

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CIVIL MINUTES

Date: November 15, 2010 (Time: 4 hour 45 minutes)

JUDGE: Phyllis J. Hamilton

Case No: C-07-1658 PJH

Case Name: Oracle Corporation, et al. v. SAP AG, et al.

**Attorney(s) for Plaintiff: Geoffrey Howard; Donn Pickett; Zachary Alinder;
Steven Holtzman; Holly House; David Boies**

**Attorney(s) for Defendant: Tharan Gregory Lanier; Jacqueline Lee;
Robert Mittelstaedt**

Deputy Clerk: Nichole Heuerman

**Court Reporter: Raynee Mercado and
Diane Skillman**

PROCEEDINGS

Jury Trial (day 7)-Held. See attached exhibit and witness list.

CASE CONTINUED TO: November 16, 2010 at 8:30 a.m. for Jury Trial (day 8).

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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Case Name: Oracle USA, et al. v. SAP AG, et al.

EXHIBIT and WITNESS LIST

| JUDGE Phyllis J. Hamilton | | | PLAINTIFF ATTORNEY: Geoffrey Howard; Donn Pickett; Zachary Alinder; Steven Holtzman; Holly House; David Boies | | | DEFENSE ATTORNEY: Tharan Gregory Lanier; Jacqueline Lee; Robert Mittelstaedt | | |
|--|--------------|----------------------|---|-------------|--|---|--|--|
| JURY SELECTION: 11/1/10 TRIAL DATE: | | | REPORTER(S): <u>Raynee Mercado and Diane</u> <u>Skillman</u> | | | CLERK: Nichole Heuerman | | |
| PLF NO. | DEF NO | DATE/TIME OFFERED | ID | EVI. REC | DESCRIPTION | BY | | |
| | | | | | <u>Monday November 15, 2010</u> | | | |
| | | <u>8:17 a.m.</u> | | | <u>the court is back in session; the court hears argument regarding remaining objections to deposition testimony; defendants' request to file a motion re: at risk report is granted. The motion shall be filed immediately and any response shall be filed by tomorrow 11/16/10</u> | | | |
| | | <u>8:40 a.m.</u> | | | <u>the jury is now present; continued video deposition of Mr. Kagermann</u> | | | |
| | | <u>8:47 a.m.</u> | | | <u>plaintiffs' read 3 instant messages into the record which are marked as plaintiffs' exhibits 49, 55 and 53; 53 already marked and admitted into evidence</u> | | | |
| <u>49</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 49</u> | | | |
| <u>55</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 55</u> | | | |
| | | <u>8:53 a.m.</u> | | | <u>the plaintiffs' rest</u> | | | |
| | | <u>8:54 a.m.</u> | | | <u>the court reads stipulated facts to the jury</u> | | | |
| | | <u>8:58 a.m.</u> | | | <u>defendants' call first witness Juan Jones by video deposition</u> | | | |
| | | | | | <u>defendants' exhibits A-367, A-371, A-372, A-373, A-374 already marked and admitted into evidence used in conjunction with this witness</u> | | | |
| | <u>A-370</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-370</u> | | | |
| | | <u>9:45 a.m.</u> | | | <u>defendants' call second witness Bill McDermott</u> | | | |
| | | <u>10:09 a.m.</u> | | | <u>cross examination of Mr. McDermott</u> | | | |
| | | <u>10:23 a.m.</u> | | | <u>the court takes a break</u> | | | |

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| | | <u>10:42 a.m.</u> | | | <u>the court is back in session; continued cross examination of Mr. McDermott</u> | |
| | | | | | <u>plaintiffs' exhibits 332, 443, 23, 4814 and 171 already marked and admitted and used in conjunction with this witness</u> | |
| <u>117</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 117</u> | |
| <u>146</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 146</u> | |
| <u>148</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 148</u> | |
| <u>185</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 185</u> | |
| <u>197</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 197</u> | |
| <u>227</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 227</u> | |
| <u>231</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 231</u> | |
| <u>333</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 333</u> | |
| <u>462</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 462</u> | |
| <u>671</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 671</u> | |
| <u>1236</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 1236</u> | |
| <u>1662</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 1662</u> | |
| <u>4836</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 4836</u> | |
| <u>4850</u> | | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>plaintiffs' exhibit 4850</u> | |
| | <u>A-4024</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-230</u> | |
| | <u>A-148</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-596</u> | |
| | | <u>11:09 a.m.</u> | | | <u>re-direct examination of Mr. McDermott</u> | |
| | | <u>11:10 a.m.</u> | | | <u>re-cross examination of Mr. McDermott</u> | |
| | | <u>11:14 a.m.</u> | | | <u>re-direct examination of Mr. McDermott</u> | |
| | | <u>11:15 a.m.</u> | | | <u>Mr. McDermott is excused</u> | |
| | | <u>11:16 a.m.</u> | | | <u>defendants' call third witness Douglas Kehring by video deposition</u> | |
| | | | | | <u>defendants' exhibit A-229 already marked and admitted into evidence used in conjunction with this witness</u> | |
| | <u>A-230</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-230</u> | |
| | <u>A-596</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-596</u> | |

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| | | <u>11:24 a.m.</u> | | | <u>defendants' call fourth witness Richard Cummins by video deposition</u> | |
| | | | | | <u>defendants' exhibit A-303 already marked and admitted and used in conjunction with this witness</u> | |
| | <u>A-44</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-44</u> | |
| | <u>A-45</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-45</u> | |
| | <u>A-49</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-49</u> | |
| | <u>A-59</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-59</u> | |
| | <u>A-63</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-63</u> | |
| | <u>A-65</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-65</u> | |
| | <u>A-289</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-289</u> | |
| | <u>A-290</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-290</u> | |
| | <u>A-307</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-307</u> | |
| | <u>A-308</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-308</u> | |
| | <u>A-331</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-331</u> | |
| | | <u>12:02 p.m.</u> | | | <u>defendants' call fifth witness Jeffrey O'Donnell by video deposition</u> | |
| | <u>A-647</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-647</u> | |
| | | <u>12:15 p.m.</u> | | | <u>the court takes a break</u> | |
| | | <u>12:32 p.m.</u> | | | <u>the court is back in session; defendants' call sixth witness Robert Wasson by video deposition</u> | |
| | <u>A-547</u> | <u>11/15/10</u> | <u>x</u> | <u>x</u> | <u>defendants' exhibit A-547</u> | |
| | | <u>1:07 p.m.</u> | | | <u>defendants' call seventh witness Steven Brazile by video deposition</u> | |
| | <u>A-730</u> | | <u>x</u> | | <u>defendants' exhibit A-730</u> | |
| | | <u>1:24 p.m.</u> | | | <u>the jury is release for the day</u> | |
| | | <u>1:27 p.m.</u> | | | <u>the court is adjourned for the day</u> | |