

# EXHIBIT 5

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16

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19 SAN FRANCISCO DIVISION

20 ORACLE USA, INC., a Colorado corporation, *et*  
*al.*,

21 Plaintiffs,

22 v.

23 SAP AG, a German corporation, *et al.*,

24 Defendants.  
25  
26  
27  
28

CASE NO. 07-CV-01658 PJH (EDL)

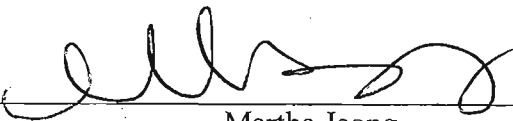
**AMENDED NOTICE OF  
DEPOSITION OF TIM CREAN**

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that, pursuant to Rule 30 of the Federal Rules of Civil  
3 Procedure, plaintiff Oracle USA (“Oracle”), through its counsel, shall conduct the deposition of  
4 Tim Crean on February 19, 2009 commencing at 9:00 a.m. at the law offices of Bingham  
5 McCutchen, Three Embarcadero Center, Suite 2800, San Francisco, California 94111, or such  
6 other time and place as may be agreed upon. The deposition will continue day to day, Sundays  
7 and holidays excepted, until completed.

8 The examination shall be conducted before an officer or other person authorized to  
9 administer oaths pursuant to Rule 28 of the Federal Rules of Civil Procedure. The testimony at  
10 the deposition will be recorded stenographically by a qualified certified shorthand reporter who  
11 is authorized to administer the oath, through instant visual display means (Live Note), and by  
12 video. Parties wishing to see the real time display must supply their own computer. Oracle  
13 reserves the right to use the written transcript or video as evidence in the trial of this matter.

14  
15 DATED: January 7, 2009

16 By: 

17 Martha Jeong  
18 **BINGHAM MCCUTCHEN LLP**  
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26 Systems Corp., Oracle EMEA Ltd., and J.D. Edwards  
27 Europe Ltd.  
28

1 **PROOF OF SERVICE**

2 I am over 18 years of age, not a party to this action and employed in the  
3 County of San Francisco, California at Three Embarcadero Center, San Francisco, California  
4 94111-4067. I am readily familiar with the practice of this office for collection and processing  
5 of correspondence by U.S. Mail and Electronic Mail, and they are deposited and/or sent that  
6 same day in the ordinary course of business.

7 Today I served the following documents:

8 **AMENDED NOTICE OF DEPOSITION OF TIM CREAN**  
9 **PURSUANT TO FED. R. CIV. P. 30**

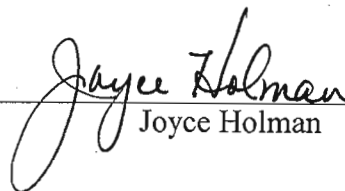
10  (BY ELECTRONIC MAIL) by transmitting via electronic mail document(s) in  
11 portable document format (PDF) listed below to the email addresses set forth  
below on this date.

12  (BY MAIL) by causing a true and correct copy of the above to be placed in the  
13 United States Mail at San Francisco, California in sealed envelope(s) with postage  
14 prepaid, addressed as set forth below. I am readily familiar with this law firm's  
15 practice for collection and processing of correspondence for mailing with the  
United States Postal Service. Correspondence is deposited with the United States  
Postal Service the same day it is left for collection and processing in the ordinary  
course of business.

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ewallace@JonesDay.com

23 I declare that I am employed in the office of a member of the bar of this court at  
24 whose direction the service was made and that this declaration was executed on January 7, 2009,  
25 at San Francisco, California.

26   
27 \_\_\_\_\_  
Joyce Holman