

1 BINGHAM McCUTCHEM LLP  
 DONN P. PICKETT (SBN 72257)  
 2 GEOFFREY M. HOWARD (SBN 157468)  
 HOLLY A. HOUSE (SBN 136045)  
 3 ZACHARY J. ALINDER (SBN 209009)  
 BREE HANN (SBN 215695)  
 4 Three Embarcadero Center  
 San Francisco, CA 94111-4067  
 5 Telephone: (415) 393-2000  
 Facsimile: (415) 393-2286  
 6 donn.pickett@bingham.com  
 geoff.howard@bingham.com  
 7 holly.house@bingham.com  
 zachary.alinder@bingham.com  
 8 bree.hann@bingham.com

9 BOIES, SCHILLER & FLEXNER LLP  
 DAVID BOIES (Admitted *Pro Hac Vice*)  
 10 333 Main Street  
 Armonk, NY 10504  
 Telephone: (914) 749-8200  
 11 Facsimile: (914) 749-8300  
 dboies@bsflp.com  
 12 STEVEN C. HOLTZMAN (SBN 144177)  
 FRED NORTON (SBN 224725)  
 13 1999 Harrison St., Suite 900  
 Oakland, CA 94612  
 14 Telephone: (510) 874-1000  
 Facsimile: (510) 874-1460  
 15 sholtzman@bsflp.com  
 fnorton@bsflp.com

16 DORIAN DALEY (SBN 129049)  
 17 JENNIFER GLOSS (SBN 154227)  
 500 Oracle Parkway, M/S 5op7  
 18 Redwood City, CA 94070  
 Telephone: (650) 506-4846  
 19 Facsimile: (650) 506-7114  
 dorian.daley@oracle.com  
 20 jennifer.gloss@oracle.com

21 Attorneys for Plaintiffs Oracle USA, Inc., *et al.*

22 UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

23 ORACLE USA, INC., *et al.*,

24 Plaintiffs,

25 v.

26 SAP AG, *et al.*,

27 Defendants.

CASE NO. 07-CV-01658 PJH (EDL)  
**EXHIBIT P TO THE DECLARATION OF  
 CHAD RUSSELL IN SUPPORT OF  
 PLAINTIFFS' OPPOSITION TO  
 DEFENDANTS' MOTIONS *IN LIMINE***

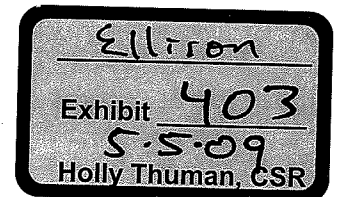
Date: September 30, 2010  
 Time: 2:30 pm  
 Place: Courtroom 3, 3rd Floor  
 Judge: Hon. Phyllis J. Hamilton  
**FILED PURSUANT TO DKT. NO. 915**

Case No. 07-CV-01658 PJH (EDL)

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# EXHIBIT P

**ORACLE CORPORATION**  
**ESTIMATION OF THE FAIR VALUE OF**  
**CERTAIN ASSETS AND LIABILITIES OF**  
**PEOPLESOFT, INC.**  
**AS OF DECEMBER 28, 2004**



ORCL00313160

ORCL00313160

Mr. Tom Olinger  
Vice President, Corporate Controller  
Oracle Corporation  
500 Oracle Parkway  
Redwood Shores, CA 94065

June 23, 2005

**Subject: ESTIMATION OF THE FAIR VALUE OF CERTAIN ASSETS AND  
LIABILITIES OF PEOPLESOFT, INC. AS OF DECEMBER 28, 2004**

Dear Mr. Olinger:

This report presents our estimation of the Fair Value of certain assets and liabilities acquired from PeopleSoft, Inc. ("PeopleSoft" or the "Company") as of December 28, 2004 (the "Valuation Date"). We understand the results of our valuation will be used to assist Oracle Corporation ("Oracle") management ("Management") in allocating the PeopleSoft purchase price for financial reporting purposes.

#### **FAIR VALUE**

The Glossary in Appendix F of Statement of Financial Accounting Standards ("SFAS") 141 on Business Combinations defines **Fair Value** as "The amount at which an asset (or liability) could be bought (or incurred) or sold (or settled) in a current transaction between willing parties, that is, other than in a forced or liquidation sale." For the purposes of this engagement, we assumed the Company's existing business to be ongoing.

ORCL00313161

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### Summary of Patents / Core Technology Value

Based on the Royalty Savings Approach and as summarized in Exhibit 4.0, we estimate the Fair Value of the Company's Patents / Core Technology, as of the Valuation Date, to be approximately:

|                                  |                       |
|----------------------------------|-----------------------|
| <b>Patents / Core Technology</b> | <b>\$ 348,900,000</b> |
|----------------------------------|-----------------------|

### 9.0 VALUATION OF MAINTENANCE AGREEMENTS AND RELATED CUSTOMER RELATIONSHIPS

The existing Maintenance Agreements relate to revenue generated by PeopleSoft from fees that users pay when they subscribe to a PeopleSoft maintenance and support contract for the software solutions. Subscribing customers are entitled to receive software product upgrades, tax and regulatory updates on a when-and-if-available basis, access to account services, web-based self-service, product support, and technical support, as long as they remain continuous subscribers to maintenance. As of the Valuation Date, PeopleSoft had approximately 9,920 customers.

We utilized the Income Approach in estimating the Fair Value of the Maintenance Agreements and Related Customer Relationships. In estimating the net cash flows, we estimated the on-going income expected to be generated from the maintenance agreements in place (including assumed renewal rates) as of the Valuation Date. Thus, we have captured both the remaining contractual life as well as the relationship aspect of the asset.

#### Assumptions

For the Income Approach, we made the following assumptions relating to the projection of the Maintenance Agreements' cash flows:

- **Revenue** – Management projected total Maintenance Revenue from the Existing Installed Base to be \$545.4 million for the five months ending May 31, 2005. Total Maintenance Revenue from the Existing Installed Base is projected to decline from \$1,273.9 million in fiscal year 2006 to \$1,220.4 million in fiscal year 2007, \$1,168.8 million in fiscal year 2008, \$1,119.3 million in fiscal year 2009, \$1,071.8 million in fiscal year 2010, and to \$862.2 million by fiscal year 2015. In forecasting revenue from the Existing Installed Base, Management assumed a 3.5% annual customer attrition rate, which implies approximately 4.0% revenue attrition per year given the forecasted decline of average selling price throughout the Projection Period. PeopleSoft management indicated that the Company had an average revenue attrition of \$60.0 million per year over the past three years, implying average annual revenue attrition of approximately 6.3%. In addition, PeopleSoft

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management forecasts revenue attrition of 2.5% in calendar year 2005. Based on historical and projected revenue attrition rates of PeopleSoft, we believe a 3.5% annual customer attrition rate is appropriate.

We have excluded Maintenance Revenue related to New Customers (acquired after the Valuation Date as that income stream is considered a component of goodwill). Deferred revenue attributable to maintenance of \$709.3 million as of the Valuation Date was deducted from 2005 through 2011 maintenance revenues to reflect that cash and / or accounts receivable has already been recognized on the balance sheet and there is no prospective cash flow related to these balances.

- **Cost of Goods Sold – COGS**, as a percentage of maintenance revenue, were projected to be 15.0% throughout the Projection Period, consistent with historical PeopleSoft maintenance COGS.
- **Patents / Core Technology Charge** – Charges for Patents / Core Technology, as a percentage of revenue, were projected to be 8.0% (discussed in more detail in the Valuation of Patents / Core Technology section) throughout the Projection Period.
- **Support Development** – Support Development expenses (related to bug fixes and updates), as a percentage of maintenance revenue, were projected to be 7.0% throughout the Projection Period, consistent with historical Support Development expenses.
- **Sales and Marketing Expenses** – Total Sales and Marketing expenses, as a percentage of revenue, were projected to be 20.1% for the five months ending May 31, 2005 and 18.7% for the remainder of the Projection Period. Projected Sales and Marketing Expenses are related only to the maintenance of the customer relationship and other incidental workforce expenses as the sales effort to win the Maintenance Agreements has already been completed. Accordingly, the Sales and Marketing effort, as a percentage of revenue, has been estimated at 20.0% of the total annual Sales and Marketing percentage for PeopleSoft.
- **General and Administrative Expenses (“G&A”)** – G&A, as a percentage of revenue, were projected to be 5.3% for the five months ending May 31, 2005, 4.6% in fiscal year 2006, 4.5% in fiscal year 2007, and 4.6% for the remainder of the Projection Period. G&A expenses were projected based on the expense structure for the combined Oracle and PeopleSoft operating model.
- **Depreciation Expenses** – Depreciation expenses of 3.7% for the five months ending May 31, 2005, 3.8% in fiscal year 2006, 3.9% in fiscal year 2007, and 4.0% for the remainder of the Projection Period were excluded from the valuation of Maintenance Agreements and Related Customer Relationships.

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- **Capital Charges** – Charges for contributory assets were deducted from earnings before interest, taxes, and depreciation to reflect the fact that the income generated by Maintenance Agreements cannot be solely attributed to the subject asset. Charges for property, plant, and equipment, working capital, customer contracts and related relationships, trade names/trademarks, assembled workforce, and technology were estimated and deducted from cash flow.
- **Income Taxes** – An effective tax rate of 36.0% was estimated based on the average five-year effective tax rate of comparable companies (including Oracle).
- **Tax Amortization Benefit** – A hypothetical purchaser of the Maintenance Agreements and Related Customer Relationships would receive a tax amortization benefit for the purchase of the intangible asset. The tax benefit of amortizing the intangible asset over a 15-year period was calculated and converted to its net present value equivalent.

#### **Analysis of Remaining Useful Life**

The PeopleSoft Customer Assurance Program (“CAP”) was implemented by PeopleSoft to assure customers that PeopleSoft technology will be supported even if PeopleSoft is acquired. The existence of the CAP implies that PeopleSoft technology will be supported for a minimum of four years. In addition, Oracle has publicly committed to support PeopleSoft products for ten years. Therefore, we estimate the remaining useful life of the Maintenance Agreements and Related Customer Relationships to be approximately ten years. Furthermore, given general industry major platform change cycles every four years, a ten-year life would capture two major upgrade cycles. Lastly, beyond ten years, the terms on a maintenance contract could be materially different due to changes in business models (e.g., utility computing model, etc.).

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### Summary of Maintenance Agreements and Related Customer Relationships Value

Based on the Income Approach as presented in Exhibit 5.0, we estimate the Fair Value of the Maintenance Agreements and Related Customer Relationships, as of the Valuation Date, to be approximately:

|  |                             |
|--|-----------------------------|
| <b>Maintenance Agreements and Related Customer Relationships (Total)</b> | <b>\$ 2,308,700,000</b>     |
| <b>Support Contracts <sup>10</sup></b>                                   | <b><u>(208,000,000)</u></b> |
| <b>Maintenance Agreements and Related Customer Relationships (Net)</b>   | <b>\$ 2,100,700,000</b>     |

### 10.0 VALUATION OF CONSULTING CONTRACTS

The existing consulting contracts relate to the revenue generated by PeopleSoft from fees that users pay when they contract PeopleSoft for consulting services. PeopleSoft offers consulting services related to implementing, optimizing the use of, and upgrading PeopleSoft products to improve business performance. The Company's implementation services are tailored to specific business needs and provide global infrastructure and expertise. In addition, PeopleSoft provides customers with a full range of re-engineering, customization, and project management services.

We utilized the Income Approach in estimating the Fair Value of the Consulting Contracts. In estimating the net cash flows, we estimated the on-going income expected to be generated from existing customer contracts in place as of the Valuation Date.

#### Assumptions

For the Income Approach, the following assumptions were made relating to the projection of the Consulting Contracts' cash flows:

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<sup>10</sup> As of the Valuation Date, PeopleSoft had entered into support agreements for which the underlying service period had not yet started and for which PeopleSoft had not yet been paid. These support agreements were not reflected on PeopleSoft's December 28, 2004 balance sheet. In connection with the purchase price allocation, Oracle estimated the Fair Value of the support contracts to be approximately \$208.0 million as of the Valuation Date. This intangible asset will be reflected as a component of prepaid expenses and other current assets. As the revenue and expenses of the support contracts are reflected in the valuation of PeopleSoft's Maintenance Agreements and Related Relationships, we have adjusted the Fair Value of PeopleSoft's Maintenance Agreements and Related Relationship for the value of the support contracts, which will be booked as a separate component of prepaid expenses and other current assets.



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- **Revenue** – Total revenue attributable to existing Consulting Contracts is projected to be \$91.8 million for the five months ending May 31, 2005, \$142.2 million in fiscal year 2006, \$33.0 million in fiscal year 2007, and \$19.3 million in fiscal year 2008. Based on discussions with PeopleSoft management, approximately 25.0% of PeopleSoft's projected 2005 professional services revenue is attributable to existing Consulting Contracts, of which approximately 15% to 20% relates to multi-year contracts. Deferred revenue attributable to existing consulting contracts of \$112.6 million as of the Valuation Date was deducted from 2005 through 2007 consulting revenues.
- **Cost of Goods Sold** – COGS, as a percentage of consulting revenue, is projected to be 84.2% in 2005 and 80.0% in 2006, 2007, and 2008.
- **Sales & Marketing Expenses** – Total Sales and Marketing expenses, as a percentage of revenue, were projected to be 20.1% for the five months ending May 31, 2005 and 18.7% for the remainder of the Projection Period. Projected Sales and Marketing Expenses are related only to the maintenance of the customer relationship and other incidental workforce expenses as the sales effort to win the Maintenance Agreements has already been completed. Accordingly, the Sales and Marketing effort, as a percentage of revenue, has been estimated at 20.0% of the total annual Sales and Marketing expense percentage for PeopleSoft.
- **General & Administrative** – General & Administrative, as a percentage of revenue, is projected to be 5.3% for the five months ending May 31, 2005, 4.6% in fiscal year 2006, 4.5% in fiscal year 2007, and 4.0% in fiscal year 2008.
- **Depreciation** – Depreciation expenses of 3.7% for the five months ending May 31, 2005, 3.8% in fiscal year 2006, 3.9% in fiscal year 2007, and 4.0% in fiscal year 2008 were excluded from the valuation of Consulting Contracts.
- **Capital Charges** – Charges for contributory assets were deducted from earnings before interest, taxes, and depreciation to reflect the fact that the income generated by the Consulting Contracts cannot be solely attributed to the subject asset. Charges for property, plant, and equipment, working capital, trade names/trademarks, and assembled workforce were estimated and deducted from cash flow.
- **Income Taxes** - An effective tax rate of 36.0% was estimated based on the average five-year effective tax rate of comparable companies (including Oracle).
- **Tax Amortization Benefit** – A hypothetical purchaser of the Consulting Contracts would receive a tax amortization benefit for the purchase of the intangible asset. The tax benefit of amortizing the

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intangible asset over a 15-year period was calculated and converted to its net present value equivalent.

### **Summary of Consulting Contracts Value**

Based on the Income Approach as presented in Exhibit 6.0, the Consulting Contracts did not result in any positive value.

## **11.0 VALUATION OF CUSTOMER RELATIONSHIPS**

As of the Valuation Date, PeopleSoft had 9,920 active customers (collectively, the "Customer Relationships"). Based on discussions with Management, approximately 55.0% to 60.0% of existing PeopleSoft customers overlap with Oracle customers. The Customer Relationships reflect the value attributable to Oracle's ability to market new products to the existing PeopleSoft installed base.

We valued the Customer Relationships using the Cost Approach. In our determination to utilize the Cost Approach, we considered the following factors:

1. We have captured the income producing capacity of the customers in the Technology valuation as the Technology is the primary income producing asset;
2. Oracle is aware of who the customers are (as any hypothetical third party buyer would be); and
3. Future customer sales are driven by and related to the quality and performance of the products as they are enhanced over time.

In our application of the Cost Approach, we used Management's estimation of:

- Average fully burdened salary of employees involved in establishing each of the Customer Relationships;
- Percentage of customer overlap with Oracle; and
- Number of person months needed to acquire each of the Customer Relationships.

We completed the following steps to estimate the value of the Customer Relationships:

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- We multiplied the average burdened salary by Management's estimate of the number of person months needed to establish a relationship to arrive at the total cost to acquire each Customer Relationship;
- We multiplied the total cost to acquire each Customer Relationship by the number of non-overlapping active customers to arrive at total cost to acquire the Customer Relationships;
- We deducted the income tax expense at an effective tax rate of 36.0%; and
- We added a tax amortization benefit to the sum of the present value of the after-tax royalty savings as a purchaser of the Customer Relationships would receive a tax amortization benefit for the purchase of the intangible asset. We calculated the tax benefit of amortizing the intangible asset over a 15-year period and converted it to its net present value equivalent.

#### **Analysis of Remaining Economic Life**

As described in the Valuation of Maintenance Agreements and Related Customer Relationships Section, we estimate the Company's existing installed base to remain customers for ten years. Therefore, we estimate the remaining economic life of the Customer Relationships to be approximately ten years.

#### **Summary of Customer Relationships**

Based on our analysis as summarized above and shown in Exhibit 7.0, we estimate the Fair Value of PeopleSoft's Customer Relationships, as of the Valuation Date, to be:

|                               |                       |
|-------------------------------|-----------------------|
| <b>Customer Relationships</b> | <b>\$ 250,300,000</b> |
|-------------------------------|-----------------------|

#### **12.0 VALUATION OF TRADE NAMES / TRADEMARKS**

In estimating the Fair Value of PeopleSoft's Trade Names/Trademarks, we used the Royalty Savings Approach. This methodology is considered the standard and preferred technique to value a trade name/trademark. In the application of the Royalty Savings Approach, we estimate the value of a trade name/trademark by capitalizing the royalties saved because the company owns the trade name/trademark. In other words, the owner of the trade name/trademark realizes a benefit from owning the intangible asset rather than paying a rent or royalty for the use of the asset.