Oracle Corporation et al v. SAP AG et al Doc. 860 Att. 17

EXHIBIT Q

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ORACLE CORPORATION, a Delaware corporation, ORACLE USA, INC., a Colorado corporation, and ORACLE INTERNATIONAL CORPORATION, a California corporation, Plaintiffs,	)	
vs.	)	CASE NO. 07-CV-01658 (MJJ)
SAP AG, a German corporation, SAP AMERICA, INC., a Delaware corporation, TOMORROWNOW, INC., a Texas corporation, and DOES 1-50, inclusive, Defendants.	)	

"HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY"

ORAL VIDEOTAPED DEPOSITION

JOHN RITCHIE

DECEMBER 2, 2009

ORAL VIDEOTAPED DEPOSITION OF JOHN RITCHIE, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above-styled and numbered cause on the 2nd day of December, 2009, from 9:52 a.m. to 3:30 p.m., before Dana Richardson, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the Hilton Hotel & Conference Center, 801 University Drive East, College Station, Texas 77840, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

Job No. 1603-93483

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11:38:32 1 Q Okay
11:38:32 2 A Because our company meeting was at the end of
11:38:35 3 February, if I remember correctly, and it was a couple of
11:38:37 4 weeks right after that I remember it was very apropos
11:38:39 5 timing, considering we just had the company meeting, then the
11:38:42 6 billion-dollar lawsuit hits So, I think it was mid-April
11:38:47 7 Q So, from -- from the end of June, 2006, to late
11:38:51 8 April, 2007, you were testing Titan by downloading from the
11:38:54 9 Oracle website?
11:38:57 10 A Correct
11:38:57 11 Q And it sounds like you are often running Titan for
11:39:01 12 several hours at a time?
11:39:02 13 A That is correct
11:39:04 14 Q And at what approximate pace is Titan downloading
11:39:09 15 during the time that it's running when you're testing it?
11:39:12 16 A Very fast, faster than a human
11:39:15 17 Q Incrementing through the different downloads from the
11:39:18 18 Oracle site?
11:39:19 19 A Correct
11:39:19 20 Q And in the course of a --
11:39:22 21 A If you want specific timings, it actually can provide
11:39:24 22 timings in the log file; but they're very much based on
11:39:29 23 depending on which artifact you're going after
11:39:32 24 Q All right And, so, in the course of a several-hour
11:39:35 25 or overnight testing session, approximately how many downloads

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11:39:39 1 would Titan typically be downloading in the course of that
11:39:42 2 session?
11:39:43 3 A For example, I remember when I was testing JDE One
11:39:47 4 World, I was exceeding 20,000 documents easily in a 12-hour
11:39:51 5 period
11:39:54 6 Q And was it -- was it a daily occurrence that you
11:40:00 7 would be testing Titan to download from the Oracle website?
11:40:03 8 A No, not daily
11:40:04 9 Q Would it be several times a week?
11:40:06 10 A Probably, yeah, depending on what function I was
11:40:08 11 working on and how much testing I needed to do
11:40:11 12 Q All right
11:40:12 13 A For the most part, I could get the code running, you
11:40:14 14 know, like, 90 percent without having to do much of anything,
11:40:17 15 but that final 10 percent is where I needed to actually let it
11:40:21 16 run and then I had to make sure it could run a long, long time
11:40:26 17 because if it didn't, I would get, "Oh, there's a bug in it "
11:40:28 18 And, you know, 12 hours running, they don't tell me what bug
11:40:32 19 had hit
11:40:33 20 Q So, now, thinking about the several-month period that
11:40:42 21 you were developed -- that you were testing Titan --
11:40:44 22 A A little over a year
11:40:45 23 Q -- the number of times that you were testing it by
11:40:49 24 running it several hours at a time, having that in mind, can
11:40:55 25 you give me an informed estimate -- it can be an

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11:41:01 approximation -- but an informed estimate as to how many
11:41:05 downloads you would estimate you downloaded from the Oracle
11:41:09 website in the course of testing Titan?
11:41:13 MR LANIER: Object to form
11:41:16 A An informed estimate Each artifact --
11:41:26 THE REPORTER: I'm sorry, sir, I didn't hear
11:41:26 you "Each artifact" --
11:41:26 A With each artifact, I'm doing "X" number of testing
11:41:30 for hours, several hundred thousand per test run I would
11:41:40 probably say easily a million documents total, as an estimate,
11:41:44 just off the top of my head
11:41:47 Q (BY MR HOWARD) I understand And if it's easier to
11:41:51 give a range, you know, it's fine to give a range
11:41:53 A That estimate is probably about as accurate as I can
11:41:56 get, unless I actually did some more research
11:41:58 Q Were any of those approximately million downloads
11:42:02 taken on behalf of any specific customer at TomorrowNow?
11:42:06 A No I never represented or downloaded any documents
11:42:12 for any particular customer My testing was specifically
11:42:17 functionally based
11:42:19 Q And I believe you said that you deleted those
11:42:22 downloads after you took them?
11:42:23 A That is correct Until the litigation hit Then I
11:42:28 had to store them; and then two weeks after, we stopped all
11:42:33 together So, I still had some documents left on my system

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11:42:34 that I couldn't delete But for the most part, yeah, every
11:42:38 single time I ran it, it -- I would just delete the results
11:42:51 Q Are you aware of whether any of the downloads that --
11:42:53 that you took with Titan in the course of testing it were ever
11:42:56 used on behalf of any particular customer?
11:42:59 A No I never let them out of my desktop -- my laptop
11:43:02 Q Okay
11:43:07 A No, I can't attest to any of the documents they might
11:43:10 have used while they were testing I do my testing and then
11:43:14 Desmond Harris and a few other people -- I believe Phil Lamar
11:43:18 was another one that would test Titan as well to make sure,
11:43:21 you know, that was the final test before they moved it into
11:43:24 production I don't know what they did with their test
11:43:27 documents
11:43:28 Q In doing your development testing and downloading
11:43:35 with Titan, were you ever told to limit the downloads that you
11:43:44 were taking according to what credential you were using at
11:43:48 that particular moment in time with Titan?
11:43:50 A Limit? No I wasn't told to limit them in any
11:43:57 particular product line, nor was I told to limit it in a
11:44:01 quantity of documents I downloaded It was just, "This needs
11:44:06 to download, these things; so, make sure they all work "
11:44:09 Q And in -- in doing the testing you were doing with a
11:44:11 particular credential, did you ever impose any limits on
11:44:16 yourself as to what it was that you were downloading?

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11:44:20 A They -- I know where you're going with this They
11:44:23 never gave me restrictions based on the credentials as to what
11:44:27 I could download They knew what I was testing They gave me
11:44:30 credentials for it I used them And that might have been --
11:44:34 you know, depending on what those credentials were for, they
11:44:39 may not have been valid for all the product lines that I
11:44:41 downloaded
11:44:43 MR LANIER: Move to strike
11:44:44 Q (BY MR HOWARD) Did you -- did you ever -- did you
11:44:45 ever -- did anybody ever give you any instructions about which
11:44:51 product lines could be downloaded with which credential?
11:44:55 A No
11:44:56 Q And did you ever impose any restrictions on which
11:44:59 product lines you would download with a particular credential?
11:45:02 A No
11:45:04 Q And was it typical in using a particular credential
11:45:07 for the purpose of testing Titan by downloading from the
11:45:10 Oracle website that you would have Titan download all
11:45:16 available products within a product line?
11:45:18 A Correct
11:45:22 Q And would you use a -- a given credential to download
11:45:27 multiple product lines? And let's be specific
11:45:32 A Depending on the artifact, that is possible, yes
11:45:36 Q So, one credential might be used to download both
11:45:39 PeopleSoft and JDE and Siebel?

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11:45:43 A No You never crossed product lines
11:45:44 Q Okay But within PeopleSoft, you would not limit
11:45:46 yourself necessarily to a particular PeopleSoft product?
11:45:48 A That is correct
11:45:49 Q And within JDE, you would not limit yourself to a
11:45:52 particular JDE product?
11:45:53 A There was only a separation between World and One
11:45:56 World -- actually no, I take that back I don't think there
11:46:05 really was any functional separation, just that they were two
11:46:09 different product lines So, I did have different credentials
11:46:13 for each one So -- but there was no limits as to what I
11:46:16 could download with those credentials
11:46:19 Q So, you --
11:46:20 A And there's no limits on the actual Oracle website
11:46:23 either to limit you If you're using a certain set of
11:46:27 credentials for PeopleSoft and you're only supposed to have,
11:46:30 you know, software patch X, well, there's no limit to
11:46:34 downloading as well for PeopleSoft patch Y, Z, X, whatever
11:46:43 Q Other than the terms of use and the other things
11:46:44 we've already talked about?
11:46:46 A Correct
11:46:47 Q Who would provide these credentials to you when you
11:46:49 asked for them to use in testing Titan?
11:46:52 A Project management office
11:46:53 Q Who was that?

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11:46:54 A Well, namely Julio Guzman, but he would instruct one
11:46:59 of his underlings to send them to me usually or he would give
11:47:03 them to me himself
11:47:08 Q Was Titan programmed to limit the downloads that were
11:47:18 being taken for a particular credential according to what that
11:47:25 customer might be licensed to?
11:47:27 A The only limits that would be imposed are not within
11:47:31 Titan It would only be the person that's downloading
11:47:35 Q What do you mean by that?
11:47:35 A If a person, say, for example, was downloading for a
11:47:40 PeopleSoft customer and if he didn't know their product lines
11:47:45 correctly or if someone made a mistake, then he would be
11:47:50 downloading anything and everything or probably the wrong
11:47:52 thing That's what I mean The -- the only limits are
11:47:59 basically in the person to make sure that they don't screw up
11:48:02 and ask for the wrong thing And how they implemented that, I
11:48:05 don't know You'd have to talk to someone in the PeopleSoft
11:48:11 line Like, Shelley Nelson or something could explain that
11:48:14 better
11:48:15 Q Did you ever have any discussions with anybody
11:48:18 outside of Greg Nelson and sort of the senior management at
11:48:23 TomorrowNow about your work with Titan, Andrew Nelson, Shelley
11:48:27 Nelson?
11:48:27 A No They're even harder to talk to than Greg is
11:48:31 Quite honestly, after a while, I didn't even want to talk to

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13:10:40 A That is correct
13:10:40 Q And did you ever observe Titan in action downloading any updates and fixes?
13:10:47 A No None of these functions that Josh did, I did not run any of them, nor had I seen any of them run --
13:10:49 Q Okay
13:10:54 A -- in my time there
13:10:57 Q Then turning to the next page, No 4 is the Solution Saver functionality?
13:10:57 A Yes
13:11:01 Q That's -- that's the one that -- that you did yourself --
13:11:06 A Correct
13:11:09 Q -- one of them?
13:11:10 Were -- were there specific URLs that Titan would access to download the Solution Savers?
13:11:11 A Yes You -- it's the navigation from once you log on to the Oracle website You have to navigate to the appropriate product line and then the appropriate items under that product line So, yes, there is a certain URL
13:11:12 Q And were those URLs programmed into Titan?
13:11:12 A Yes
13:11:22 Q And how did you obtain those URLs?
13:11:23 A By re -- reverse-engineering the Oracle website
13:11:27 Q And that would be by logging on with a credential and looking for and obtaining those URLs?
13:11:34 A Logging on manually, following the path, seeing how the code is downloaded, depending on what artifact it is If there's a loop that runs it, however they accessed, are they by document number, are they by name So, those are particulars that I use to decipher and so that I can put them into the Titan code
13:11:37 Q And looking at the next page of the document, there's a reference to the ability to search for ranges?
13:11:38 A Yes
13:11:45 Q And those are the ranges of solution IDs that we talked about earlier that you were attempting to develop with different forms of experimentation?
13:11:47 A Correct But there's also the ability that the user could enter in a search range If they happen to know the specific numbers or a range that they want, they can actually enter it in and it will run just that range
13:11:48 Q Is there any -- is there any part of Titan that allows you to associate a range with a particular product?
13:11:52 A Particular product? Yes
13:11:59 Q How would you do that?
13:12:02 A It would be through the user interface If I could refer you back to page 6 of 15, TN No 4828, you'll notice the possible downloads on the left in the picture of the select product list Those are all the possible things that you can

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13:13:40 search on and download As you see, the queued downloads --
13:13:44 after you select these, you move them over to the queued
13:13:47 downloads and the queued downloads then are all that get
13:13:50 processed So, you can select from this whole range, any or
13:13:56 all
13:13:56 Q In other words, you could -- you could say, "Give me
13:13:59 everything related to every single PeopleSoft product on the
13:14:03 website"?
13:14:03 A Correct
13:14:04 Q Was there a default one way or the other within
13:14:05 Titan?
13:14:08 A No They have to specify at least something, but I
13:14:11 don't do any checking as to are they allowed to download this
13:14:16 item versus that item No
13:14:19 Q Right There's nothing -- if -- if -- if a user
13:14:21 selects PeopleSoft CRM, there's nothing within Titan that
13:14:26 checks whether PeopleSoft CRM is licensed to that particular
13:14:34 customer's credential that's being used?
13:14:35 A That is correct There is no checking whatsoever
13:14:36 If the user wants to download CRM and CRM Legacy and all
13:14:42 these, even though the customer, say, only has CRM, nothing
13:14:45 can stop them
13:14:46 Q Was there ever any discussion that you were aware of
13:14:49 within TomorrowNow about whether to include within Titan some
13:14:52 kind of -- of functionality to restrict the downloading to

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13:14:57 what a particular customer would be licensed to?
13:14:59 A No They wanted Titan to be generic to download
13:15:03 anything they needed They determined that the functionality
13:15:08 for restriction would be held in the hands of the engineer
13:15:10 doing the downloading or the person --
13:15:14 Q When you say "they," who are you referring to?
13:15:19 A The management team, whoever is -- you know, Shelley
13:15:21 Nelson on down that ran the PeopleSoft line They're the ones
13:15:24 that determine how they process that The way I was told is
13:15:27 that it is the responsibility of whoever is doing the download
13:15:32 to know what they need
13:15:36 Q What's the reference to batch -- batch downloading
13:15:41 versus range searching back on page 7 of 15?
13:15:50 A Batch job is the all-inclusive, meaning it will find
13:15:53 everything Range search means you're just going to go
13:15:59 between the No X and No Y
13:16:12 Q Okay Turning to the next page, then, page 15, the
13:16:17 bottom part of the Solution Saver section here, it says: "Due
13:16:20 to the current speed of the People" -- this is the last
13:16:24 paragraph above Heading 5 It says: "Due to the current
13:16:26 speed of the PeopleSoft website, if there is a large number of
13:16:29 solutions to be downloaded, it is recommended that the process
13:16:33 be broken up across several machines "
13:16:37 Why was that recommendation made?
13:16:38 A I'm sorry What page are you on?

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STATE OF TEXAS
COUNTY OF HARRIS

REPORTER'S CERTIFICATE

I, Dana Richardson, a Certified Shorthand Reporter in and for the State of Texas, do certify that this deposition transcript is a true record of the testimony given by the witness named herein, after said witness was duly sworn by me. The witness was requested to review the deposition.

I further certify that I am neither attorney or counsel for, related to, nor employed by any parties to the action in which this testimony is taken and, further, that I am not a relative or employee of any counsel employed by the parties hereto or financially interested in the action.

I further certify that the amount of time used by each party at the deposition is as follows:

Mr. Geoff Howard - 03:47
Mr. Greg Lanier - 00:56

SUBSCRIBED AND SWORN TO under my hand and seal of office on this the 8 day of December, 2009.

Dana Richardson

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