

1 Robert A. Mittelstaedt (SBN 060359)
Jason McDonell (SBN 115084)
2 Elaine Wallace (SBN 197882)
JONES DAY
3 555 California Street, 26th Floor
San Francisco, CA 94104
4 Telephone: (415) 626-3939
Facsimile: (415) 875-5700
5 ramittelstaedt@jonesday.com
jmcdonell@jonesday.com
6 ewallace@jonesday.com

7 Tharan Gregory Lanier (SBN 138784)
Jane L. Froyd (SBN 220776)
8 JONES DAY
1755 Embarcadero Road
9 Palo Alto, CA 94303
Telephone: (650) 739-3939
10 Facsimile: (650) 739-3900
tglanier@jonesday.com
11 jfroyd@jonesday.com

12 Scott W. Cowan (Admitted *Pro Hac Vice*)
Joshua L. Fuchs (Admitted *Pro Hac Vice*)
13 JONES DAY
717 Texas, Suite 3300
14 Houston, TX 77002
Telephone: (832) 239-3939
15 Facsimile: (832) 239-3600
swcowan@jonesday.com
16 jl fuchs@jonesday.com

17 Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
18 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

21 ORACLE USA, INC., et al.,
22 Plaintiffs,
23 v.
24 SAP AG, et al.,
25 Defendants.

Case No. 07-CV-1658 PJH (EDL)

**DECLARATION OF THARAN GREGORY
LANIER ISO DEFENDANTS' FRCP 12(B)(1)
AND 12(B)(6) MOTION TO DISMISS TO**

Date: November 19, 2008; Time: 9:00 a.m.
Courtroom: 3, 17th Floor
Judge: Hon. Phyllis J. Hamilton

26 I, THARAN GREGORY LANIER, declare:

27 I am a partner in the law firm of Jones Day, 1755 Embarcadero Road, Palo Alto,
28

1 California 94303, and counsel of record for Defendants SAP AG, SAP America, Inc. and
2 TomorrowNow, Inc. (collectively, “Defendants”) in the above-captioned action. I am a member
3 in good standing of the state bar of California and admitted to practice before this Court. I make
4 this declaration based on personal knowledge and, if called upon to do so, could testify
5 competently thereto.

6 **History of Plaintiffs’ Amendments to the Complaint**

7 1. Plaintiffs Oracle Corporation (“Oracle Corp.”), Oracle USA, Inc. (“Oracle USA”) and Oracle International Corporation (“OIC”) (collectively, “the Original Plaintiffs”) filed their
8 initial complaint against Defendants on March 22, 2007. *See* D.I. 1.

10 2. On June 1, 2007, the Original Plaintiffs filed their First Amended Complaint
11 (“FAC”). *See* D.I. 31.

12 3. In January 2008, the Original Plaintiffs informed Defendants that they planned to
13 amend the complaint a second time, but could not do so until they had obtained additional
14 copyright registrations.

15 4. At the Case Management Conference in April 2008, the Original Plaintiffs
16 attributed their delay in filing the Second Amended Complaint (“SAC”) to their efforts to obtain
17 additional copyright registrations.

18 5. On July 28, 2008, pursuant to a stipulation, the Original Plaintiffs filed the SAC.
19 *See* D.I. 132. Of the 40 additional copyright registrations identified in the SAC, all of them pre-
20 date the FAC, and all but three pre-date the original complaint.

21 6. On August 28, 2008, after being informed Defendants might respond to the SAC by
22 motion, the Original Plaintiffs informed Defendants that they planned to seek leave to amend
23 again to make “some adjustment to the plaintiff entities currently described in the Second
24 Amended Complaint.” This proposed amendment purportedly followed Plaintiffs’ recent
25 “discovery” of documents relating to ownership of the copyrights-in-suit (“inter-company
26 agreements”) that Defendants have been seeking for more than a year.

27 **History of Plaintiffs’ Production of Their Inter-Company Agreements**

28 7. Defendants first asked the Original Plaintiffs to produce inter-company agreements

1 on July 26, 2007, the day fact discovery opened. The Original Plaintiffs agreed, but as of the fall
2 of 2007, had not done so.

3 8. Defendants raised the Original Plaintiffs' failure to produce the inter-company
4 agreements, as well as other relevant documents, in meet and confer communications in October,
5 November and December 2007, and specifically put the Original Plaintiffs on notice that
6 Defendants may raise legal challenges based on the inter-company agreements. ("We believe that
7 it is not unlikely that the alleged licensing was not handled in the way you have alleged.").

8 9. On January 4, 2008, the Original Plaintiffs again said that they would produce the
9 requested documents but by the end of January, still had not done so.

10 10. On January 28, 2008, Defendants raised the issue in a motion to compel submitted
11 to the Special Discovery Master.

12 11. On February 25, 2008, some seven months after Defendants first requested them,
13 Plaintiffs finally produced a few inter-company agreements. Believing the Original Plaintiffs'
14 production to be incomplete, Defendants continued to meet and confer on the issue.

15 12. On July 22, 2008, a full year after Defendants requested them, the Original
16 Plaintiffs produced several additional inter-company agreements.

17 13. Defendants then asked the Original Plaintiffs to confirm that they had produced all
18 responsive inter-company agreements. The Original Plaintiffs initially refused to give a
19 straightforward answer to that question.

20 14. On August 27, 2008, the Original Plaintiffs admitted "that there may be some
21 additional responsive documents related to inter-company agreements." The very next day,
22 August 28, 2008, the Original Plaintiffs informed Defendants that they planned to seek leave to
23 amend again to make "some adjustment to the plaintiff entities currently described in the Second
24 Amended Complaint" as a result of their "discovery" of additional documents relating to
25 copyright ownership.

26 **The Third Amended Complaint**

27 15. On September 11, 2008, the parties entered into a stipulation regarding the Original
28 Plaintiffs' proposed TAC, pursuant to which the Original Plaintiffs would provide to Defendants

1 a draft TAC and would “make reasonable efforts to complete a supplemental production of
2 documents related to the proposed amendments” by September 29, 2008. *See* D.I. 177.

3 16. On September 29, 2008, the Original Plaintiffs provided SAP with the draft TAC
4 and supplemental production described in the stipulation. The supplemental production consisted
5 of additional copyright-related materials and inter-company agreements.

6 17. On October 6, 2008, Defendants stipulated to filing of the TAC, and the Plaintiffs
7 filed the TAC on October 8, 2008. *See* D.I. 182.

8 18. At the October 10, 2008 Discovery Conference, Plaintiffs’ counsel confirmed that
9 Plaintiffs had produced all agreements for the Plaintiffs named in the TAC related to the
10 ownership of and rights to the copyrights in issue. *See* Reporter’s Transcript of October 10, 2008
11 Discovery Conference Before: Hon. Elizabeth D. Laporte, pp. 1, 61-63, attached as Exhibit 9.

12 **Exhibits Attached to This Declaration**

13 19. Attached as Exhibit 1 is a true and correct copy of the June 4, 1998 Research and
14 Development Cost Sharing Agreement by and among J.D. Edwards World Source Company, J.D.
15 Edwards Europe Ltd., and J.D. Edwards (Singapore) Pte. Ltd. *See* ORCL00182315–332.

16 20. Attached as Exhibit 2 is a true and correct copy of the Oracle/Ozark Contribution,
17 Assignment and Assumption Agreement, dated January 31, 2006, between Oracle Corporation
18 and Ozark Holding Inc. *See* ORCL00182293–302.

19 21. Attached as Exhibit 3 is a true and correct copy of the March 1, 2005
20 PeopleSoft/JDE LLC OIC Asset Transfer Agreement between Oracle Corporation, Oracle
21 International Corporation, PeopleSoft, Inc. and J.D. Edwards & Company, LLC. *See*
22 ORCL00043702–707.

23 22. Attached as Exhibit 4 is a true and correct copy of the March 1, 2005 OIC Asset
24 Transfer Agreement by and among Oracle Corporation, Oracle International Corporation,
25 PeopleSoft, Inc. and J.D. Edwards & Co., LLC, J.D. Edwards YOUCentric and J.D. Edwards
26 World Source Company. *See* ORCL00043708–713.

27 23. Attached as Exhibit 5 is a true and correct copy of the “Customer Connection Terms
28 of Use.” *See* ORCL00051977–78.

EXHIBIT 1

1 Robert A. Mittelstaedt (SBN 060359)
Jason McDonell (SBN 115084)
2 Elaine Wallace (SBN 197882)
JONES DAY
3 555 California Street, 26th Floor
San Francisco, CA 94104
4 Telephone: (415) 626-3939
Facsimile: (415) 875-5700
5 ramittelstaedt@jonesday.com
jmcdonell@jonesday.com
6 ewallace@jonesday.com

7 Tharan Gregory Lanier (SBN 138784)
Jane L. Froyd (SBN 220776)
8 JONES DAY
1755 Embarcadero Road
9 Palo Alto, CA 94303
Telephone: (650) 739-3939
10 Facsimile: (650) 739-3900
tglanier@jonesday.com
11 jfroyd@jonesday.com

12 Scott W. Cowan (Admitted *Pro Hac Vice*)
Joshua L. Fuchs (Admitted *Pro Hac Vice*)
13 JONES DAY
717 Texas, Suite 3300
14 Houston, TX 77002
Telephone: (832) 239-3939
15 Facsimile: (832) 239-3600
swcowan@jonesday.com
16 jlfuchs@jonesday.com

17 Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
18 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SAN FRANCISCO DIVISION

22 ORACLE USA, INC., *et al.*,
23 Plaintiffs,
24 v.
25 SAP AG, *et al.*,
26 Defendants.

CASE NO. 07-CV-1658 PJH (EDL)

**EXHIBIT 1: RESEARCH AND
DEVELOPMENT COST SHARING
AGREEMENT BY AND AMONG J.D.
EDWARDS WORLD SOURCE
COMPANY, J.D. EDWARDS EUROPE
LTD., AND J.D. EDWARDS
(SINGAPORE) PTE. LTD.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MANUAL FILING NOTIFICATION

Regarding: EXHIBIT 1 to the DECLARATION OF THARAN GREGORY LANIER

This filing is in paper or physical form only, and is being maintained in the case

file in the Clerk's office. If you are a participant in this case, this filing will be served in hard-copy shortly. For information on retrieving this filing directly from the court, please see the court's main web site at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

This filing was not efiled for the following reason(s):

Voluminous Document (PDF file size larger than the efileing system allows)

Unable to Scan Documents

Physical Object (description): _____

Non-Graphic/Text Computer File (audio, video, etc.) on CD or other media

Item Under Seal

Conformance with the Judicial Conference Privacy Policy (General Order 53).

Other (description): _____

EXHIBIT 2

1 Robert A. Mittelstaedt (SBN 060359)
Jason McDonell (SBN 115084)
2 Elaine Wallace (SBN 197882)
JONES DAY
3 555 California Street, 26th Floor
San Francisco, CA 94104
4 Telephone: (415) 626-3939
Facsimile: (415) 875-5700
5 ramittelstaedt@jonesday.com
jmcdonell@jonesday.com
6 ewallace@jonesday.com

7 Tharan Gregory Lanier (SBN 138784)
Jane L. Froyd (SBN 220776)
8 JONES DAY
1755 Embarcadero Road
9 Palo Alto, CA 94303
Telephone: (650) 739-3939
10 Facsimile: (650) 739-3900
tglanier@jonesday.com
11 jfroyd@jonesday.com

12 Scott W. Cowan (Admitted *Pro Hac Vice*)
Joshua L. Fuchs (Admitted *Pro Hac Vice*)
13 JONES DAY
717 Texas, Suite 3300
14 Houston, TX 77002
Telephone: (832) 239-3939
15 Facsimile: (832) 239-3600
swcowan@jonesday.com
16 jlfuchs@jonesday.com

17 Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
18 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SAN FRANCISCO DIVISION

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

23 Plaintiffs,

24 v.

25 SAP AG, *et al.*,

26 Defendants.
27

CASE NO. 07-CV-1658 PJH (EDL)

**EXHIBIT 2: ORACLE/OZARK
CONTRIBUTION, ASSIGNMENT AND
ASSUMPTION AGREEMENT**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MANUAL FILING NOTIFICATION

Regarding: EXHIBIT 2 to the DECLARATION OF THARAN GREGORY LANIER

This filing is in paper or physical form only, and is being maintained in the case

file in the Clerk's office. If you are a participant in this case, this filing will be served in hard-copy shortly. For information on retrieving this filing directly from the court, please see the court's main web site at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

This filing was not efiled for the following reason(s):

Voluminous Document (PDF file size larger than the efileing system allows)

Unable to Scan Documents

Physical Object (description): _____

Non-Graphic/Text Computer File (audio, video, etc.) on CD or other media

Item Under Seal

Conformance with the Judicial Conference Privacy Policy (General Order 53).

Other (description): _____

EXHIBIT 3

1 Robert A. Mittelstaedt (SBN 060359)
Jason McDonell (SBN 115084)
2 Elaine Wallace (SBN 197882)
JONES DAY
3 555 California Street, 26th Floor
San Francisco, CA 94104
4 Telephone: (415) 626-3939
Facsimile: (415) 875-5700
5 ramittelstaedt@jonesday.com
jmcdonell@jonesday.com
6 ewallace@jonesday.com

7 Tharan Gregory Lanier (SBN 138784)
Jane L. Froyd (SBN 220776)
8 JONES DAY
1755 Embarcadero Road
9 Palo Alto, CA 94303
Telephone: (650) 739-3939
10 Facsimile: (650) 739-3900
tglanier@jonesday.com
11 jfroyd@jonesday.com

12 Scott W. Cowan (Admitted *Pro Hac Vice*)
Joshua L. Fuchs (Admitted *Pro Hac Vice*)
13 JONES DAY
717 Texas, Suite 3300
14 Houston, TX 77002
Telephone: (832) 239-3939
15 Facsimile: (832) 239-3600
swcowan@jonesday.com
16 jlfuchs@jonesday.com

17 Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
18 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SAN FRANCISCO DIVISION

22 ORACLE USA, INC., *et al.*,
23 Plaintiffs,
24 v.
25 SAP AG, *et al.*,
26 Defendants.

CASE NO. 07-CV-1658 PJH (EDL)

**EXHIBIT 3: PEOPLESOFT/JDE LLC
OIC ASSET TRANSFER AGREEMENT
BETWEEN ORACLE CORPORATION,
ORACLE INTERNATIONAL
CORPORATION, PEOPLESOFT, INC.
AND J.D. EDWARDS & COMPANY,
LLC.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MANUAL FILING NOTIFICATION

Regarding: EXHIBIT 3 to the DECLARATION OF THARAN GREGORY LANIER

This filing is in paper or physical form only, and is being maintained in the case

file in the Clerk's office. If you are a participant in this case, this filing will be served in hard-copy shortly. For information on retrieving this filing directly from the court, please see the court's main web site at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

This filing was not efiled for the following reason(s):

Voluminous Document (PDF file size larger than the efileing system allows)

Unable to Scan Documents

Physical Object (description): _____

Non-Graphic/Text Computer File (audio, video, etc.) on CD or other media

Item Under Seal

Conformance with the Judicial Conference Privacy Policy (General Order 53).

Other (description): _____

EXHIBIT 4

1 Robert A. Mittelstaedt (SBN 060359)
Jason McDonell (SBN 115084)
2 Elaine Wallace (SBN 197882)
JONES DAY
3 555 California Street, 26th Floor
San Francisco, CA 94104
4 Telephone: (415) 626-3939
Facsimile: (415) 875-5700
5 ramittelstaedt@jonesday.com
jmcdonell@jonesday.com
6 ewallace@jonesday.com

7 Tharan Gregory Lanier (SBN 138784)
Jane L. Froyd (SBN 220776)
8 JONES DAY
1755 Embarcadero Road
9 Palo Alto, CA 94303
Telephone: (650) 739-3939
10 Facsimile: (650) 739-3900
tglanier@jonesday.com
11 jfroyd@jonesday.com

12 Scott W. Cowan (Admitted *Pro Hac Vice*)
Joshua L. Fuchs (Admitted *Pro Hac Vice*)
13 JONES DAY
717 Texas, Suite 3300
14 Houston, TX 77002
Telephone: (832) 239-3939
15 Facsimile: (832) 239-3600
swcowan@jonesday.com
16 jlfuchs@jonesday.com

17 Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
18 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SAN FRANCISCO DIVISION

22 ORACLE USA, INC., *et al.*,
23 Plaintiffs,
24 v.
25 SAP AG, *et al.*,
26 Defendants.

CASE NO. 07-CV-1658 PJH (EDL)

**EXHIBIT 4: OIC ASSET TRANSFER
AGREEMENT BY AND AMONG
ORACLE CORPORATION, ORACLE
INTERNATIONAL CORPORATION,
PEOPLESOFT, INC. AND J.D.
EDWARDS & CO., LLC, J.D.
EDWARDS YOUCENTRIC AND J.D.
EDWARDS WORLD SOURCE
COMPANY.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MANUAL FILING NOTIFICATION

Regarding: EXHIBIT 4 to the DECLARATION OF THARAN GREGORY LANIER

This filing is in paper or physical form only, and is being maintained in the case

file in the Clerk's office. If you are a participant in this case, this filing will be served in hard-copy shortly. For information on retrieving this filing directly from the court, please see the court's main web site at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

This filing was not efiled for the following reason(s):

Voluminous Document (PDF file size larger than the efileing system allows)

Unable to Scan Documents

Physical Object (description): _____

Non-Graphic/Text Computer File (audio, video, etc.) on CD or other media

Item Under Seal

Conformance with the Judicial Conference Privacy Policy (General Order 53).

Other (description): _____

EXHIBIT 5

CUSTOMER CONNECTION TERMS OF USE

Introduction

By using the Oracle Customer Connection Web-based technical support service ("Customer Connection"), Customer (hereinafter "you") agree to the following terms and conditions ("Customer Connection Terms of Use"), and to the [Oracle.com Terms of Use](#), including without limitation Oracle's policies regarding use of Oracle's Trademarks and Logos; Use of Forums and Public Communications; and Third Party Web Sites, Content and Services. These terms supplement the terms of your licensing or distribution agreement with Oracle and the terms of Oracle's Technical Support Policies. In the event of a conflict between either your licensing or distribution agreement or the Oracle.com Terms of Use and the following terms, the terms below will control your use of and access to Customer Connection.

Through Customer Connection, you have access to various software/programs and other materials made available by Oracle now and in the future, including but not limited to bulletins, white papers, and other technical publications; information on product certification, product availability, and product desupport; the Oracle Bug Database; Support Cases that you have submitted; software patches; bulletin board and forum messages; and hyperlinks to Web sites not controlled by Oracle (the "Materials").

You agree that access to Customer Connection, including access to the Support Case function, will be granted only to your designated Oracle technical support contacts and that the Materials may be used solely in support of your authorized use of the Oracle Programs for which you hold a supported license from Oracle. Unless specifically provided in your licensing or distribution agreement with Oracle, the Materials may not be used to provide services for or to third parties and may not be shared with or accessed by third parties.

WARRANTIES AND DISCLAIMERS

THE INFORMATION, SOFTWARE, PRODUCTS AND SERVICES CONTAINED IN CUSTOMER CONNECTION MAY BE OUT OF DATE OR INCLUDE OMISSIONS, INACCURACIES OR OTHER ERRORS. THE INFORMATION, SOFTWARE, PRODUCTS AND SERVICES CONTAINED IN CUSTOMER CONNECTION, INCLUDING THE MATERIALS, ARE PROVIDED "AS IS" AND WITHOUT WARRANTY. ORACLE DOES NOT WARRANT THAT THE INFORMATION IN THE MATERIALS IS UP TO DATE OR ERROR-FREE, NOR DOES IT PROVIDE ANY OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED IN LAW, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE MATERIALS ARE NOT A PROGRAM OR DOCUMENTATION UNDER THE TERMS OF YOUR LICENSE AGREEMENT(S) WITH ORACLE.

IN NO EVENT SHALL ORACLE BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA OR USE, INCURRED BY YOU OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, ARISING FROM YOUR ACCESS TO, OR USE OF, CUSTOMER CONNECTION OR ANY OTHER HYPERLINKED WEB SITE.

NOTWITHSTANDING THE FOREGOING, ORACLE'S RESPONSES TO SUPPORT CASES AND ANY PROGRAM UPDATES DISTRIBUTED THROUGH CUSTOMER CONNECTION ARE SUBJECT TO THE RELEVANT WARRANTIES AND EXCLUSIVE REMEDIES STATED IN THE LICENSING OR DISTRIBUTION AGREEMENT BETWEEN YOU AND ORACLE.

ORACLE RESERVES THE RIGHT TO MAKE CHANGES OR UPDATES TO CUSTOMER CONNECTION, THE MATERIALS, AND/OR THE PRODUCTS OR PROGRAMS DESCRIBED IN CUSTOMER CONNECTION AT ANY TIME WITHOUT NOTICE.

Confidentiality

Except for information in Web sites controlled by third parties that are accessible via hyperlinks from Customer Connection, the information contained in the Materials is the confidential proprietary information of Oracle. You may not use, disclose, reproduce, transmit, or otherwise copy in any form or by any means the information contained in the Materials for any purpose, other than to support your authorized use of the Oracle Programs for which you hold a supported license from Oracle, without the prior written permission of Oracle. Oracle will take reasonable measures to keep third parties from obtaining unauthorized access to Support Cases that you submit using Customer Connection; however, Oracle does not guarantee that third parties will not have access to any information, comments, feedback, or materials that you submit to Oracle through or in association with Customer Connection.

Forums and Hyperlinks

Customer Connection may contain newsgroups, forums, bulletin boards, or other public forums ("Forums"). Oracle does not endorse (and has not necessarily reviewed) any communication made by any person (including Oracle employees) in any Forum. Customer Connection may contain hyperlinks to Web sites controlled by parties other than Oracle. Oracle is not responsible for and does not endorse the contents or use of these Web sites.

Export Compliance

You agree that you will comply with all United States export laws and that none of the information in the Materials will be exported, directly or indirectly, in violation of such laws.

Materials and Customer Connection Terms of Use Subject To Change Without Notice

The contents of the Materials are subject to frequent change without notice. As well, the Customer Connection Terms of Use may change without notice, and you agree to abide by the Customer Connection Terms of Use in effect each time that you access Customer Connection.

Right to Revoke and Monitor Access

Oracle retains the right to revoke access to the Materials at any time for any reason. Access to Customer Connection may be monitored by Oracle.

Oracle Corporation
World Headquarters
500 Oracle Parkway
Redwood Shores, CA 94065
USA
Worldwide Inquiries:
Phone (+1) 650.506.7000
Fax (+1) 650.506.7200

EXHIBIT 6

1. Introduction and Acceptance of Special Terms of Use. This Special Terms of Use apply to access and use of certain protected and secured areas of our web site ("Secured Website"), such as Customer Connection, Partner Connection and Supplier Connection, and are in addition to our Terms of Use. By using a Secured Website, you are agreeing to accept and comply with these additional terms and conditions below ("Special Terms of Use"). Please note that PeopleSoft may update Special Terms of Use at any time without notice. You should visit this page periodically to review our Special Terms of Use that are in effect during your visit of our Secured Website.

2. Secured Website. A Secured Website is an on-line, self-service system, which features postings (a) by PeopleSoft of notes and maintenance releases and fixes to its software; and (b) by PeopleSoft and its customers regarding technical and non-technical topics of interest. PeopleSoft may publish and distribute through its Secured Website in all languages and in association with customer's, partner's or supplier's name, any material or software programs provided or posted on a Secured Website by such customer, partner or supplier. PeopleSoft reserves the right to modify information posted to its Secured Website, at its sole discretion.

3. Access and Use of Secured Website. Your access to a Secured Website is permitted via your personal username and password and your use is governed under a separate agreement between you or your employer and PeopleSoft. All information specified and materials posted in a Secured Website by PeopleSoft are CONFIDENTIAL and PROPRIETARY to PeopleSoft and its licensors and shall only be used in connection with (i) the use of PeopleSoft software; and (ii) informational communications with other PeopleSoft customers, partners or suppliers. Use of such CONFIDENTIAL and PROPRIETARY information and materials for any other purpose is strictly prohibited. You shall not use a Secured Website for advertising or public relations purposes. Furthermore, you shall only submit information to a Secured Website, which is owned by you or your employer and to which your employer has given you the permission or has third party permission to submit such information to a Secured Website for use by all other PeopleSoft customers, partners and suppliers.

4. Maintenance of Secured Website. In the interest of diminishing exposure to software viruses, PeopleSoft tests and scans for software viruses prior to submission of information to its Secured Website. You shall also use a reliable virus detection system for any material or information posted to any Secured Website, utilize back-up procedures, notify PeopleSoft of any virus detected within your systems associated with any Secured Website and generally exercise a reasonable degree of caution when accessing and using any Secured Website. PeopleSoft does not warrant that its Secured Website will operate without interruption or without errors. PeopleSoft assumes no responsibility for anything posted by anyone other than PeopleSoft, including, but not limited to, information about PeopleSoft software or modification code or portions thereof. PeopleSoft reserves the right to modify or suspend your access to any Secured Website if it determines that your access and/or use of such Secured Website is in violation of its Privacy Policy, Terms of Use or Special Terms of Use.

5. General. If you have any questions regarding the Special Terms of Use, please contact PeopleSoft at legaldepartment@peoplesoft.com. For other general questions regarding a Secured Website, please go to our Contact Us page.

EXHIBIT 7

Legal Disclaimer

Any software that is made available to download from this server ("Software") is the copyrighted work of PeopleSoft, Inc. ("PeopleSoft") and/or its affiliates or suppliers. All use and distribution of the Software is governed by the terms of the software license agreement that is in effect between you and PeopleSoft ("License Agreement"). The Software is part of the Licensed Products under the License Agreement. The Software is made available for downloading solely for use by licensed end users according to the License Agreement. Any reproduction or redistribution of the Software not in accordance with the License Agreement is expressly prohibited.

WITHOUT LIMITING THE FOREGOING, COPYING OR REPRODUCTION OF THE SOFTWARE TO ANY OTHER SERVER OR LOCATION FOR FURTHER REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED.

YOU UNDERSTAND THAT THERE ARE THREATS KNOWN AS SOFTWARE VIRUSES AS WELL AS OTHER HARMFUL CODE. YOU FURTHER UNDERSTAND AND AGREE THAT THE NETWORK OVER WHICH YOU ARE DOWNLOADING THE SOFTWARE IS NOT SECURE, THAT THE SOFTWARE YOU ARE DOWNLOADING MAY BE CORRUPTED OR HAVE VIRUSES OR OTHER HARMFUL CODE INTRODUCED INTO IT, AND THAT PEOPLESOFT HAS NEITHER CONTROL NOR RIGHT OF CONTROL OVER THE NETWORK.

THE SOFTWARE IS WARRANTED, IF AT ALL, ONLY ACCORDING TO THE TERMS OF THE LICENSE AGREEMENT.

EXHIBIT 8

TERMS OF USE

Please read the following agreement. You may then accept or decline these terms by selecting one of the buttons at the bottom of the page.

LICENSING AGREEMENT

Your username and password are provided to you for your sole use in accessing this Server and are confidential information subject to your existing confidentiality agreement with Oracle | PeopleSoft. If you do not have a confidentiality agreement in effect with Oracle | PeopleSoft, you are hereby notified that your username and password are confidential information and may only be distributed to persons within your organization who have a legitimate business purpose for accessing the materials contained on this server in furtherance of your relationship with Oracle | PeopleSoft.

SOFTWARE UPDATES

Any software that is made available to download from this server ("Software") is the copyrighted work of Oracle | PeopleSoft and/or its affiliates or suppliers. All Software is confidential information of Oracle | PeopleSoft and its use and distribution is governed by the terms of the software license agreement that is in effect between you and Oracle | PeopleSoft ("License Agreement"). The Software is part of the Licensed Products under the License Agreement and may only be downloaded if a valid License Agreement is in place between you and Oracle | PeopleSoft. The Software is made available for downloading solely for use by licensed end users according to the License Agreement and any reproduction or redistribution of the Software not in accordance with the License Agreement is expressly prohibited.

WITHOUT LIMITING THE FOREGOING, COPYING OR REPRODUCTION OF THE SOFTWARE TO ANY OTHER SERVER OR LOCATION FOR FURTHER REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED. YOU UNDERSTAND THAT THERE ARE THREATS KNOWN AS SOFTWARE VIRUSES AS WELL AS OTHER HARMFUL CODE. YOU FURTHER UNDERSTAND AND AGREE THAT THE NETWORK OVER WHICH YOU ARE DOWNLOADING THE SOFTWARE IS NOT SECURE, THAT THE SOFTWARE YOU ARE DOWNLOADING MAY BE CORRUPTED OR HAVE VIRUSES OR OTHER HARMFUL CODE INTRODUCED INTO IT, AND THAT PEOPLESOFT HAS NEITHER CONTROL NOR RIGHT OF CONTROL OVER THE NETWORK. THE SOFTWARE IS WARRANTED, IF AT ALL, ONLY ACCORDING TO THE TERMS OF THE LICENSE AGREEMENT.

U.S. GOVERNMENT ACQUISITION

This Section applies to all of this Server by or for the U.S. Federal Government. By your use, you accept and agree that the Software and any Documents qualifies as "Commercial Computer Software" and "Commercial Computer Software Documentation" respectively within the meaning of the applicable acquisition regulation(s). The terms and conditions of this Terms of Use shall pertain to the Federal Government's use and disclosure of Software and Documents from this Server, and shall supersede any conflicting contractual terms or conditions. If you do not agree that the Software qualifies as Commercial Computer Software, or if these Terms of Use are inconsistent in any respect with Federal procurement law, you agree to return any downloaded Software and Documents, unused, to Oracle | PeopleSoft. The following additional

statement applies only to procurements governed by DFARS Subpart 227.4 (1988): "Restricted Rights - Use, duplication and disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 (1988).

DOCUMENTS

Permission to use Documents (such as white papers, press releases, product or upgrade announcements, software action requests, datasheets and FAQs) from this server ("Server") is granted, provided that (1) the below copyright notice appears in all copies and that both the copyright notice and this permission notice appear, (2) use of such Documents from this Server is for informational and non-commercial or personal use only and will not be copied or posted on any network computer or broadcast in any media, and (3) no modifications of any Documents are made. Use for any other purpose is expressly prohibited.

Documents specified above do not include the design or layout of the Oracle | PeopleSoft website or any other Oracle | PeopleSoft owned, operated, licensed or controlled site. Elements of Oracle | PeopleSoft websites are protected by trade dress and other laws and may not be copied or imitated in whole or in part. No logo, graphic, sound or image from any Oracle | PeopleSoft website may be copied or retransmitted unless expressly permitted by Oracle | PeopleSoft. PEOPLESOFT AND/OR ITS RESPECTIVE SUPPLIERS MAKE NO REPRESENTATIONS ABOUT THE SUITABILITY OF THE INFORMATION CONTAINED IN THE DOCUMENTS PUBLISHED ON THIS SERVER FOR ANY PURPOSE. ALL SUCH DOCUMENTS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. PEOPLESOFT AND/OR ITS RESPECTIVE SUPPLIERS HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH REGARD TO THIS INFORMATION, INCLUDING ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. IN NO EVENT SHALL PEOPLESOFT AND/OR ITS RESPECTIVE SUPPLIERS BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA OR PROFITS, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTIOUS ACTION, ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF INFORMATION AVAILABLE FROM THIS SERVER. THE DOCUMENTS PUBLISHED ON THIS SERVER COULD INCLUDE TECHNICAL INACCURACIES OR TYPOGRAPHICAL ERRORS. ALWAYS BACK UP YOUR APPLICATIONS AND DATA PRIOR TO USING ANY OF THE DOCUMENTS OR INFORMATION CONTAINED THEREIN. CHANGES ARE PERIODICALLY ADDED TO THE INFORMATION HEREIN. PEOPLESOFT AND/OR ITS RESPECTIVE SUPPLIERS MAY MAKE IMPROVEMENTS AND/OR CHANGES IN THE PRODUCT(S) AND/OR THE PROGRAM(S) DESCRIBED HEREIN AT ANY TIME.

EXHIBIT 9

TRANSCRIPTION OF DISCOVERY CONFERENCE 10/10/08

Page 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE CORPORATION, et al.,

Plaintiffs,

vs.

No. C07-1658 PJH (EDL)

SAP AG, et al.,

Defendants.

REPORTER'S TRANSCRIPTION OF DISCOVERY CONFERENCE

BEFORE: HON. ELIZABETH D. LAPORTE

Friday, October 10, 2008

Reported by:
CLAUDIA A. BETTUCCHI
CSR No. 12214

JOB No. 98424

1 is right for us to negotiate a briefing schedule.

2 THE COURT: Okay.

3 MR. McDONELL: There is one issue that we
4 think could be addressed now. Very narrow. There is a
5 third amended complaint that is brand new. It changes
6 the parties to the case so Oracle corporation is out,
7 other Oracle authorities are in. And it rejiggers who
8 owns copyrights in a way that we can't quite understand.
9 And all of that is contingent on how the various Oracle
10 affiliates have intercompany agreements by which they
11 license copyrights.

12 All we are asking for is a statement by the
13 plaintiffs that they have now produced all of the
14 relevant intercompany licensing agreements so that we
15 know we are no longer shooting at a moving target. And
16 thus far they have declined to confirm or deny, as far
17 as I know.

18 MR. HOWARD: Well, I don't agree with the
19 characterization of the complaint. I think the
20 ownership allegations are the same as they were in the
21 prior versions of the complaint. But we have produced
22 all of the documents that we believe support the
23 allegations of the complaint and demonstrate the
24 ownership or otherwise the copyright standing of each of
25 those plaintiffs that are in the current third amended

1 complaint.

2 THE COURT: Okay. But you are asking for a --
3 and I think a declaration of a person most knowledgeable
4 as to what?

5 MR. McDONELL: No, I'm willing to take
6 counsel's representation here on the record that they
7 have now produced all of the intercompany license
8 agreements that substantiate which of the entities have
9 copyrights rights. And I think counsel, as I heard him,
10 said they have now been produced.

11 MR. HOWARD: Yes. The -- I'm not sure what
12 copyrights rights are. We've alleged that one of the
13 plaintiffs owns the copyrights and other plaintiff have
14 claims of the copyrights. And we have indeed produced
15 all of the documents that substantiate those allegations
16 in the complaint.

17 THE COURT: Okay. Have you produced all of
18 the intercompany agreements that relate to any of the
19 copyrighted material that is the subject of the
20 complaint?

21 MR. HOWARD: The reason I'm hesitating, Your
22 Honor, is because there are a lot of entities and a lot
23 of intercompany agreements. But what I am confident of
24 is that we have produced all of the intercompany
25 agreements that are relevant to determining the

1 ownership or other copyright standing of the named
2 plaintiffs with respect to each of the copyright
3 registrations that are identified in the complaint as
4 the registered works at issue in the case.

5 MR. McDONELL: Then we'll rely on that --

6 THE COURT: Okay.

7 MR. McDONELL: -- for present purposes.

8 THE COURT: All right.

9 MR. McDONELL: I think what he's saying is
10 that they have produced all of --

11 THE COURT: It sounds like it's sufficient to
12 show as opposed to everything possible, but that is
13 normally a good approach.

14 MR. McDONELL: Sufficient to show who owned
15 what and when they owned it.

16 THE COURT: And that's --

17 MR. McDONELL: We'll rely on that.

18 THE COURT: Yes, but let's just -- so on the
19 mo- -- you were anticipating a motion to compel with
20 documents related to potential new plaintiffs? Is that
21 what this boils down to?

22 MR. McDONELL: It's a little -- it's a little
23 different issue, and I think we've got that worked out
24 by agreement. We didn't want to have to start --

25 THE COURT: Right.