

EXHIBIT 6

WERNER BRANDT - HIGHLY CONFIDENTIAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE CORPORATION, a Delaware
Corporation, ORACLE USA, INC.,) Case No.
a Colorado corporation, and) 07-CV-01658 PJH (EDL)
ORACLE INTERNATIONAL)
CORPORATION, a California)
corporation,)
)
Plaintiffs,)
)
vs.)
)
SAP AG, a German corporation,)
SAP AMERICA, INC., a Delaware)
corporation, TOMORROWNOW,)
INC., a Texas corporation,)
and DOES 1-50, inclusive,)
)
Defendants.)
-----)
Thursday, November 13, 2008
8:39 a.m.
(Volume 2)

Continued Highly Confidential
Videotaped Deposition of WERNER
BRANDT, held at the offices of Bingham
McCutchen, LLP, 399 Park Avenue, New
York, New York 10022, pursuant to
Notice, before Otis Davis, a Notary
Public of the State of New York.

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TEXT REMOVED - NOT RELEVANT TO MOTION

15 Q. The first slide in this version
16 1.2 is titled "Investment Overview 2005."

17 A. Yeah.

18 Q. And it indicates that
19 TomorrowNow is not expected to be
20 profitable in 2005, correct?

21 A. I'm sorry, but I can't read the
22 figures.

23 Q. Do you recall --

24 A. Is it -10 (in English)?

25 Q. Yes.

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2 A. Can you give me the numbers (in
3 English)?

4 MR. LANIER: Write on your
5 piece of paper, not on the exhibit.

6 THE WITNESS: Okay (in
7 English).

8 Q. I can do it this way: You
9 recall that it was not expected to be
10 profitable in 2005, correct?

11 A. Yes.

12 Q. The long-term expectations at
13 that time were that TomorrowNow would be
14 profitable, correct?

15 A. In any case.

16 Q. Yes?

17 A. Yes.

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TEXT REMOVED - NOT RELEVANT TO MOTION

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Q. In this e-mail, there is a reference to, "Additional comments made: Werner Brandt: The Business Case itself needs further clarification, i.e. who committed to 2005 revenues and does the case include all necessary investments. In addition, I want to challenge the negative

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2 profitability."

3 Do you recall making those
4 comments about the business case to seek
5 approval for the 26 additional FTEs?

6 A. I don't recall specifically,
7 but it's quite possible that it happened
8 the way it says here.

9 Q. Did you find an answer about
10 who committed to 2005 revenues?

11 A. I'm unable to answer that
12 question from memory.

13 Q. How about your question
14 concerning whether the business case
15 included all necessary investments; did you
16 have any particular investments in mind
17 that you saw were missing?

18 A. No. According to my
19 recollection, it's always the same issue,
20 if the additional hires in the business
21 plan are those that are needed or if there
22 is going to be another business case after
23 three months where additional requests are
24 made.

25 Q. Why did you want to challenge

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2 the negative profitability? Did you think
3 that was pessimistic?

4 A. As a CFO, I challenge any
5 negative profitability.

6 Q. Is your goal to try to turn the
7 negative into the positive?

8 A. In this case, a clear yes is
9 sufficient.

10 Q. And do you recall what, if
11 anything, you did to challenge the negative
12 profitability?

13 A. The responsibility for the
14 results is with the individual business
15 areas. And in this particular case, if
16 memory serves, the central issue was to
17 increase the revenue or to expand the
18 revenue of TomorrowNow from the third-party
19 service business.

20 Q. So attempt to decrease cost and
21 increase revenue, correct?

22 A. I just said expand revenue,
23 that was the goal.

24 Q. Was one of the methodologies to
25 decrease cost?

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2 A. No.

3 Q. How were you going to decrease
4 revenue?

5 A. By expanding the business model
6 in the United States but also to globalize
7 the business, take it global.

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2 Q. Where there is not a
3 cross-license, where, for instance, SAP is
4 just licensing itself without giving a
5 license in return. Can you name a
6 licensing transaction?

7 A. On the technology side, it's
8 Adobe. Some on the technology side; in
9 other areas, for example, it's Adobe (in
10 English).

11 MS. HOUSE: Thank you very much.

12 THE VIDEOGRAPHER: This
13 concludes the videotaped deposition,
14 it's 4:35, and this marks the end of
15 tape number 8.

16 (Time noted: 4:35 p.m.)

17 

18 WERNER BRANDT

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22 Subscribed and sworn to before me
23 this ____ day of _____ 2008.

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, OTIS DAVIS, a Notary Public
within and for the State of New York,
do hereby certify:

That WERNER BRANDT, the witness
whose deposition is hereinbefore set
forth, was duly sworn by me and that
such deposition is a true record of
the testimony given by the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that
I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 17th day of November 2008.



OTIS DAVIS