

EXHIBIT 17

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.)
)

30 (b) (6) VIDEOTAPED DEPOSITION OF
ORACLE USA, INC.
(DEFENDANTS' FIRST DEPOSITION NOTICE)
BY ITS DESIGNEE
DR. UWE KOEHLER

THURSDAY, DECEMBER 4, 2008

HIGHLY CONFIDENTIAL

REPORTED BY: HOLLY THUMAN, CSR No. 6834, RMR, CRR

(1-414227)

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Q. Okay. When -- why is there a distinction made between the download part of the investigation and the click part of the investigation?

A. These two investigations started independently from each other.

Q. Okay. And you've already indicated the download part of the investigation started through

09:27:14 1 Buffy Ransom and Jim Patrice's group. Yes?

09:27:17 2 A. To my knowledge, I only know about Buffy,

09:27:22 3 Jim Patrice and Julie O'Shea. I don't recall

09:27:26 4 anybody else who was involved at that time.

09:27:27 5 Q. Before you got involved?

09:27:29 6 A. Before we got involved, correct.

09:27:36 7 Q. Then what was the start; what precipitated

09:27:39 8 or started the click investigation?

09:27:40 9 MR. ALINDER: Objection. Calls for

09:27:41 10 speculation.

09:27:43 11 You can answer it to the extent you know.

09:27:46 12 THE WITNESS: Okay. I can tell you what I

09:27:50 13 know, what I found out speaking to the people who

09:27:55 14 had been involved in this clickstream investigation.

09:28:07 15 What I learned was that Oracle, the support

09:28:11 16 organization, lost customers. That was just a

09:28:16 17 matter of fact. And some of these customer names

09:28:20 18 showed up on the TomorrowNow web page, as a matter

09:28:23 19 of fact. That was not a secret. Public

09:28:24 20 information.

09:28:29 21 And the support organization became

09:28:34 22 concerned why this happens, and wanted to know

09:28:38 23 what's wrong, what are we doing wrong, what can we

09:28:41 24 do better, whatever.

 25 And that was mentioned in a meeting, Jim

09:28:55 1 Patrice meeting. And Sid Chilakapati, or -- I don't
09:28:57 2 know how to pronounce the name.

09:28:59 3 Q. We'll refer to him as Sid.

09:29:01 4 A. Sid, correct. That makes it easier.

09:29:03 5 Q. I know who you're talking about.

09:29:06 6 A. So Sid started to -- that's what he told
09:29:09 7 me. He started to implement reports on the Customer
09:29:14 8 Connection site, reports especially about the
09:29:17 9 customer feedback, which we refer to clicks, because
09:29:21 10 there was a feedback button, has that solution
09:29:23 11 helped you, yes, no, click on that. That's why we
09:29:24 12 are talking about clicks.

09:29:30 13 And he started to create reports to get
09:29:32 14 reports about a customer feedback in order to have
09:29:36 15 to figure out what's wrong with the customers.

09:29:39 16 And when he doing that, and had implemented
09:29:41 17 a report, that was at the end of January, and he run
09:29:48 18 the reports, he noticed two -- another two strange
09:29:54 19 things: First of all, he noticed a huge, tremendous
09:29:57 20 high number of the "no" click, saying the customer
09:30:00 21 answered, did that solution help you, did that
09:30:03 22 download help you, no. A tremendous high number,
09:30:05 23 which was suspicious or strange.

09:30:08 24 And when he started to dig into that a
 25 little bit deeper, so who are these customers

09:30:15 1 clicking on no, and what's related to that, he found
09:30:19 2 another thing, that the timing of these clicks were
09:30:22 3 strange, because the download had been just
09:30:26 4 completed successfully, and a few milliseconds
09:30:29 5 later, the click happened. And said, that is
09:30:32 6 strange, because this cannot have been done by a
09:30:34 7 human being. It must have been an automated
09:30:37 8 program. That was his conclusion out of that.

09:30:38 9 And that started the second investigation,
09:30:41 10 which we refer to the click investigation.

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09:42:32 8 Q. -- and you can tell me, on each topic in
09:42:34 9 the deposition notice, what did you talk to
09:42:36 10 Ms. Ransom about?

09:42:37 11 MR. ALINDER: Objection. Assumes facts not
09:42:39 12 in evidence.

09:42:41 13 THE WITNESS: Excuse me?

09:42:43 14 MR. ALINDER: You can answer.

09:42:46 15 THE WITNESS: I asked her for the dates.

09:42:51 16 When she started, because she was the first one.

09:42:57 17 And at that point, I recalled the date, November the
09:43:02 18 28th, when it was raised to us, but I didn't know
09:43:03 19 when Buffy actually started.

09:43:04 20 MR. COWAN: Q. And what did she tell you?

09:43:07 21 A. She told me she started just one day
09:43:09 22 before, on November the 27th.

09:43:11 23 Q. Did she tell whether you she knew if anyone
09:43:13 24 else had started the investigation prior to November
25 27th?

09:43:19 1 A. She was not aware of that.

09:43:21 2 Q. Is there any other of these topics or
09:43:23 3 issues covered by the deposition notice that you
09:43:26 4 discussed with Ms. Ransom?

09:43:26 5 A. Yes.

09:43:26 6 Q. What?

09:43:29 7 A. Number B, I asked her why she actually
09:43:31 8 started to look at that.

09:43:32 9 Q. And what did she tell you?

09:43:36 10 A. She told me she looked at, as I mentioned
09:43:42 11 earlier, Jason Rice' logs, as a routine, so it was
09:43:45 12 not started as an investigation. She looked -- she
09:43:50 13 requested Jason Rice' database logs, which she does
09:43:54 14 periodically, pretty much every quarter.

09:43:57 15 She did it -- she told me she did it
09:44:01 16 specifically in November, because at that time,
09:44:04 17 J.D. Edwards had published or released a couple of
09:44:09 18 critical patches, and she just wanted to know if the
09:44:14 19 patches had been downloaded, if the critical
09:44:16 20 customers had downloaded the patches. She just
09:44:18 21 wanted to know what was going on with these patches.
09:44:23 22 That was the whole reason looking at these log
09:44:24 23 files.

09:44:29 24 Q. Okay. And these Jason Rice database logs
 25 are things that Jason Rice routinely produces or

09:44:35 1 generates?

09:44:36 2 MR. ALINDER: Objection. Calls for

09:44:40 3 speculation.

09:44:41 4 THE WITNESS: Yes, I don't know if he --

09:44:43 5 well, he makes these reports available when somebody

09:44:46 6 is asking him. Other than that, we refer to him

09:44:49 7 since he is managing the database, and he developed

09:44:51 8 that database.

09:44:53 9 MR. COWAN: Q. Okay. So he has the

09:44:56 10 ability to query the logs off that database on

09:44:59 11 demand, but he doesn't regularly generate reports

09:45:02 12 based on those logs?

09:45:05 13 A. To my knowledge, this is correct, yes, to

09:45:07 14 my knowledge.

09:45:10 15 Q. Did Buffy tell that she had asked Jason to

09:45:12 16 run these database logs?

09:45:12 17 A. No.

09:45:14 18 Q. Did she tell you how she came to get the

09:45:17 19 log, other than the fact she reviewed them?

09:45:19 20 A. No.

09:45:22 21 Q. What did she tell you about what she saw in

09:45:24 22 the log?

09:45:29 23 A. She told me what I mentioned earlier, these

09:45:36 24 strange, suspicious things, was that she noticed

25 faked, nonexisting phone numbers, like 7 times 7, 7

09:45:44 1 times 4.

09:45:52 2 She noticed nonexistent email accounts,
09:46:02 3 such as dr@bf.com, and -- which is still not so
09:46:05 4 strange; it happens from time to time. But what was
09:46:10 5 very strange, these -- the same email ID and the
09:46:14 6 same faked phone number showed up across multiple
09:46:20 7 customers. Across multiple customers' ID.
09:46:25 8 Especially for customers in different geographical
09:46:34 9 locations, which is very strange.

09:46:39 10 Q. So she told you that the same email ID,
09:46:44 11 dr@bf.com showed up across multiple customers?

09:46:44 12 A. Yes.

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13:39:08 11 Q. What is your current title at Oracle?

13:39:11 12 A. My title is Senior Director, Global

13:39:14 13 Information Security Compliance and Risk.

13:39:18 14 Q. And you've had that title from 2006 till

13:39:20 15 today?

13:39:22 16 A. That is correct.

13:39:26 17 Q. And part of your responsibilities are

13:39:30 18 investigating certain issues that may come up. This

13:39:33 19 is an example of those kind of things, but part of

13:39:38 20 your responsibilities is to conduct certain

13:39:40 21 investigations regarding information security as

13:39:41 22 they are requested of you.

13:39:42 23 A. That is correct.

13:39:46 24 Q. And part of those investigations, you are

25 in charge of gathering certain facts, conducting

13:39:52 1 analysis, and then reaching either some preliminary

13:39:56 2 or ultimate conclusions regarding those facts.

13:39:57 3 Correct?

13:39:58 4 A. That is correct.

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Q. Okay. Do you know what is meant by the word "much" in the sentence, "By reviewing the server's logs, Oracle determined that much of the download activity originated from one particular IP address"? Does that make any sense to you?

A. I can only speculate. My speculation would be, it's referring to the excessive downloads.

Q. And that's just, from the way you read that, just an indication that the logs had other download activity on it that wasn't as part of the investigation correlated to TomorrowNow, because it's picking up all the activity?

14:21:38 1 A. Correct. The download logs had all the
14:21:42 2 downloads from every customer, everywhere, on
14:22:04 3 the world. However -- yeah, what we did is, we did
14:22:10 4 a very simple analysis. I mean, we just counted the
14:22:14 5 number of lines related to the TomorrowNow IP
14:22:19 6 address, and we counted a number of lines not
14:22:24 7 TomorrowNow's IP address. That was the first one.

14:22:27 8 And the second was, the logs also contain
14:22:30 9 the number of bytes downloaded, and then we counted
14:22:33 10 the number of bytes downloaded by TomorrowNow's IP
14:22:38 11 address and the number of bytes downloaded by
14:22:40 12 anybody else except TomorrowNow.

14:22:45 13 And what we have seen there, it's a simple
14:22:48 14 calculation. I mean, it took me a week to write the
14:22:52 15 program to do that to produce the logs, but it's
14:22:55 16 quite simple and understandable how to do that.

14:22:58 17 But what we have seen had been specifically
14:23:03 18 one month, December 2006, there had been certain
14:23:06 19 days where TomorrowNow downloaded more than anybody
14:23:11 20 else. Which means the number of bytes, or
14:23:15 21 gigabytes, actually downloaded from TomorrowNow's IP
14:23:17 22 address was more than the number of bytes downloaded
14:23:22 23 by anybody else in the world.

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CERTIFICATE OF REPORTER

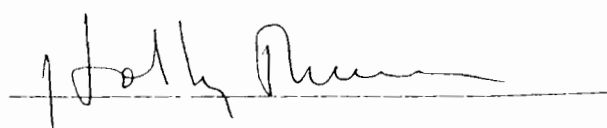
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I, HOLLY THUMAN, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken 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.



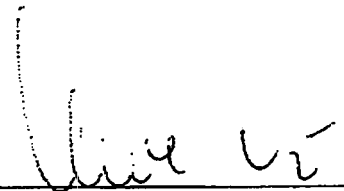
HOLLY THUMAN, CSR No. 6834

Errata Sheet

Deposition of Uwe Koehler, December 4, 2008

<u>Page</u>	<u>Line</u>	<u>Change</u>	<u>Reason</u>
18	2	Change "and the" to "and they"	Correction
26	10	Change "wage" to "page"	Correction
29	6	Change "Maureen" to "Marlene"	Correction
84	20	Change "lab servers" to "web servers"	Correction
152	25	Change "Korella" to "Grella"	Correction
192	13	Change "on" to "or"	Correction
219	3	Change "record" to "recall"	Correction
221	6	Change "see" to "say"	Correction
226	3	Change "dives" to "drives"	Correction
229	21	Change "assistant" to "system"	Correction

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



Signature

20-Jan-09
date