

EXHIBIT D

1 BINGHAM McCUTCHEN LLP
DONN P. PICKETT (SBN 72257)
2 GEOFFREY M. HOWARD (SBN 157468)
HOLLY A. HOUSE (SBN 136045)
3 ZACHARY J. ALINDER (SBN 209009)
BREE HANN (SBN 215695)
4 Three Embarcadero Center
San Francisco, CA 94111-4067
5 Telephone: (415) 393-2000
Facsimile: (415) 393-2286
6 donn.pickett@bingham.com
geoff.howard@bingham.com
7 holly.house@bingham.com
zachary.alinder@bingham.com
8 bree.hann@bingham.com

9 DORIAN DALEY (SBN 129049)
JENNIFER GLOSS (SBN 154227)
10 500 Oracle Parkway
M/S 5op7
11 Redwood City, CA 94070
12 Telephone: (650) 506-4846
Facsimile: (650) 506-7114
13 dorian.daley@oracle.com
jennifer.gloss@oracle.com
14

15 Attorneys for Plaintiffs
Oracle USA, Inc., Oracle International
16 Corporation, Oracle EMEA Limited, and Siebel
Systems, Inc.

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 OAKLAND DIVISION

20
21 ORACLE USA, INC., *et al.*,
22 Plaintiffs,
23 v.
24 SAP AG, *et al.*,
25 Defendants.

Case No. 07-CV-1658 (PJH) EDL

**ORACLE'S INITIAL EXPERT
DISCLOSURES**

1 **TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:**

2 Pursuant to the June 11, 2009 Pretrial Scheduling Order (“Pretrial Order”),
3 Plaintiffs Oracle USA, Inc., Oracle International Corporation, Oracle EMEA Limited, and Siebel
4 Systems, Inc. (collectively, “Oracle”) make the following initial expert witness designations.
5 Oracle will provide expert reports for the following experts as ordered by the Court in the
6 Pretrial Order. Further, Oracle provides these designations based on its present information and
7 based on its present understanding. Oracle has not completed its investigation and discovery of
8 all facts relating to this case, and has not completed its preparation for trial. Moreover, Oracle
9 provides these initial designations without disclosure by Defendants TomorrowNow, Inc., SAP
10 America, Inc., and SAP AG (collectively, “Defendants”) regarding those individuals Defendants
11 intend to use at trial to present evidence pursuant to Federal Rules of Evidence 702, 703, and
12 705. Oracle is also without disclosure by Defendants of those lay persons Defendants intend to
13 use at trial to present evidence. Therefore, in addition to the experts designated herein, Oracle
14 reserves the right to designate additional witnesses pursuant to the Pretrial Order, and Federal
15 Rule of Civil Procedure 26, for rebuttal or other purposes.

16 Subject to and without waiving the foregoing, Oracle discloses the following
17 person(s) who Oracle may call at trial to present evidence under Federal Rule of Evidence 702,
18 703, or 705:

19 1. Name: Dan Levy, PhD

20 Address: Advanced Analytical Consulting Group Inc.

21 211 Congress Street

22 Boston, MA 02110

23 General Subject of Testimony: Dr. Levy will testify about statistical
24 analyses used to extrapolate occurrences and rates of infringement or misuse of
25 Oracle’s intellectual property, from a sample to a larger population.

26 Rate for Deposition/Trial Testimony: \$627/hour

27 Revised CV attached

1 2. Name: Doug Lichtman
2 Address: UCLA School of Law
3 405 Hilgard Avenue
4 Los Angeles, CA 90095

5 General Subject of Testimony: Mr. Lichtman will testify about damages
6 related to intellectual property, including the harm associated with infringement
7 or misuse and the benefits of enforcement against infringement or misuse.

8 Rate for Deposition/Trial Testimony: \$665/hour
9 CV and Signed Protective Order attached

10
11 3. Name: Kevin Mandia
12 Address: Mandiant, Inc.
13 675 North Washington Street
14 Suite 210
15 Alexandria, VA 22314

16 General Subject of Testimony Mr. Mandia will analyze, calculate, and
17 testify about the types and scope of Defendants' infringement and misuse of
18 Oracle's intellectual property and about Defendants' access to Oracle's support
19 websites.

20 Rate for Deposition/Trial Testimony: \$400/hour

21
22 4. Name: Paul Meyer
23 Address: Navigant Consulting, Inc.
24 One Market Street
25 Spear Street Tower, Suite 1200
26 San Francisco, CA 94105

27 General Subject of Testimony: Mr. Meyer will analyze, calculate, and
28 testify to the ways and amounts by which Oracle has been damaged by

1 Defendants' actions, including under its various causes of actions, and according
2 to its various measures of harm.

3 Rate for Deposition/Trial Testimony: \$600/hour

4 Revised CV attached

5
6 5. Name: Paul Pinto

7 Address: Sylvan V.I., Inc.

8 13525 Blakmaral Lane

9 Alpharetta, GA 30004

10 General Subject of Testimony: Mr. Pinto will analyze, calculate, and
11 testify to the costs associated with software product development.

12 Rate for Deposition/Trial Testimony: \$381/hour

13
14 6. Name: Francoise Tourniaire

15 Address: FT Works

16 71 Cody Lane

17 Los Altos, CA 94022

18 General Subject of Testimony: Ms. Tourniaire will testify as to industry
19 standards for customer-facing website security, including use of passwords or
20 other credentials.

21 Rate for Deposition/Trial Testimony: \$300/hour

22 CV attached

1 DATED: October 2, 2009

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Bingham McCutchen LLP

By: 

Bree Hann
Attorneys for Plaintiffs
Oracle USA, Inc., Oracle International Corporation,
Oracle EMEA Limited, and Siebel Systems, Inc.

PROOF OF SERVICE

I am over 18 years of age, not a party to this action and employed in the County of San Francisco, California at Three Embarcadero Center, San Francisco, California 94111-4067. I am readily familiar with the practice of this office for collection and processing of correspondence by U.S. Mail and Electronic Mail, and they are deposited and/or sent that same day in the ordinary course of business.

Today I served the following document:

ORACLE'S INITIAL EXPERT DISCLOSURES

- (BY ELECTRONIC MAIL) by transmitting via electronic mail document(s) in portable document format (PDF) listed below to the email address set forth below on this date.
- (BY MAIL) by causing a true and correct copy of the above to be placed in the United States Mail at San Francisco, California in sealed envelope(s) with postage prepaid, addressed as set forth below. I am readily familiar with this law firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence is deposited with the United States Postal Service the same day it is left for collection and processing in the ordinary course of business.

Robert A. Mittelstaedt, Esq.
Jason McDonell, Esq.
Elaine Wallace, Esq.
Jones Day
555 California Street
26th Floor
San Francisco, CA 94104
Tel: (415) 626.3939

Tharan Gregory Lanier, Esq.
Jane L. Froyd, Esq.
Jones Day
1755 Embarcadero Road
Palo Alto, CA 94303
Tel: (650) 739-3939

tglanier@jonesday.com
jfroyd@jonesday.com

ramittelstaedt@jonesday.com
jmcdonell@jonesday.com
ewallace@jonesday.com

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made and that this declaration was executed on October 2, 2009, at San Francisco, California.


Rose Secretaris