



Department of Justice

**United States Attorney Melinda Haag
Northern District of California**

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WWW.USDOJ.GOV/USAO/CAN
d@usdoj.gov

CONTACT: JACK GILLUND
(415) 436-

Jack.Gillund

**TOMORROWNOW, INC., SENTENCED ON
COMPUTER INTRUSION AND COPYRIGHT INFRINGEMENT CHARGES**

Company Agrees to Pay \$20 Million Fine

OAKLAND, Calif. – TomorrowNow, Inc., a non-operating subsidiary of SAP, today was sentenced to probation and ordered to pay a fine to the United States of \$20 million for unauthorized access to computer servers belonging to Oracle Corporation (Oracle) and for willfully infringing copyrights held by Oracle, United States Attorney Melinda Haag announced.

Through a corporate representative, TomorrowNow entered its guilty pleas to the unauthorized access and criminal copyright infringement charges immediately before sentencing. The sentence was handed down by United States District Judge Phyllis J. Hamilton in Oakland.

TomorrowNow, which was headquartered in Bryan, Texas, provided third-party maintenance and support services to business, government and other organizations that used enterprise software licensed from Oracle or one of its related entities, including from PeopleSoft, JD Edwards, and Siebel Systems. In doing so, TomorrowNow directly competed not only with other third-party maintenance and support providers, but with Oracle itself, which also offered such maintenance and support services.

From at least 2005 to 2007, TomorrowNow engaged in efforts to convince Oracle customers, who had purchased licensed Oracle software, to terminate their use of Oracle's maintenance and support services for that software and instead retain TomorrowNow to provide those services.

Unauthorized Access Charges

The unauthorized access charges to which TomorrowNow pleaded guilty pertain to TomorrowNow employees' downloads of Oracle software and related documentation from Oracle computer servers. Oracle maintained computer servers at a data center in the Northern District of California, among other locations. Those servers contained software and related documentation pertaining to certain Oracle product lines, which could be downloaded over the Internet by Oracle customers. The authority of any particular customer to download materials was governed by Oracle's license agreements with that customer, as well as by the terms of use specified on Oracle-maintained websites.

As a result of TomorrowNow's efforts to convince Oracle customers to retain TomorrowNow to provide maintenance and support services, a number of Oracle customers did in fact switch from using Oracle's maintenance and support services to using TomorrowNow for such services. In order to service some customers, TomorrowNow obtained copies of the Oracle software and related documentation that the customer had licensed from Oracle. TomorrowNow obtained some of these materials by downloading the materials from Oracle servers.

According to the plea agreement, TomorrowNow admitted that on numerous occasions alleged in the Information between December 2006 and April 2007 its employees downloaded Oracle software and related documentation from Oracle's computer servers. TomorrowNow admitted that, on these occasions, either (1) the log-in credentials of the Oracle licensees that were used by TomorrowNow employees had expired and, therefore, the TomorrowNow employees' access to Oracle's servers was unauthorized or (2) although the log-in credentials for the Oracle licensees had not expired, the items downloaded by the TomorrowNow employees were in excess of the access rights granted to the customers by Oracle under Oracle's license agreement with those customers. Therefore, in each instance alleged in the Information, neither TomorrowNow, nor the Oracle customer whose log-in credentials were used, had authorization from Oracle to download the specific items identified in the Information.

Criminal Copyright Infringement Charges

The criminal copyright charges to which TomorrowNow pleaded guilty relate to TomorrowNow employees' use of Oracle copyrighted works that were downloaded or otherwise obtained by TomorrowNow employees. According to the plea agreement, TomorrowNow also admitted that its employees made numerous illegal copies of Oracle copyrighted software applications on TomorrowNow's computer systems. Specifically,

TomorrowNow employees installed copies of Oracle copyrighted software applications on TomorrowNow's computer systems. These installations were referred to as "environments." After March 2005, TomorrowNow employees made at least 6,189 "environment" copies of Oracle's PeopleSoft software, at least 29 "environment" copies of Oracle's J.D. Edwards software, and at least 31 "environment" copies of Oracle's Siebel software. Each of these copies constituted an infringement of numerous copyrighted works.

This copying of Oracle software was done in order to provide service to TomorrowNow customers, and as a result attract new TomorrowNow customers.

Based on these actions by its employees, TomorrowNow admitted in the plea agreement that it willfully infringed the copyrights of Oracle's copyrighted works, and that it did so for the purpose of commercial advantage and private financial gain.

Kyle F. Waldinger and Susan F. Knight of the Computer Hacking and Intellectual Property (CHIP) Unit are the Assistant U.S. Attorneys who prosecuted the case with the assistance of Jacquelyn Lovrin and Lauri Gomez. The prosecution is the result of an investigation by the Federal Bureau of Investigation.

Further Information:

Case #: CR 11-0642 PJH

A copy of this press release may be found on the U.S. Attorney's Office's website at www.usdoj.gov/usao/can.

Electronic court filings and further procedural and docket information are available at <https://ecf.cand.uscourts.gov/cgi-bin/login.pl>.

Judges' calendars with schedules for upcoming court hearings can be viewed on the court's website at www.cand.uscourts.gov.

All press inquiries to the U.S. Attorney's Office should be directed to Jack Gillund at (415) 436-6599 or by e-mail at Jack.Gillund@usdoj.gov.

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