

Exhibit 1

Holly A. House
Direct Phone: 415.393.2535
Direct Fax: 415.393.2286
holly.house@bingham.com

July 10, 2009

Via Email

Jason McDonell, Esq.
Jones Day LLP
555 California Street, 26th Floor
San Francisco, CA 94104

Re: Defendants' Impending Motions to Compel and for Damages Preclusion

Dear Jason:

Yesterday's telephonic "meet and confer" only confirmed our belief that your impending Motion to Compel and Rule 37 Motion are unnecessary and inappropriately premature. Please note that we reserve all rights and objections with respect to the ongoing meet and confer regarding the targeted search process. Any agreement to produce information does not constitute a waiver of any rights and objections with respect to Defendants' targeted search requests, including whether Defendants already used up their ten allotted targeted searches.

1. Motion to Compel

As we understand it, you will bring a Motion to Compel three types of information: general ledger information, product profitability reports, and further Rule 30(b)(6) testimony from Plaintiff Oracle International Corporation.

A. General Ledger Information

As we have now told you multiple times in writing and on meet and confer calls, and as confirmed by the depositions you did take of Ivgen Guner and Corey West – and would have been confirmed and explained in even greater detail by Alex San Juan had you not cancelled his deposition – your initial and only request for general ledger information is unduly burdensome. The 73 page request you sent on April 29 is not limited to the three plaintiff entities, and as a result, would require Oracle to pull data from over 700 entities. Additionally, most of the accounts detailed in your 73 page request are parent accounts and parent lines of businesses, which are made of a multitude of child accounts. Because transactional details can only be obtained at the child level, your 73 page request is actually much larger and more burdensome. Moreover, Oracle does not freeze historical hierarchies. Thus, Oracle would have to manually reconstruct the data pulled from the accounts and subaccounts listed in your 73 page request for over 700 entities in order for

Boston
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Walnut Creek
Washington

Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA
94111-4067

T 415.393.2000
F 415.393.2286
bingham.com

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the data to reconcile with any reported numbers. As we've previously told you during our meet and confers, and as we would submit in a declaration in opposition to your Motion, it would take many months of dedicated effort to comply with such a request.

Despite having this information almost two months ago, you have failed to provide us with a narrower request. We have never said we would not provide you with general ledger data. We have only said that we will not comply with your unduly burdensome request. If you legitimately think your request is not unduly burdensome, and if you want to propose something less burdensome (which you said you did and would in our May 11 call) then we have been waiting for that explanation for two months. We cannot fathom how you can move to compel when the only request you have made is indisputably unduly burdensome – and that you know would take months of dedicated effort to collect.

While you asked yesterday for us to tell you what parts of Oracle's extensive general ledger you would need to show profitability for the PeopleSoft, JDE and Siebel product lines at issue, as we pointed out, we had agreed to fly out the person most knowledgeable from the East Coast and had scheduled his deposition to assist you in making this determination. You chose to cancel his deposition without explanation on its literal eve. How you can complain about Oracle's reticence to provide "needed" general ledger information on this record is remarkable. Besides asking us to "figure it out" for you on the phone yesterday, you've done nothing to move this forward, and have in fact impeded your own ability to obtain the information you claim you want by cancelling the deposition on the Charts of Accounts.

Nonetheless, we still await a narrower request for general ledger information. As we have always maintained, we will respond to an appropriate request. In addition, in the spirit of compromise and despite your inexplicable prior cancellation, we are willing to provide a new date for the Charts of Accounts deposition you cancelled last month.

B. Product Profitability Reports

Yesterday, *for the first time*, you mentioned an interest in certain reports referred to by Larry Ellison and Juergen Rotler during their depositions. We do not understand how you could ask Magistrate Laporte to file a Motion to Compel information *weeks before* ever specifying to us that you wanted these reports. Had you asked us about these reports earlier, you would have learned that, as part of our investigation into responding to your "Third" Targeted Search Request, we have already begun searching for and collecting these reports. In addition, you would have learned that these reports do not come from a central reporting system – they are one-off, manually constructed reports. Accordingly, collecting them is not as simple as sitting at one computer and running standardized reports.

This is what the meet and confer process is for, and why it is suppose to occur prior to the filing of motions. You should not be raising new issues five days before you plan to file

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your Motion to Compel, and almost two weeks after receiving permission from the Court to file only the Motion described in the joint conference statement.

As we told you yesterday, and despite the fact that they are not properly the subject of a targeted search because they do not reside in a central repository, we have already begun searching for and collecting the reports referenced during Mr. Ellison and Mr. Rottler's depositions. We are willing to produce any non-privileged reports that can be located after a reasonable search. We expect that by the middle of August we can complete the collection and production.

With respect to standardized reports from Oracle's reporting systems, we have confirmed from our investigation into your "Third" Targeted Search Request that Oracle's financial reporting systems cannot track product profitability. What we are trying to confirm and will confirm shortly is that Oracle's systems track certain financial information, e.g., income and/or revenue statements, by plaintiff entity. These reports, however, are not responsive to your "Third" Targeted Search Request because they cannot show product profitability.

As we see it, we are willing to look for and produce the reports you referenced for the first time yesterday. Additionally, we expect to provide you with an update as to plaintiff-entity specific financial reports in response to your Third Targeted Search request within the next week. Besides these two categories of reports, we do not see what you will move to compel; nothing remains. Any such motion would be a waste of both parties' resources and the Court's resources.

C. Oracle International Corporation Rule 30(b)(6) Testimony

On April 14, 2009 Ann Kishore was deposed as Oracle International Corporation's Rule 30(b)(6) designee. On May 6, 2009, you wrote Geoff Howard and John Polito a letter complaining about Ms. Kishore's preparation. On May 22, 2009, Zac Alinder responded to your letter, explaining among other things that knowledge about each individual Registered Work was neither relevant to the noticed topics nor within the scope of the deposition, and noting that your failure to secure answers to questions you now appear to wish you had asked results from your tortured use of that conditional phrase.

In the two months since we sent that letter on May 22, 2009, we have received *no* response addressing the merits of Mr. Alinder's letter. Yesterday, all you said was that you disagree. The reason we have repeatedly asked for written meet and confer correspondence is so that there is a clear record of the basis for each party's position. Your refusal to provide that means we have no basis for a meaningful assessment of the merits of your position. Moving to compel without having provided this is wholly inappropriate under Magistrate Laporte's and the Court's Rules. July 26, 2005 Standing Order of Magistrate Elizabeth D. Laporte at 1; Civil L.R. 37-1(a).

* * *

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The meet and confer process is supposed to be a two-way process. Instead, you have engaged in a practice of sending us requests and complaints, disregarding our substantive responses, then waiting for some time to pass and jumping to motion practice. With respect to general ledger data and financial reports, we do not understand what an order from the Court would force us to produce that we have not already said we would produce. With respect to further deposition testimony, the issue is wholly unripe for a motion to compel.

2. Rule 37 Motion

We have reviewed the authority you cite in support of this Motion from your July 9 email to Mr. Alinder. None of this authority remotely supports a party seeking to preclude damages theories or discovery at this stage of a case. Nor does it support precluding damages methodologies that require expert analysis, prior to expert discovery commencing, as you appear to seek the Court to order here. Given these facts, as Magistrate Laporte has herself observed, Defendants' promised motion would only be proper as a pretrial motion in limine to Judge Hamilton, not a Rule 37 motion now to Magistrate Laporte.

As a final note, in regards to your purported authority that supports a motion, Oracle notes that *Memry Corp. v. Kentucky Oil Tech., N.V.*, 2007 U.S. Dist. LEXIS 3094 (N.D. Cal. 2007) is "NOT FOR CITATION" which means that Defendants cannot cite nor rely on it in their motion. Civil L.R. 3-4(e)

If you'd like, we are available to discuss all of these issues further with you today or on Monday, July 13.

Sincerely yours,



Holly A. House

cc: Joshua Fuchs - Jones Day San Francisco - jlfuchs@jonesday.com
Robert Mittelstaedt - Jones Day San Francisco - ramittelstaedt@jonesday.com
Greg Lanier - Jones Day Silicon Valley - tglanier@jonesday.com
Elaine Wallace - Jones Day San Francisco - ewallace@jonesday.com
Scott Cowan - Jones Day Houston - swcowan@jonesday.com
Jane Froyd - Jones Day Silicon Valley - jfroyd@jonesday.com

Geoffrey Howard - Bingham McCutchen, LLP - geoff.howard@bingham.com
Zachary Alinder - Bingham McCutchen, LLP - zachary.alinder@bingham.com
Bree Hann - Bingham McCutchen, LLP - bree.hann@bingham.com

Exhibit 2

JONES DAY

555 CALIFORNIA STREET • 26TH FLOOR • SAN FRANCISCO, CALIFORNIA 94104-1500
TELEPHONE 415-626-3939 • FACSIMILE 415-875-5700

July 13, 2009

VIA E-MAIL

Holly House, Esq.
Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA 94111-4067

Re: Case No. 07-CV-1658; *Oracle USA, Inc., et al. v. SAP AG, et al.*;
U. S. District Court, Northern District of California, San Francisco Division

Dear Holly:

I am writing to follow up on our meet and confer discussion on July 9 and to respond to your July 10 letter.

General Ledger Information

The meet and confer discussion we had on July 9 confirms our belief that this issue is ripe for a motion.

As you acknowledge, we made a good faith effort to select accounts from the charts of accounts and to seek the general ledger information for those accounts only. This was not a simple task given the shortcomings in Oracle's production of the charts of accounts and because the chart of accounts information that you produced was cryptic.

In Mr. Alinder's May 5 email responding to our selection of accounts, he complained that our request was "over broad and unduly burdensome" and sought irrelevant information. In our telephonic meet and confer on May 11, your colleague, Nitin Jindal (who evidently has been working on the details of this issue), attempted to explain why he believed we had selected the incorrect accounts and gave some examples. I acknowledged that it was helpful to get that kind of feedback informally. Your team then suggested that the parties confer informally and work cooperatively to identify the accounts that our expert needs. During the May 11 call and again during a follow up June 4 call, you and your team agreed to cooperate informally on that effort and even suggested that Alex San Juan of Oracle may be able to participate by phone in *lieu* of his deposition.

I followed up on this in my June 12 letter to Mr. Alinder, and proposed a meet and confer discussion for the week of June 15 to discuss these issues and specifically requested that Mr. Jindal participate. On June 16 I took off calendar (for now) the deposition of Mr. San Juan in the good faith hope that we could make more progress through the informal cooperation. However, I received no response to my request for that meeting. Accordingly, we included the need for

motion practice on this issue in the Joint Discovery Conference Statement that was filed on June 18.

In your June 30 letter and Mr. Alinder's July 6 emails, you argued that this issue is not yet ripe and suggested that Oracle may be willing to provide general ledger information. We then arranged a further telephone meet and confer on this issue for July 9.

During that call, you initially argued that this issue is not yet ripe because we have not completed the informal cooperative discussions. You specifically referenced the prior meet and confer call in which Mr. Jindal provided some feedback. You claimed that I have never gotten back to you in response to your prior offer to cooperate in good faith informally. In response, I pointed out the request in my June 12 letter that those discussions go forward and that I never got a response from you. I also told you that I enthusiastically welcome the cooperative discussions involving your team, including Messrs. Jindal and San Juan, and that I am available this week for those discussions.

In response to my offer, you completely reversed your position. You stated that Plaintiffs are *not* willing to engage in the informal discussions and the only vehicle we have for obtaining more information about the structure of Oracle's charts of accounts and general ledgers is via depositions. This reaffirms our view that this issue is ripe for the Court's intervention. Nevertheless, we still very much would like to resolve this issue informally. I repeat my offer to meet and confer with your team in an effort to find a solution should you change your position again.

Product Profitability Reports

In my June 12 letter, I recounted that Defendants have for many months "sought discovery of Oracle's profit margins for the relevant product lines in order to evaluate any claim of lost profits Oracle may ultimately offer."

REDACTED

You have now stated that you are searching for these documents will produce them in the middle of August. Are you also searching for and willing to produce the underlying source documents that contain the formula for the calculation of the numbers reflected in the product line profitability reports? *See* Rottler Dep., p. 178. Of course, if these documents get produced prior to the hearing on our motion, this issue may be resolved. In light of the history of misinformation on this issue, however, we believe we need to address it with the Court.

REDACTED

We are concerned that, notwithstanding the fact that Mr. Kishore has confirmed the existence of these reports, you are still non-committal as to whether they exist. If we can get an unequivocal assurance that they will be produced by a date certain we may be able to resolve this part of our request without assistance from the Court.

OIC Rule 30(b)(6) Testimony

We explained the deficiencies in the OIC Rule 30(b)(6) deposition in my May 6 letter. Mr. Alinder's May 22 response did not resolve any issue or offer to provide any more information than you were willing to provide through the witness' testimony. During our meet and confer on July 9, you reiterated your position that Ms. Kishore was adequately prepared. Thus we have a disagreement on the extent to which the witness was obligated to prepare for the deposition.

Very truly yours,

/s/ Jason McDonell

Jason McDonell

cc: Zachary Alinder
Bree Hann
Donn Pickett
Geoff Howard
Robert A. Mittelstaedt
Greg Lanier
Scott Cowan
Elaine Wallace
Jane Froyd
Joshua Fuchs

VIA E-MAIL
VIA E-MAIL

Exhibit 3

ORIGINAL

1 BINGHAM McCUTCHEN LLP
CHRISTOPHER B. HOCKETT (SBN 121539)
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 chris.hockett@bingham.com
geoff.howard@bingham.com
7 holly.house@bingham.com
zachary.alinder@bingham.com
8 bree.hann@bingham.com

9 DORIAN DALEY (SBN 129049)
500 Oracle Parkway
10 M/S 5op7
Redwood City, CA 94070
11 Telephone: (650) 506-4846
12 Facsimile: (650) 506-7114
dorian.daley@oracle.com

13 Attorneys for Plaintiffs
14 Oracle Corporation, Oracle USA, Inc.,
and Oracle International Corporation

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

19 ORACLE CORPORATION, a Delaware
20 corporation, ORACLE USA, INC., a Colorado
21 corporation, and ORACLE INTERNATIONAL
CORPORATION, a California corporation,

22 Plaintiffs,

23 v.

24 SAP AG, a German corporation, SAP
25 AMERICA, INC., a Delaware corporation,
TOMORROWNOW, INC., a Texas corporation,
and DOES 1-50, inclusive,

26 Defendants.
27
28

Case No. 07-CV-1658 MJJ

**PLAINTIFFS' RESPONSES AND
OBJECTIONS TO DEFENDANT
TOMORROWNOW, INC.'S FIRST
SET OF DOCUMENT REQUESTS**

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PROPOUNDING PARTY: Defendant TomorrowNow, Inc.
RESPONDING PARTY: Plaintiffs Oracle Corporation, Oracle USA, Inc., and Oracle International Corporation
SET NUMBER: One

Plaintiffs Oracle Corporation, Oracle USA, Inc., and Oracle International Corporation (collectively, "Oracle") hereby respond and object to Defendant TomorrowNow, Inc.'s ("SAP TN") First Set of Document Requests to Plaintiffs ("Requests") as follows:

GENERAL OBJECTIONS

1. Oracle objects to the Requests on the grounds that they are vague, overbroad, oppressive, harassing, and unduly burdensome.
2. Oracle objects to the extent that any Request seeks documents protected from disclosure by any evidentiary privilege, including without limitation the attorney-client privilege and work product doctrine. Oracle does not intend to produce any privileged documents.
3. Oracle objects to the Requests to the extent that they seek the production of documents that are not within Oracle's possession, custody, or control and to the extent that they purport to impose any duty to provide information and/or documents more readily available from sources other than Oracle. Absent mutual agreement with defendants, Oracle will produce no such third-party documents.
4. Oracle objects to the Requests to the extent that they seek third party-business or proprietary information subject to a confidentiality agreement and/or protective order and will not produce such materials absent a Court order.
5. Oracle objects to the Requests to the extent they seek to require Oracle to search for, review, or produce inaccessible information or materials. Oracle will not undertake to search for, review, or produce inaccessible data.
6. Oracle objects to the Requests to the extent that they purport to impose obligations different from or greater than those imposed by the Federal Rules of Civil Procedure.
7. Where Oracle has agreed to produce documents, such production will be

1 governed by, and subject to, the Federal Rules of Civil Procedure, the terms of the prior orders of
2 the Court, and any subsequent relevant orders of the Court, as well as any prior and subsequent
3 relevant stipulations of the parties.

4 8. Where Oracle has agreed to produce documents, this does not mean that
5 responsive documents exist. It means only that Oracle will make the reasonable search described
6 above for responsive documents.

7 9. Oracle has attempted in good faith to respond to the Requests, and its responses
8 are based upon information currently available to it. Oracle has not completed its investigation
9 of the facts relating to this action nor its discovery or preparation for trial. In light of continuing
10 discovery and investigation, Oracle reserves the right to amend and/or supplement its responses,
11 and expressly reserves the right to later use and present at trial any evidence, facts, and/or
12 testimony developed or analyzed at a later date that is responsive to the Requests but not
13 presently known to Oracle. Notwithstanding the foregoing, Oracle assumes no obligation to
14 amend and/or supplement its responses beyond that which is required by law.

15 10. Each response is provided subject to all appropriate objections, including without
16 limitation objections concerning competency, relevancy, materiality, propriety, and admissibility
17 that would require the exclusion of any statement contained if a witness present and testifying in
18 court made the statement. All such objections and grounds are reserved and may be interposed
19 at the time of trial.

20 11. Each of Oracle's responses to the specific Requests listed below is made subject
21 to and without waiving the above objections (collectively, the "General Objections"), as if the
22 General Objections were restated in full.

23 **OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS**

24 1. Oracle objects to the Instructions and Definitions, and to each Request
25 incorporating them, to the extent that they purport to impose on Oracle any obligation to take
26 actions or to make responses or production beyond that required by the Federal Rules of Civil
27 Procedure.
28

1 **RESPONSE TO DOCUMENT REQUEST NO. 61:**

2 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
3 further objects to this Request on the grounds that it is overbroad, unduly burdensome, and not
4 reasonably calculated to lead to the discovery of admissible evidence, as the Request could be
5 interpreted to call for Documents tangentially related to Oracle's development teams and to all
6 software development Documents for each and every Registered Work. Oracle further objects to
7 this Request on the grounds that the phrase "any tendency to support or refute" renders the
8 Request vague and ambiguous. Oracle further objects to this Request on the grounds that it calls
9 for Oracle to come to a legal conclusion. Oracle further objects to this Request on the grounds
10 that it calls for Documents protected by the attorney-client or work product privileges.

11 Subject to and without waiving these objections, Oracle responds that it will not search
12 for and produce Documents in response to this Request.

13 **DOCUMENT REQUEST NO. 62:**

14 Documents sufficient to show the publication date for each of the Registered Works.

15 **RESPONSE TO DOCUMENT REQUEST NO. 62:**

16 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
17 further objects to the Request on the grounds that it is duplicative of Request No. 60.

18 Subject to and without waiving these objections, Oracle responds that it will search for
19 and produce the federal copyright registrations for the Registered Works.

20 **DOCUMENT REQUEST NO. 63:**

21 Complete copies of each of the Registered Works.

22 **RESPONSE TO DOCUMENT REQUEST NO. 63:**

23 Oracle objects to this Request on the grounds stated in its General Objections.

24 Subject to and without waiving these objections, Oracle responds that it will search for
25 and produce copies of the registered Software and Support Materials and initial software releases
26 and will meet and confer with defendants to determine an appropriate way for defendants'
27 counsel to inspect the registered current development environments.

28

1 **DOCUMENT REQUEST NO. 64:**

2 All Documents relating to customer complaints about Oracle’s support or maintenance
3 services for any Oracle product referred to in the Complaint or at issue in this litigation,
4 including complaints about the cost of such support or maintenance, the length of time it takes
5 Oracle to respond to customer requests or resolve customer problems, Oracle’s failure to provide
6 adequate support or maintenance or the prospects of Oracle providing long-term, quality support,
7 and the “software upgrade cycles” referenced in paragraph 47 of the Complaint.

8 **RESPONSE TO DOCUMENT REQUEST NO. 64:**

9 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
10 further objects to this Request on the grounds that the phrase “any Oracle product referred to in
11 the Complaint or at issue in this litigation” is vague, ambiguous, and overbroad. The Complaint
12 refers to many Oracle software products that are not at issue in this litigation, such as database
13 applications. Accordingly, Oracle will interpret “any Oracle product referred to in the Complaint
14 or at issue in this litigation” as legacy PeopleSoft and J.D. Edwards enterprise software
15 applications for which Oracle has alleged that defendants Downloaded Software and Support
16 Materials from Oracle’s systems. Oracle further objects to this Request on the grounds that it
17 calls for Documents protected by the attorney-client or work product privileges.

18 Subject to and without waiving these objections, Oracle responds that it will search for
19 and produce non-privileged Documents relating to Identified Customers’ complaints about
20 Oracle’s support or maintenance services for legacy PeopleSoft and J.D. Edwards enterprise
21 software applications for which Oracle has alleged that defendants Downloaded Software and
22 Support Materials from Oracle’s systems, to the extent any such Documents exist in the files of
23 already-identified custodians.

24 **DOCUMENT REQUEST NO. 65:**

25 For the shortest time interval available (*e.g.* monthly, quarterly, or annually), Documents
26 sufficient to show Oracle’s revenues, costs, and profit margins for support or maintenance
27 services relating to the products referred to in the Complaint or at issue in this litigation.

28

1 **RESPONSE TO DOCUMENT REQUEST NO. 65:**

2 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
3 further objects to this Request on the grounds that the phrase “the products referred to in the
4 Complaint or at issue in this litigation” is vague, ambiguous, and overbroad. The Complaint
5 refers to many Oracle software products that are not at issue in this litigation, such as database
6 applications. Accordingly, Oracle will interpret “the products referred to in the Complaint or at
7 issue in this litigation” as legacy PeopleSoft and J.D. Edwards enterprise software applications
8 for which Oracle has alleged that defendants Downloaded Software and Support Materials from
9 Oracle’s systems. Oracle further objects to this Request on the grounds that it prematurely seeks
10 materials related to the damages and expert discovery stages of this litigation.

11 Subject to and without waiving these objections, Oracle responds that it will search for
12 and produce non-privileged Documents sufficient to show Oracle’s revenues, costs, and profit
13 margins for support or maintenance services relating to legacy PeopleSoft and J.D. Edwards
14 enterprise software applications for which Oracle has alleged that defendants Downloaded
15 Software and Support Materials from Oracle’s systems, to the extent such Documents exist.

16 **DOCUMENT REQUEST NO. 66:**

17 For the shortest time interval available (*e.g.* monthly, quarterly, or annually), Documents
18 sufficient to show Oracle’s revenues, costs, and profit margins for the Named Customers and TN
19 Customers for support or maintenance services relating to the products referred to in the
20 Complaint or at issue in this litigation.

21 **RESPONSE TO DOCUMENT REQUEST NO. 66:**

22 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
23 further objects to this Request on the grounds that the phrase “the products referred to in the
24 Complaint or at issue in this litigation” is vague, ambiguous, and overbroad. The Complaint
25 refers to many Oracle software products that are not at issue in this litigation, such as database
26 applications. Accordingly, Oracle will interpret “the products referred to in the Complaint or at
27 issue in this litigation” as legacy PeopleSoft and J.D. Edwards enterprise software applications
28 for which Oracle has alleged that defendants Downloaded Software and Support Materials from

1 Oracle's systems. Oracle further objects to this Request on the grounds that the definition of
2 "TN Customer" is overbroad and includes many entities whose relationship with Oracle is not
3 relevant to the issues in this litigation. Oracle further objects to this Request on the grounds that
4 it prematurely seeks materials related to the damages and expert discovery stages of this
5 litigation. Oracle further objects to this Request on the grounds that it is duplicative of Request
6 No. 65.

7 Subject to and without waiving these objections, Oracle responds that it will search for
8 and produce non-privileged Documents sufficient to show Oracle's revenues, costs, and profit
9 margins for the Named Customers and TN Customers for support or maintenance services
10 relating to legacy PeopleSoft and J.D. Edwards enterprise software applications for which Oracle
11 has alleged that defendants Downloaded Software and Support Materials from Oracle's systems,
12 to the extent such Documents exist.

13 **DOCUMENT REQUEST NO. 67:**

14 For the shortest time interval available (*e.g.* monthly, quarterly, or annually), Documents
15 sufficient to show Oracle's revenues, costs, and profit margins for products other than those
16 referred to in the Complaint or at issue in this litigation, and services relating to such products.

17 **RESPONSE TO DOCUMENT REQUEST NO. 67:**

18 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
19 further objects that this Request is overbroad, unduly burdensome, and not reasonably likely to
20 lead to the discovery of admissible evidence, as Oracle's revenues, costs, and profit margins for
21 products and services other than those relating to legacy PeopleSoft and J.D. Edwards enterprise
22 software applications for which Oracle has alleged that defendants Downloaded Software and
23 Support Materials from Oracle's systems are not related to Oracle's claims or defendants'
24 defenses.

25 Subject to and without waiving these objections, Oracle responds that it will not produce
26 Documents in response to this Request.

27 **DOCUMENT REQUEST NO. 68:**

28 For the shortest time interval available (*e.g.* monthly, quarterly, or annually), Documents

1 sufficient to show Oracle's revenues, costs, and profit margins for the Named Customers and TN
2 Customers for products other than those referred to in the Complaint or at issue in this litigation,
3 and services relating to such products.

4 **RESPONSE TO DOCUMENT REQUEST NO. 68:**

5 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
6 further objects that this Request is overbroad, unduly burdensome, and not reasonably likely to
7 lead to the discovery of admissible evidence, as Oracle's revenues, costs, and profit margins for
8 products and services other than those relating to legacy PeopleSoft and J.D. Edwards enterprise
9 software applications for which Oracle has alleged that defendants Downloaded Software and
10 Support Materials from Oracle's systems are not related to Oracle's claims or defendants'
11 defenses. Oracle further objects to this Request on the grounds that the definition of "TN
12 Customer" is overbroad and includes many entities whose relationship with Oracle is not
13 relevant to the issues in this litigation.

14 Subject to and without waiving these objections, Oracle responds that it will not produce
15 Documents in response to this Request.

16 **DOCUMENT REQUEST NO. 69:**

17 Documents sufficient to show all financial transactions between Oracle and any TN
18 Customer or Named Customer relating to support or maintenance services for the products
19 referred to in the Complaint or at issue in this litigation, including Documents showing how
20 much Oracle is charging, or has charged, any Named Customer or TN Customer for such
21 services.

22 **RESPONSE TO DOCUMENT REQUEST NO. 69:**

23 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
24 further objects to this Request on the grounds that the phrase "the products referred to in the
25 Complaint or at issue in this litigation" is vague, ambiguous, and overbroad. The Complaint
26 refers to many Oracle software products that are not at issue in this litigation, such as database
27 applications. Accordingly, Oracle will interpret "the products referred to in the Complaint or at
28 issue in this litigation" as legacy PeopleSoft and J.D. Edwards enterprise software applications

1 for which Oracle has alleged that defendants Downloaded Software and Support Materials from
2 Oracle's systems. Oracle further objects to this Request on the grounds that the definition of
3 "TN Customer" is overbroad and includes many entities whose relationship with Oracle is not
4 relevant to the issues in this litigation.

5 Subject to and without waiving these objections, Oracle responds that it will search for
6 and produce Documents sufficient to show the support service terms between Oracle and the
7 Identified Customers.

8 **DOCUMENT REQUEST NO. 70:**

9 All Documents relating to any alleged loss of revenues or profits by Oracle as a result of
10 the conduct alleged in the Complaint.

11 **RESPONSE TO DOCUMENT REQUEST NO. 70:**

12 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
13 further objects to this Request on the grounds that it calls for Oracle to come to a legal
14 conclusion. Oracle further objects to this Request on the grounds that it prematurely seeks
15 materials related to the damages and expert discovery stages of this litigation. Oracle further
16 objects to this Request on the grounds that it calls for Documents protected by the attorney-client
17 or work product privileges.

18 Subject to and without waiving these objections, Oracle responds that it will search for
19 and produce non-privileged Documents sufficient to show Oracle's revenues, costs, and profit
20 margins for support or maintenance services relating to legacy PeopleSoft and J.D. Edwards
21 enterprise software applications for which Oracle has alleged that defendants Downloaded
22 Software and Support Materials from Oracle's systems, to the extent such Documents exist.

23 Oracle will provide its damages analysis during the damages and expert discovery stages of this
24 litigation.

25 **DOCUMENT REQUEST NO. 71:**

26 All Documents relating to Oracle's fees for support and maintenance of the Oracle
27 products referred to in the Complaint or at issue in this litigation, including Documents
28 concerning how those fees are set and any relationship between the price of a product and the

1 amount Oracle charges for support and maintenance of that product.

2 **RESPONSE TO DOCUMENT REQUEST NO. 71:**

3 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
4 further objects to this Request on the grounds that the phrase “the products referred to in the
5 Complaint or at issue in this litigation” is vague, ambiguous, and overbroad. The Complaint
6 refers to many Oracle software products that are not at issue in this litigation, such as database
7 applications. Accordingly, Oracle will interpret “the products referred to in the Complaint or at
8 issue in this litigation” as legacy PeopleSoft and J.D. Edwards enterprise software applications
9 for which Oracle has alleged that defendants Downloaded Software and Support Materials from
10 Oracle’s systems. Oracle further objects to this Request on the grounds that it prematurely seeks
11 materials related to the damages and expert discovery stages of this litigation.

12 Subject to and without waiving these objections, Oracle responds that it will search for
13 and produce Documents sufficient to show the support service terms between Oracle and the
14 Identified Customers.

15 **DOCUMENT REQUEST NO. 72:**

16 For each Oracle product referred to in the Complaint or at issue in this litigation,
17 Documents sufficient to show how much of Oracle’s profit from that product is attributable to
18 support and maintenance fees for the product.

19 **RESPONSE TO DOCUMENT REQUEST NO. 72:**

20 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
21 further objects to this Request on the grounds that the phrase “each Oracle product referred to in
22 the Complaint or at issue in this litigation” is vague, ambiguous, and overbroad. The Complaint
23 refers to many Oracle software products that are not at issue in this litigation, such as database
24 applications. Accordingly, Oracle will interpret “each Oracle product referred to in the
25 Complaint or at issue in this litigation” as legacy PeopleSoft and J.D. Edwards enterprise
26 software applications for which Oracle has alleged that defendants Downloaded Software and
27 Support Materials from Oracle’s systems. Oracle further objects to this Request on the grounds
28 that it prematurely seeks materials related to the damages and expert discovery stages of this

1 litigation.

2 Subject to and without waiving these objections, Oracle responds that it will search for
3 and produce Documents sufficient to show how much of Oracle's profit for legacy PeopleSoft
4 and J.D. Edwards enterprise software applications for which Oracle has alleged that defendants
5 Downloaded Software and Support Materials from Oracle's systems is attributable to support
6 and maintenance fees for those products, to the extent such Documents exist.

7 **DOCUMENT REQUEST NO. 73:**

8 For each Oracle product referred to in the Complaint or at issue in this litigation,
9 Documents sufficient to show how much of Oracle's profit from that product is attributable to
10 support and maintenance fees for the product with respect to the Named Customers and TN
11 Customers.

12 **RESPONSE TO DOCUMENT REQUEST NO. 73:**

13 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
14 further objects to this Request on the grounds that the phrase "each Oracle product referred to in
15 the Complaint or at issue in this litigation" is vague, ambiguous, and overbroad. The Complaint
16 refers to many Oracle software products that are not at issue in this litigation, such as database
17 applications. Accordingly, Oracle will interpret "each Oracle product referred to in the
18 Complaint or at issue in this litigation" as legacy PeopleSoft and J.D. Edwards enterprise
19 software applications for which Oracle has alleged that defendants Downloaded Software and
20 Support Materials from Oracle's systems. Oracle further objects to this Request on the grounds
21 that the definition of "TN Customer" is overbroad and includes many entities whose relationship
22 with Oracle is not relevant to the issues in this litigation. Oracle further objects to this Request
23 to the extent it is duplicative of Request No. 72. Oracle further objects to this Request on the
24 grounds that it prematurely seeks materials related to the damages and expert discovery stages of
25 this litigation.

26 Subject to and without waiving these objections, Oracle responds that it will search for
27 and produce Documents sufficient to show how much of Oracle's profit for legacy PeopleSoft
28 and J.D. Edwards enterprise software applications for which Oracle has alleged that defendants

1 Downloaded Software and Support Materials from Oracle's systems is attributable to support
2 and maintenance fees for those products with respect to the Identified Customers, to the extent
3 such Documents exist.

4 **DOCUMENT REQUEST NO. 74:**

5 All Documents relating to SAP's acquisition of TN.

6 **RESPONSE TO DOCUMENT REQUEST NO. 74:**

7 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
8 further objects to this Request on the grounds that it calls for publicly-available Documents or
9 Documents in the possession, custody, and control of defendants. Oracle further objects to this
10 Request on the grounds that it calls for Documents protected by the attorney-client or work
11 product privileges.

12 Subject to and without waiving these objections, Oracle responds that it will search for
13 and produce non-privileged Documents relating to SAP's acquisition of SAP TN, to the extent
14 any such Documents exist.

15 **DOCUMENT REQUEST NO. 75:**

16 All Documents relating to whether, or the extent to which, Oracle's acquisition of
17 PeopleSoft affected Oracle's ability to compete with SAP or others in the "business software
18 applications business," as alleged in paragraph 43 of the Complaint.

19 **RESPONSE TO DOCUMENT REQUEST NO. 75:**

20 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
21 also objects that the Request is overbroad, unduly burdensome, and not reasonably calculated to
22 lead to the discovery of admissible evidence, as Oracle's perception of the effect of the
23 PeopleSoft acquisition on Oracle's ability to compete with SAP or others does not relate to
24 Oracle's claims or defendants' defenses. Requiring Oracle to search for, review, and produce
25 such Documents would be burdensome. Oracle further objects to this Request on the grounds
26 that it calls for Documents protected by the attorney-client or work product privileges.

27 Subject to and without waiving these objections, Oracle responds that it will search for
28 and produce non-privileged Documents from the files of already-identified custodians that relate

1 defendants.

2 **DOCUMENT REQUEST NO. 118:**

3 Pursuant to Rule 34(a)(2) of the Federal Rules of Civil Procedure, a complete set of log-
4 in credentials, and all necessary software (including Change Assistant), sufficient to permit
5 Defendants' counsel, for the sole purpose of defending against Oracle's claims in this litigation,
6 access to inspect Customer Connection and all similar Oracle support websites or FTP sites.

7 **RESPONSE TO DOCUMENT REQUEST NO. 118:**

8 Oracle objects to this Request on the grounds stated in its General Objections. Oracle
9 further objects to this Request on the grounds that it is overbroad and burdensome, as only access
10 to and downloads from Customer Connection are at issue in this litigation. Documents related to
11 Downloads from any other Oracle website are unrelated to this case, and defendants do not need
12 to inspect them in order to defend against Oracle's claims in this litigation. Oracle further
13 objects to this Request on the grounds that it calls for giving defendants' counsel access to
14 Oracle's trade secrets and other proprietary information.

15 Subject to and without waiving these objections, Oracle responds that it will meet and
16 confer with defendants to determine an appropriate way to permit defendants' counsel to inspect
17 Customer Connection.

18 DATED: September 14, 2007

19
20 Bingham McCutchen LLP

21
22 By: 
23 _____
24 Zachary J. Alinder
25 Attorneys for Plaintiffs
26 Oracle Corporation, Oracle USA, Inc., and Oracle
27 International Corporation
28

Exhibit 4

JONES DAY

555 CALIFORNIA STREET, 26TH FLOOR • SAN FRANCISCO, CALIFORNIA 94104
TELEPHONE: (415) 626-3939 • FACSIMILE: (415) 875-5700

Direct Number: (415) 875-5820
jmcdonell@jonesday.com

June 2, 2008

VIA EMAIL

Geoffrey M. Howard, Esq.
Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA 94111-4067

Re: Oracle Corporation, et al. v. SAP AG, et al.

Dear Geoff:

This letter addresses some of the deficiencies in Oracle's production that have come up during our recent discussions on discovery limits. Consistent with your offer to meet and confer further on this subject, I would like to arrange a call this week to discuss them.

1. Damages Documents.

RFP Nos. 65 through 73 request documents sufficient to show Oracle's revenues, pricing, costs, and profit margins relating to support and maintenance. In its written responses, Oracle agreed, subject to certain objections, to produce documents for the PeopleSoft and J.D. Edwards products at issue in the litigation, but not for any other Oracle product. With respect to RFP Nos. 69 and 71, Oracle said that it would limit its response to documents sufficient to show the "support service terms between Oracle and SAP TN customers, as reflected in the relevant software and support license agreements related to legacy PeopleSoft and J.D. Edwards software applications for customers SAP TN has identified as its current and former customers" See Oracle's Supp. Resps. to TN's First Set of RFPs.

RFP No. 79 requests documents relating to Oracle's research and development costs for the PeopleSoft and J.D. Edwards products. Oracle responded that its SEC filings are sufficient to show this information. RFP No. 107 requests documents relating to Oracle's damages claims. Oracle objected on the ground that this was "premature" damages discovery, but agreed to produce documents "sufficient to show Oracle's revenues, costs, and profit margins for support or maintenance services" See Oracle's Resps. to TN's First Set of RFPs. Finally, RFP No. 101 requests documents relating to the cost of Oracle's investigation. Oracle refused to produce this information until "the damages and expert discovery stages of the litigation." *Id.*

In its February 7, 2008 response to Defendants' motion to compel, Oracle listed certain documents it intended to produce, which it contends are sufficient to provide the requested information. *Id.* at 10. Judge Legge ordered those documents produced by May 6. We understand from our conversation on May 21 that Oracle has completed its production of those

SFI-584426v1

Geoffrey M. Howard, Esq.
June 2, 2008
Page 2

documents. We further understand that Oracle continues to maintain that these documents are sufficient to provide the requested information.

We have analyzed the documents produced by Oracle and disagree that they are sufficient to show Oracle's revenues, pricing, costs, and profit margins relating to support and maintenance. With respect to the license agreement files, many of the files are incomplete. For example, for some customers the files contain information concerning the terms of the initial contract and documents indicating that the contract was renewed one or more times, but no documents concerning the terms of the renewal agreement(s). In some instances, there are gaps spanning several years. Often there is no information indicating whether a contract was terminated on or before the scheduled termination date and/or renewed. Undoubtedly, Oracle has financial, accounting, and/or customer relationship management systems capable of generating the information called for by these requests. To force Defendants to try to piece together that information like a jigsaw puzzle from thousands of pages of contract files is improper. This is particularly true where, as here, many pieces of the puzzle are missing.

With respect to the other documents Oracle has produced, it is either incomplete or not sufficiently detailed to provide the requested information. For example, Oracle's Form 10k does not provide the level of detail required to calculate research and development costs for the products at issue, as Oracle contends. Nor are they, or the other high-level financial documents Oracle has produced, sufficient to determine, for example, Oracle's profit margin for these products.

Both Judge Hamilton and Judge Laporte have rejected the notion that damages discovery is premature. Oracle may not, therefore, withhold documents on that ground, including documents responsive to RFP No. 101, to which Oracle objected solely on that basis.¹

In addition to the documents responsive to RFP No. 101, the following is a list of the documents required to respond to the requests discussed herein. We are happy to discuss this list should you require additional explanation for any item. For PeopleSoft's data, we believe the appropriate time period is January 1, 2002 through the date of Oracle's acquisition. For Oracle's data, we believe the appropriate time period is the date of the PeopleSoft acquisition through the present. If you disagree with these proposed time frames, we are happy to meet and confer on the issue:

1. For each customer Oracle contends it lost, documents sufficient to show (a) the name, including version number where applicable, of each PS and JDE product the customer licensed; (b) how long the customer licensed them for; (c) how much per year the customer paid, both for the products and for support and maintenance; and (d) how those amounts were calculated. As noted above, the license agreement files are not sufficient to show this information because they

¹ Nor may it refuse to answer interrogatories on this ground. Interrogatory Nos. 5 and 6 request information concerning Oracle's alleged damages, including identification of customers allegedly lost and amounts charged by Oracle for support and maintenance. Oracle responded by objecting that No. 5 calls for "premature" damages discovery and, for both Nos. 5 and 6, by referring to the license agreement files it has produced. As discussed above, Judge Hamilton and Judge Laporte have made clear that this is an improper objection. In addition, the license agreement files are incomplete and thus insufficient to answer these interrogatories.

Geoffrey M. Howard, Esq.

June 2, 2008

Page 3

are incomplete. To the extent that Oracle has accounting or other systems capable of generating reports containing this information, they should be produced.

2. For both PeopleSoft and Oracle, the chart of accounts showing account names and structure.

3. For Oracle, detail at the general ledger level to support the following categories in its Form 10K: (a) new software license revenues and expenses; (b) software license updates and product support revenues and expenses; (c) consulting revenues and expenses; (d) On Demand revenues and expenses; (e) education revenues and expenses; (f) general and administrative expenses; and (g) research and development expenses.

4. For Oracle, detail at the general ledger level for the following departments: (a) executive; (b) sales; (c) marketing; (d) human resources; (e) finance and accounting; (f) manufacturing; (g) research and development; (h) product support; and (i) retail and distribution.

5. For PeopleSoft, detail at the general ledger level, to support the following categories in its Form 10K: (a) license fee revenues and expenses; (b) maintenance revenues and expenses; (c) professional services revenues and expenses; (d) development and other services revenues and expenses; (e) sales and marketing expenses; (f) product development expenses; and (g) general and administration expenses.

6. For PeopleSoft, detail at the general ledger level for each department.

7. All versions of the PeopleSoft pricing calculator used during the PeopleSoft time period described above. In addition, documents sufficient to show how the prices for JDE products and support and maintenance were calculated during the same time period, and documents sufficient to show how, subsequent to its acquisition of PS, Oracle has calculated the prices for PS and JDE products and support and maintenance.

8. For each product at issue in the litigation, all product lifecycle research, reports, and analyses.

2. Copyright Documents.

RFP Nos. 53 through 62 request documents relating to the creation, authorship, ownership, and registration of the Registered Works. With the exception of No. 61, to which Oracle objected and refused to produce any documents, we understand from our conversation on May 21 that Oracle has produced all documents it intends to produce in response to these requests. However, Oracle's production appears deficient in the following respects:

First, although most if not all the Registered Works listed in the First Amended Complaint ("FAC") purportedly were obtained by Oracle via written assignment, no assignment agreements have been produced. In addition, while the FAC indicates that OIC is the copyright holder and Oracle USA and Oracle Corp. are licensees, no license agreements among or between these entities have been produced. If these assignment and license agreements exist, they should

JONES DAY

Geoffrey M. Howard, Esq.
June 2, 2008
Page 4

be produced. If they do not, we request a representation to that effect. If Oracle contends that they have already been produced, please identify them by Bates number.

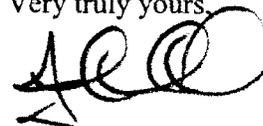
Second, with the exception of the certificates of registration and accompanying deposits, no documents have been produced concerning the creation or authorship of the Registered Works. If Oracle contends that it has produced any other documents responsive to RFP Nos. 53 and 54, including documents identifying the specific individuals involved in the development of the Registered Works, please identify them by Bates number. Similarly, although many of the Registered Works are identified as derivative works, no documents concerning the creation, authorship, or ownership of the works from which they were derived appear to have been produced.

Third, no work for hire agreements have been produced. If such agreements exist, they should be produced. If they do not, we request a representation to that effect. If Oracle contends they have already been produced, please identify them by Bates number.

Fourth, Oracle has not produced the applications for the Registered Works, although those would be responsive to RFP No. 57. In addition, one of the produced cover letters references the "Cumulative Update 6 for JD Edwards World A9.1," but no corresponding registration certificate has been produced.

Finally, Oracle has not produced any documents responsive to these requests for the additional Registered Works identified in its draft second amended complaint. Since Oracle clearly intends to assert claims based on these additional Registered Works, we assume it will agree to supplement its production without the need for an additional document request. Please confirm that Oracle will do so promptly.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. McDonell", written over a horizontal line.

Jason McDonell

cc: Donn P. Pickett, Esq. (via email)
Holly A. House, Esq. (via email)
Zachary J. Alinder, Esq. (via email)
Bree Hann, Esq. (via email)

.

Exhibit 5

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended May 31, 2007

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934

Commission file number: 000-51788

Oracle Corporation

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

54-2185193
(I.R.S. employer
identification no.)

500 Oracle Parkway
Redwood City, California 94065

(Address of principal executive offices, including zip code)

(650) 506-7000

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class
Common Stock, par value \$0.01 per share
Preferred Stock Purchase Rights

Name of Each Exchange on Which Registered
The NASDAQ Stock Market LLC
The NASDAQ Stock Market LLC

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. YES NO

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. YES NO

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES NO

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

Large Accelerated filer

Accelerated filer

Non-accelerated filer

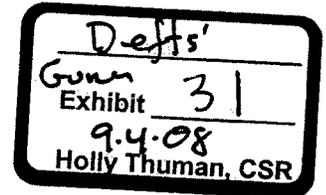
Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). YES NO

The aggregate market value of the voting stock held by non-affiliates of the registrant was \$74,136,594,087 based on the number of shares held by non-affiliates of the registrant as of May 31, 2007, and based on the closing sale price of common stock as reported by the NASDAQ Global Select Market on November 30, 2006, which is the last business day of the registrant's most recently completed second fiscal quarter. This calculation does not reflect a determination that persons are affiliates for any other purposes.

Number of shares of common stock outstanding as of June 25, 2007: 5,113,035,975

Documents Incorporated by Reference:

Part III—Portions of the registrant's definitive proxy statement to be issued in conjunction with registrant's annual stockholders' meeting to be held on November 2, 2007.



ORACLE CORPORATION
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)
May 31, 2007

The following table presents a summary of our businesses and operating segments:

| (in millions) | Year Ended May 31, | | |
|------------------------------------------------------|--------------------|-----------|-----------|
| | 2007 | 2006 | 2005 |
| New software licenses: | | | |
| Revenues ⁽¹⁾ | \$ 5,874 | \$ 4,897 | \$ 4,082 |
| Sales and distribution expenses | 3,326 | 2,638 | 2,055 |
| Margin ⁽²⁾ | \$ 2,548 | \$ 2,259 | \$ 2,027 |
| Software license updates and product support: | | | |
| Revenues ⁽¹⁾ | \$ 8,541 | \$ 7,027 | \$ 5,650 |
| Cost of services | 788 | 673 | 569 |
| Margin ⁽²⁾ | \$ 7,753 | \$ 6,354 | \$ 5,081 |
| Total software business: | | | |
| Revenues ⁽¹⁾ | \$ 14,415 | \$ 11,924 | \$ 9,732 |
| Expenses | 4,114 | 3,311 | 2,624 |
| Margin ⁽²⁾ | \$ 10,301 | \$ 8,613 | \$ 7,108 |
| Consulting: | | | |
| Revenues ⁽¹⁾ | \$ 2,851 | \$ 2,113 | \$ 1,796 |
| Cost of services | 2,384 | 1,787 | 1,471 |
| Margin ⁽²⁾ | \$ 467 | \$ 326 | \$ 325 |
| On Demand: | | | |
| Revenues ⁽¹⁾ | \$ 555 | \$ 398 | \$ 307 |
| Cost of services | 529 | 372 | 274 |
| Margin ⁽²⁾ | \$ 26 | \$ 26 | \$ 33 |
| Education: | | | |
| Revenues ⁽¹⁾ | \$ 387 | \$ 336 | \$ 284 |
| Cost of services | 272 | 235 | 215 |
| Margin ⁽²⁾ | \$ 115 | \$ 101 | \$ 69 |
| Total services business: | | | |
| Revenues ⁽¹⁾ | \$ 3,793 | \$ 2,847 | \$ 2,387 |
| Cost of services | 3,185 | 2,394 | 1,960 |
| Margin ⁽²⁾ | \$ 608 | \$ 453 | \$ 427 |
| Totals: | | | |
| Revenues ⁽¹⁾ | \$ 18,208 | \$ 14,771 | \$ 12,119 |
| Expenses | 7,299 | 5,705 | 4,584 |
| Margin ⁽²⁾ | \$ 10,909 | \$ 9,066 | \$ 7,535 |

⁽¹⁾ Operating segment revenues differ from the external reporting classifications due to certain software license products that are classified as service revenues for management reporting purposes. Additionally, software license updates and product support revenues for management reporting include \$212 million, \$391 million and \$320 million of revenues that we did not recognize in the accompanying consolidated statements of operations for the years ended May 31, 2007, 2006 and 2005, respectively. See Note 6 for an explanation of these adjustments and the following table for a reconciliation of operating segment revenues to total revenues.

⁽²⁾ The margins reported reflect only the direct controllable costs and expenses of each line of business and do not represent the actual margins for each operating segment because they do not contain an allocation of product development, information technology, marketing and partner programs, and corporate and general and administrative expenses incurred in support of the lines of business. Additionally, the margins do not reflect the amortization of intangible assets, restructuring costs, acquisition related costs or stock-based compensation.

Exhibit 6

**EXHIBIT FILED
UNDER SEAL**

Exhibit 7

**EXHIBIT FILED
UNDER SEAL**

Exhibit 8

**EXHIBIT FILED
UNDER SEAL**

Exhibit 9

**EXHIBIT FILED
UNDER SEAL**

Exhibit 10

**EXHIBIT FILED
UNDER SEAL**

Exhibit 11

**EXHIBIT FILED
UNDER SEAL**

Exhibit 12

1 CONFERRED --

2 THE COURT: RIGHT.

3 MR. MCDONELL: -- AND THEY REFUSED TO GIVE THEM TO
4 US. IT'S RIPE FOR A MOTION TO COMPEL.

5 WE SHOULD JUST MAKE THE MOTION.

6 THE COURT: OKAY. AND WHAT IS -- TELL ME MORE ABOUT
7 THESE MOTIONS.

8 MR. MCDONELL: THERE ARE THREE ISSUES.

9 THE COURT: IT'S NOT ONE. IT'S THREE, APPARENTLY.

10 MR. MCDONELL: THERE ARE THREE ISSUES. ONE IS ON
11 FINANCIAL INFORMATION THAT WILL BE USED BY EXPERTS FOR DAMAGES.
12 AND IT'S FUNDAMENTAL, LOW LEVEL DETAILED FINANCIAL INFORMATION,
13 INCLUDING THE CHART OF ACCOUNTS, WHICH IS SIMPLY A LISTING OF
14 THE FORMAL ACCOUNTING ACCOUNTS OF ORACLE CORPORATION AND ITS
15 SUBSIDIARIES THAT GIVE YOU THE BLUE PRINT OF WHAT THE ACCOUNTS
16 ARE CALLED. AND THE OTHER CATEGORIES OF DOCUMENTS ARE ALL
17 VARIATIONS ON A THEME OF GENERAL LEDGER INFORMATION, WHICH
18 ACCOUNTANT WILL TELL YOU IS THE FUNDAMENTAL BUILDING BLOCK OF
19 THE FINANCIAL REPORTING AND RECORDKEEPING OF THE COMPANY.

20 THEY HAVE GIVEN US CERTAIN FINANCIAL INFORMATION.
21 THEY HAVE PROMISED US OTHERS. BUT OUR EXPERT IS BOUND AND
22 DETERMINED THAT HE'S GOING TO NEED THOSE FUNDAMENTAL BUILDING
23 BLOCKS TO DEVELOP WHATEVER ANALYSIS HE'S GOING TO DEVELOP ON
24 DAMAGES.

25 SECONDLY IS ON THE SUBJECT OF THIRD-PARTY SUPPORT. SO

1 TOMORROWNOW WAS A THIRD-PARTY SUPPORT COMPANY. THERE ARE OTHER
2 THIRD-PARTY SUPPORT COMPANIES. WE'VE MADE ANY NUMBER OF
3 ARGUMENTS ABOUT WHY THAT IS RELEVANT, INCLUDING THE POSSIBILITY
4 THAT THIRD-PARTY SUPPORT COULD BE RELEVANT TO THE ISSUE OF
5 CAUSATION OF DAMAGES SO THAT IF A CUSTOMER WAS BOUND AND
6 DETERMINED TO LEAVE ORACLE NO MATTER WHAT, THEY MIGHT NOT ONLY
7 HAVE GONE TO TOMORROWNOW, BUT THEY MIGHT HAVE GONE TO SOME OTHER
8 THIRD-PARTY SUPPORT PROVIDER.

9 AND IF WE CAN ESTABLISH THAT THIS CUSTOMER WOULD HAVE
10 LEFT ORACLE TO SOME THIRD-PARTY SUPPORT PROVIDER, NO MATTER
11 WHAT, WE WILL ARGUE THERE'S A BREAK IN THE CAUSAL LINK.

12 ORACLE, AFTER MUCH FIGHTING AND ARGUING, HAS NOW
13 AGREED TO PRODUCE A 30 (B) (6) WITNESS ON A LIMITED ISSUE OF WHO
14 ARE THE THIRD-PARTY SUPPORT PROVIDERS THAT ARE COMPLETELY
15 INDEPENDENT FROM ORACLE, HAVE NO RELATIONSHIP WITH ORACLE?

16 WE HAVE ASKED FOR OR WE'VE ASKED FOR AT LEAST A
17 FOUNDATIONAL DEPOSITION SO WE CAN EXPLORE AND UNDERSTAND MORE
18 ABOUT THE SO-CALLED ORACLE PARTNERS, WHICH ARE COMPANIES, AS WE
19 UNDERSTAND IT, THAT DO HAVE SOME KIND OF RELATIONSHIP WITH
20 ORACLE AND PROVIDE SUPPORT AND ALL KINDS OF OTHER SERVICES FOR
21 ORACLE CUSTOMERS.

22 THEY HAVE SAID ABSOLUTELY NO ON THE ORACLE PARTNER
23 PROGRAM, NOT EVEN A FOUNDATIONAL DEPOSITION WHICH WE COULD USE
24 AS A SPRINGBOARD TO THEN SAY:

25 "OKAY. WE'VE ESTABLISHED MORE CLEARLY THAT THIS

1 IS AN APPROPRIATE FIELD FOR DISCOVERY. SO WE NEED
2 NOW DOCUMENTS OR OTHER DEPOSITIONS ON THE PARTNERSHIP
3 PROGRAM."

4 THE ISSUE IS JOINED.

5 AND THEN, LASTLY, IS THE SUBJECT OF -- A LITTLE MORE
6 ESOTERIC -- ON COPYRIGHT LAW. BUT, GENERALLY SPEAKING, WE'RE
7 SEEKING MORE DISCOVERY ON WHAT IS COVERED BY ORACLE'S COPYRIGHT
8 REGISTRATIONS; WHAT IS THE OWNERSHIP EVIDENCE OF THE UNDERLYING
9 COPYRIGHTED MATERIAL AND THE SUBJECT OF DERIVATIVE WORKS.

10 THESE ARE RELATIVELY COMPLICATED ISSUES. WE COULD GO
11 INTO THEM NOW, BUT THEY KNOW WHAT WE'RE TALKING ABOUT.

12 **THE COURT:** OKAY.

13 **MS. HOUSE:** GOING IN THE ORDER THAT HE RAISED THEM,
14 ON THE FINANCIAL MATERIALS, WE HAVE ASKED AND WE HAVE YET TO
15 HEAR ANYTHING OTHER THAN:

16 "WE GENERALLY NEED THIS STUFF."

17 THE UNDERLYING CHART OF ACCOUNTS TYPE OF DETAIL -- I
18 DON'T KNOW HOW STEEPED YOU ARE IN THIS TYPE OF --

19 **THE COURT:** NOT LATELY.

20 **MS. HOUSE:** WELL, BE GLAD.

21 **THE COURT:** I'VE OCCASIONALLY BEEN STEEPED IN IT, BUT
22 I DO MY BEST TO DIG MY WAY OUT.

23 **MS. HOUSE:** THERE ARE -- WITHIN ORACLE, THERE'S 80
24 DIFFERENT GENERAL LEDGERS, WHICH ARE LIKE DIFFERENT SETS OF
25 BOOKS THAT ARE KEPT. SO WHEN YOU'RE ASKING FOR A GENERAL LEDGER

1 YOU'RE ASKING FOR AN ENORMOUS SET OF BOOKS.

2 IT'S EVERY LITTLE LINE ITEM DETAIL FOR ALL THE
3 COMPANIES, ALL THE SUBSIDIARIES, EVERYTHING ABOUT ORACLE AT A
4 VERY MINUTE LEVEL.

5 THEY ROLL UP INTO A CONSOLIDATED LEDGER. WE'VE
6 PROVIDED ALL THE CONSOLIDATED SUMMARY RELATED DATA. WE HAVE
7 EXHAUSTIVE DATA THAT WE HAVE PROVIDED THEM THAT IS WHAT WE USE
8 TO, FOR INSTANCE, FIGURE OUT WHAT PROFIT MARGINS AND OTHER
9 THINGS ARE.

10 EACH OF THESE SET OF BOOKS HAS THEIR OWN UNIQUE CHART
11 OF ACCOUNTS. SO IF YOU THINK ABOUT EACH OF THOSE GENERAL LEDGERS
12 OF EIGHTY, THEY EACH HAVE THEIR OWN SEPARATE CHART OF ACCOUNTS
13 WHICH ARE VOLUMINOUS. A SINGLE GENERAL LEDGER, FOR INSTANCE,
14 HOLDS TRANSACTIONS FOR MULTIPLE MONTHS, QUARTERS, YEARS.

15 AND I'VE BEEN TOLD THAT THE U.S. GENERAL LEDGER, FOR
16 INSTANCE, HAS APPROXIMATELY 90,000 ACTIVE ACCOUNT COMBINATIONS
17 WITH BALANCES.

18 THE KIND OF DETAIL THAT THEY ARE ASKING FOR THAT
19 WE'VE SAID:

20 "TELL US WHY YOU NEED TO GET THIS MUCH IN THE
21 WEEDS. YOU DON'T NEED IT. WE DON'T USE IT. YOU
22 DON'T USE IT AT SAP. NOBODY USES THAT LEVEL OF
23 DETAIL. IT WON'T TELL YOU ABOUT A PARTICULAR
24 CUSTOMER."

25 **THE COURT:** OKAY. THIS IS -- YOU'RE ARGUING THE

1 MOTION.

2 **MS. HOUSE:** RIGHT.

3 **THE COURT:** I JUST WANTED TO GET A GENERAL IDEA OF
4 WHAT WE'RE TALKING ABOUT IN NO MORE DETAIL THAN HE JUST GAVE ME,
5 WHICH IS A LOT LESS DETAILED.

6 AND, SECONDLY, WHY YOU'RE OPPOSED TO SETTING A
7 SCHEDULE. THAT'S THE MORE IMPORTANT THING.

8 **MS. HOUSE:** WELL, THE FINANCIAL DATA IS ONE OF THE
9 ONES WHERE WE THINK TARGETED SEARCHES -- AND WE'VE BOTH AGREED
10 THE TARGET SEARCHES ARE THE MOST APPROPRIATE MEANS OF GETTING AT
11 FINANCIAL DATA, AS OPPOSED TO GOING WITH CUSTODIANS.

12 AS AN ONGOING BASIS WE HAVE BEEN DOING TARGETED
13 SEARCHES TO PRODUCE VOLUMINOUS FINANCIAL INFORMATION TO THEM.
14 AND WE'RE EXPECTING TO GET TOMORROW ANOTHER TARGETED SEARCH
15 REQUEST FOR YET MORE FINANCIAL DATA.

16 THE IDEA THAT WE'RE GOING TO HAVE A MOTION TO COMPEL
17 ON THE ADEQUACY OF THE FINANCIAL DATA THAT WE HAVE AGREED OR
18 HAVEN'T AGREED TO PRODUCE WHEN WE HAVEN'T EVEN GOTTEN TO THE
19 TARGETED SEARCH AND HAVE MEET AND CONFER ON THAT, WHEN THERE
20 HASN'T BEEN 30 (B) (6) ON THE PERSON FROM OUR FINANCE DEPARTMENT
21 SEEMS INCREDIBLY PREMATURE TO US. AND WE'RE A LITTLE
22 SUSPICIOUS, BECAUSE IT SEEMS TO BE COMING AT EXACTLY THE TIME
23 THAT WE'RE SUDDENLY OFF IN GERMANY THAT WE MAY BE FACING A
24 MOTION RELATED TO THE SECOND-AMENDED COMPLAINT.

25 THERE'S ABSOLUTELY NO REASON THIS HAS TO HAPPEN NOW.

1 IN FACT, THERE'S A LOT OF GOOD REASON FOR YOU TO WAIT UNTIL THE
2 TARGETED SEARCH BACK AND FORTH IS GONE, UNTIL THE 30 (B) (6) HAS
3 BEEN TAKEN, AND SO THAT YOU HAVE THE FULL RECORD TO UNDERSTAND
4 WHETHER OR NOT WHAT THEY SEEK IS ACTUALLY NECESSARY.

5 **THE COURT:** OKAY. SO THAT'S FINANCIAL. WHAT ABOUT
6 THE COPYRIGHT?

7 **MS. HOUSE:** DO YOU WANT COPYRIGHT OR DO YOU WANT THE
8 PARTNER ONE NEXT?

9 **THE COURT:** THE PARTNER IS FINE.

10 **MS. HOUSE:** THE PARTNER IS ONE THAT WAS ALREADY
11 BEFORE JUDGE LEGGE. THEY HAVE ARGUED THIS, AND THEY HAVE LOST
12 IT. AND HERE WE GO AGAIN. THERE'S A REASON THEY LOST THIS.
13 BECAUSE AS YOU UNDERSTAND, THERE'S PLENTY AT ISSUE IN THIS CASE
14 THAT'S ACTUALLY RELEVANT.

15 THE DIFFERENCE BETWEEN A PARTNER, WHO IS SOMEBODY WHO
16 SELLS ORACLE MATERIALS, WHO HAS A PARTNER RELATIONSHIP, WHO IS
17 NOT AN INDEPENDENT COMPETITOR, WE DON'T SUPPORT ANY INDEPENDENT
18 COMPETITORS. THE NOTION THAT SOMEHOW WE'RE GOING TO OPEN UP A
19 WHOLE NEW VEIN OF DISCOVERY INTO OUR PARTNERSHIP PROGRAM, IN
20 OTHER WORDS, THE PEOPLE WHO AREN'T OFFICIALLY ORACLE COMPANY,
21 BUT PARTNERS THAT WE DEAL WITH TO PROVIDE A VARIETY OF SERVICES,
22 WHETHER IT'S RESELLING THE PRODUCT OR WHETHER IT'S PROVIDING
23 SERVICE TO ORACLE CUSTOMERS WITH A PARTNER AGREEMENT WITH ORACLE
24 WHERE THEY ARE NOT OUR COMPETITORS, THAT'S AN ENTIRE NEW VEIN OF
25 DISCOVERY.

CERTIFICATE OF REPORTER

I, KATHERINE WYATT, THE UNDERSIGNED, HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS WERE REPORTED BY ME, A CERTIFIED SHORTHAND REPORTER, AND WERE THEREAFTER TRANSCRIBED BY ME INTO TYPEWRITING; THAT THE FOREGOING IS A FULL, COMPLETE AND TRUE RECORD OF SAID PROCEEDINGS.

I FURTHER CERTIFY THAT I AM NOT OF COUNSEL OR ATTORNEY FOR EITHER OR ANY OF THE PARTIES IN THE FOREGOING PROCEEDINGS AND CAPTION NAMED, OR IN ANY WAY INTERESTED IN THE OUTCOME OF THE CAUSE NAMED IN SAID CAPTION.

THE FEE CHARGED AND THE PAGE FORMAT FOR THE TRANSCRIPT CONFORM TO THE REGULATIONS OF THE JUDICIAL CONFERENCE.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 4TH DAY OF SEPTEMBER, 2008.

S/S KATHY WYATT

Exhibit 13

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
MAGISTRATE JUDGE ELIZABETH D. LAPORTE

| | |
|-----------------------------------|-------------------|
| ORACLE CORPORATION, a Delaware) | Case No. C07-1658 |
| Corporation; ORACLE, USA, INC.,) | (PJH) |
| a Colorado corporation; and) | |
| ORACLE INTERNATIONAL) | |
| CORPORATION, a California) | |
| corporation,) | |
|) | |
| Plaintiffs,) | |
|) | |
| vs.) | FURTHER DISCOVERY |
|) | CONFERENCE |
|) | |
| SAP AG, a German corporation;) | |
| SAP AMERICA, INC., a Delaware) | |
| corporation; TOMORROWNOW, INC.,) | |
| a Texas corporation; and DOES) | |
| 1-50, Inclusive,) | |
|) | |
| Defendants.) | |
|) | |

January 8, 2009

TRANSCRIPT OF AUDIO RECORDING OF DISCOVERY CONFERENCE

TRANSCRIBED BY: FREDDIE REPPOND

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1 that's completely different from somebody ripping it
2 off. And I don't really think it's the same at all.
3 So that -- but, you know, I think that we are just
4 going to have brief it. But that one does not grab me
5 very much in the first instance.

6 Okay. Then there's this chart of accounts.

7 MR. MCDONELL: Another issue we've talked
8 about time and again, but it seems like it's at
9 loggerheads. I am prepared to file a motion. It all
10 has to do with Oracle's alleged profit margins. So we
11 believe that one of their measures of damages that
12 they're reserving to right to pursue is lost profits.

13 THE COURT: Is that true? I mean is that
14 being preserved -- the right to pursue that?

15 MS. HOUSE: Absolutely. But --

16 MR. MCDONELL: And then we have taken the
17 deposition -- a 30(b)(6) -- of an Oracle witness and
18 asked that witness whether Oracle was to give us their
19 profit margins on their work for PeopleSoft and JD
20 Edwards support. And she said, No, we can't do that.
21 Our expert very much wants now to get to the underlying
22 data to see what expenses seem like that would be
23 relevant to the revenues that pertain to service and
24 try to build his own profit model or analysis. And we
25 have nothing from them that would allow him to do that.

1 So the motion is we get the chart of accounts,
2 which is a list of the types of accounts they have, but
3 we don't want all 80,000 but the general ledger
4 accounts at this time. But we do want that basic
5 blueprint of what the accounts are. Then we will look
6 at them. Then we'll make a follow-up request for the
7 general ledger information that we think is most
8 pertinent for the type of analysis that needs to be
9 done.

10 THE COURT: Okay.

11 MS. HOUSE: We are happy to -- I don't want to
12 take more of your time. We will be ready to oppose
13 this. It's another way I think is going to be akin to
14 just it's a needle-in-a-haystack type of request --

15 THE COURT: Well, they are absolutely entitled
16 to some profit data if you're going to go after lost
17 profits.

18 MS. HOUSE: And they have been given it.
19 They've been given it the way Oracle keeps it, which is
20 exactly the same way SAP keeps it, which is that profit
21 margins are rolled up by lines of business. They're
22 not kept on a product-by-product basis.

23 THE COURT: Well, we'll just have to see, but
24 I mean I would err on the side of giving them what they
25 think they need to have their expert analyze the

1 profits, not what Oracle thinks they need. And as long
2 as it's not completely disproportionate. But, you
3 know, you're seeking millions and millions of dollars
4 for them and you're not giving up on the lost-profit
5 theory and they have the right to challenge it. So
6 exactly how you keep it and how complicated -- I don't
7 know why you wouldn't at least give them the chart of
8 accounts if it's true that that's essentially a list of
9 what you've got. I don't see that -- that's not very
10 burdensome.

11 MS. HOUSE: Hopefully we can convince you when
12 we --

13 THE COURT: Well, I don't know. But, again, I
14 would urge you to -- you might as well disclose what
15 you've got in terms of chart of accounts, because it
16 would be much more concrete for me to look at that and
17 say, Well, why should you get this and not that if they
18 think they should get this and you say, no, they
19 shouldn't. Why?

20 MS. HOUSE: The charts of accounts -- I think
21 this came up before [inaudible]

22 THE COURT: I don't remember.

23 MS. HOUSE: Charts of accounts are extremely
24 voluminous. There's different charts of account for
25 different Oracle entities. They have -- from the

1 STATE OF CALIFORNIA)
 COUNTY OF SAN FRANCISCO)
2

3 CERTIFICATE OF REPORTER/TRANSCRIBER

4 I, the undersigned, a Shorthand Reporter and
5 licensed Notary Public, do hereby certify that the above
6 referenced recording was transcribed by me and that this
7 transcript is a true record of that recording.

8 IN WITNESS WHEREOF I have hereunto set my hand
9 on this 16th day of January, 2009.

10
11 _____
12 FREDDIE REPPOND
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Exhibit 14

Rosenbaum, Briana Lynn

From: Rosenbaum, Briana Lynn
Sent: Friday, February 13, 2009 1:51 PM
To: Jason McDonell
Cc: Howard, Geoff; House, Holly; jfroyd@jonesday.com; Scott Cowan; Hann, Bree; Joshua Fuchs; Wallace, Elaine; Alinder, Zachary J.
Subject: Oracle v. SAP - Charts of Accounts Production

Attachments: ORCL065.zip

Counsel,

This email represents Oracle's status report regarding its efforts to gather and produce charts of accounts. Also, attached to this email is the production of a document Bates numbered ORCL00315852 (production volume ORCL065). This document is designated Highly Confidential under the Protective Order in this case, and will also be sent to you via messenger.

Document ORCL00315852 is Oracle Corporation's consolidated chart of accounts. This is the chart of accounts at a consolidated level and includes all plaintiff companies and Oracle Corporation, as requested by Defendants. Additionally, it includes the consolidated structure for FY05, F06, F07, FY08 & FY09.

In addition to today's production, Oracle will also provide, from Oracle's General Ledger ("GL"), the lowest detail level (primary ledgers) for Oracle USA, Inc., Oracle International Corporation, and Oracle EMEA Limited. These encompass two to three entities within each, and are as of FY09. The data will be provided as soon as possible, and within the previously stated 45 day period. Note, however, that Oracle cannot provide the structure chart of accounts other than FY09 at GL's lowest detail level (primary ledgers). The reason is that the GL is a living structure that includes history and any sub sequential structure changes. To recreate structure to prior time periods, if at all possible, would require significant and prohibitive amounts of resources. In addition, Oracle cannot provide the detail level for Oracle Corporation, since this would be every entity in the company and consist of over 700 entities or company codes.

Regarding historical PSFT and JDE charts of accounts: Oracle has located a copy of both PSFT & JDE application instances. In their instances, Oracle can see a multitude of hierarchies for their chart of accounts structures based on each segment. However, Oracle does not have the institutional knowledge as to how these were used and cannot know if these charts of accounts actually represented the structures reported to the SEC. Nevertheless, although Oracle does not concede the relevance of these accounts, and cannot offer assertions as to what they represent, we will pull these hierarchies and provide them as soon as possible, but no later than the previously stated 45 day period.

Briana



ORCL065.zip (141 KB)

Briana Lynn Rosenbaum
Associate

T 415.393.2288

F 415.393.2286

briana.rosenbaum@bingham.com

B I N G H A M

Bingham McCutchen LLP

Three Embarcadero Center

San Francisco, CA 94111-4067

From: "Rosenbaum, Briana Lynn" [briana.rosenbaum@bingham.com]

Sent: 02/18/2009 04:39 PM PST

To: Jason McDonell

Cc: "Howard, Geoff" <geoff.howard@bingham.com>; "House, Holly" <holly.house@bingham.com>; Jane Froyd; Scott Cowan; "Hann, Bree" <bree.hann@bingham.com>; Joshua Fuchs; Elaine Wallace; "Alinder, Zachary J." <zachary.alinder@bingham.com>

Subject: Oracle v. SAP - Chart of Accounts Production

Counsel,
This email represents an additional status report by Oracle regarding its efforts to gather and produce charts of accounts. Also, attached to this email is a second production of charts of accounts, Bates numbered ORCL00315853 (production volume ORCL066). These documents are designated Highly Confidential under the Protective Order in this case, and will also be sent to you via messenger. Please note that the specific plaintiff Oracle entity is identified in the "path" of the zip file.

With today's production, Oracle has provided the following charts of accounts:

- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY05 (produced on 2/13/09)
- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY06 (produced on 2/13/09)
- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY07 (produced on 2/13/09)
- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY08 (produced on 2/13/09)
- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY09 (produced on 2/13/09)
- The current chart of accounts at the General Ledger ("GL") level for Oracle USA, Inc. (produced today)
- The current chart of accounts at the GL level for Oracle International Corporation (produced today)
- The current chart of accounts at the GL level for Oracle EMEA Limited* (produced today)

*Note that Oracle has been able to provide the Oracle EMEA chart of accounts at the GL level faster than previously anticipated because Oracle EMEA Ltd does not have approximately 56 entities to pull data for (contrary to my email dated February 6). We have since determined that we were looking at the incorrect Oracle entity when we got that information.

In addition to the above productions, Oracle will produce the historical PSFT and JDE charts of accounts from the PSFT & JDE application instances as referred to in my February 13, 2009 email in about two weeks. However, we reiterate (as noted in my February 13, 2009 email), that Oracle does not know enough of the information about PSFT or JDE accounting methods to understand which of these charts (if any) were used for actual reporting to the SEC.

Thank you,
Briana

Briana Lynn Rosenbaum
Associate
T 415.393.2288
F 415.393.2286
briana.rosenbaum@bingham.com

B I N G H A M
Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA 94111-4067



ORCL00315853.zip

Briana Lynn Rosenbaum
Direct Phone: 415.393.2288
Direct Fax: 415.393.2286
briana.rosenbaum@bingham.com

March 11, 2009

Confidential

Via Hand Delivery
Via Email (jmcdonell@jonesday.com)

Jason McDonell, Esq.
Jones Day
555 California Street, 26th Floor
San Francisco, CA 94104

Dear Mr. McDonell:

Enclosed please find Oracle's third production of charts of accounts, Bates numbered ORCL00333861 to ORCL00346119 (production volume ORCL074). These charts of accounts are designated Highly Confidential under the Protective Order in this case.

With today's production, Oracle has provided the following charts of accounts:

- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY05 (produced on 2/13/09)
- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY06 (produced on 2/13/09)
- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY07 (produced on 2/13/09)
- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY08 (produced on 2/13/09)
- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY09 (produced on 2/13/09)
- The current chart of accounts at the General Ledger ("GL") level for Oracle USA, Inc. (produced 2/18/09)
- The current chart of accounts at the GL level for Oracle International Corporation (produced 2/18/09)
- The current chart of accounts at the GL level for Oracle EMEA Limited (produced 2/18/09)
- All historical hierarchies from the JDE application instance (produced today)
- Approximately 200 historical hierarchies from the PSFT application instance* (produced today)

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Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA
94111-4067

T 415.393.2000
F 415.393.2286
bingham.com

Jason McDonell, Esq.
March 11, 2009
Page 2

*Note that the PSFT application instance contains additional hierarchies (approximately 100) that Oracle has not been able to download for technical reasons. Oracle is looking into whether and how this remaining data can be retrieved and will get back to you when we know more.

Finally, as we have explained before, please note that Oracle does not have the knowledge as to how the hierarchies for both JDE & PSFT were used, nor do we know which ones (if any) were used for regulatory requirements.

If you have any questions or concerns about this production, please feel free to contact me at any time.

Sincerely yours,



Briana Lynn Rosenbaum

cc: Joshua Fuchs - Jones Day San Francisco - jlfuchs@jonesday.com
Robert Mittelstaedt - Jones Day San Francisco - ramittelstaedt@jonesday.com
Greg Lanier - Jones Day Silicon Valley - tglanier@jonesday.com
Elaine Wallace - Jones Day San Francisco - ewallace@jonesday.com
Scott Cowan- Jones Day Houston - swcowan@jonesday.com

Via E-mail (without enclosures)

Donn Pickett - Bingham McCutchen, LLP - donn.pickett@bingham.com
Geoffrey Howard - Bingham McCutchen, LLP - geoff.howard@bingham.com
Holly House- Bingham McCutchen, LLP - holly.house@bingham.com
Zachary Alinder- Bingham McCutchen, LLP - zachary.alinder@bingham.com
Bree Hann - Bingham McCutchen, LLP - bree.hann@bingham.com

Nitin Jindal
Direct Phone: 415.393.2046
Direct Fax: 415.393.2286
nitin.jindal@bingham.com

March 26, 2009

Confidential

Via Hand Delivery
Via Email (jmcdonell@jonesday.com)

Jason McDonell, Esq.
Jones Day
555 California Street, 26th Floor
San Francisco, CA 94104

Dear Mr. McDonell:

Enclosed is an additional production of charts of accounts, with Bates numbers ORCL00369334 to ORCL00369533 (production volume ORCL080). These documents are designated Highly Confidential under the protective Order in this case.

With this production, Oracle's production of charts of accounts is complete, and Oracle considers this discovery matter resolved. Oracle has provided the following:

- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY05 (produced on 2/13/09)
- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY06 (produced on 2/13/09)
- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY07 (produced on 2/13/09)
- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY08 (produced on 2/13/09)
- Oracle Corporation consolidated charts of accounts, including all Plaintiff entities, for FY09 (produced on 2/13/09)
- The current chart of accounts at the General Ledger ("GL") level for Oracle USA, Inc. (produced on 2/18/09)
- The current chart of accounts at the GL level for Oracle International Corporation (produced on 2/18/09)
- The current chart of accounts at the GL level for Oracle EMEA Limited* (produced on 2/18/09)
- All historical hierarchies from the JDE application instance (produced on 3/11/2009)
- Approximately 200 historical hierarchies from the PSFT application instance (produced on 3/11/09)
- Chart of Account segments from the PSFT application instance from the remaining PSFT hierarchies (produced today)*

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Santa Monica
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Tokyo
Walnut Creek
Washington

Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA
94111-4067

T 415.393.2000
F 415.393.2286
bingham.com

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Jason McDonell, Esq.
March 26, 2009
Page 2

*Note that the format of the charts of accounts produced today is different from the previously produced charts of accounts. Oracle was able to access this information -- which, as Briana Rosenbaum explained in her 3/11/09 production letter, appeared to be inaccessible -- only through an outdated PSFT reporting mechanism. Accordingly, you'll find that these reports provide the accounts as a list of segments, as opposed to in a hierarchy format.

As we have explained before, Oracle does not have the knowledge as to how the hierarchies and chart of account segments for both JDE & PSFT were used, nor do we know which ones (if any) were used for regulatory requirements.

Sincerely yours,



Nitin Jindal

cc: Via E-mail (without enclosures)

Joshua Fuchs - Jones Day San Francisco - jlfuchs@jonesday.com
Robert Mittelstaedt - Jones Day San Francisco - ramittelstaedt@jonesday.com
Greg Lanier - Jones Day Silicon Valley - tglanier@jonesday.com
Elaine Wallace - Jones Day San Francisco - ewallace@jonesday.com
Scott Cowan - Jones Day Houston - swcowan@jonesday.com

Donn Pickett - Bingham McCutchen, LLP - donn.pickett@bingham.com
Geoffrey Howard - Bingham McCutchen, LLP - geoff.howard@bingham.com
Holly House - Bingham McCutchen, LLP - holly.house@bingham.com
Zachary Alinder - Bingham McCutchen, LLP - zachary.alinder@bingham.com
Bree Hann - Bingham McCutchen, LLP - bree.hann@bingham.com

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Washington

Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA
94111-4067

415.393.2000
415.393.2286
bingham.com