

# **EXHIBIT 10**

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

PAUL K. MEYER

\_\_\_\_\_  
VOLUME 2; PAGES 332 - 647

THURSDAY, MAY 13, 2010

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

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

(1-427374)

TEXT REMOVED - NOT RELEVANT TO MOTION

16:05:09 3 MR. McDONELL: Q. In coming up with your  
16:05:11 4 assumed value -- well, let me strike that.  
16:05:15 5 Do you know whether there are independent  
16:05:17 6 third-party support providers that are not partners  
16:05:19 7 of Oracle that are supporting Oracle products?  
16:05:22 8 MS. HOUSE: Vague as to time.  
16:05:26 9 THE WITNESS: And what's your time frame?  
16:05:27 10 Do you have a year in mind?  
16:05:29 11 MR. McDONELL: Q. Any time between 2002  
16:05:32 12 and today.  
16:05:34 13 A. I think you know what I know about the  
16:05:36 14 record, that if you go back in time, that you'll  
16:05:41 15 see small operations, small companies, under 20  
16:05:46 16 employees, under 10 employees, people will  
16:05:50 17 gravitate out of a PeopleSoft and set up a little  
16:05:54 18 servicing shop.  
16:05:55 19 And if you look at the documentation in  
16:05:58 20 this case that looks at Oracle's positions, and in  
16:06:00 21 the positions of SAP, there's documentation that  
16:06:03 22 says, basically, those groups really don't matter  
16:06:07 23 much, and the market's less than 1 percent -- let  
16:06:11 24 me finish -- those little service providers. And  
16:06:13 25 that's really key.

16:06:14 1 And so that's the big issue is, when we  
16:06:17 2 look across all of this, Mr. Clarke spends a lot of  
16:06:20 3 time in his report on this issue, but the bottom  
16:06:23 4 line is, those are not companies that are not just  
16:06:25 5 backed by SAP, but teamed up with SAP in a  
16:06:29 6 marketing program and a selling program to 4,000  
16:06:31 7 customers. So we can go through all these  
16:06:33 8 agreements. But the bottom line is, there's no  
16:06:36 9 alternatives. There's no alternatives that are  
16:06:37 10 acceptable and non-infringing.

16:06:38 11 And I'm not talking about someone that has  
16:06:40 12 five customers or 20 customers or 10 employees.  
16:06:45 13 I'm talking about a legitimate alternative, and  
16:06:47 14 around the two thousand -- 2004 December time  
16:06:51 15 frame, in SAP's own records, they looked for  
16:06:54 16 options to TomorrowNow. And they identified a few,  
16:06:57 17 and they picked TomorrowNow.

16:06:58 18 So these service providers just don't rise  
16:07:01 19 up to being legitimate, third-party alternatives.

16:07:07 20 Q. Okay. Have you ever heard of  
16:07:09 21 CedarCrestone?

16:07:10 22 A. Yes, I've heard of CedarCrestone.

16:07:13 23 Q. Do you know what they offer by way of  
16:07:14 24 support of PeopleSoft products?

16:07:16 25 MS. HOUSE: Objection. Vague as to time.

16:07:17 1 MR. McDONELL: Q. That's a yes or no  
16:07:18 2 question. You don't have to go to a binder.

16:07:21 3 A. I have a whole binder --

16:07:22 4 MS. HOUSE: Excuse me. Vague as to time.  
16:07:24 5 Calls for speculation.

16:07:26 6 THE WITNESS: I have a whole binder, and  
16:07:27 7 it's here in the room, and I can get it, that goes  
16:07:29 8 through all the third-party vendors identified by  
16:07:32 9 Mr. Clarke. And I look at what he looked at and  
16:07:34 10 other information about whether these are actually  
16:07:36 11 legitimate third-party vendors.

16:07:38 12 And I'm saying that legitimate in terms of  
16:07:41 13 being something to compare in this case.

16:07:44 14 MR. McDONELL: Q. Is this a binder you  
16:07:44 15 created for rebuttal purposes since you've read  
16:07:47 16 Mr. Clarke's report?

16:07:48 17 A. Well, there's two levels. I had already  
16:07:49 18 had an understanding that there was no  
16:07:51 19 alternatives. And when Mr. Clarke spent a lot of  
16:07:54 20 time analyzing the alternatives and took the  
16:07:57 21 position that there were alternatives, I spent some  
16:07:59 22 time going back and looking at those groups. And  
16:08:02 23 on a preliminary basis, I've pulled together a  
16:08:04 24 schedule, which you now have, and all the backup  
16:08:06 25 that basically says, as you scan through this,

16:08:08            1            these companies are not acceptable non-infringing  
16:08:13            2            alternatives on any kind of scale.  
16:08:15            3                            I'm not saying they don't exist and they  
16:08:17            4            don't have a little business, but a scaling  
16:08:19            5            business.

TEXT REMOVED - NOT RELEVANT TO MOTION

18:14:29

so on the cost approach.

18:14:33

MR. McDONELL: We'll wrap for the day with

18:14:34

that.

18:14:37

MS. HOUSE: Thank you.

18:14:39

MR. McDONELL: Done. Wrap. You know what

18:14:40

a wrap is?

18:14:44

MS. HOUSE: Did we use all 7 hours --

18:14:47

MR. PICKETT: Well, we're only going 7

18:14:49

hours tomorrow.

18:14:51

MR. McDONELL: Well, whoopdee-doo.

18:14:51

MR. PICKETT: Okay. I'll take that as a

18:14:51

yes.

18:14:55

THE VIDEO OPERATOR: Going off the record,

18:14:57

the time -- the time now is 6:15. We're going off

18:15:07

the videotape record. This also is the conclusion

18:15:09

of Tape 5, Volume 2 of Paul Meyer.

18:15:27

(Time noted, 6:15 p.m.)

18:15:29

--o0o--

18:15:29

I declare under penalty of perjury that

18:15:29

the foregoing is true and correct. Subscribed at

18:15:29

San Francisco, California, this 17 day of

18:15:29

June, 2010.

18:15:29

Subject to the attached errata

18:15:29

Paul Meyer

18:15:29

PAUL K. MEYER

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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 25, 2010  
Holly Thuman  
HOLLY THUMAN, CSR