EXHIBIT 9

In The Matter Of:

Oracle
v.
SAP

_____

DONALD REIFER - Vol. 1
June 18, 2010

_____

HIGHLY CONFIDENTIAL
ATTORNEYS' EYES ONLY

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

--oOo--

ORACLE CORPORATION, a Delaware corporation, ORACLE USA, INC., a Colorado corporation, and ORACLE INTERNATIONAL CORPORATION, a California corporation,	)))))))
Plaintiffs,	))
vs.	) 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.	))

VIDEOTAPED DEPOSITION OF DONALD REIFER

_____

JUNE 18, 2010

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

REPORTED BY: SARAH LUCIA BRANN, CSR 3887 (#427125)

Page 127

TEXT REMOVED - NOT RELEVANT TO MOTION

13:33:34	9	MR. ALINDER: Q. Did you actually run
13:33:35	10	Mr. Pinto's utilities against any code for your
13:33:39	11	report?
13:33:40	12	A. No. We were unable to run those
13:33:43	13	utilities, because we kept getting execution errors.
13:33:47	14	And our queries for clarification on the environment
13:33:54	15	were insufficient to get the execution errors
13:33:58	16	resolved.
13:34:00	17	Q. Did you ever ask anyone about why you were
13:34:04	18	unable to execute the code counters that Mr. Pinto
13:34:09	19	provided?
13:34:11	20	A. We --
13:34:12	21	MR. BUTLER: Objection.
13:34:12	22	Sorry, Don.
13:34:14	23	Objection to the form. Vague. Ambiguous.
13:34:16	24	THE WITNESS: Who do you mean by "anyone"?
13:34:19	25	MR. ALINDER: Q. Anyone is anyone.

c6aec883-84b4-427a-acd6-d5f1439dbb74

13:34:24	1	A. Yeah. We kept querying about -- so, for
13:34:28	2	example, we asked about environment. We were told
13:34:31	3	it was a Windows XP environment. But we didn't know
13:34:34	4	if SP2 was installed, SP1 was installed, if there
13:34:39	5	were any specialized drivers. To resolve the
13:34:44	6	execution errors in those counters would have
13:34:47	7	required a great deal of dialogue, and going through
13:34:53	8	various levels of people to get other people to
13:34:56	9	get -- provide answers. We felt it would be simpler
13:35:01	10	just to replicate Mr. Pinto's counting rules and
13:35:04	11	parsing rules and develop our own. It just was too
13:35:09	12	difficult a situation.

TEXT REMOVED - NOT RELEVANT TO MOTION

c6aec883-84b4-427a-acd6-d5f1439dbb74

TEXT REMOVED - NOT RELEVANT TO MOTION

13:38:21	18	Q. Have you ever developed your own code
13:38:25	19	counters from scratch before?
13:38:27	20	A. Personally?
13:38:28	21	Q. Personally.
13:38:28	22	A. I have led teams that have developed them,
13:38:30	23	but I have not personally written the code for
13:38:33	24	those.

TEXT REMOVED - NOT RELEVANT TO MOTION

TEXT REMOVED - NOT RELEVANT TO MOTION

| 13:48:33 | 11 | Q. What is Tom Tan's background? |

13:48:36   12   A.   He is a PhD candidate at USC. He has been

13:48:40   13   in the program with a bachelor's degree in 2002 in

13:48:46   14   computer science, and he has been in the PhD and

13:48:52   15   master's program since then, with an expected

13:48:54   16   graduation date of this year. He has industrial

13:48:58   17   experience summers and part time, working as a

13:49:03   18   programmer. He is a member of the COCOMO team. He

13:49:06   19   is one of the people who help write the code

13:49:10   20   counters.

13:49:11   21   Q.   By write the code counters, you mean the

13:49:13   22   replicas of Mr. Pinto's.

13:49:17   23   A.   No, I am talking about UCC. I am talking

13:49:19   24   about the USC code counters. He is part of the code

13:49:23   25   counting project as well as the COCOMO project,

13:49:27   1   where he is defending his PhD.

TEXT REMOVED - NOT RELEVANT TO MOTION

14:04:43	1	Q. Why did you perform a test on the
14:04:46	2	FlightGear code?
14:04:48	3	A. We looked at FlightGear just to see if we
14:04:52	4	should go any further. We were having difficulties
14:04:56	5	finding the code in EnterpriseOne. And we didn't
14:05:03	6	know whether or not it would be a fruitful exercise
14:05:07	7	to continue that effort, so what we did is we took
14:05:16	8	the two counters and counted a public domain open
14:05:20	9	source package to see if there were major
14:05:23	10	differences in the counts. And based on that, then
14:05:27	11	what we did is we, you know, continued with our
14:05:33	12	counting experiments.
14:05:44	13	Q. Isn't it true that open source code like
14:05:47	14	FlightGear can be structurally different than
14:05:50	15	proprietary code?
14:05:52	16	MR. BUTLER: Objection. Vague.
14:05:52	17	Ambiguous.
14:05:53	18	THE WITNESS: I think that has no -- it's
14:05:56	19	not relevant. We were just running an experiment to
14:06:00	20	see the difference. And then what we said, based on
14:06:03	21	the difference, let's look at the actual code. So
14:06:06	22	the experiment was not germane to anything in my
14:06:10	23	report. It just was -- we were running an
14:06:14	24	experiment to see if we should go any further.

TEXT REMOVED - NOT RELEVANT TO MOTION

c6aec883-84b4-427a-acd6-d5f1439dbb74

TEXT REMOVED - NOT RELEVANT TO MOTION

14:16:40	2	Q. Right. And you never asked anyone for
14:16:42	3	help to get -- in executing them; correct?
14:16:46	4	A. If a PhD student and a 40-year veteran
14:16:50	5	can't get them to work in a period of two weeks,
14:16:53	6	it's going to take more than two weeks to get them
14:16:56	7	to work. So the answer is no, we have not asked for
14:17:00	8	help.

TEXT REMOVED - NOT RELEVANT TO MOTION

TEXT REMOVED - NOT RELEVANT TO MOTION

19:24:13	17	Q. But because you never were able to run
19:24:15	18	Mr. Pinto's counters, you can't say for sure whether
19:24:18	19	or not they accurately reflect Mr. Pinto's counters
19:24:23	20	or not.

TEXT REMOVED - NOT RELEVANT TO MOTION

c6aec883-84b4-427a-acd6-d5f1439dbb74

19:24:45	1	counters didn't follow his own rules, of course we
19:24:48	2	didn't accurately reflect them. But if he followed
19:24:51	3	his own rules, which are the requirements of the
19:24:54	4	counters, they should be the same. They should come
19:24:56	5	up with the same results.

TEXT REMOVED - NOT RELEVANT TO MOTION

Page 326

19:29:11	1	I declare under penalty of perjury the
19:29:11	2	foregoing is true and correct. Subscribed at
19:29:11	3	PRESCOTT _____, ~~California~~ ARIZONA, this 16th day
19:29:11	4	of JULY _____, 2010.
19:29:11	5	
19:29:11	6	Donald Reifer
	7	
	8	
	9	
	10	
	11	
	12	
	13	
	14	
	15	
	16	
	17	
	18	
	19	
	20	
	21	
	22	
	23	
	24	
	25	
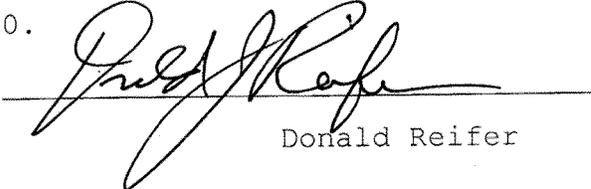
c6aec883-84b4-427a-acd6-d5f1439dbb74