

EXHIBIT B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE CORPORATION, a)	
Delaware corporation,)	
ORACLE USA, INC., a)	
Colorado corporation, and)	
ORACLE INTERNATIONAL)	
CORPORATION, a California)	
corporation,)	
)	
Plaintiffs,)	
)	
vs.)	No. 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
PAUL K. MEYER

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THURSDAY, MAY 13, 2010

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
REPORTED BY: HOLLY THUMAN, CSR No. 6834, RMR, CRR
(1-427374)

Page 561		Page 563	
15:52:08		15:54:07	1 that schedule. That was their decision. All the
15:52:10		15:54:09	2 due diligence, the decision-making, the approvals,
15:52:13		15:54:11	3 they did that with their eyes wide open.
15:52:15		15:54:14	4 Q. But they still -- SAP still did not have a
15:52:18		15:54:17	5 track record of operating with TomorrowNow as a
15:52:21		15:54:20	6 subsidiary as of the time of the 2-billion-dollar
15:52:23		15:54:26	7 license that you're suggesting. Correct?
15:52:25		15:54:28	8 A. Right. But that's offset by the 4,000
15:52:27		15:54:30	9 shared customers, and it's offset by the fact that
15:52:29		15:54:32	10 in those customers there's already SAP operations.
15:52:30		15:54:36	11 And it's also offset by the fact that the
15:52:32		15:54:38	12 Peoplesoft customers, the installed base is known,
15:52:35		15:54:42	13 and they need service. Let me finish. We're not
15:52:37		15:54:45	14 talking about a market that's unknown. There's
15:52:40		15:54:47	15 actually out there 9900 customers that need
15:52:42		15:54:49	16 service. That's known. Safe Passage is known.
15:52:43	17 Q. Okay. But if we're in the hypothetical	15:54:52	17 The risk that we're talking about is not, you know,
15:52:45	18 world of trying to determine what a reasonable	15:54:54	18 what you're trying to make it out to be.
15:52:47	19 licensee would have considered, do you agree it's	15:54:58	
15:52:49	20 appropriate to stop and think about what SAP might	15:55:00	
15:52:52	21 have considered as a less expensive alternative to	15:55:04	
15:52:56	22 paying for a 2-billion-dollar up-front license?	15:55:06	
15:52:58	23 MS. HOUSE: Objection. Calls for a legal	15:55:09	
15:52:59	24 conclusion, incomplete hypothetical, asked and	15:55:10	
15:53:01	25 answered, and inappropriate as a question under the	15:55:11	
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15:53:05	1 construct of law.	15:55:12	
15:53:07	2 THE WITNESS: I don't think it's	15:55:13	
15:53:07	3 appropriate for the reasons I mentioned. And I	15:55:15	
15:53:10	4 think it's really not appropriate, because Oracle	15:55:17	
15:53:13	5 just spent 11 billion dollars, and we can't change	15:55:18	
15:53:17	6 that fact. And they spent it to be better	15:55:23	
15:53:20	7 positioned with these customers going forward. And	15:55:24	
15:53:23	8 that investment is known in the hypothetical, and	15:55:42	
15:53:25	9 we can't change that. There's an 11-billion-dollar	15:55:45	
15:53:28	10 investment made, and now we're going to try to	15:55:49	
15:53:30	11 change that and say we have other business ways we	15:55:52	
15:53:32	12 can change. And that's the risk that Oracle has	15:55:53	
15:53:36	13 confronted. That can't be changed.	15:55:54	
15:53:38	14 MR. McDONELL: Q. Would you agree that it	15:55:55	
15:53:38	15 would be a risk to SAP in paying a 2-billion-dollar	15:56:03	
15:53:41	16 up-front license that it had just acquired	15:56:04	
15:53:43	17 TomorrowNow and didn't have a track record of	15:56:07	
15:53:45	18 operating with TomorrowNow as a subsidiary?	15:56:09	18 MR. McDONELL: Let me restate it.
15:53:49	19 A. No, I think that question makes no sense	15:56:10	19 Q. Would you agree that one way SAP could
15:53:51	20 based on what actually happened. They actually	15:56:12	20 minimize risk in this negotiation is by negotiating
15:53:54	21 required TomorrowNow in 3 or 4 weeks of due	15:56:16	21 a running royalty rate that would be tied to some
15:53:57	22 diligence, or less than that, because they wanted	15:56:20	22 level of revenue actually obtained through the use
15:53:58	23 to do it then to respond to the marketplace to	15:56:24	23 of the copyrighted material?
15:54:02	24 confront Oracle to hurt Oracle financially with the	15:56:28	24 A. I don't believe that assumption makes any
15:54:04	25 acquisition, and so they actually chose to do it on	15:56:29	25 sense in the context of this case, because of

<p style="text-align: right;">Page 565</p> <p>15:56:31 1 Oracle's investment in PeopleSoft for 11 billion 15:56:34 2 dollars. So you can't even get to that assumption, 15:56:37 3 because Oracle has already made the commitment, and 15:56:39 4 now you want to assume that SAP can take a license 15:56:42 5 and not make the commitment, and that doesn't make 15:56:44 6 any economic sense. Just doesn't make any sense. 15:56:47 15:56:50 15:56:53 15:56:53 15:56:54 15:57:14 15:57:32 15:57:33 15:57:34 15:57:55 15:57:57 15:57:57 15:57:59 15:58:05 15:58:08 15:58:10 15:58:15 15:58:15 15:58:17</p>	<p style="text-align: right;">Page 567</p> <p>15:59:23 15:59:27 15:59:29 15:59:30 15:59:34 15:59:36 15:59:39 15:59:42 15:59:46 15:59:50 15:59:53 15:59:55 15:59:59 16:00:03 16:00:08 16:00:11 16:00:14 16:00:16 16:00:20 16:00:21 16:00:26 16:00:28 16:00:32 16:00:35 16:00:37</p>
<p style="text-align: right;">Page 566</p> <p>15:58:21 15:58:25 15:58:29 15:58:35 15:58:38 15:58:39 15:58:43 15:58:47 15:58:50 15:58:51 15:58:56 15:58:56 15:58:57 15:58:59 15:59:01 15:59:05 15:59:06 15:59:09 15:59:10 15:59:11 15:59:12 15:59:15 15:59:16 15:59:19 15:59:21</p>	<p style="text-align: right;">Page 568</p> <p>16:00:39 16:00:42 16:00:47 16:00:47 16:00:49 16:00:52 16:00:54 16:00:55 16:00:57 16:00:59 16:01:01 16:01:04 16:01:06 16:01:11 16:01:13 16:01:16 16:01:19 16:01:21 16:01:26 16:01:28 16:01:32 16:01:34 16:01:36 16:01:37 16:01:40</p>

1 CERTIFICATE OF REPORTER

2 I, HOLLY THUMAN, a Certified Shorthand
3 Reporter, hereby certify that the witness in the
4 foregoing deposition was by me duly sworn to tell
5 the truth, the whole truth, and nothing but the
6 truth in the within-entitled cause;

7 That said deposition was taken down in
8 shorthand by me, a disinterested person, at the time
9 and place therein state, and that the testimony of
10 said witness was thereafter reduced to typewriting,
11 by computer, under my direction and supervision;

12 That before completion of the deposition review
13 of the transcript was [] was not requested. If
14 requested, any changes made by the deponent (and
15 provided to the reporter) during the period allowed
16 are appended hereto.

17 I further certify that I am not of counsel or
18 attorney for either or any of the parties to the
19 said deposition, nor in any way interested in the
20 event of this cause, and that I am not related to
21 any of the parties thereto.

22
23 DATED: May 25, 2010

24 Holly Thuman
25 HOLLY THUMAN, CSR