EXHIBIT S

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE PHYLLIS J. HAMILTON, JUDGE

ORACLE USA, INC., et al.,)

Plaintiffs,)

v.) NO. 07-CV-01658 PJH

SAP AG et al.,)

Defendants.)

San Francisco, California Wednesday, November 26, 2008

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

For Plaintiffs

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BY: THARAN GREGORY LANIER

Attorney at Law

Reported By:

CHRISTINE TRISKA, CSR, RPR

Pro-Tem Reporter

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Now -- so there's different ways this breach occurs.
 1
   And in the Software B case, where the download is of -- in the
   first instance, in breach of the terms of use materials for
 3
   which that customer is not licensed California law, code says
   that if in bad faith you know that you don't have that
 5
   permission you are directly liable. You are liable as a
   principal. And that's exactly what he have alleged.
 7
             THE COURT: Okay. All right. And lastly, the unjust
 8
   enrichment.
 9
             MR. LANIER: Your Honor, may I have one sentence on
10
   that breach of contract?
11
             Look behind the word "use," because all of the
12
   things that Mr. Howard alleges are -- these are the other
13
   things that were then later the breach of contract are
14
   copying: cross-use is copying, providing it to someone else
15
   and using it for someone else -- it's a copy. This is
16
17
   software. It's copying.
18
             The only non-preempted claims that could be subject
19
   to breach of contract are access claims for which there's a
   remedy, but nothing else, your Honor.
20
21
             MR. HOWARD: That just isn't true, your Honor.
   alleged research, training --
23
             THE COURT:
                         I don't want to hear anymore.
             All right. Unjust enrichment. I'm not so sure
24
25
   there's any real dispute. You both agree that unjust
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CERTIFICATE OF REPORTER

I, CHRISTINE TRISKA, Pro-Tem Reporter for the United States Court, Northern District of California, hereby certify that the foregoing proceedings in 07-CV-01658 PJH, Oracle Corporation et al., v. SAP AG et al., were reported by me, a certified shorthand reporter, and were thereafter transcribed under my direction into typewriting; that the foregoing is a full, complete and true record of said proceedings as bound by me at the time of filing.

The validity of the reporter's certification of said transcript may be void upon disassembly and/or removal from the court file.

/S/ CHRISTINE TRISKA

Christine Triska, CSR 12826, RPR

Tuesday, December 9th, 2008