

EXHIBIT K

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE PHYLLIS J. HAMILTON, JUDGE

ORACLE CORPORATION, ET AL.)	JURY TRIAL
)	
PLAINTIFFS,)	NO. C 07-01658 PJH
)	
VS.)	VOLUME 9
)	
SAP AG, ET AL.,)	PAGES 1512 - 1695
)	
DEFENDANTS.)	OAKLAND, CALIFORNIA
)	TUESDAY, NOVEMBER 16, 2010

CERTIFIED COPY

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

FOR PLAINTIFFS:	BINGHAM MCCUTCHEN LLP THREE EMBARCADERO CENTER SAN FRANCISCO, CALIFORNIA 94111-4607
BY:	ZACHARY J. ALINDER, HOLLY A. HOUSE, GEOFFREY M. HOWARD, DONN P. PICKETT, ATTORNEYS AT LAW
	BOIES, SCHILLER & FLEXNER LLP 1999 HARRISON STREET, SUITE 900 OAKLAND, CALIFORNIA 94612
BY:	DAVID BOIES, STEVEN C. HOLTZMAN, ATTORNEYS AT LAW

(APPEARANCES CONTINUED NEXT PAGE)

REPORTED BY:	RAYNEE H. MERCADO, CSR NO. 8258
	DIANE E. SKILLMAN, CSR NO. 4909

RAYNEE H. MERCADO, CSR, RMR, CRR, FCRR, CCRR (510) 451-7530

NON-RELEVANT TEXT REMOVED

4 WITH REGARD TO THE MOTION THAT WAS BRIEFED YESTERDAY
5 BY THE DEFENDANTS, ESSENTIALLY THE REQUEST THAT THE COURT
6 RECONSIDER THE AT-RISK REPORT CUSTOMER COMMENTS, I'M PREPARED TO
7 RULE ON THAT.

8 MR. MCDONELL YOU PRESENTED THAT, DID YOU NOT?

9 **MR. McDONELL:** YES, YOUR HONOR.

10 **THE COURT:** OKAY. ALL RIGHT. I'VE READ YOUR BRIEF;
11 I READ YOUR BRIEF. I DID NOT READ THE VOLUMINOUS DOCUMENTS THAT
12 YOU ALL SUBMITTED BECAUSE I DIDN'T HAVE AN OPPORTUNITY TO DO SO.

13 AND AT THIS TIME, I'M GOING TO DENY YOUR REQUEST.
14 I'M NOT GOING TO ALLOW IT IN. I RULED PRIOR TO TRIAL THAT YOU
15 HAD NOT CITED AN EXCEPTION TO THE HEARSAY RULE THAT I FOUND
16 PERSUASIVE. I LOOKED AT THE ADDITIONAL ONE CASE THAT YOU CITED,
17 AND IT DOESN'T CHANGE MY VIEW.

18 I THINK ORACLE'S POSITION IS -- IS THE CORRECT ONE.
19 THEY WEREN'T -- THESE CUSTOMER COMMENTS WEREN'T ADOPTED BY
20 ORACLE. IN FACT, TO THE EXTENT THAT SOME OF THE COMMENTS WERE
21 COMPLAINTS, IT WOULD BE ODD TO FIND THAT ORACLE ADOPTED THEM AS
22 THEIR OWN.

23 SO, THEREFORE, THE CUSTOMER COMMENTS STILL, IN MY
24 VIEW, ARE HEARSAY, AND THEY'RE NOT SUFFICIENTLY RELIABLE TO
25 WARRANT ADMISSION UNDER THE RESIDUAL HEARSAY EXCEPTION.

1 SO YOUR REQUEST IS DENIED.

2 **MR. HOWARD:** THANK YOU, YOUR HONOR.

NON-RELEVANT TEXT REMOVED

CERTIFICATE OF REPORTER

WE, RAYNEE H. MERCADO AND DIANE E. SKILLMAN, OFFICIAL REPORTERS FOR THE UNITED STATES COURT, NORTHERN DISTRICT OF CALIFORNIA, HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS IN C07-01658PJH, ORACLE USA, INC., ET AL. V. SAP AG, ET AL., WERE REPORTED BY US ON, TUESDAY, NOVEMBER 16, 2010, CERTIFIED SHORTHAND REPORTERS, AND WERE THEREAFTER TRANSCRIBED UNDER OUR DIRECTION INTO TYPEWRITING; THAT THE FOREGOING IS A FULL, COMPLETE AND TRUE RECORD OF SAID PROCEEDINGS AS BOUND BY US AT THE TIME OF FILING.

THE VALIDITY OF THE REPORTER'S CERTIFICATION OF SAID TRANSCRIPT MAY BE VOID UPON DISASSEMBLY AND/OR REMOVAL FROM THE COURT FILE.



RAYNEE H. MERCADO, CSR, RMR, CRR, FCRR, CCRR



DIANE E. SKILLMAN, CSR, RPR, FCRR

WEDNESDAY, NOVEMBER 17, 2010