

EXHIBIT 18

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' SECOND DEPOSITION NOTICE)
BY ITS DESIGNEE
DR. UWE KOEHLER

FRIDAY, DECEMBER 5, 2008

HIGHLY CONFIDENTIAL

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

(1-414229)

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MR. COWAN: Q. Where physically are the
reverse proxy servers SUN145, 146, 147 and 148
located?

A. They are physically located in the
Pleasanton Data Center in Pleasanton, California.

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MR. COWAN: Q. Okay. Other than these

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four reverse proxy servers, what other physical

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pieces of hardware are you aware of that comprise

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the PeopleSoft Customer Connection system?

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A. The next physical piece of -- pieces of

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hardware I can identify are the Apache servers and

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SiteMinder servers, which are the same, since Apache

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and SiteMinder are running on the same machine. But

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there are, again, four of them.

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MR. COWAN: Q. Where are HP35, HP53, HP56

09:38:01 8

and HP59 located?

09:38:04 9

A. To my knowledge, they are located as well

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in the Pleasanton Data Center.

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Q. Other than the eight pieces of hardware that we have discussed so far, what other physical pieces of hardware are you aware of that are part of the PeopleSoft Customer Connection system?

A. I know about more servers as we discussed yesterday, but I'm not able to identify all of the physical assets. And I also don't know the machine names, as I did for the other machines.

So what we have is, first of all, I mentioned it yesterday, the C1 database. Which is the CRM, the Customer Relationship Management system.

Q. Okay. And what else? Even though it may be a little duplicative of what we talked about yesterday, but please try to give me an exhaustive listing of everything?

A. Yes. And we have the content servers serving the content for that system. These are database servers.

Q. And what did you call them? What kind of servers are they?

A. Content.

09:41:54 1 Q. They're the content servers serving the
09:41:56 2 content for -- okay.

09:42:01 3 A. These are the servers, they're -- the files
09:42:02 4 relate, because the first machines don't have any
09:42:07 5 content. They are just passing the information back
09:42:09 6 and forth.

09:42:12 7 Q. And what else?

09:42:15 8 A. Other than that, I know this system is
09:42:17 9 connected to several staging areas. Staging
09:42:26 10 servers.

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MR. COWAN: Q. Do you know where the
content servers are physically located?

A. Some of them are in the Pleasanton Data
Center, and some of them are in the data center in

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THE WITNESS: I would like to make two clarifications to be absolutely precise.

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MR. COWAN: Q. Okay.

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A. What we are talking about.

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The first one is when we are talking about alteration, modification of data, then we need to be clear that first of all, what alteration and modification means. Because there is data which had been changed in that way that it had been created on the system when they accessed the system, such as the entries in Jason Rice' database with the wrong and modified phone numbers, the wrong email addresses, as we talked yesterday.

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I do not want to say this is an alteration or modification, because it was created at the time, and later on useless for us.

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The same applies to the clicks Sid was analyze. That's also data that was created at that 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.

10:24:39 6 MR. COWAN: Q. Okay. The only

10:24:40 7 clarification you made is that there was some input

10:24:44 8 of data through the Change Assistant tool that read

10:24:48 9 on to the proxy server logs the email addresses and

10:24:55 10 the phone numbers and the other things that we

10:24:57 11 talked about yesterday. Correct?

10:24:59 12 MR. ALINDER: Objection. Misstates the

10:25:00 13 testimony.

10:25:02 14 THE WITNESS: Not only the Change Assistant

10:25:04 15 tool. The clicks I was referring to was in the

10:25:10 16 PeopleSoft. That was a different one. So that

10:25:13 17 would have been at least, at a minimum, two

10:25:15 18 different types --

10:25:17 19 MR. COWAN: Q. Okay. The instance that

10:25:18 20 Sid was investigating where there was entering on

10:25:24 21 the website, by whatever means, of a no, this

10:25:29 22 solution was not helpful. And so that data was then

10:25:31 23 recorded by the Customer Connection system.

10:25:35 24 Correct?

10:25:36 25 A. Yes.

10:25:37 1 Q. That's -- when we talk about the clicks,
10:25:39 2 that's what you're talking about?

10:25:40 3 A. Yes, correct, yes.

10:25:41 4 Q. And then the other data that was -- but
10:25:43 5 that's an add of data onto the system somewhere, and
10:25:46 6 where you saw it was in the logs. Right?

10:25:52 7 A. That -- if we talk about Jason Rice' data,
10:25:57 8 how we named it yesterday, then it shows up in the
10:26:04 9 proxy logs, which was important for our
10:26:07 10 investigation is. However, it is collected in the
10:26:09 11 database as well, and I'm -- I would like to clarify
10:26:13 12 that, because that is important, since that data has
10:26:16 13 been used internally for customer feedback analysis.

10:26:20 14 So if that data is not correct, there is an
10:26:22 15 impact on us or harm to us.

10:26:34 16 Q. The types of data we're talking about here,
10:26:37 17 which are two types, the ones that are captured by
10:26:43 18 Change Assistant and then reported to the system,
10:26:45 19 which are the email addresses, phone numbers and
10:26:47 20 other similar identifying information, is the kind
10:26:50 21 of data that any user using Change Assistant is
10:26:55 22 going to read on to that system. Notwithstanding
10:26:58 23 the accuracy of the information, but that kind of
10:27:00 24 data will be read on to the Customer Connection
10:27:03 25 system. Correct?

10:27:06 1 MR. ALINDER: Objection. Vague.

10:27:09 2 MR. COWAN: Q. Do you understand my

10:27:09 3 question? I'll be happy to rephrase it.

10:27:12 4 A. Yeah, not entirely.

10:27:13 5 Q. Okay. Well, let me rephrase the question.

10:27:16 6 And we're really talking about Change

10:27:17 7 Assistant for JDE. Right?

10:27:20 8 A. Right.

10:27:21 9 Q. Because you told me yesterday the

10:27:23 10 PeopleSoft Change Assistant tool doesn't collect all

10:27:26 11 that information.

10:27:27 12 A. Correct.

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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MR. COWAN: Q. Okay. Let's go to

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Exhibit 167, which is your notes. I want to focus

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on the first page.

10:39:20 17

What if any facts did you obtain regarding

10:39:24 18

the first numbered item from anyone other than the

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lawyers?

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MR. ALINDER: Objection. Vague.

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THE WITNESS: The facts for Item No. 1 is,

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for example, based on the analysis of the log files.

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MR. COWAN: Q. Understood. And I want to

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make sure you understand my question, because until

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I tell you otherwise, every question I have about

10:39:55 1 page 1 of Exhibit 167 is what you know based on what
10:40:00 2 investigation you have done without the lawyers.
10:40:03 3 Okay? What you know without the lawyers telling you
10:40:06 4 anything.

10:40:09 5 What information do you have as you sit
10:40:12 6 here today on Item No. 1, bandwidth/computing
10:40:17 7 resources, that is independent of what the lawyers
10:40:20 8 told you?

10:40:21 9 A. Yes. I understand the question.

10:40:25 10 Q. Okay.

10:40:26 11 A. And the answer is, we did the analysis of
10:40:30 12 the log files. Not just about the downloads, but we
10:40:34 13 also -- and I think I briefly mentioned that
10:40:37 14 yesterday -- we also looked at the overall number of
10:40:42 15 lines which corresponds to an access to the system
10:40:47 16 as well as to the number of bytes downloaded, as we
10:40:51 17 have seen yesterday when we looked at the Apache
10:40:54 18 logs, that the number of bytes downloaded were
10:40:56 19 submitted back is in there. And we looked at how
10:41:00 20 many access requests came from TomorrowNow, how many
10:41:05 21 access requests came from the rest of the world; how
10:41:07 22 many bytes had been downloaded by TomorrowNow, how
10:41:10 23 many bytes had been downloaded by the rest of the
10:41:12 24 world.

10:41:14 25 And what I mean in Point No. 1 is based on

10:41:18 1 that analysis.

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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MR. COWAN: Q. On Item 2, what did you
mean when you wrote, "Customer feedback data"?

10:52:47 1 A. "Customer feedback data," I have two
10:52:51 2 sub-bullet points there. The first one I mean the
10:52:55 3 data which is collected by the J.D. Edwards Change
10:53:00 4 Assistant tool. We spoke about that. Which is
10:53:04 5 recorded in Jason Rice' database.

10:53:08 6 I classified it as some kind of customer
10:53:11 7 feedback data because the customer entered some
10:53:14 8 information into that, like the phone numbers, email
10:53:18 9 address, username.

10:53:21 10 And the second category of that customer
10:53:22 11 feedback data is the click data, we talked about
10:53:27 12 that, which was part of Sid's investigation, which
10:53:30 13 is the "yes" and "no" click on the question, has it
10:53:34 14 helped you.

10:53:37 15 Q. What is the nature of the harm associated
10:53:40 16 with the Jason Rice database?

10:53:45 17 MR. ALINDER: Objection. Calls for a legal
10:53:46 18 conclusion, calls for expert testimony.

10:53:52 19 THE WITNESS: I am -- let me start, I am
10:53:53 20 not an expert on that. I give you what I know.

10:53:58 21 MR. COWAN: Q. Okay.

10:53:58 22 A. The facts. To my knowledge, that data
10:54:04 23 collected by the Change Assistant tool as well as
10:54:06 24 the clicks is used by the support organization to
10:54:15 25 analyze the customer behavior or whatever, and it

10:54:21 1 should help them to improve customer support.

10:54:25 2 That's the overall generic target of that.

10:54:29 3 Q. And what --

10:54:29 4 A. And the facts --

10:54:30 5 Q. I'm sorry.

10:54:31 6 A. The facts is, it has been used. I put the
10:54:34 7 examples here, for example, just to demonstrate that
10:54:37 8 there are fact that indeed it has been used.

10:54:41 9 The first one, the example is, it has been
10:54:43 10 used by Buffy. We spoke about that yesterday.
10:54:49 11 Buffy is looking at the data periodically, pretty
10:54:58 12 much every quarter. And the second category has
10:55:00 13 been used by Sid.

10:55:02 14 And to your question, the harm, the -- or
10:55:07 15 the nature of the harm is, if that data is incorrect
10:55:13 16 or wrong, then they will come to the wrong
10:55:17 17 conclusions.

10:55:20 18 Q. Okay. Anything else?

10:55:23 19 MR. ALINDER: Objection. Vague, overbroad.

10:55:26 20 THE WITNESS: As I said, I'm not an expert,
10:55:28 21 so I cannot speak what else is made out of that
10:55:31 22 data.

10:55:32 23 MR. COWAN: Q. All right. And when I said
10:55:33 24 anything else, I'm saying, any other nature of harm
10:55:37 25 associated with this entry, Jason Rice' database,

10:55:42 1 besides what you just described?

10:55:44 2 MR. ALINDER: Objection. Calls for expert
10:55:45 3 witness testimony. Vague.

10:55:46 4 THE WITNESS: Yeah, not to my knowledge,
10:55:47 5 but I'm not an expert on that.

10:55:49 6 MR. COWAN: Q. I understand. What is the
10:55:53 7 nature of the harm that you understand in your lay
10:55:59 8 opinion, not expert, associated with the clicks
10:56:07 9 portion of Item 2 on Exhibit 167?

10:56:12 10 A. I understand the click analysis is used,
10:56:16 11 for example, by Sid. Maybe by other people as well,
10:56:21 12 but I just asked Sid.

10:56:25 13 It provides feedback -- I mean, the
10:56:27 14 question to that data is simple, has that solution
10:56:32 15 helped you. And if customers are clicking on no, it
10:56:35 16 has not helped me, then of course to my
10:56:40 17 understanding we are trying to analyze it, why it
10:56:48 18 hasn't helped, and we will take or we try to take
10:56:51 19 corrective actions on that.

10:56:53 20 So if that data is wrong; then again, we
10:56:56 21 will end up in wrong conclusions, wrong actions or
10:57:02 22 whatsoever is the outcome of that analysis.

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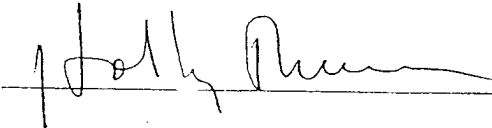
1 CERTIFICATE OF REPORTER

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

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

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

21
22 DATED December 17, 2008.

23
24 
25 HOLLY THUMAN, CSR No. 6834

