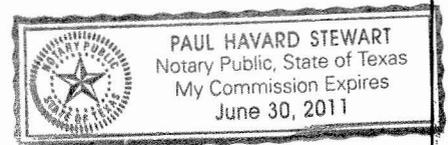


*Paul Havard Stewart*

NOTARY PUBLIC IN AND FOR

THE STATE OF TEXAS

13  
14  
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16 My Commission Expires: 30 JUNE, 2011



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21  
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23  
24  
25

1 STATE OF TEXAS  
2 COUNTY OF HARRIS

3 REPORTER'S CERTIFICATE

4 I, Dana Richardson, a Certified Shorthand Reporter in and  
5 for the State of Texas, do certify that this deposition  
6 transcript is a true record of the testimony given by the  
7 witness named herein, after said witness was duly sworn by me.  
8 The witness was requested to review the deposition.

9 I further certify that I am neither attorney or counsel  
10 for, related to, nor employed by any parties to the action in  
11 which this testimony is taken and, further, that I am not a  
12 relative or employee of any counsel employed by the parties  
13 hereto or financially interested in the action.

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

16 Mr. Geoffrey M. Howard - 02:59  
17 Mr. Joshua L. Fuchs - 00:00

18 SUBSCRIBED AND SWORN TO under my hand and seal of office  
19 on this the 8th day of December,  
20 2009.

21 Dana Richardson



22 Dana Richardson, CSR  
23 Texas CSR 5386  
24 Expiration: 12/31/11  
25 Merrill Legal Solutions, Firm No. 210  
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