

EXHIBIT 4

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HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
DONALD REIFER - 6/18/2010

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

--oOo--

ORACLE CORPORATION, a)
Delaware corporation, ORACLE)
USA, INC., a Colorado)
corporation, and ORACLE)
INTERNATIONAL CORPORATION, a)
California corporation,)
)
Plaintiffs,)
)
vs.) 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 DONALD REIFER

JUNE 18, 2010

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REPORTED BY: SARAH LUCIA BRANN, CSR 3887 (#427125)

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11:43:15 11 Q. When did you do your COCOMO II analyses
11:43:19 12 that are contained in your report here?
11:43:22 13 A. Throughout my engagement.
11:43:24 14 Q. Starting when?
11:43:26 15 A. Probably in -- starting in February. I
11:43:34 16 tried to reconstruct Mr. Pinto's analysis and found
11:43:40 17 that when I ran the models the answers were
11:43:46 18 different. And then I started to look for why. And
11:43:53 19 I ran a number of analyses with other versions of
11:43:58 20 COCOMO, and basically ones that we have no longer
11:44:06 21 support at USC, and found that he did run the 1997
11:44:12 22 model, and confirmed his numbers in his runs by
11:44:18 23 running the 1997 version of the model.
11:44:21 24 And then I started looking at what would
11:44:23 25 happen if we ran the 2000 version of the model,

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12:00:52 12 Q. How many times have you run a COCOMO II
12:00:56 13 cost estimate?
12:01:00 14 A. Hundreds. It's just -- a lot of times.
12:01:09 15 Q. How many times have you run it with COCOMO
12:01:10 16 II '97?
12:01:14 17 A. Hundreds.
12:01:15 18 Q. And COCOMO II.2000?
12:01:21 19 A. Oh, '97, none. Sorry. My apologies. Let
12:01:22 20 me correct that answer.
12:01:24 21 1997 -- I have never developed an estimate
12:01:26 22 for a client with 1997. Hundreds of times with
12:01:31 23 COCOMO 2000.

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12:12:41 13 Q. And you haven't used COCOMO II.1997 in
12:12:46 14 order to develop an estimate and then deliver on
12:12:48 15 that; correct?

12:12:49 16 A. The 1992 -- 1997 model is an antiquated
12:12:55 17 model that has been basically put on the shelf, put
12:12:59 18 on the shelf for history purposes that, of the 43
12:13:07 19 firms that are in the USC affiliates, no one uses
12:13:11 20 1997. I checked that.

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14:15:46 6 Q. I believe you referenced this earlier in
14:15:47 7 the deposition. But this is the "Notes re Response
14:15:50 8 to Rebuttal report of Donald J. Reifer."
14:15:54 9 Do you see that?
14:15:55 10 A. Yes, I see that.
14:15:56 11 Q. And these are the Pinto notes that we were
14:15:59 12 talking about earlier; correct?
14:16:01 13 A. Yes, I see those.
14:16:02 14 Q. And then on page three of these notes at
14:16:06 15 the top there's the comparison between the
14:16:10 16 custom-built replicas, the USC code counter, and
14:16:16 17 Mr. Pinto's actual code counters?
14:16:19 18 A. I see that.
14:16:19 19 Q. You see that Mr. Pinto's code counters
14:16:26 20 are -- end up being the most conservative of the
14:16:29 21 three?
14:16:29 22 A. I have no confidence at all in Mr. Pinto's
14:16:32 23 code counters until I have them in hand and can
14:16:35 24 execute them.
14:16:37 25 Q. You have them in hand.

14:16:39 1 A. Until I can execute them.
14:16:40 2 Q. Right. And you never asked anyone for
14:16:42 3 help to get -- in executing them; correct?
14:16:46 4 A. If a PhD student and a 40-year veteran
14:16:50 5 can't get them to work in a period of two weeks,
14:16:53 6 it's going to take more than two weeks to get them
14:16:56 7 to work. So the answer is no, we have not asked for
14:17:00 8 help.

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15:22:17 2 A. And which model are you talking about, the
15:22:19 3 2000 or the 1997?

15:22:21 4 Q. Is there a difference?

15:22:22 5 A. Yes, major difference. The 1997 is an
15:22:27 6 outdated and inaccurate model that we no longer
15:22:32 7 provide support and no one that I know uses.

15:22:36 8 Q. We are talking about the SPR tables, sir.

15:22:39 9 A. Well, you were talking about --

15:22:41 10 Q. Is there a difference with respect to
15:22:43 11 those two models with respect to the SPR tables that
15:22:46 12 we were talking about?

15:22:47 13 MR. BUTLER: Had you finished your answer
15:22:49 14 before you were cut off by the attorney for Oracle?

15:22:53 15 THE WITNESS: Yes, I had not finished.

15:22:55 16 MR. BUTLER: Do you want to finish your
15:22:56 17 answer?

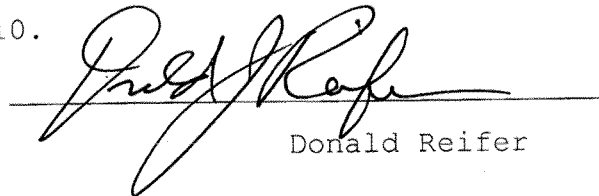
15:22:56 18 THE WITNESS: Well, yes, I would.

15:22:58 19 So if one looks at the 1997 version, the
15:23:01 20 1997 version of COCOMO is a much less accurate
15:23:07 21 model. And in my report I put the accuracy that has
15:23:13 22 been -- pertained. And it inflates costs upward.
15:23:18 23 And no one uses it, including the people I have
15:23:24 24 contacted in India, which are Infosys and Taca, and
15:23:34 25 the people that train in India, QAI.

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19:29:11 1 I declare under penalty of perjury the
19:29:11 2 foregoing is true and correct. Subscribed at
19:29:11 3 PRESOTT, ~~California~~, ^{ARIZONA} this 16th day
19:29:11 4 of JULY, 2010.

19:29:11 5 
19:29:11 6 Donald Reifer

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CERTIFICATE OF REPORTER

I, SARAH LUCIA BRANN, 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 in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript [X] 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: June 25, 2010

Sarah Lucia Brann

SARAH LUCIA BRANN, CSR No. 3887