

EXHIBIT A

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

DANIEL LEVY, PH.D.

FRIDAY, APRIL 30, 2010

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

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

(1-427360)

TEXT REMOVED - NOT RELEVANT TO MOTION

09:36:55 18 Q. And you're not offering any opinions about
09:36:57 19 economics damages here. Correct?
09:36:59 20 A. That's correct. I'm not.

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09:59:37 24 Q. Not a problem.

09:59:38 25 So is it fair to say that you were

09:59:41 1 attempting to to design a statistically valid
09:59:43 2 sample of TomorrowNow's PeopleSoft HRMS payroll tax
09:59:47 3 and regulatory updates or fixes?
09:59:51 4 A. Payroll tax -- give me the last four words
09:59:55 5 again?
09:59:55 6 Q. And regulatory updates or fixes.
09:59:57 7 A. Yes.
09:59:59 8 Q. And that you were selecting a sample of
10:00:01 9 fixes from both the critical support fix population
10:00:04 10 and the retrofit population. Right?
10:00:09 11 A. A population from both of those, yes.
10:00:11 12 Q. And you were attempting to correctly
10:00:12 13 formulate statistics to calculate and report.
10:00:16 14 Right?
10:00:18 15 A. Yes. That -- yes, that's correct. But at
10:00:28 16 that -- I believe I did that.
10:00:35 17 Q. And in fact, on page 7, you say that
10:00:39 18 you've been retained by counsel for Plaintiffs in
10:00:41 19 the matter --
10:00:43 20 MR. PICKETT: Are you going to mark
10:00:43 21 what -- or at least describe on the record what
10:00:45 22 you're referring to when you say page 7?
10:00:48 23 MR. WILKES: Sure. I'll describe it.
10:00:49 24 It's the expert report of Daniel Levy
10:00:52 25 dated -- it's the February 12th, 2010 report. And

10:00:56 1 it's page 7. It's underneath "Introduction and
10:01:00 2 Assignment."

10:01:03 3 Q. And I see you have a copy of your expert
10:01:05 4 report in front of you? Is that correct?

10:01:07 5 A. That's correct.

10:01:08 6 Q. And the first sentence on that page says:
10:01:10 7 I have been retained by counsel for Plaintiffs. Is
10:01:13 8 that correct? Is that how it starts?

10:01:15 9 A. Yes. It does.

10:01:16 10 Q. And it says:

10:01:16 11 ... to design a statistically valid
10:01:18 12 sample of SAP TN's PeopleSoft HRMS payroll
10:01:24 13 tax and regulatory Updates that can be used
10:01:26 14 to scientifically estimate the number of
10:01:28 15 Fixes delivered to customers by SAP TN that
10:01:32 16 infringe Oracle copyrights or otherwise
10:01:34 17 resulted from impermissible cross-use of
10:01:37 18 Oracle software.

10:01:38 19 Do you recall writing that?

10:01:42 20 A. Yes.

10:01:42 21 Q. And it was your understanding that you
10:01:43 22 were getting information related to PeopleSoft HRMS
10:01:47 23 payroll tax and regulatory updates. Right?

10:01:52 24 A. Yes. Or a subsample of that, yes.

10:01:56 25 Q. And your opinions only relate to

10:01:59 1 PeopleSoft HRMS payroll product line and module.
10:02:02 2 Right?
10:02:03 3 A. They relate to the population of fixes
10:02:06 4 that the analysis was done on, as described there.
10:02:11 5 Q. And that's PeopleSoft HRMS payroll?
10:02:14 6 A. That's my understanding, yes.

TEXT REMOVED - NOT RELEVANT TO MOTION

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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: May 12, 2010
Holly Thuman
HOLLY THUMAN, CSR

17:03:08 1 recall that there was an error in it. I can't say
17:03:12 2 that there isn't.

17:03:14 3 MR. WILKES: That's all the questions we
17:03:15 4 have for now.

17:03:17 5 MR. PICKETT: Okay. Thank you.

17:03:19 6 THE VIDEO OPERATOR: Going off the record,
17:03:20 7 the time now is 5:03. This also is the conclusion
17:03:24 8 of Tape 4.

17:03:26 9 (Time noted, 5:03 p.m.)

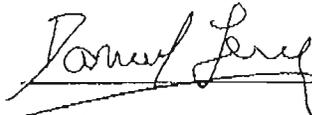
17:03:32 10 --o0o--

17:03:32 11 I declare under penalty of perjury that
17:03:32 12 the foregoing is true and correct. Subscribed at
17:03:32 13 San Francisco, California, this 30 day of
17:03:32 14 April 2010.

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DANIEL LEVY, PH.D.

18 Errata Signed June 10, 2010

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