

EXHIBIT M

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 DOUGLAS LICHTMAN

APRIL 20, 2010

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

REPORTED BY: SARAH LUCIA BRANN, CSR 3887 (#427358)

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10:58:55 24 Q. So the opinions you express in your report
10:58:57 25 you believe are not controversial; they are

10:58:59 1 supported by the case law?

10:59:02 2 MR. FALZONE: Objection to the form. The
10:59:04 3 question is vague.

10:59:07 4 THE WITNESS: I think the opinions in my
10:59:09 5 report are supported by economic and public policy
10:59:12 6 analysis. It is also true that cases often echo
10:59:16 7 these points.

10:59:17 8 I just want to make sure we have cause and
10:59:20 9 effect right. The cases talk about these things
10:59:22 10 because they are adopting the economic and public
10:59:25 11 policy rationales that have developed organically
10:59:30 12 from cases and scholarship in all these years of
10:59:33 13 evolution.

10:59:34 14 I am not leaning on a specific case report
10:59:36 15 for what I say in this report. I point you to some
10:59:39 16 examples, for instance, just to show places where
10:59:42 17 these things have come up.

10:59:44 18 I think the basis for my views is much
10:59:47 19 more broad than just looking at what the cases have
10:59:52 20 explicitly said, but instead is leaning on this
10:59:56 21 wealth of scholarship, which things I have been a
11:00:00 22 part of for well over a decade.

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14:11:43 21 In drawing your conclusion that Mr. Clarke
14:11:46 22 is wrong in this respect, can you pinpoint and
14:11:49 23 recite to us now any specific source on which you
14:11:54 24 relied and which supports your view?
14:11:57 25 A. Sure. So, again, I think there are

14:12:01 1 countless sources, in the sense that this is very
14:12:03 2 standard analysis. Actually, I think you find the
14:12:05 3 seeds planted everywhere, from Feist on down.

14:12:09 4 But, for instance, I am sure that Landes
14:12:11 5 and Posner talk about this in their economics of
14:12:14 6 copyright article, again reflecting what is now
14:12:17 7 their consensus views of how to think about these
14:12:21 8 issues.

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14:38:51	22	Q. No, I understand you don't think it's your
14:38:53	23	role. I am asking -- I am trying to figure out what
14:38:55	24	the basis is for saying it. Is it just in the brain
14:38:58	25	of Professor Douglas Lichtman, or do you find that

14:39:03 1 also in this treatise or that book or this case?

14:39:06 2 Where did you find the basis to draw that

14:39:11 3 conclusion?

14:39:11 4 A. Again, I rely for our conversation on my
14:39:11 5 report, and my report in turn relies on this whole
14:39:15 6 world you reference. And you don't need to point to
14:39:19 7 a single treatise or reference. I believe almost
14:39:22 8 all of them would.

14:39:23 9 So if you look at the scholars we have
14:39:25 10 identified, for instance, all of them, when they
14:39:26 11 write about the topic of the economics of copyright,
14:39:28 12 the economics of the damages regime, the policy
14:39:31 13 motivations, I would be quite surprised if we didn't
14:39:36 14 see that repeatedly throughout that literature.

14:39:39 15 And it is that learning over the many
14:39:40 16 years of my own development as an academic and
14:39:43 17 researching and writing in this area that I in turn
14:39:44 18 rely upon for my report, not explicitly pointing to
14:39:49 19 a specific quote in a specific article each time.
14:39:51 20 My views are built together from all of that,
14:39:53 21 consistent with all of that, and in that sense based
14:39:56 22 on all of that.

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16:44:48 17 Q. So when you looked at some of the code --
16:44:50 18 you said you looked at code excerpts?
16:44:52 19 A. Yes.
16:44:53 20 Q. How many excerpts did you look at?
16:44:54 21 A. I don't know the precise number.
16:44:56 22 Q. Approximately.
16:44:57 23 A. Yeah, something in the ballpark of a
16:45:00 24 dozen, I would guess, during each of these calls.
16:45:02 25 Q. And what is a snippet, code snippet you

16:45:05 1 refer to? What is a code snippet?

16:45:08 2 A. A section of code, rather than the
16:45:10 3 entirety of code.

16:45:11 4 Q. In what languages were the code snippets
16:45:15 5 written?

16:45:17 6 A. I don't explicitly remember. I do
16:45:20 7 remember that all of the code shown on my system was
16:45:23 8 written in languages that I could translate roughly,
16:45:26 9 to know what it is the code was doing and what it is
16:45:29 10 I was seeing. But I don't remember specific
16:45:35 11 languages.

16:45:35 12 Q. How many lines of code were in each
16:45:37 13 snippet?

16:45:39 14 A. I don't remember exactly.

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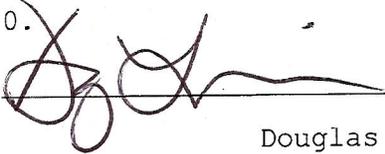
18:27:01 1 MR. FALZONE: I have no questions.

18:27:02 2 THE VIDEOGRAPHER: Very good. Going off
18:27:03 3 the record, the time now is 6:27. This also is the
18:27:07 4 conclusion of Tape 4.

18:27:08 5 (Whereupon, the deposition was
18:27:08 6 concluded at 6:27 p.m.)

18:27:08 7 --oOo--

18:27:08 8 I declare under penalty of perjury the
18:27:08 9 foregoing is true and correct. Subscribed at
18:27:08 10 Los Angeles, California, this 26 day
18:27:08 11 of May, 2010.

18:27:08 12 
18:27:08 13 Douglas Lichtman

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CERTIFICATE OF REPORTER

I, SARAH LUCIA BRANN, 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 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 [X] 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: April 27, 2010

Sarah Lucia Brann

SARAH LUCIA BRANN, CSR No. 3887