

# EXHIBIT 2

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18 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT  
20 NORTHERN DISTRICT OF CALIFORNIA  
21 SAN FRANCISCO DIVISION

22 ORACLE CORPORATION, et al.,  
23 Plaintiffs,  
24 v.  
25 SAP AG, et al.,  
26 Defendants.

Case No. 07-CV-1658 PJH (EDL)  
**DEFENDANTS' FIRST NOTICE OF  
DEPOSITION OF PLAINTIFF  
ORACLE INTERNATIONAL  
CORPORATION PURSUANT TO  
FEDERAL RULE OF CIVIL  
PROCEDURE 30(b)(6)**

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SVI-58192v1

Adler  
Exhibit 114  
10.9.08  
Holly Thuman, CSR

DEFENDANTS' FIRST NOTICE OF DEPOSITION OF  
PLAINTIFF OIC PURSUANT TO FRCP 30(b)(6)  
Case No. 07-CV-1658 PJH (EDL)

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TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Defendants SAP AG, SAP America (together, "SAP"), and TomorrowNow, Inc. ("TN") will take the deposition of Plaintiff Oracle International Corporation ("OIC") on July 16, 2008, commencing at 9:00 a.m. at the law offices of Jones Day, 555 California Street, 26th Floor, San Francisco, CA 94104.

The deposition will be recorded stenographically, using real time transcription, by a certified court reporter, and by video and audio by a certified videographer.

OIC is hereby requested and required, pursuant to Federal Rule of Civil Procedure 30(b)(6), to designate and produce a witness or witnesses to testify on its behalf on the topics described below.

**DEFINITIONS**

For purposes of this Notice of Deposition, the following definitions shall apply, unless otherwise indicated:

1. "Documents" shall be interpreted broadly and includes all forms of writings, tangible things, and other documents contemplated by Federal Rule of Civil Procedure 34 and/or Federal Rule of Evidence 1001. This includes without limitation: writings; records; files; correspondence; reports; memoranda; calendars; diaries; minutes; electronic messages; voicemail; e-mail; telephone message records or logs; computer and network activity logs; data on hard drives; backup data; data on removable computer storage media such as tapes, disks, and cards; printouts; document image files; web pages; databases; spreadsheets; software; hardware; books; ledgers; journals; orders; invoices; bills; vouchers; checks; statements; worksheets; summaries; compilations; computations; charts; diagrams; graphic presentations; drawings; films; charts; digital or chemical process photographs; video, phonographic, tape, or digital recordings or transcripts thereof; drafts; jottings; and notes. Information that serves to identify, locate, or link such material, such as file inventories, file folders, indices, and metadata, is also included in this definition.

2. "Complaint" means the First Amended Complaint filed on June 1, 2007.



1           2.       The historical policies and procedures of PeopleSoft, Inc. and J.D. Edwards  
2 regarding filing federal copyright applications, including:

3                   a.   The policies and procedures for determining authorship of the material for  
4 which federal copyright protection was sought;

5                   b.   The policies and procedures for determining and/or securing ownership of  
6 the material for which federal copyright protection was sought, including but not limited to  
7 policies and procedures regarding works made for hire and works developed by independent  
8 contractors;

9                   c.   The policies and procedures for determining originality of the material for  
10 which federal copyright protection was sought;

11                   d.   The policies and procedures for determining copyrightability of the subject  
12 matter of the material for which federal copyright protection was sought;

13                   e.   The policies and procedures for determining any preexisting work(s) of the  
14 material for which federal copyright protection was sought;

15                   f.   The policies and procedures for determining when to file federal copyright  
16 applications for the material for which federal copyright protection was sought;

17                   g.   The policies and procedures for determining the publication date of the  
18 material for which federal copyright protection was sought; and

19                   h.   The policies and procedures for providing deposits with federal copyright  
20 applications.

21           3.       The procedures You followed for filing the federal copyright applications for the  
22 Registered Works, including:

23                   a.   The location of all documents relating to the applications to register the  
24 Registered Works or any other versions of the Registered Works, including any preexisting works;

25                   b.   Your efforts to determine authorship of the Registered Works;

26                   c.   Your efforts to determine and/or secure ownership of the Registered  
27 Works;

28                   d.   Your efforts to determine originality of the Registered Works;

- 1 e. Your efforts to determine the copyrightability of the subject matter of the  
2 Registered Works;
- 3 f. Your efforts to determine any preexisting work(s) related to the Registered  
4 Works;
- 5 g. Your determination of when to file federal copyright applications for the  
6 Registered Works;
- 7 h. Your efforts to provide deposits of the Registered Works; and
- 8 i. Your efforts to determine the publication dates of the Registered Works.
- 9 4. Your alleged ownership of the Registered Works, including:
- 10 a. Your policies and procedures for determining and/or securing ownership of  
11 the Registered Works, including but not limited to policies and procedures regarding works made  
12 for hire and works developed by independent contractors;
- 13 b. The location of all documents regarding the original ownership, and any  
14 other previous ownership, of the Registered Works, and the manner in which such documents are  
15 kept;
- 16 c. The location of all assignments of the Registered Works, and the manner in  
17 which such documents are kept;
- 18 d. The policies and procedures for assigning the Registered Works from the  
19 authors and/or owners of the Registered Works to Oracle International Corporation;
- 20 e. The policies and procedures for licensing the Registered Works from  
21 Oracle International Corporation to Oracle USA, Inc. and/or Oracle Corporation;
- 22 f. The terms of the licenses in the Registered Works between Oracle  
23 International Corporation and Oracle USA, Inc. and/or Oracle Corporation; and
- 24 g. The location of all licenses in the Registered Works between Oracle  
25 International Corporation and Oracle USA, Inc. and/or Oracle Corporation.
- 26 5. For each of the Registered Works, identification of the software, including updates,  
27 patches, and fixes, service packs, Software and Support Materials, and any other materials  
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1 allegedly covered by the registrations, identified by title, version number, file name, or other  
2 applicable identifying information.

3 6. For each of the Registered Works registered as a derivative work, identification of  
4 the author, current owner, any previous owners, content, creation date, publication date, and  
5 copyright registration number (if applicable), of the pre-existing works from which those  
6 Registered Works are derived.

7 7. For each of the Registered Works registered as a derivative work, identification of  
8 the additional registered material, as distinguished from the pre-existing works from which the  
9 Registered Works are derived.

10 Dated: June 10, 2008

JONES DAY

11  
12 By: /s/ Tharan Gregory Lanier  
13 Tharan Gregory Lanier

14 Counsel for Defendants  
15 SAP AG, SAP AMERICA, INC., and  
16 TOMORROWNOW, INC.  
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1 **PROOF OF SERVICE**

2 I, Shirley Nakano-McSwain, declare:

3 I am a citizen of the United States and employed in Santa Clara County, California. I am  
4 over the age of eighteen years and not a party to the within-entitled action. My business address  
5 is Silicon Valley Office, 1755 Embarcadero Road, Palo Alto, California 94303. On June 10,  
6 2008, I served a copy of the within document(s):

7 **DEFENDANTS' FIRST NOTICE OF DEPOSITION OF PLAINTIFF**  
8 **ORACLE INTERNATIONAL CORPORATION PURSUANT TO**  
9 **FEDERAL RULE OF CIVIL PROCEDURE 30(b)(6)**

- 10  by placing the document(s) listed above in a sealed envelope with postage thereon  
11 fully prepaid, in the United States mail at Palo Alto, California addressed as set  
12 forth below.
- 13  by transmitting via e-mail or electronic transmission the document(s) listed above  
14 to the person(s) at the e-mail address(es) set forth below.

15 BINGHAM McCUTCHEM LLP  
16 DONN P. PICKETT  
17 GEOFFREY M. HOWARD  
18 HOLLY A. HOUSE  
19 ZACHARY J. ALINDER  
20 BREE HANN  
21 Three Embarcadero Center  
22 San Francisco, CA 94111-4067  
23 Telephone: (415) 393-2000  
24 Facsimile: (415) 393-2286  
25 *donn.pickett@bingham.com*  
26 *geoff.howard@bingham.com*  
27 *holly.house@bingham.com*  
28 *zachary.alinder@bingham.com*  
*bree.hann@bingham.com*

21 I am readily familiar with the firm's practice of collection and processing correspondence  
22 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same  
23 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on  
24 motion of the party served, service is presumed invalid if postal cancellation date or postage  
25 meter date is more than one day after date of deposit for mailing in affidavit.

26 I declare that I am employed in the office of a member of the bar of this court at whose  
27 direction the service was made.



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Executed on June 10, 2008, at Palo Alto, California.

*Shirley Nakano-McSwain*  
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Shirley Nakano-McSwain