

# 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.

1

WERNER BRANDT - HIGHLY CONFIDENTIAL

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.

1 WERNER BRANDT - HIGHLY CONFIDENTIAL

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.

TEXT REMOVED - NOT RELEVANT TO MOTION

1 WERNER BRANDT - HIGHLY CONFIDENTIAL

TEXT REMOVED - NOT RELEVANT TO MOTION

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

1 WERNER BRANDT - HIGHLY CONFIDENTIAL  
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

1 WERNER BRANDT - HIGHLY CONFIDENTIAL

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?

1 WERNER BRANDT - HIGHLY CONFIDENTIAL

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.

TEXT REMOVED - NOT RELEVANT TO MOTION



1 WERNER BRANDT - HIGHLY CONFIDENTIAL

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

19  
20  
21  
22 Subscribed and sworn to before me  
23 this \_\_\_\_ day of \_\_\_\_\_ 2008.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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