

# EXHIBIT H

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. )  
\_\_\_\_\_ )

VIDEOTAPED DEPOSITION OF  
KEVIN MANDIA

\_\_\_\_\_  
VOLUME 2; PAGES 291 - 570

FRIDAY, MAY 21, 2010

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

REPORTED BY: HOLLY THUMAN, CSR No. 6834, RMR, CRR  
(1-427384)

TEXT REMOVED - NOT RELEVANT TO MOTION

08:57:45	22	Q. I sure can. And I think I misasked the
08:57:49	23	question. I said, through the last sentence. What
08:57:51	24	I meant to say was, through the first sentence in
08:57:53	25	paragraph 4 on page 1 of your report, through that

08:57:56 1 statement, you were not attempting to imply that  
08:58:00 2 TomorrowNow never downloaded materials specifically  
08:58:04 3 by customer using that specific customer's log-in  
08:58:09 4 credentials, are you?

08:58:14 5 A. In this sentence, what I'm trying to do is  
08:58:17 6 state an overall characteristic. The mass  
08:58:20 7 downloading, the reason I said "mass" instead of  
08:58:24 8 just "downloading" was things such as the creation  
08:58:27 9 of the tool to download things faster than human  
08:58:29 10 speed when clicking through a site, the fact that I  
08:58:33 11 saw staff dedicated on a download team, that  
08:58:36 12 there's 20 dedicated download servers, DCDL1  
08:58:41 13 through 20, Texas A&M part-time employees or  
08:58:45 14 interns, I think they were called, that would do  
08:58:48 15 downloads.

08:58:49 16 That contributed to mass downloading. So  
08:58:51 17 it's about volume. That's what this was about.

08:58:56 18 Q. Well, but --

08:58:57 19 A. That part of it. I guess we should break  
08:58:59 20 down the sentence, because it's conjunctive.

08:59:02 21 Q. It is.

08:59:02 22 A. On the improper access side, what I'm  
08:59:06 23 doing there is applying the terms of use to the  
08:59:08 24 access that was done. The terms of use assumption  
08:59:11 25 that I was asked to make. Things such as after

08:59:15 1 maintenance end date, having a valid license to be  
08:59:18 2 entitled to that.  
08:59:19 3 I believe that was the purpose of that  
08:59:23 4 sentence, is to cover the mass downloading and  
08:59:25 5 improper access.

TEXT REMOVED - NOT RELEVANT TO MOTION

18:31:07

1

THE VIDEO OPERATOR: This concludes Volume

18:31:08

2

2 in the deposition of Kevin Mandia. We are off

18:31:11

3

the record at 6:31.

4

(Time noted, 6:31 p.m.)

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--oOo--

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I declare under penalty of perjury that

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the foregoing is true and correct. Subscribed at

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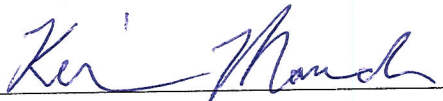
EXTON, PA, ~~California~~, this 6 day of

9

JULY 2010.

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KEVIN MANDIA

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CERTIFICATE OF REPORTER

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 state, and that the testimony of 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: June 4, 2010

Holly Thuman  
HOLLY THUMAN, CSR