

# EXHIBIT 20



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09:11:23            4                    MR. COWAN:    Q.    Good morning, Mr. Koehler.

09:11:25            5                    How are you?

09:11:25            6                    A.    I'm fine.    How are you doing?

09:11:27            7                    Q.    Just fine.    I assume we don't need to go  
09:11:29            8                    through the rules of the road, so to speak, on the  
09:11:31            9                    deposition, given that you were here yesterday, so I  
09:11:33            10                   will move on to what is now the topic in Defendants'  
09:11:41            11                   Second Notice of Deposition of Plaintiff under  
09:11:44            12                   30(b)(6).    And that notice has been marked as  
09:11:48            13                   Exhibit 166.    And I put that before you.

09:11:52            14                   Have you seen that notice before?

09:11:55            15                   A.    Yes, I have seen it before.

09:11:56            16                   Q.    Okay.    And you understand the topic that  
09:12:05            17                   you're here to testify today on includes everything  
09:12:12            18                   that's described in the notice, but it's more  
09:12:15            19                   particularly described on lines 12 through 15 of  
09:12:18            20                   page 2 of Exhibit 166.    Correct?

09:12:20            21                   A.    Yes.

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09:55:15            7                    Q.    Is the PeopleSoft Customer Connection  
09:55:17            8                    system set up in such a way where the users that  
09:55:24            9                    access that system only have read-only access?  
09:55:30            10                  MR. ALINDER:    Objection.    Calls for  
09:55:30            11                  speculation.    Vague.  
09:55:43            12                  THE WITNESS:    What do you mean by read-only  
09:55:46            13                  access?  
09:55:47            14                  MR. COWAN:    Q.    Okay, fair enough.  
09:55:49            15                  Is there any way, to your knowledge, for  
09:55:51            16                  any user of the Customer Connection system, any  
09:55:55            17                  outside user, non-Oracle employee user, to write  
09:56:02            18                  anything onto the PeopleSoft Customer Connection  
09:56:06            19                  system?  
09:56:09            20                  MR. ALINDER:    Objection.    Vague.  
09:56:15            21                  THE WITNESS:    Just to clarify, we are  
09:56:16            22                  talking about files, or should that also include  
09:56:20            23                  customer feedback information?  
09:56:22            24                  MR. COWAN:    Q.    Okay.    And that's -- let's  
09:56:24            25                  be very precise here.

09:56:26            1            A. Yeah.

09:56:26            2            Q. There is a certain degree of interaction  
09:56:28            3            that any user of the Customer Connection system has  
09:56:32            4            to have in order to use the system. Correct?

09:56:35            5            A. Yes.

09:56:36            6            Q. Okay. And, for example, it has to make a  
09:56:43            7            query into that system to be able to get any  
09:56:45            8            information, whether either just to look at it or to  
09:56:48            9            download it. Right?

09:56:49            10           A. Right.

09:56:51            11           Q. But I'm talking about the physical data  
09:56:53            12           that is on the system.

09:56:55            13           Is there any way for an outside user, a  
09:56:58            14           non-Oracle employee, to your knowledge, to change or  
09:57:03            15           alter in any way the data that is on Customer  
09:57:06            16           Connection?

09:57:07            17           MR. ALINDER: Objection. Calls for  
09:57:08            18           speculation. Vague.

09:57:11            19           THE WITNESS: To my knowledge, no.

09:57:17            20           MR. COWAN: Q. And the system is designed  
09:57:18            21           that way, is it not?

09:57:20            22           MR. ALINDER: Objection. Calls for  
09:57:20            23           speculation.

09:57:22            24           THE WITNESS: I believe so.

09:57:41            25           MR. COWAN: Q. As you sit here today, are

09:57:42            1            you aware of any action by anyone at TomorrowNow  
09:57:47            2            that in any way changed or altered any data on the  
09:57:53            3            PeopleSoft Customer Connection system?

09:57:56            4            MR. ALINDER: Objection. Calls for a legal  
09:57:56            5            conclusion, calls for speculation.

09:57:59            6            THE WITNESS: And again, data, we are  
09:58:00            7            talking about same data we just talked before, which  
09:58:04            8            means primarily the content -- or it means the  
09:58:07            9            content on these servers?

09:58:09            10           MR. COWAN: Q. Correct.

09:58:09            11           A. No, I'm not aware of that.

09:58:12            12           Q. Are you aware of any action by anyone at  
09:58:15            13           TomorrowNow that changed or altered in any way any  
09:58:20            14           programs that are part of the PeopleSoft Customer  
09:58:24            15           Connection system?

09:58:27            16           MR. ALINDER: Same objections.

09:58:29            17           THE WITNESS: Programs, you mean the  
09:58:30            18           application consisted -- the system consists of?

09:58:35            19           MR. COWAN: Q. Correct.

09:58:36            20           A. No, I'm not aware of that.

09:58:40            21           Q. Are you aware of any action by anyone at  
09:58:43            22           TomorrowNow that changed or altered, in any way, any  
09:58:49            23           part of the physical hardware system that comprises  
09:58:53            24           the PeopleSoft Customer Connection?

09:58:56            25           MR. ALINDER: Same objections.

09:58:57            1                    THE WITNESS:    No, I am not aware of that.

09:59:03            2                    MR. COWAN:    Q.    Are you aware of any action

09:59:04            3                    by anyone at TomorrowNow that changed or altered in

09:59:08            4                    any way any part of the information that is on the

09:59:14            5                    PeopleSoft Customer Connection system?

09:59:17            6                    MR. ALINDER:    Same objections.

09:59:19            7                    THE WITNESS:    The -- what do you mean with

09:59:21            8                    information?    What's the difference between the

09:59:23            9                    content we already talked about and the information

09:59:26            10                   you are now talking about?

09:59:27            11                   MR. COWAN:    Q.    Well, the content within

09:59:29            12                   the software and support materials.    Correct?

09:59:32            13                   A.    Correct, yes.

09:59:33            14                   Q.    But the Customer Connection system also has

09:59:35            15                   a web page display that's made available to the

09:59:38            16                   users, et cetera.    Correct?

09:59:41            17                   A.    Correct.    Yes.

09:59:42            18                   Q.    Are you aware of any action by anyone at

09:59:44            19                   TomorrowNow that changed or altered in any way any

09:59:47            20                   of the information that is displayed or presented or

09:59:52            21                   otherwise made available as part of the PeopleSoft

09:59:55            22                   Customer Connection system?

09:59:57            23                   MR. ALINDER:    Objection.    Vague, calls for

09:59:59            24                   speculation.

10:00:00            25                   THE WITNESS:    I'm not aware of that.

10:00:16            1                    MR. COWAN:  Q.  And all the answers you  
10:00:17            2                    just gave me regarding any changes or alterations  
10:00:19            3                    that were in response to my questions about anyone  
10:00:22            4                    at TomorrowNow, that would hold true to any of the  
10:00:25            5                    defendants in this case.  Correct?  
10:00:28            6                    MR. ALINDER:  Objection.  Calls for a legal  
10:00:29            7                    conclusion, calls for speculation.  
10:00:34            8                    THE WITNESS:  I believe so.  
10:01:14            9                    MR. COWAN:  Q.  To your knowledge, did any  
10:01:16            10                   of the actions of any of the defendants in this case  
10:01:22            11                   affect the availability of any of the data that is  
10:01:27            12                   on the PeopleSoft Customer Connection system?  
10:01:31            13                   MR. ALINDER:  Objection.  Vague, calls for  
10:01:34            14                   a legal conclusion, calls for speculation.  
10:01:42            15                   THE WITNESS:  That's a good question.  Let  
10:01:47            16                   me answer that question in that way.  
10:01:52            17                   We never received complaints from customers  
10:01:58            18                   that the systems had not been available or slow.  
10:02:03            19                   And internally, to my knowledge, we are also not  
10:02:08            20                   aware of that.  This does not necessarily mean it  
10:02:12            21                   has happened.  
10:02:14            22                   MR. COWAN:  Q.  But to your knowledge,  
10:02:15            23                   you're not aware of any instance that any action of  
10:02:18            24                   any defendants affected the availability of any data  
10:02:20            25                   on the Customer Connection system, that you're aware



10:02:23            1            of?

10:02:23            2                            MR. ALINDER: Same objections, and calls  
10:02:25            3            for expert testimony.

10:02:26            4                            THE WITNESS: Yeah, I'm not aware of that.

10:02:45            5                            MR. COWAN: Q. And the same would hold  
10:02:46            6            true, you're not aware of any actions by any of the  
10:02:49            7            defendants in this case that would affect the access  
10:02:51            8            to any programs or systems or information that are a  
10:02:56            9            part of the PeopleSoft Customer Connection system.  
10:02:59            10            Correct?

10:03:00            11                           MR. ALINDER: Objection. Calls for a legal  
10:03:00            12            conclusion, calls for expert testimony.

10:03:03            13                           THE WITNESS: You mean that in that way  
10:03:04            14            that it has temporarily not been available, or in --

10:03:08            15                           MR. COWAN: Q. Or -- right.

10:03:09            16                           A. Whatever, yeah. No, I'm not aware of that.

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10:21:49            7                    THE WITNESS: I would like to make two  
10:21:50            8                    clarifications to be absolutely precise.  
10:21:53            9                    MR. COWAN: Q. Okay.  
10:21:53            10                  A. What we are talking about.  
10:21:55            11                  The first one is when we are talking about  
10:21:59            12                  alteration, modification of data, then we need to be  
10:22:02            13                  clear that first of all, what alteration and  
10:22:07            14                  modification means. Because there is data which had  
10:22:13            15                  been changed in that way that it had been created on  
10:22:17            16                  the system when they accessed the system, such as  
10:22:20            17                  the entries in Jason Rice' database with the wrong  
10:22:25            18                  and modified phone numbers, the wrong email  
10:22:28            19                  addresses, as we talked yesterday.  
10:22:30            20                  I do not want to say this is an alteration  
10:22:32            21                  or modification, because it was created at the time,  
10:22:35            22                  and later on useless for us.  
10:22:38            23                  The same applies to the clicks Sid was  
10:22:43            24                  analyze. That's also data that was created at that  
10:22:46            25                  time.

10:22:47            1                    So there is data which has been created in  
10:22:51            2                    a wrong way which was not useful -- is not useful  
10:22:56            3                    for us.

10:22:56            4                    The second clarification, when we speak  
10:22:59            5                    about the availabilities, slowdowns, then I'm not  
10:23:07            6                    aware of any slowdown or unavailabilities for the  
10:23:14            7                    official processes, escalation processes in Oracle.  
10:23:18            8                    This does not necessarily mean that customers may  
10:23:20            9                    have complained to the support representatives out  
10:23:23            10                   there, which was not put in the system internally.

10:23:38            11                   MR. COWAN:    Q.    Okay.    But with respect to  
10:23:41            12                   the -- all of your answers regarding alteration or  
10:23:44            13                   modification or change of data on the system, your  
10:23:49            14                   answers are still what you gave me earlier:    To your  
10:23:51            15                   knowledge, there's no data that existed on the  
10:23:54            16                   system prior to TomorrowNow's access to the system  
10:23:58            17                   that was changed or altered in any way.    Correct?

10:24:01            18                   MR. ALINDER:    Objection.    Calls for  
10:24:02            19                   speculation.

10:24:05            20                   THE WITNESS:    If we define alteration,  
10:24:07            21                   modification that way, that the data existed already  
10:24:11            22                   on the system and then later on was changed or  
10:24:14            23                   modified, then I'm not aware of that.

10:24:17            24                   MR. COWAN:    Q.    And you're also not aware  
10:24:19            25                   of any data being deleted or otherwise removed from

10:24:22            1            the system that existed on the system prior to

10:24:24            2            TomorrowNow's access. Correct?

10:24:25            3                            MR. ALINDER: Objection. Objection. Calls

10:24:26            4            for speculation, calls for expert testimony.

10:24:37            5                            THE WITNESS: No, I'm not aware of that.

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10:27:27            13                    Q.    So when a user uses Change Assistant for  
10:27:30            14                    JDE, that user inputs certain data about the user --  
10:27:35            15                    the email address, phone number, et cetera.  
10:27:38            16                    Correct?  
10:27:39            17                    A.    Correct.  
10:27:39            18                    Q.    And then that information is then  
10:27:41            19                    transmitted to the Customer Connection system once  
10:27:44            20                    the Change Assistant tool is used to access the  
10:27:47            21                    Customer Connection.    Correct?  
10:27:49            22                    A.    Correct.  
10:27:50            23                    Q.    And that is typical, whether any of the  
10:27:53            24                    defendants used that tool or any other customer used  
10:27:56            25                    it.    It's the same kind of information that's being

10:27:58            1            transmitted to Customer Connection. Correct?

10:28:02            2                            MR. ALINDER: Objection. Vague, calls for  
10:28:02            3            speculation.

10:28:11            4                            THE WITNESS: Everybody who is using Change  
10:28:12            5            Assistant tool, regardless of TomorrowNow or anybody  
10:28:16            6            else in the world, should enter that data, and that  
10:28:18            7            data is transmitted into that database. That is how  
10:28:21            8            the tool works.

10:28:22            9                            MR. COWAN: Q. Yeah, and that was my  
10:28:23            10            question.

10:28:23            11                            And the -- with respect to the clicks, if a  
10:28:26            12            user is using a solution and it gets prompted, did  
10:28:30            13            this solution help you or satisfy your problem,  
10:28:33            14            yes/no, every user that uses the system that's  
10:28:37            15            looking at a solution that gets that question is  
10:28:39            16            going to be transmitting data back either in the  
10:28:41            17            form of a yes answer or a no answer. Right?

10:28:44            18                            MR. ALINDER: Objection. Calls for  
10:28:45            19            speculation. Vague.

10:28:47            20                            THE WITNESS: To my knowledge, that is how  
10:28:50            21            the system works: Every user, regardless of who it  
10:28:54            22            is, should provide that feedback to us.

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10:30:48            1                    MR. COWAN:  Q.  One of the findings we  
10:30:49            2                    talked about yesterday was that you had concluded  
10:30:51            3                    that there had been access to Customer Connection by  
10:30:54            4                    an IP address that was tied to TomorrowNow.

10:30:57            5                    Correct?

10:31:01            6                    A.  Correct.

10:31:01            7                    Q.  And then you reported those findings back  
10:31:04            8                    to the lawyers in this case for this litigation.

10:31:07            9                    Correct?

10:31:08            10                  A.  Correct.

10:31:13            11                  Q.  So my question is, to your knowledge, did  
10:31:17            12                  Oracle ever -- did that access, TomorrowNow's access  
10:31:21            13                  onto Customer Connection, delete any data or  
10:31:27            14                  otherwise -- let me -- did that action by  
10:31:32            15                  TomorrowNow delete any data that was on the system  
10:31:36            16                  prior to TomorrowNow's access?

10:31:39            17                  MR. ALINDER:  Objection.  Vague, calls for  
10:31:41            18                  speculation.

10:31:43            19                  THE WITNESS:  I don't understand the second  
10:31:44            20                  part, prior to TomorrowNow's access.

10:31:46            21                  MR. COWAN:  Q.  Yeah, let me make sure the  
10:31:48            22                  question's clear.

10:31:50            23                  Data existed on the Customer Connection  
10:31:53            24                  system immediately prior to -- right before  
10:31:58            25                  TomorrowNow accessed it.  Correct?

10:32:00            1                    MR. ALINDER:    Objection.    Vague, calls for  
10:32:01            2                    speculation.  
10:32:03            3                    THE WITNESS:    Yeah, that means with --  
10:32:04            4                    access, I mean, they accessed the system every day.  
10:32:08            5                    So do you mean when they started?    I -- because I  
10:32:11            6                    don't know when they even started to access the  
10:32:13            7                    system.  
10:32:14            8                    MR. COWAN:    Q.    Let me ask it a different  
10:32:16            9                    way.  
10:32:17            10                    Are you aware of any instance where  
10:32:19            11                    TomorrowNow's access to Customer Connection resulted  
10:32:24            12                    in any deletion of the data that Oracle had put  
10:32:28            13                    onto -- or any of the Plaintiffs in this case had  
10:32:31            14                    put onto the Customer Connection system?  
10:32:33            15                    MR. ALINDER:    Objection.    Calls for expert  
10:32:35            16                    witness testimony, outside the scope.  
10:32:40            17                    THE WITNESS:    I don't know.  
10:32:41            18                    MR. COWAN:    Q.    You're not aware of any?  
10:32:42            19                    A.    I'm not aware of any.  
10:32:43            20                    Q.    And thus, you're not aware of any efforts  
10:32:46            21                    that would have been to restore any data or  
10:32:50            22                    information onto Customer Connection as a result of  
10:32:52            23                    TomorrowNow's activities.    Correct?  
10:32:54            24                    MR. ALINDER:    Objection.    Calls for  
10:32:55            25                    speculation, calls for expert witness testimony.



10:32:57

1

THE WITNESS: I'm not aware of that.  
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10:41:21            2                    Q.    Okay.    And as you sit here today, what is  
10:41:48            3                    your belief regarding what harm or damage was caused  
10:41:52            4                    by the activity you just described?

10:41:57            5                    A.    I believe, based on the numbers I have  
10:42:02            6                    seen, that on certain days, not on all of them, I  
10:42:13            7                    believe there must have been a slowdown of the  
10:42:15            8                    system based on the number of the downloads.

10:42:18            9                    Q.    But that's purely speculative, because  
10:42:20            10                   you're unaware of any complaint.    Correct?

10:42:23            11                   MR. ALINDER:    And I'm going to object to  
10:42:24            12                   this line of questioning as calling for expert  
10:42:26            13                   testimony.

10:42:26            14                   THE WITNESS:    Yes, I'm not an expert on  
10:42:28            15                   that.    It's just what I believe.    And it's right, we  
10:42:35            16                   haven't received a formal complaint.    But as I  
10:42:38            17                   mentioned as a clarification, not through official  
10:42:41            18                   channels.    I do not know if customers have just  
10:42:44            19                   complained to their account manager, support  
10:42:46            20                   representative or whatever.

10:42:47            21                                      That would mean we need to ask every single  
10:42:50            22                   account representative or support manager to get the  
10:42:51            23                   answer to that question.

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10:45:51            21                            MR. COWAN:  Q.  Okay.  I'll restate it  
10:45:53            22                            where we make sure we've got it clear.  
10:45:56            23                            As you sit here today, you're not aware of  
10:45:58            24                            had any actual slowing of any of the system  
10:46:03            25                            associated with the PeopleSoft Customer Connection

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10:46:06            1            system at all. You just suspect that that may have  
10:46:11            2            occurred. Correct?

10:46:12            3                    MR. ALINDER: Objection. Misstates the  
10:46:13            4            testimony.

10:46:14            5                    Scott, this may be a translation issue, but  
10:46:17            6            you're talking about slowdown, and he's talking  
10:46:19            7            about customer complaints, and there's -- I'm not --

10:46:25            8                    MR. COWAN: Let me clear it up. And we'll  
10:46:32            9            do this in baby steps. Okay.

10:46:34            10                   THE WITNESS: Okay.

10:46:34            11                   MR. COWAN: Q. You're not aware of any  
10:46:38            12            customer complaints at all -- you've already  
10:46:42            13            testified to this, that you're not aware of any  
10:46:44            14            customer complaints at all where anyone complained  
10:46:46            15            that they had any problems accessing Customer  
10:46:49            16            Connection with it being slow or otherwise  
10:46:51            17            nonresponsive. Right?

10:46:54            18                    A. No customer complaint ever came to my  
10:46:57            19            attention.

10:47:00            20                    Q. And by reviewing the data you've reviewed,  
10:47:05            21            you suspect that may have occurred, but still as you  
10:47:08            22            sit here today you have no information that it  
10:47:11            23            actually in fact occurred?

10:47:13            24                    MR. ALINDER: Objection. Vague, calls for  
10:47:15            25            expert witness testimony.

10:47:21            1                    THE WITNESS:    Based on the numbers -- and  
10:47:26            2                    the numbers are facts; they are in the log files --  
10:47:30            3                    I suspect that, but I am not an expert on that.

10:47:36            4                    MR. COWAN:    Q.    And regardless of whether  
10:47:37            5                    you're an expert on it, you have no knowledge that  
10:47:39            6                    it actually occurred?

10:47:42            7                    MR. ALINDER:    Same objections.

10:47:43            8                    THE WITNESS:    As I said before, I'm not  
10:47:45            9                    aware that it occurred.

TEXT REMOVED - NOT RELEVANT TO MOTION

TEXT REMOVED - NOT RELEVANT TO MOTION

11:55:57

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I declare under penalty of perjury that

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11:55:57 1 the foregoing is true and correct. Subscribed at  
11:55:57 2 Denver, <sup>Colorado</sup> California, this 20 day of  
11:55:57 3 January 2008. J  
11:55:57 4 Uwe Koehler  
11:55:57 5  
11:55:57 6 DR. UWE KOEHLER

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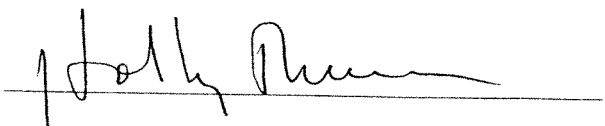
CERTIFICATE OF REPORTER

I, HOLLY THUMAN, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript  was  was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED December 17, 2008.

  
HOLLY THUMAN, CSR No. 6834