

Labaton Sucharow

JOSEPH STERNBERG
PARTNER

Direct Dial: (212) 907-0851
Direct Fax: (212) 883-7051
jsternberg@labaton.com

July 21, 2006

Hon. Susan Illston
United States District Judge
United States District Court for the
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

Re: *In Re SupportSoft Sec. Litig.*, No. C 04-5222 SI, Discovery Issue

Dear Judge Illston:

In accordance with your standing order on discovery disputes (effective June 23, 2006), Plaintiffs request, by letter brief, that the Court overrule three objections which the Defendants have made to Plaintiffs' Requests for Documents and direct the Defendants to produce the requested documents. Copies of Plaintiffs' Document Requests and Defendants' Responses are attached as Exhibits A and B respectively.

A. Applicable Time Period for Discovery Responses

Defendants have objected to providing documents which were created prior to the Class Period – specifically, to any documents except those “created between January 20, 2004 and October 20, 2004” (which Defendants characterize as the “Relevant Period”) and any created later which are “relating to relevant events that occurred during the Relevant Period.” Defendants' Response at 4 (General Objection “N”).

Defendants' response is inadequate. Plaintiffs attempted to limit the time frame covered by their requests to the contentions of the parties. The Corrected Amended Consolidated Class Action Complaint (the “Complaint”) alleges that Defendants made false or misleading statements during the Class Period which related to the Company's long-standing business model, its financial results since 2001, and its anticipated future financial performance. Plaintiffs' discovery requests, accordingly, seek contemporaneous documents from the time periods referred to in Defendants' false and misleading remarks. Defendants' attempt to limit this time frame would improperly protect from discovery highly probative and material information.

Most of Plaintiffs' requests for Production requested documents from the 2003-2004 time period, because the allegations of the Complaint specifically relate to that period. For example, the Complaint alleges that on January 20, 2004, CEO Basu stated that “2003 was a breakaway

Hon Susan Illston
July 21, 2006
Page 2

year for SupportSoft” in which it “established . . . leadership in service and support automation solutions,” and CFO Beattie indicated that the Company’s “nine consecutive quarters of sequential growth” were the result of “crisp execution” “focus on customers” and a “tight control of spending.” Compl., ¶¶ 23-24. Compl., ¶¶ 26, 28. In contrast, Plaintiffs allege that customers found SupportSoft’s products to be problematic, that major customers were unhappy, that sales were slowing, and that the Company was only able to achieve the appearance of an unbroken record of growth from the last quarter of 2001 to the second quarter of 2004 by: (a) granting concessions to holders of existing ratable licenses who would agree to let Defendants convert those licenses to perpetual licenses in order to accelerate license payments; and (b) boosting short-term revenue through writing all new licenses as perpetual licenses at the expense of the long-term revenue generated by ratable licenses. Compl., ¶¶ 35-43.

Much of the relevant, probative evidence of these allegations will be contemporaneous documents *from the consecutive quarters of growth* referred to in Beattie’s comments, especially the 2003 period referenced in Basu’s comments. Thus, while the 2004 period is also critical to other allegations of the Complaint (such as Defendants’ false and misleading statements in April and July of 2004, SupportSoft’s declining sales, the corrective disclosure and subsequent stock price drop), many of the allegations of the Complaint depend upon documentation from the period prior to January 20, 2004. *See King v. E.F. Hutton & Co.*, 117 F.R.D. 2, 7 (D.D.C. 1987). (“With reference to information concerning activities of the defendants . . . prior to February 1, 1981, it is obvious that the representation of past successes . . . make such information highly relevant to the issues in this case.” *Accord, In re Advanced Interventional Systems Sec. Litig.*, [1993 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 97,694 at p. 97,222, 1993 WL 331006, at *3 (C.D. Cal. May 17, 1993).

Similarly, where Plaintiffs requested documents from a different time period, the rationale was based on the allegations of the parties. The requests for production that did specify a different time-period were the following:

- *Documents relating to customer complaints or product problems (Requests 1-3).* The customer complaints and product problems alleged in the Complaint began in 2002 or earlier. Requests 1 through 3 seek the production of documents relating to those problems from 2002 through 2004 because during the Class Period Defendants described their “record-setting” consecutive quarters of growth (which began in the fourth quarter of 2001) as being the result, in part, of their “crisp execution” and technological leadership. Compl., ¶¶ 21-28.
- *Documents relating to the “mix” between ratable and perpetual licenses (Requests 13, 14, 15, 20, 21, 22, 24, 25, 26, 30, 31, 32, 33).* The Complaint alleges that Defendants changed from a “blended” business model to one that relied almost entirely on perpetual licenses. A meaningful analysis of this claim requires going back to the period when the blended model was actually in use.

Hon Susan Illston
July 21, 2006
Page 3

Consequently, Plaintiffs requested documents from the period 2002-2004. Requests 27-29 requested documents from a longer period (1995-2004) if those documents specifically referenced the “blended” model, and documents communicating this idea of a “blended” model (also referred to as a “license” or “business” model) to analysts, investors, brokers and the media. Defendant Basu is quoted in paragraph 54 of the Complaint as explaining the shortfall in third quarter 2004 revenue and earnings as the result of the Company’s change in its business model: “However, at a business model level this [shift to perpetual licenses] goes against the fundamentals of the company going back five years when we pioneered the term ‘license model’” Plaintiffs need access to documents supporting Basu’s statement in order to show the undisclosed change in SupportSoft’s business model.

- *Request Nos. 16-17* actually use a *shorter* time period (documents created during 2004), because the requests relate specifically to events of that year.
- *Request No. 40* also necessitated a longer time frame because it related to stock sales by individual defendants. Stock sales support an inference of scienter when they are suspicious in timing or amount. *See, e.g., In re Daou Systems, Inc. Sec. Litig.*, 411 F.3d 1006, 1022 (9th Cir. 2005), cert. denied, 126 S. Ct. 1335 (2006). Documents tending to demonstrate selling patterns over time – and reasons for sales – are important to determining whether stock sales during the relevant period are in fact suspicious. Defendants put their prior stock trading pattern in issue in both of their Motions to Dismiss.¹ Plaintiffs must assume that they will raise the issue again in a summary judgment motion or at trial. Accordingly, Plaintiffs requested documents relating to such trading for the period from 2000 to the present.

Defendants’ claim that the time periods set out in these document requests are overly broad and unduly burdensome is without foundation. *See Williams v. City of Dothan*, 745 F.2d 1406, 1415-16 (11th Cir. 1984) (where the documents requested by the plaintiffs, although from earlier time periods, are highly relevant to plaintiffs’ case and the defendants fail to show that production would be a significant burden or that the plaintiffs’ requests constitute an abuse of the judicial process, the court should adhere to the liberal spirit of the Rules and require production

¹ *See* Defendants’ Memorandum of Points and Authorities in Support of their Motion to Dismiss (Document 40), at 19 (May 20, 2005) and Defendants’ Memorandum of Points and Authorities in Support of their Motion to Dismiss (Document 63), at 22 (Sept. 23, 2005).

Hon Susan Illston
July 21, 2006
Page 4

of the requested documents.)² Plaintiffs made every effort to limit their discovery requests to the shortest time period that was likely to provide documents relevant to the claims and defenses at issue. Defendants' General Objection N is designed to prevent Plaintiffs from obtaining evidence relevant to important allegations of the Complaint and necessary to the proof of Plaintiffs' case. Therefore, Plaintiffs respectfully request that the Court overrule Defendants' general objection N and require Defendants to produce requested documents from the time periods specified in the Requests.

B. Objections Related to Customer Complaints

Plaintiffs requested all documents related to customer complaints that software licensed by the customer from the Company was not performing properly or was not performing the functions the software had been represented as being able to perform (Request No. 1), and all documents relating to Company employees or consultants attempting to modify software in order to enable it to perform functions that the customer stated that the software was not performing (Request No. 3). Defendants objected and declined to provide such documents on the grounds that the requests were overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence because software complaints are routine in the industry, as is the need to customize software for particular clients.

Plaintiffs are entitled to obtain discovery relevant to the allegation of paragraph 35 of the Complaint, that "important customers were finding the [SupportSoft] software to be problematic and incapable of performing the functions promised by SupportSoft." See also Compl., ¶¶ 46-47. This cannot be done without reviewing customer complaints and modification requests. If Defendants are contending that customer complaints and requests were voluminous in 2002 and 2003, that would certainly be probative evidence that their claims of crisp execution and technical leadership were false or misleading. Production of such information would not be unduly burdensome, since it has a direct bearing on important allegations in the Complaint.

Conclusion

For the reasons discussed above, Plaintiffs respectfully request that this Court overrule Defendants' General Objection N, and Defendants' objections to Requests 1 and 3, and require

² See also 6 Moore's Federal Practice §26.41[12] at p. 26-146.8 (Matthew Bender 3d ed. 2006) ("There is little or no reason to surmise that the limitations on 'relevance' effected by the 2000 amendments to Rule 26(b)(1) will restrict discovery of information concerning facts or incidents occurring remotely in time or place to the acts on which the action is based. When the Courts permitted such discovery before the 2000 amendments, they almost uniformly did so on the basis of allegations contained in the claim or defense of one or more of the parties.")

Hon Susan Illston
July 21, 2006
Page 5

the Defendants to produce all non-privileged documents within the time periods specified in the Requests and that are otherwise responsive to Plaintiffs' Document Request.

Respectfully,

/s/ Joseph Sternberg

Joseph Sternberg
Admitted *Pro Hac Vice*
LABATON SUCHAROW
& RUDOFF LLP
Jonathan M. Plasse
Christopher J. Keller
100 Park Avenue
New York, New York 10017
Tel: (212) 907-0700
Fax: (212) 818-0477

GLANCY BINKOW
& GOLDBERG LLP
Lionel Z. Glancy (#134180)
Peter A. Binkow (#173848)
Michael Goldberg (#188669)
1801 Avenue of the Stars, Suite 311
Los Angeles, California 90067
Tel: (310) 201-9150
Fax: (310) 201-9160

Liaison Counsel for Plaintiffs

SCHATZ & NOBEL, P.C.
Andrew M. Schatz
Jeffrey S. Nobel
Mark P. Kindall, State Bar No. 138703
20 Church Street, Suite 1700
Hartford, Connecticut 06103
Tel: (860) 493-6292
Fax: (860) 493-6290

Co-Lead Counsel for Plaintiffs

**Labaton
Sucharow**

Hon Susan Illston
July 21, 2006
Page 6

CERTIFICATION PURSUANT TO FEDERAL RULE 37(a)(2)(A)

I certify that counsel for Plaintiffs and Defendants met and conferred, in person, on May 11 and 12, 2006, and through telephonic and written communications on numerous occasions both before and after May 11 and 12, 2006, in good-faith efforts to resolve the disputes related to Plaintiffs' Document Request. Although the parties were successful in resolving most of the disputes, the parties were unable to resolve the disputes addressed in this Motion to Compel.

/s/ Joseph Sternberg
Joseph Sternberg
LABATON SUCHAROW & RUDOFF LLP

Exhibit A

1 LIONEL Z. GLANCY, ESQ. #134180
 PETER A. BINKOW, ESQ. #173848
 2 MICHAEL GOLDBERG #188669
 GLANCY BINKOW & GOLDBERG LLP
 3 1801 Avenue of the Starts, Suite 311
 Los Angeles, California 90067
 4 Telephone: (310) 201-9150
 Telecopier: (310) 201-9160
 5

6 JOSEPH STERNBERG
 JONATHAN M. PLASSE
 CHRISTOPHER J. KELLER
 7 LABATON SUCHAROW & RUDOFF LLP
 100 Park Avenue
 8 New York, New York 10017-5563
 Telephone: (212) 907-0700
 9 Telecopier: (212) 818-0477
 jsternberg@labaton.com
 10

11 ANDREW M. SCHATZ
 JEFFREY S. NOBEL
 MARK P. KINDALL
 12 SCHATZ & NOBEL, P.C.
 20 Church Street
 13 Hartford, Connecticut 06103
 Telephone: (860) 493-6292
 14 Telecopier: (860) 493-6290

15 *Attorneys for Plaintiffs*

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

18 In re SUPPORTSOFT, INC. SECURITIES)
 19 LITIGATION)

Civil Action No. C 04-5222 SI

20 _____)
 21 This document relates to:)

22 ALL ACTIONS)
 _____)

23
 24
 25 **PLAINTIFFS' FIRST REQUEST**
 26 **FOR THE PRODUCTION OF DOCUMENTS**
 27
 28

1 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiffs hereby request that
2 defendants SupportSoft, Inc. (“SupportSoft” or the “Company”), Radha R. Basu (“Basu”) and
3 Brian M. Beattie (“Beattie”) produce for inspection and copying the documents described herein
4 that are in the possession, custody or control of defendants or SupportSoft’s officers, agents,
5 employees or attorneys, the production of which shall be within thirty (30) days of the date of
6 service hereof at the offices of Labaton Sucharow & Rudoff LLP, 100 Park Avenue, New York,
7 New York 10017, or at such other time and place mutually agreed upon by the parties.

8 DEFINITIONS

9 The following definitions and instructions apply to the following document requests:

10 1. “And” and “or” are to be construed either disjunctively or conjunctively whenever
11 appropriate in order to bring within the scope of this document request documents which
12 otherwise might be considered to be beyond its scope.

13 2. “Communication” means, without limitation, the transmittal, by whatever means,
14 of information in the form of facts, data, ideas, and/or inquiries.

15 3. The terms “concerning,” “relating” and “referring” are synonymous and mean
16 relating to, referring to, describing, evidencing, commenting on, responding to, showing,
17 analyzing, discussing, reflecting or constituting, without limitation.

18 4. “Defendants” means SupportSoft and the Individual Defendants.

19 5. “Document” or “documents” is synonymous in meaning and equal in scope to the
20 usage of the term in Federal Rule of Civil Procedure 34(a) and includes, without limitation,
21 written and printed material as well as Electronically Stored Information (as defined below),
22 drafts; communications; correspondence; memoranda; records; reports; books; financial
23 information, reports and/or summaries of personal conversations or interviews; diaries; graphs;
24 charts; diagrams; tables; photographs; recordings; tapes, microfilms; minutes, records, reports
25 and/or summaries of meetings or conferences; records and reports of consultants; press releases;
26 stenographic, handwritten or any other notes; work papers; checks, front and back; check
27 vouchers, check stubs or receipts; tape data sheets or data processing cards or discs or any other
28 written, recorded, transcribed, punched, taped filmed or graphic matter, however produced or

1 reproduced; and any paper or writing of whatever description, including any computer database
2 or information contained in any computer although not yet printed out. A draft or non-identical
3 copy of any document is a separate document within the meaning of this term.

4 6. "Electronically Stored Information" includes, without limitation, the following:

5 (a) information that is generated, received, processed, and recorded by
6 computers and other electronic devices;

7 (b) internal or external web sites;

8 (c) output resulting from the use of any software program, including, without
9 limitation, word processing documents, spreadsheets, database files, charts, graphs and outlines,
10 electronic mail, AOL Instant Messenger™ (or similar program) or bulletin board programs,
11 operating systems, source code, PRF files, PRC files, batch files, ASCII files, and all
12 miscellaneous media on which they reside and regardless of whether said electronic data exists in
13 an active file, a deleted file, or file fragment;

14 (d) activity listings of electronic mail receipts and/or transmittals; and any and
15 all items stored on computer memories, hard disks, floppy disks, CD-ROM, magnetic tape,
16 microfiche, or on any other media for digital data storage or transmittal, such as, but not limited
17 to, a personal digital assistant, *e.g.*, Palm Pilot, Blackberry, or similar device, and file folder tabs,
18 or containers and labels appended to, or relating to, any physical storage device associated with
19 each original or copy of all documents requested herein.

20 7. "Individual Defendants" means Radha R. Basu and Brian M. Beattie.

21 8. As used herein, with respect to contracts, agreements or licenses, the term
22 "ratable" is synonymous with "term."

23 9. "SupportSoft" or "Company" means defendant SupportSoft, Inc., its Board of
24 Directors and each committee thereof, each of its subsidiaries, divisions, subdivisions, joint
25 ventures, parents, affiliated persons, predecessors, and all present and former directors, officers,
26 employees, representatives, agents and other persons acting on behalf of any of the foregoing.

27 10. "You" or "Your" refers to the Defendants.

28

1 5. You are directed to produce only those documents responsive to these requests
2 that have not been previously produced in this action.

3 6. If You withhold any document responsive to any request pursuant to a claim of
4 privilege, work-product or otherwise, please provide the following information with respect to
5 such document:

6 (a) The type of document, *e.g.*, letter or memorandum;

7 (b) The actual or approximate date of the document;

8 (c) The author of the document and any other person who prepared or
9 participated in the preparation of the document;

10 (d) A description of the subject matter and physical size (*e.g.*, the number of
11 pages) of the document;

12 (e) All addressees and recipients of the original or a copy thereof, together
13 with the date or approximate date on which said-recipients received the document or a copy
14 thereof;

15 (f) All other persons to whom the contents of the document have been
16 disclosed, the date such disclosure took place, and the means of such disclosure; and

17 (g) The nature of the privilege or other rule of law relied upon and any facts
18 supporting Your position.

19 7. If a document responsive to the following requests has been destroyed or
20 discarded, please identify the document as per the instructions in paragraphs 6(a) to (g).

21 8. If no documents responsive to a particular document request exist or are within
22 Your possession, custody or control, please so state in Your response to the request.

23 9. Pursuant to Rule 26(e), these requests shall be deemed continuing so as to require
24 further and supplemental production if, between the date hereof and the time of the hearing or
25 trial, any additional documents responsive to these requests come into Your possession, custody
26 or control, or the possession, custody or control of Your agents. The definitions and instructions
27 previously set forth in these requests are applicable to any such supplemental production.
28

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

TIME PERIOD

Unless otherwise specified, each request relates to documents generated within, or related to, the time period from January 1, 2003 to December 31, 2004. When other time periods are specified, the documents being requested include those generated within, or related to, the time period.

DOCUMENTS REQUESTED

REQUEST NO. 1

All documents relating to customer complaints during the period 2002 through 2004 that software licensed by the customer from the Company was not performing properly or was not performing the functions that the software had been represented as able to perform.

REQUEST NO. 2

All documents relating to customers canceling licenses, requesting cancellation of licenses or declining to renew or extend licenses for the Company's software during the period 2002 through 2004.

REQUEST NO. 3

All documents relating to Company employees or consultants attempting to modify software in order to enable it to perform functions that the customer stated that the software was not performing during the period 2002 through 2004.

REQUEST NO. 4

All documents relating to the Company's claims to have had record revenues during the quarter and/or consecutive quarters of record revenues.

REQUEST NO. 5

All pipeline reports and related data available to Company officers or employees, or any of them, during the period 2003 through 2004.

REQUEST NO. 6

All forecast reports and related data available to Company officers or employees, or any of them, during the period 2003 through 2004.

1 REQUEST NO. 7

2 All revenue roadmaps and related data available to Company officers or employees, or
3 any of them, during the period 2003 through 2004.

4 REQUEST NO. 8

5 All revenue outlooks and related data available to Company officers or employees, or any
6 of them, during the period 2003 through 2004.

7 REQUEST NO. 9

8 All bookings and/or revenue summaries and related data available to Company officers or
9 employees, or any of them, during the period 2003 through 2004.

10 REQUEST NO. 10

11 All Siebel reports and related data available to Company officers or employees, or any of
12 them, during the period 2003 through 2004.

13 REQUEST NO. 11

14 All communications between or among Defendants and/or Company personnel during the
15 period 2003 through 2004 discussing whether the Company would meet its forecast revenues.

16 REQUEST NO. 12

17 All communications between or among defendants and/or Company personnel during the
18 period 2003 through 2004 discussing ways in which the Company could increase revenues
19 and/or make revenues appear higher.

20 REQUEST NO. 13

21 All documents referring or relating to changes and/or additions to revenue as a result of
22 conversions of ratable contracts to perpetual contracts during the period 2002 to 2004.

23 REQUEST NO. 14

24 All documents referring or relating to changes and/or additions to revenue as a result of
25 conversions of perpetual contracts to ratable contracts during the period 2002 to 2004.

26 REQUEST NO. 15

27 All documents referring or relating to changes and/or additions to revenue as a result of
28 modifications to contracts with Computer Sciences Corporation, Nortel Networks Corporation,

1 Charter Communications, Inc., Cox Communications, Inc., Comcast Corporation, J.C. Penney
2 Company, Inc., IBM, and/or with any affiliates of said corporations during the period 2002
3 through 2004.

4 REQUEST NO. 16

5 All documents created during 2004 referring or relating to revenues or results or
6 anticipated revenues or results for the third quarter of 2004.

7 REQUEST NO. 17

8 All documents created during 2004 referring or relating to changes in the anticipated
9 revenues or results for the third quarter of 2004.

10 REQUEST NO. 18

11 All documents referring or relating to the Company's consecutive quarters of increasing
12 and/or record revenues during the period 2003 through 2004.

13 REQUEST NO. 19

14 All documents referring or relating to the Company's earnings, projected earnings,
15 revenue and/or projected revenue during the period 2003 through 2004.

16 REQUEST NO. 20

17 All documents referring or relating to the number of licensing agreements entered into on
18 a ratable or term basis during the period 2002 through 2004.

19 REQUEST NO. 21

20 All documents referring or relating to the number of licensing agreements entered into on
21 a perpetual basis during the period 2002 through 2004.

22 REQUEST NO. 22

23 All documents comparing the number of licensing agreements entered into on a ratable
24 basis to the number of licensing agreements entered into on a perpetual basis during the period
25 2002 through 2004.

26 REQUEST NO. 23

27 All documents listing and/or identifying ratable contracts during the period 2003 through
28 2004.

1 REQUEST NO. 24

2 All documents referring or relating to the Company's business model during the years
3 2002 through 2004.

4 REQUEST NO. 25

5 All documents referring or relating to the changes in the Company's business model
6 during the years 2002 through 2004.

7 REQUEST NO. 26

8 All documents referring or relating to the Company using a blended model during the
9 years 2002 through 2004.

10 REQUEST NO. 27

11 All documents from 1995 through 2004 referring or relating to the Company's use of a
12 "license model."

13 REQUEST NO. 28

14 All documents from 1995 through 2004 referring or relating to communications with
15 stock analysts, SupportSoft stockholders, stock brokers and/or the media regarding the
16 Company's business model, the license model, the blended model, and/or SupportSoft's having
17 licensed software pursuant to ratable contracts.

18 REQUEST NO. 29

19 All documents from 1995 through 2004 referring or relating to the advantages and/or
20 disadvantages resulting from the Company's business model, the license model, the blended
21 model, and/or SupportSoft's having licensed software pursuant to ratable contracts and/or
22 perpetual contracts.

23 REQUEST NO. 30

24 All documents during the period 2002 through 2004 relating to the conversion of existing
25 ratable or term licenses to perpetual licenses, including, but not limited to: (a) communications
26 with customers; (b) communications with Company sales personnel; and (c) incentives for
27 conversion.

28

1 REQUEST NO. 31

2 All documents during the period 2002 through 2004 relating to whether new or renewed
3 licenses should be ratable or perpetual, including, but not limited to: (a) communications with
4 customers; (b) communications with Company sales personnel; and (c) documents concerning
5 incentives.

6 REQUEST NO. 32

7 All contracts that were converted from ratable contracts to perpetual contracts and those
8 that were converted from perpetual contracts to ratable contracts during the period 2002 through
9 2004, together with all drafts and documents concerning changes and proposed changes and/or
10 revisions and proposed revisions to such contracts.

11 REQUEST NO. 33

12 All documents referring or relating to modifications to contracts with Computer Sciences
13 Corporation, Nortel Networks Corporation, Charter Communications, Inc., Cox
14 Communications, Inc., Comcast Corporation, J.C. Penney Company, Inc., IBM, and/or with any
15 affiliates of said corporations during the period 2002 through 2004.

16 REQUEST NO. 34

17 All documents referring or relating to rebuilding the Company's term license revenue,
18 term license visibility and term license backlog during 2004.

19 REQUEST NO. 35

20 Monthly accounts receivable records and customer account histories by customer for all
21 customers whose license agreements were converted from ratable agreements to perpetual
22 agreements during the period 2003 through 2004.

23 REQUEST NO. 36

24 All documents referring or relating to instructions to accounts receivable and billing
25 personnel regarding licenses that were converted from ratable to perpetual license agreements
26 during the period 2003 through 2004.

27
28

1 REQUEST NO. 37

2 All documents referring or relating to the Company's policies with respect to stock sales
3 by officers, directors and/or employees.

4 REQUEST NO. 38

5 All documents referring or relating to the Company's policies with respect to the exercise
6 of options by officers, directors and/or employees.

7 REQUEST NO. 39

8 All documents referring or relating to the Company's policies with respect to the sale by
9 officers, directors and/or employees of stock acquired through the exercise of options.

10 REQUEST NO. 40

11 All documents referring or relating to gains and/or losses by Individual Defendants on
12 sales of SupportSoft securities from the period 2000 to the present.

13 REQUEST NO. 41

14 All documents referring or relating to whether sales or contracts for the use of the
15 Company's software were slowing down, increasing or staying the same during the last quarter
16 of 2003 and the first three quarters of 2004.

17 REQUEST NO. 42

18 All documents referring or relating to whether sales of or contracts for the Company's
19 services were slowing down, increasing or staying the same during the last quarter of 2003 and
20 the first three quarters of 2004.

21 REQUEST NO. 43

22 All communications among the Company's Executive Management Team relating or
23 referring to revenues, ratable contracts, perpetual contracts, converting ratable contracts to
24 perpetual contracts, financial forecasts, communications with analysts, business models, the
25 license model, the blended model, sales of stock by management and sales during the period
26 2003 through 2004.

27

28

1 REQUEST NO. 44

2 All financial statement packages delivered to officers and/or directors quarterly, monthly
3 and bi-monthly during the period 2003 through 2004.

4 REQUEST NO. 45

5 Preliminary financial statements showing adjusted journal or “topside” entries, including,
6 without being limited to, profit and loss statements, sales and accounts receivable schedules,
7 during the period 2003 through 2004.

8 REQUEST NO. 46

9 Management letters to and from the Company’s auditors during the period 2003 through
10 2004.

11 REQUEST NO. 47

12 Minutes, transcripts, notes, agendas, recordings of, and materials discussed at, weekly
13 and monthly SupportSoft forecast calls during the period 2003 through 2004.

14 REQUEST NO. 48

15 Minutes, transcripts, notes, agendas, recordings of, and materials discussed at, meetings
16 of directors and committees of directors, including, without being limited to, the audit
17 committee, at which conversion of ratable contracts to perpetual contracts, the Company’s
18 business model, the blended model, the license model, the possibility that revenues might fall
19 short of forecasts, the announcement of record revenues, and/or efforts to increase revenues
20 before the end of the quarter were discussed.

21 REQUEST NO. 49

22 Employee directories, organizational charts for the Company and calendars of the
23 Individual Defendants, including, but not limited to desk diaries, appointment books, and
24 electronic calendars, for the period 2003 through 2004.

25 REQUEST NO. 50

26 All documents created by the Company or Company employees during the period 2003
27 through 2004 referring or relating to the Company’s stock price.

28

1 REQUEST NO. 51

2 All documents created by the Company or Company employees during the period 2003
3 through 2004 referring or relating to the Company's valuation.

4 REQUEST NO. 52

5 All documents created by: (a) the Company; (b) Company employees; and/or (c) third
6 parties during the period 2003 through 2004 referring or relating to SupportSoft's financial
7 forecasts, analysts' forecasts, and/or SupportSoft's ability to meet such forecasts.

8 REQUEST NO. 53

9 All documents referring or relating to SupportSoft's document retention policy from
10 2003 to the present.

11 REQUEST NO. 54

12 All documents relating to the creation of, issuance of and/or reaction to: (a) the
13 Company's public statements alleged in the operative complaint; (b) the Company's public
14 statements concerning its business model; and (c) the Company's public statements concerning
15 ratable and/or perpetual contracts.

16 REQUEST NO. 55

17 All documents relating to communications with analysts and/or investors about: (a)
18 SupportSoft's forecasts; (b) the Company's business model; (c) ratable and/or perpetual
19 contracts; and (d) the Company's revenue.

20 Dated: March 2, 2006

21 **LABATON SUCHAROW & RUDOFF LLP**

22
23
24

Joseph Sternberg
Admitted *Pro Hac Vice*
Jonathan M. Plasse
Christopher J. Keller
100 Park Avenue
New York, New York 10017
25 Tel: (212) 907-0700
26 Fax: (212) 818-0477
27
28

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

SCHATZ & NOBEL, P.C.

Andrew M. Schatz
Jeffrey S. Nobel
Mark P. Kindall
20 Church Street
Hartford, Connecticut 06103
Tel: (860) 493-6292
Fax: (860) 493-6290

GLANCY BINKOW & GOLDBERG LLP

LIONEL Z. GLANCY (#34180)
PETER A. BINKOW (#173848)
MICHAEL GOLDBERG (#188669)
1801 Avenue of the Starts, Suite 311
Los Angeles, California 90067
Tel: (310) 201-9150
Fax: (310) 201-9160

Attorneys for Plaintiffs

643262 v1
[3/1/2006 19:15]

Exhibit B

1 BORIS FELDMAN, State Bar No. 128838
 PERI NIELSEN, State Bar No. 196781
 2 DAVID L. LANSKY, State Bar No. 199952
 WILSON SONSINI GOODRICH & ROSATI
 3 Professional Corporation
 650 Page Mill Road
 4 Palo Alto, CA 94304-1050
 Telephone: (650) 493-9300
 5 Facsimile: (650) 565-5100
 email: boris.feldman@wsgr.com
 6
 Attorneys for Defendants
 7 SUPPORTSOFT, INC., RADHA R. BASU
 and BRIAN M. BEATTIE
 8

9
 10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12

13
 14 In re SUPPORTSOFT, INC. SECURITIES
 LITIGATION

Civil Action No. C 04-5222 SI

15 This document relates to:
 16 ALL ACTIONS
 17

**RESPONSE TO PLAINTIFFS'
 FIRST REQUEST FOR THE
 PRODUCTION OF DOCUMENTS**

18
 19
 20 **PROPOUNDING PARTY:**

PLAINTIFFS

21 **RESPONDING PARTY:**

**SUPPORTSOFT, INC., RADHA R. BASU
 and BRIAN M. BEATTIE**

22 **SET NUMBER:**

ONE

1 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, SupportSoft, Inc.
2 (“SupportSoft”), and individual defendants Radha R. Basu and Brian M. Beattie (collectively,
3 “Defendants”) hereby respond to plaintiffs’ First Request for the Production of Documents
4 (“Requests”) as follows:

5 **GENERAL OBJECTIONS**

6 Defendants make the following General Objections to the definitions, instructions, and to
7 each of the individual document requests contained herein, whether or not fully set forth in the
8 specific objections to each request:

9 A. Defendants object to the definitions, instructions and requests to the extent they
10 purport to impose any differing or additional obligations from those imposed under the Federal
11 Rules of Civil Procedure.

12 B. Defendants object to the Requests to the extent that they are overbroad, unduly
13 burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

14 C. Defendants object to the Requests to the extent that they seek information
15 concerning communications or other matters protected by the attorney-client privilege, the work
16 product doctrine, or any other applicable privileges or doctrines. No information covered by any
17 privilege or protection shall be disclosed. Any inadvertent disclosure of privileged or otherwise
18 protected information shall not be deemed to be a waiver of the attorney-client privilege, work
19 product doctrine or any other applicable privileges or doctrines.

20 D. Defendants object to the Requests to the extent that they seek information protected
21 by the right of privacy contained in the California Constitution or any other applicable law, statute
22 or doctrine.

23 E. Defendants object to the Requests to the extent that they implicate any privilege or
24 protection asserted by the United States Securities and Exchange Commission or any other
25 governmental agency, or any related privilege or protection belonging to Defendants.

26 F. Defendants object to the Requests to the extent that they seek documents outside
27 their possession, custody or control.

28 G. Defendants object to the Requests to the extent they seek legal conclusions.

1 H. Defendants object to the Requests to the extent that they seek materials equally
2 available to plaintiffs through public sources or records, on the grounds that they subject
3 Defendants to unreasonable and undue annoyance, oppression, burden and expense.

4 I. Defendants object to the Requests to the extent they seek the production of
5 documents in an electronic format on the grounds that it would subject Defendants to oppression,
6 undue burden, and expense to require Defendants to search through information stored in
7 computer databases or on backup tapes. Defendants will meet and confer with plaintiffs about the
8 scope of electronic document production and an appropriate cost-splitting agreement for the
9 recovery, review and production of electronic documents.

10 J. Defendants object to the Requests to the extent they seek the production of
11 electronic documents in their native format along with the software necessary to interpret such
12 files, production of the metadata normally contained within such documents, or production of a
13 listing of all file properties concerning the electronic documents on the grounds that it would
14 subject Defendants to oppression, undue burden, and expense. Defendants will meet and confer
15 with plaintiffs about the format and scope of electronic document production and an appropriate
16 cost-splitting agreement for the recovery, review and production of electronic documents.

17 K. Defendants object to the Requests to the extent they call for the production of
18 original documents on the grounds that such request is unduly burdensome and oppressive.
19 Defendants will make select original documents available for inspection at a later time if plaintiffs
20 request. If select original documents are required to be produced, such documents will be
21 produced for inspection and copying on a mutually agreeable date and time at a mutually
22 agreeable location.

23 L. Defendants object to the definition of "SupportSoft" or the "Company" to the
24 extent that it includes "its Board of Directors and each committee thereof, . . . affiliated persons,
25 predecessors, and all present and former directors, officers, employees, representatives, agents and
26 other persons acting on behalf of any of the foregoing." The definition renders the Requests in
27 which the terms "SupportSoft" or the "Company" are used overbroad, unduly burdensome, and
28 vague. Also, the definition calls for information protected by the attorney-client privilege and/or

1 the work product doctrine. Defendants will produce responsive non-privileged documents within
2 the possession, custody or control of SupportSoft and each of the individual defendants.
3 Defendants will not produce documents in the possession, custody or control of third parties,
4 including, but not limited to, "affiliated persons, predecessors . . . representatives, agents and other
5 persons acting on behalf of any of the foregoing."

6 M. Defendants object to instruction No. 6 to the extent that it seeks to impose greater
7 obligations than required by the Federal Rules of Civil Procedure. Defendants will submit an
8 appropriate privilege log at a mutually agreeable time of all documents or portions of documents
9 not produced, *e.g.*, on the grounds of any applicable privilege, protection or doctrine.

10 N. Defendants object to plaintiffs' proposed applicable time period of January 1, 2003
11 through December 31, 2004. Plaintiffs' proposed time period renders the Requests overbroad,
12 unduly burdensome, harassing and oppressive, and seeks information that is not relevant to this
13 action. Consequently, Defendants will produce responsive documents created between January
14 20, 2004 and October 20, 2004 (the "Relevant Period"). Defendants will also produce documents
15 created after the Relevant Period but relating to relevant events that occurred during the Relevant
16 Period, to the extent such documents can be located through a reasonable search.

17 O. Defendants' agreement to produce documents in response to any request below
18 shall not be construed as a representation that such documents exist.

19 SPECIFIC RESPONSES AND OBJECTIONS

20 Without waiving or limiting in any manner any of the foregoing general objections and
21 incorporating them into each and every response to the extent applicable, Defendants respond to
22 each of plaintiffs' individual requests for production of documents as follows:

23 REQUEST NO. 1:

24 All documents relating to customer complaints during the period 2002 through 2004 that
25 software licensed by the customer from the Company was not performing properly or was not
26 performing the functions that the software had been represented as able to perform.
27
28

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

2 In addition to the General Objections, Defendants object to Request No. 1 because it is
3 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
4 admissible evidence because, among other things, customer complaints about software
5 performance are routine in the industry and encompass a broad variety of matters having no
6 bearing on overall financial results. Subject to and without waiving their General Objections,
7 Defendants refer plaintiffs to any documents produced in response to Request No. 2 to the extent
8 that they include documents responsive to this Request.

9 **REQUEST NO. 2:**

10 All documents relating to customers canceling licenses, requesting cancellation of
11 licenses or declining to renew or extend licenses for the Company's software during the period
12 2002 through 2004.

13 **RESPONSE TO REQUEST NO. 2:**

14 In addition to the General Objections, Defendants object to Request No. 2 because it is
15 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
16 admissible evidence. Subject to and without waiving their General Objections, Defendants will
17 produce documents reflecting any customers who cancelled licenses or declined to renew or
18 extend licenses for the Company's software during the Relevant Period to the extent any such
19 documents exist, are not privileged, and can be located through reasonable search efforts.

20 **REQUEST NO. 3:**

21 All documents relating to Company employees or consultants attempting to modify
22 software in order to enable it to perform functions that the customer stated that the software was
23 not performing during the period 2002 through 2004.

24 **RESPONSE TO REQUEST NO. 3:**

25 In addition to the General Objections, Defendants object to Request No. 3 because it is
26 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
27 admissible evidence because, among other things, virtually all software requires some
28 modification to enable its functionality in the particular environment in which it is deployed.

1 **REQUEST NO. 4:**

2 All documents relating to the Company's claims to have had record revenues during the
3 quarter and/or consecutive quarters of record revenues.

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

5 In addition to the General Objections, Defendants object to Request No. 4 because it is
6 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
7 admissible evidence to the extent it seeks all documents that are related in any way to the
8 Company's revenues, which would arguably encompass nearly every document in the Company.
9 Additionally, Defendants object to Request No. 4 as vague and ambiguous with respect to the
10 phrase "Company's claims to have had record revenues during the quarter and/or consecutive
11 quarters of record revenues." Defendants further object to Request No. 4 to the extent it seeks
12 documents that are equally available to plaintiffs through public sources or records. Subject to
13 and without waiving their General Objections, Defendants refer plaintiffs to the Company's
14 periodic filings with the Securities and Exchange Commission ("SEC") in which SupportSoft
15 reported its revenue and other financial results, as well as the documents produced in response to
16 Request Nos. 9, 16, 18, 41 and 42.

17 **REQUEST NO. 5:**

18 All pipeline reports and related data available to Company officers or employees, or any
19 of them, during the period 2003 through 2004.

20 **RESPONSE TO REQUEST NO. 5:**

21 In addition to the General Objections, Defendants object to Request No. 5 as overbroad,
22 unduly burdensome, and not reasonably calculated to lead to the discovery of admissible
23 evidence, as well as vague and ambiguous with respect to the phrases "pipeline reports" and
24 "related data." Subject to and without waiving their General Objections, Defendants will
25 produce documents reflecting SupportSoft's sales pipeline and financial forecasts during the
26 Relevant Time Period to the extent any such documents exist, are not privileged, and can be
27 located through reasonable search efforts.

28

1 **REQUEST NO. 6:**

2 All forecast reports and related data available to Company officers or employees, or any
3 of them, during the period 2003 through 2004.

4 **RESPONSE TO REQUEST NO. 6:**

5 In addition to the General Objections, Defendants object to Request No. 6 as overbroad,
6 unduly burdensome, and not reasonably calculated to lead to the discovery of admissible
7 evidence, as well as vague and ambiguous with respect to the phrases "forecast reports" and
8 "related data." Defendants also object to Request No. 6 to the extent it is duplicative of any of
9 plaintiffs' other Requests. Subject to and without waiving their General Objections, Defendants
10 will produce documents reflecting SupportSoft's sales pipeline and financial forecasts during the
11 Relevant Period to the extent any such documents exist, are not privileged, and can be located
12 through reasonable search efforts.

13 **REQUEST NO. 7:**

14 All revenue roadmaps and related data available to Company officers or employees, or
15 any of them, during the period 2003 through 2004.

16 **RESPONSE TO REQUEST NO. 7:**

17 In addition to the General Objections, Defendants object to Request No. 7 as overbroad,
18 unduly burdensome, and not reasonably calculated to lead to the discovery of admissible
19 evidence, as well as vague and ambiguous with respect to the phrases "revenue roadmaps" and
20 "related data." Defendants also object to Request No. 7 to the extent it is duplicative of any of
21 plaintiffs' other Requests. Subject to and without waiving their General Objections, Defendants
22 will produce documents reflecting SupportSoft's sales pipeline and financial forecasts during the
23 Relevant Period to the extent any such documents exist, are not privileged, and can be located
24 through reasonable search efforts.

25 **REQUEST NO. 8:**

26 All revenue outlooks and related data available to Company officers or employees, or any
27 of them, during the period 2003 through 2004.

28

1 **RESPONSE TO REQUEST NO. 8:**

2 In addition to the General Objections, Defendants object to Request No. 8 as overbroad,
3 unduly burdensome, and not reasonably calculated to lead to the discovery of admissible
4 evidence, as well as vague and ambiguous with respect to the phrases "revenue outlooks" and
5 "related data." Defendants also object to Request No. 8 to the extent it is duplicative of any of
6 plaintiffs' other Requests. Subject to and without waiving their General Objections, Defendants
7 will produce documents reflecting SupportSoft's sales pipeline and financial forecasts during the
8 Relevant Period to the extent any such documents exist, are not privileged, and can be located
9 through reasonable search efforts.

10 **REQUEST NO. 9:**

11 All bookings and/or revenue summaries and related data available to Company officers or
12 employees, or any of them, during the period 2003 through 2004.

13 **RESPONSE TO REQUEST NO. 9:**

14 In addition to the General Objections, Defendants object to Request No. 9 as overbroad,
15 unduly burdensome, and not reasonably calculated to lead to the discovery of admissible
16 evidence, as well as vague and ambiguous with respect to the phrases "bookings and/or revenue
17 summaries" and "related data." Subject to and without waiving their General Objections,
18 Defendants will produce summary documents reflecting the quarterly progress of SupportSoft's
19 bookings and revenue during the Relevant Period to the extent any such documents exist, are not
20 privileged, and can be located through reasonable search efforts.

21 **REQUEST NO. 10:**

22 All Siebel reports and related data available to Company officers or employees, or any of
23 them, during the period 2003 through 2004.

24 **RESPONSE TO REQUEST NO. 10:**

25 In addition to the General Objections, Defendants object to Request No. 10 because it is
26 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
27 admissible evidence. Defendants further object to Request No. 10 as vague and ambiguous with
28 respect to the phrases "Siebel reports."

1 **REQUEST NO. 11:**

2 All communications between or among Defendants and/or Company personnel during the
3 period 2003 through 2004 discussing whether the Company would meet its forecast revenues.

4 **RESPONSE TO REQUEST NO. 11:**

5 In addition to the General Objections, Defendants object to Request No. 11 because it is
6 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
7 admissible evidence, in part because it purports to encompass communications between or
8 among any Company employee. Subject to and without waiving their General Objections,
9 Defendants will produce communications between or among SupportSoft's executive staff
10 (including the individual defendants) during the Relevant Period discussing the Company's
11 progress towards meeting its revenue forecast to the extent any such documents exist, are not
12 privileged, and can be located through reasonable search efforts.

13 **REQUEST NO. 12:**

14 All communications between or among defendants and/or Company personnel during the
15 period 2003 through 2004 discussing ways in which the Company could increase revenues
16 and/or make revenues appear higher.

17 **RESPONSE TO REQUEST NO. 12:**

18 In addition to the General Objections, Defendants object to Request No. 12 because it is
19 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
20 admissible evidence, in part because it purports to encompass communications between or
21 among any Company employee. SupportSoft further objects to Request No. 12 as vague and
22 ambiguous with respect to the phrase "ways in which the Company could increase revenues
23 and/or make revenues appear higher." Subject to and without waiving their General Objections,
24 Defendants will produce communications between or among SupportSoft's executive staff
25 (including the individual defendants) during the Relevant Period discussing the Company's
26 progress towards meeting its revenue forecast to the extent any such documents exist, are not
27 privileged, and can be located through reasonable search efforts.

28

1 **REQUEST NO. 13:**

2 All documents referring or relating to changes and/or additions to revenue as a result of
3 conversions of ratable contracts to perpetual contracts during the period 2002 to 2004.

4 **RESPONSE TO REQUEST NO. 13:**

5 In addition to the General Objections, Defendants object to Request No. 13 as overbroad,
6 unduly burdensome, and not reasonably calculated to lead to the discovery of admissible
7 evidence, as well as vague and ambiguous with respect to the phrase "changes and/or additions
8 to revenue." Subject to and without waiving their General Objections, Defendants will produce
9 documents referring or relating to changes and/or additions to revenue as a result of conversions
10 of ratable contracts to perpetual contracts during the Relevant Period to the extent any such
11 documents exist, are not privileged, and can be located through reasonable search efforts.

12 **REQUEST NO. 14:**

13 All documents referring or relating to changes and/or additions to revenue as a result of
14 conversions of perpetual contracts to ratable contracts during the period 2002 to 2004.

15 **RESPONSE TO REQUEST NO. 14:**

16 In addition to the General Objections, Defendants object to Request No. 14 as overbroad,
17 unduly burdensome, and not reasonably calculated to lead to the discovery of admissible
18 evidence, as well as vague and ambiguous with respect to the phrase "changes and/or additions
19 to revenue." Subject to and without waiving their General Objections, Defendants will produce
20 documents referring or relating to changes and/or additions to revenue as a result of conversions
21 of perpetual contracts to ratable contracts during the Relevant Period to the extent any such
22 documents exist, are not privileged, and can be located through reasonable search efforts.

23 **REQUEST NO. 15:**

24 All documents referring or relating to changes and/or additions to revenue as a result of
25 modifications to contracts with Computer Sciences Corporation, Nortel Networks Corporation,
26 Charter Communications, Inc., Cox Communications, Inc., Comcast Corporation, J.C. Penney
27 Company, Inc., IBM, and/or with any affiliates of said corporations during the period 2002
28 through 2004.

1 **RESPONSE TO REQUEST NO. 15:**

2 In addition to the General Objections, Defendants object to Request No. 15 because it is
3 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
4 admissible evidence, in part because the "changes and/or additions to revenue" may be entirely
5 unrelated to the allegations of the Complaint. Defendants further object to Request No. 15 as
6 vague and ambiguous with respect to the phrase "changes and/or additions to revenue."
7 Defendants additionally object to Request No. 15 to the extent it is duplicative of plaintiffs' other
8 requests, including Request No. 13. Subject to and without waiving their General Objections,
9 Defendants will produce documents from the particular customer's files referring or relating to
10 changes and/or additions to revenue as a result of modifications to contracts, which
11 modifications occurred during the Relevant Period to the extent any such documents exist, are
12 not privileged, and can be located through reasonable search efforts.

13 **REQUEST NO. 16:**

14 All documents created during 2004 referring or relating to revenues or results or
15 anticipated revenues or results for the third quarter of 2004.

16 **RESPONSE TO REQUEST NO. 16:**

17 In addition to the General Objections, Defendants object to Request No. 16 because it is
18 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
19 admissible evidence, in part because virtually every document at the Company could be
20 construed to relate to revenues or results. Subject to and without waiving their General
21 Objections, Defendants refer plaintiffs to the Company's periodic filings with the SEC in which
22 SupportSoft reported its revenue and other financial results, as well as the documents produced
23 in response to Request Nos. 4 - 9, 11, 12, 17 - 19, 41 and 42.

24 **REQUEST NO. 17:**

25 All documents created during 2004 referring or relating to changes in the anticipated
26 revenues or results for the third quarter of 2004.

27

28

1 **RESPONSE TO REQUEST NO. 17:**

2 In addition to the General Objections, Defendants object to Request No. 17 because it is
3 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
4 admissible evidence, as well as vague and ambiguous with respect to the phrase "changes in."
5 Subject to and without waiving their General Objections, Defendants refer plaintiffs to the
6 Company's periodic filings with the SEC in which SupportSoft reported its revenue and other
7 financial results, as well as the documents produced in response to Request Nos. 4 - 9, 11 - 15
8 and 19.

9 **REQUEST NO. 18:**

10 All documents referring or relating to the Company's consecutive quarters of increasing
11 and/or record revenues during the period 2003 through 2004.

12 **RESPONSE TO REQUEST NO. 18:**

13 In addition to the General Objections, Defendants object to Request No. 18 to the extent
14 it is duplicative of Request No. 4 or of any other of plaintiffs' Requests. Defendants likewise
15 object to Request No. 18 because it is overbroad, unduly burdensome, and not reasonably
16 calculated to lead to the discovery of admissible evidence to the extent it seeks all documents
17 that are related in any way to the Company's revenues, which would arguably encompass nearly
18 every document in the Company. Defendants further object to Request No. 18 to the extent it
19 seeks documents that are equally available to plaintiffs through public sources or records.
20 Subject to and without waiving their General Objections, Defendants refer plaintiffs to the
21 Company's periodic filings with the SEC in which SupportSoft reported its revenue and other
22 financial results, as well as the documents produced in response to Request Nos. 4, 9, 19, 41 and
23 42.

24 **REQUEST NO. 19:**

25 All documents referring or relating to the Company's earnings, projected earnings,
26 revenue and/or projected revenue during the period 2003 through 2004.
27
28

1 **RESPONSE TO REQUEST NO. 19:**

2 In addition to the General Objections, Defendants object to Request No. 19 because it is
3 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
4 admissible evidence, in part because documents relating to the Company's earnings, projected
5 earnings, revenue and/or projected revenue would arguably encompass nearly every document in
6 the Company. Subject to and without waiving their General Objections, Defendants refer
7 plaintiffs to the Company's periodic filings with the SEC in which SupportSoft reported its
8 revenue and other financial results, as well as the documents produced in response to Request
9 Nos. 4 – 9, 11, 12, 17 – 19, 41 and 42.

10 **REQUEST NO. 20:**

11 All documents referring or relating to the number of licensing agreements entered into on
12 a ratable or term basis during the period 2002 through 2004.

13 **RESPONSE TO REQUEST NO. 20:**

14 In addition to the General Objections, Defendants object to Request No. 20 because it is
15 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
16 admissible evidence. Subject to and without waiving their General Objections, Defendants will
17 produce documents sufficient to show the number of licensing agreements entered into on a
18 ratable or term basis during the Relevant Period to the extent any such documents exist, are not
19 privileged, and can be located through reasonable search efforts.

20 **REQUEST NO. 21:**

21 All documents referring or relating to the number of licensing agreements entered into on
22 a perpetual basis during the period 2002 through 2004.

23 **RESPONSE TO REQUEST NO. 21:**

24 In addition to the General Objections, Defendants object to Request No. 21 because it is
25 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
26 admissible evidence. Subject to and without waiving their General Objections, Defendants will
27 produce documents sufficient to show the number of licensing agreements entered into on a
28

1 perpetual basis during the Relevant Period to the extent any such documents exist, are not
2 privileged, and can be located through reasonable search efforts.

3 **REQUEST NO. 22:**

4 All documents comparing the number of licensing agreements entered into on a ratable
5 basis to the number of licensing agreements entered into on a perpetual basis during the period
6 2002 through 2004.

7 **RESPONSE TO REQUEST NO. 22:**

8 In addition to the General Objections, Defendants object to Request No. 22 because it is
9 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
10 admissible evidence. Subject to and without waiving their General Objections, Defendants will
11 produce documents comparing the number of licensing agreements entered into on a ratable
12 basis to the number of licensing agreements entered into on a perpetual basis during the Relevant
13 Period to the extent any such documents exist, are not privileged, and can be located through
14 reasonable search efforts. Defendants further refer plaintiffs to the Company's periodic filings
15 with the SEC in which SupportSoft discussed the proportion of licensing agreements entered into
16 on a ratable basis as compared to the proportion of licensing agreements entered into on a
17 perpetual basis.

18 **REQUEST NO. 23:**

19 All documents listing and/or identifying ratable contracts during the period 2003 through
20 2004.

21 **RESPONSE TO REQUEST NO. 23:**

22 In addition to the General Objections, Defendants object to Request No. 23 because it is
23 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
24 admissible evidence. Subject to and without waiving their General Objections, Defendants will
25 produce documents sufficient to identify ratable contracts entered into during the Relevant
26 Period to the extent any such documents exist, are not privileged, and can be located through
27 reasonable search efforts.

28

1. **REQUEST NO. 24:**

2 All documents referring or relating to the Company's business model during the years
3 2002 through 2004.

4 **RESPONSE TO REQUEST NO. 24:**

5 In addition to the General Objections, Defendants object to Request No. 24 because it is
6 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
7 admissible evidence, in part because nearly every document in the Company could be construed
8 as relating to the Company's business model. Defendants further object to Request No. 24 as
9 vague and ambiguous with respect to the phrase "business model." Subject to and without
10 waiving their General Objections, Defendants will produce conference call transcripts and
11 documents reflecting communications by or among senior executives referring to the Company's
12 business model during the Relevant Period to the extent any such documents exist, are not
13 privileged, and can be located through reasonable search efforts.

14 **REQUEST NO. 25:**

15 All documents referring or relating to the changes in the Company's business model
16 during the years 2002 through 2004.

17 **RESPONSE TO REQUEST NO. 25:**

18 In addition to the General Objections, Defendants object to Request No. 25 because it is
19 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
20 admissible evidence. Defendants further object to Request No. 25 as vague and ambiguous with
21 respect to the phrase "changes in the Company's business model." Subject to and without
22 waiving their General Objections, Defendants refer plaintiffs to the documents produced in
23 response to Request No. 24.

24 **REQUEST NO. 26:**

25 All documents referring or relating to the Company using a blended model during the
26 years 2002 through 2004.

27

28

1 **RESPONSE TO REQUEST NO. 26:**

2 In addition to the General Objections, Defendants object to Request No. 26 because it is
3 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
4 admissible evidence, in part because nearly every document in the Company could be construed
5 as relating to the Company's use of a blended business model. Defendants further object to
6 Request No. 26 as vague and ambiguous with respect to the phrase "blended model." Subject to
7 and without waiving their General Objections, Defendants will produce conference call
8 transcripts and documents reflecting communications by or among senior executives referring or
9 relating to the Company using a blended model during the Relevant Period to the extent any such
10 documents exist, are not privileged, and can be located through reasonable search efforts.

11 **REQUEST NO. 27:**

12 All documents from 1995 through 2004 referring or relating to the Company's use of a
13 "license model."

14 **RESPONSE TO REQUEST NO. 27:**

15 In addition to the General Objections, Defendants object to Request No. 27 because it is
16 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
17 admissible evidence. Defendants further object to Request No. 27 as vague and ambiguous with
18 respect to the phrase "license model."

19 **REQUEST NO. 28:**

20 All documents from 1995 through 2004 referring or relating to communications with
21 stock analysts, SupportSoft stockholders, stock brokers and/or the media regarding the
22 Company's business model, the license model, the blended model, and/or SupportSoft's having
23 licensed software pursuant to ratable contracts.

24 **RESPONSE TO REQUEST NO. 28:**

25 In addition to the General Objections, Defendants object to Request No. 28 because it is
26 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
27 admissible evidence. Subject to and without waiving their General Objections, Defendants will
28 produce documents reflecting communications with stock analysts, SupportSoft stockholders,

1 stock brokers and/or the media regarding the Company's business model, the blended model,
2 and/or SupportSoft's having licensed software pursuant to ratable contracts during the Relevant
3 Period to the extent any such documents exist, are not privileged, and can be located through
4 reasonable search efforts. Defendants further refer plaintiffs to the Company's periodic filings
5 with the SEC in which SupportSoft discussed these topics.

6 **REQUEST NO. 29:**

7 All documents from 1995 through 2004 referring or relating to the advantages and/or
8 disadvantages resulting from the Company's business model, the license model, the blended
9 model, and/or SupportSoft's having licensed software pursuant to ratable contracts and/or
10 perpetual contracts.

11 **RESPONSE TO REQUEST NO. 29:**

12 In addition to the General Objections, Defendants object to Request No. 29 because it is
13 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
14 admissible evidence. Subject to and without waiving their General Objections, Defendants refer
15 plaintiffs to the documents produced in response to Request No. 28.

16 **REQUEST NO. 30:**

17 All documents during the period 2002 through 2004 relating to the conversion of existing
18 ratable or term licenses to perpetual licenses, including, but not limited to: (a) communications
19 with customers; (b) communications with Company sales personnel; and (c) incentives for
20 conversion.

21 **RESPONSE TO REQUEST NO. 30:**

22 In addition to the General Objections, Defendants object to Request No. 30 to the extent
23 it is duplicative of plaintiff's other Requests. Subject to and without waiving their General
24 Objections, Defendants will produce documents concerning the conversion of existing ratable or
25 term licenses to perpetual licenses during the Relevant Period, including communications with
26 customers and Company sales personnel, to the extent any such documents exist, are not
27 privileged, and can be located through reasonable search efforts. Defendants also refer plaintiffs
28 to the documents produced in response to Request No. 13.

1 **REQUEST NO. 31:**

2 All documents during the period 2002 through 2004 relating to whether new or renewed
3 licenses should be ratable or perpetual, including, but not limited to: (a) communications with
4 customers; (b) communications with Company sales personnel; and (c) documents concerning
5 incentives.

6 **RESPONSE TO REQUEST NO. 31:**

7 In addition to the General Objections, Defendants object to Request No. 31 because it is
8 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
9 admissible evidence. Defendants further object to Request No. 31 as vague and ambiguous with
10 respect to the phrase "should be." Defendants also object to Request to the extent it is
11 duplicative of plaintiff's other Requests. Subject to and without waiving their General
12 Objections, Defendants refer plaintiffs to the documents produced in response to Request No. 30.

13 **REQUEST NO. 32:**

14 All contracts that were converted from ratable contracts to perpetual contracts and those
15 that were converted from perpetual contracts to ratable contracts during the period 2002 through
16 2004, together with all drafts and documents concerning changes and proposed changes and/or
17 revisions and proposed revisions to such contracts.

18 **RESPONSE TO REQUEST NO. 32:**

19 In addition to the General Objections, Defendants object to Request No 32 to the extent it
20 is duplicative of plaintiff's other Requests. Subject to and without waiving their General
21 Objections, Defendants refer plaintiffs to the documents produced in response to Request Nos.
22 13 and 30. Defendants will also produce documents concerning the conversion of perpetual
23 contracts to ratable contracts during the Relevant Period to the extent any such documents exist,
24 are not privileged, and can be located through reasonable search efforts.

25 **REQUEST NO. 33:**

26 All documents referring or relating to modifications to contracts with Computer Sciences
27 Corporation, Nortel Networks Corporation, Charter Communications, Inc., Cox
28

1 Communications, Inc., Comcast Corporation, J.C. Penney Company, Inc., IBM, and/or with any
2 affiliates of said corporations during the period 2002 through 2004.

3 **RESPONSE TO REQUEST NO. 33:**

4 In addition to the General Objections, Defendants object to Request No. 33 because it is
5 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
6 admissible evidence, in part because the modifications may be entirely unrelated to the
7 allegations of the Complaint. Defendants further object to Request No 33 to the extent it is
8 duplicative of plaintiff's other Requests. Subject to and without waiving their General
9 Objections, Defendants refer plaintiffs to the documents produced in response to Request No. 15.

10 **REQUEST NO. 34:**

11 All documents referring or relating to rebuilding the Company's term license revenue,
12 term license visibility and term license backlog during 2004.

13 **RESPONSE TO REQUEST NO. 34:**

14 In addition to the General Objections, Defendants object to Request No. 34 because it is
15 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
16 admissible evidence. Subject to and without waiving their General Objections, Defendants will
17 produce documents and communications among the senior executives referring to rebuilding the
18 Company's term license revenue, term license visibility and term license backlog during the
19 Relevant Period to the extent any such documents exist, are not privileged, and can be located
20 through reasonable search efforts. Defendants also refer plaintiffs to the documents produced in
21 response to Request Nos. 20 and 23.

22 **REQUEST NO. 35:**

23 Monthly accounts receivable records and customer account histories by customer for all
24 customers whose license agreements were converted from ratable agreements to perpetual
25 agreements during the period 2003 through 2004.

26 **RESPONSE TO REQUEST NO. 35:**

27 In addition to the General Objections, Defendants object to Request No. 35 because it is
28 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of

1 admissible evidence, in part because accounts receivable records and customer account histories
2 are wholly irrelevant to plaintiffs' claims.

3 **REQUEST NO. 36:**

4 All documents referring or relating to instructions to accounts receivable and billing
5 personnel regarding licenses that were converted from ratable to perpetual license agreements
6 during the period 2003 through 2004.

7 **RESPONSE TO REQUEST NO. 36:**

8 In addition to the General Objections, Defendants object to Request No. 34 because it is
9 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
10 admissible evidence, in part because such instructions to accounts receivable and billing
11 personnel are wholly irrelevant to plaintiffs' claims.

12 **REQUEST NO. 37:**

13 All documents referring or relating to the Company's policies with respect to stock sales
14 by officers, directors and/or employees.

15 **RESPONSE TO REQUEST NO. 37:**

16 Subject to and without waiving their General Objections, Defendants will produce
17 documents referring or relating to the Company's policies with respect to stock sales by officers,
18 directors and/or employees during the Relevant Period to the extent any such documents exist,
19 are not privileged, and can be located through reasonable search efforts.

20 **REQUEST NO. 38:**

21 All documents referring or relating to the Company's policies with respect to the exercise
22 of options by officers, directors and/or employees.

23 **RESPONSE TO REQUEST NO. 38:**

24 Subject to and without waiving their General Objections, Defendants will produce
25 documents referring or relating to the Company's policies with respect to the exercise of options
26 by officers, directors and/or employees during the Relevant Period to the extent any such
27 documents exist, are not privileged, and can be located through reasonable search efforts.
28

1 **REQUEST NO. 39:**

2 All documents referring or relating to the Company's policies with respect to the sale by
3 officers, directors and/or employees of stock acquired through the exercise of options.

4 **RESPONSE TO REQUEST NO. 39:**

5 Subject to and without waiving their General Objections, Defendants will produce
6 documents referring or relating to the Company's policies with respect to the sale by officers,
7 directors and/or employees of stock acquired through the exercise of options during the Relevant
8 Period to the extent any such documents exist, are not privileged, and can be located through
9 reasonable search efforts.

10 **REQUEST NO. 40:**

11 All documents referring or relating to gains and/or losses by Individual Defendants on
12 sales of SupportSoft securities from the period 2000 to the present.

13 **RESPONSE TO REQUEST NO. 40:**

14 Subject to and without waiving their General Objections, Defendants will produce
15 documents referring or relating to gains and/or losses by Individual Defendants on sales of
16 SupportSoft securities during the Relevant Period to the extent any such documents exist, are not
17 privileged, and can be located through reasonable search efforts.

18 **REQUEST NO. 41:**

19 All documents referring or relating to whether sales or contracts for the use of the
20 Company's software were slowing down, increasing or staying the same during the last quarter of
21 2003 and the first three quarters of 2004.

22 **RESPONSE TO REQUEST NO. 41:**

23 In addition to the General Objections, Defendants object to Request No. 41 because it is
24 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
25 admissible evidence. Subject to and without waiving their General Objections, Defendants refer
26 plaintiffs to the Company's periodic filings with the SEC in which SupportSoft reported its
27 revenue and other financial results, as well as the documents produced in response to Request
28 Nos. 4, 9, 16, 18, and 42.

1 **REQUEST NO. 42:**

2 All documents referring or relating to whether sales of or contracts for the Company's
3 services were slowing down, increasing or staying the same during the last quarter of 2003 and
4 the first three quarters of 2004.

5 **RESPONSE TO REQUEST NO. 42:**

6 In addition to the General Objections, Defendants object to Request No. 42 because it is
7 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
8 admissible evidence. Subject to and without waiving their General Objections, Defendants refer
9 plaintiffs to the Company's periodic filings with the SEC in which SupportSoft reported its
10 revenue and other financial results, as well as the documents produced in response to Request
11 Nos. 4, 9, 16, 18, and 41.

12 **REQUEST NO. 43:**

13 All communications among the Company's Executive Management Team relating or
14 referring to revenues, ratable contracts, perpetual contracts, converting ratable contracts to
15 perpetual contracts, financial forecasts, communications with analysts, business models, the
16 license model, the blended model, sales of stock by management and sales during the period
17 2003 through 2004.

18 **RESPONSE TO REQUEST NO. 43:**

19 In addition to the General Objections, Defendants object to Request No. 43 because it is
20 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
21 admissible evidence, in part because the Request purports to encompass nearly every
22 communication among the Company's Executive Management Team. Subject to and without
23 waiving their General Objections, Defendants refer plaintiffs to the documents produced in
24 response to Request Nos. 11, 12, 24, 26, 28, 30, 31 and 34.

25 **REQUEST NO. 44:**

26 All financial statement packages delivered to officers and/or directors quarterly, monthly
27 and bi-monthly during the period 2003 through 2004.

28

1 **RESPONSE TO REQUEST NO. 44:**

2 In addition to the General Objections, Defendants object to Request No. 43 because it is
3 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
4 admissible evidence, as well as vague and ambiguous with respect to the term "financial
5 statement package." Subject to and without waiving their General Objections, Defendants will
6 produce financial statement packages delivered to officers and/or directors on a monthly basis
7 during the Relevant Period to the extent any such documents exist, are not privileged, and can be
8 located through reasonable search efforts.

9 **REQUEST NO. 45:**

10 Preliminary financial statements showing adjusted journal or "topside" entries, including,
11 without being limited to, profit and loss statements, sales and accounts receivable schedules,
12 during the period 2003 through 2004.

13 **RESPONSE TO REQUEST NO. 45:**

14 In addition to the General Objections, Defendants object to Request No. 45 because it is
15 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
16 admissible evidence, in part because the requested accounting documents are wholly irrelevant to
17 plaintiffs' claims.

18 **REQUEST NO. 46:**

19 Management letters to and from the Company's auditors during the period 2003 through
20 2004.

21 **RESPONSE TO REQUEST NO. 46:**

22 In addition to the General Objections, Defendants object to Request No. 46 because it is
23 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
24 admissible evidence, in part because the requested Management Letters are wholly irrelevant to
25 plaintiffs' claims.

26 **REQUEST NO. 47:**

27 Minutes, transcripts, notes, agendas, recordings of, and materials discussed at, weekly
28 and monthly SupportSoft forecast calls during the period 2003 through 2004.

1 **RESPONSE TO REQUEST NO. 47:**

2 In addition to the General Objections, Defendants object to Request No. 45 because it is
3 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
4 admissible evidence. Subject to and without waiving their General Objections, Defendants will
5 produce documents sufficient to show any agendas of or materials distributed in regular forecast
6 calls during the Relevant Period to the extent any such documents exist, are not privileged, and
7 can be located through reasonable search efforts.

8 **REQUEST NO. 48:**

9 Minutes, transcripts, notes, agendas, recordings of, and materials discussed at, meetings
10 of directors and committees of directors, including, without being limited to, the audit
11 committee, at which conversion of ratable contracts to perpetual contracts, the Company's
12 business model, the blended model, the license model, the possibility that revenues might fall
13 short of forecasts, the announcement of record revenues, and/or efforts to increase revenues
14 before the end of the quarter were discussed.

15 **RESPONSE TO REQUEST NO. 48:**

16 In addition to the General Objections, Defendants object to Request No. 45 because it is
17 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
18 admissible evidence. Subject to and without waiving their General Objections, Defendants will
19 produce documents sufficient to show any agendas of or materials distributed in regular Board of
20 Directors and Audit Committee meetings during the Relevant Period to the extent the topics
21 identified were discussed and to the extent any such documents exist, are not privileged, and can
22 be located through reasonable search efforts.

23 **REQUEST NO. 49:**

24 Employee directories, organizational charts for the Company and calendars of the
25 Individual Defendants, including, but not limited to desk diaries, appointment books, and
26 electronic calendars, for the period 2003 through 2004.

27

28

1 **RESPONSE TO REQUEST NO. 49:**

2 Subject to and without waiving their General Objections, Defendants will produce
3 documents sufficient to show a directory of employees, an organizational charts for the Company
4 and calendars of the Individual Defendants for the Relevant Period to the extent any such
5 documents exist, are not privileged, and can be located through reasonable search efforts.

6 **REQUEST NO. 50:**

7 All documents created by the Company or Company employees during the period 2003
8 through 2004 referring or relating to the Company's stock price.

9 **RESPONSE TO REQUEST NO. 50:**

10 In addition to the General Objections, Defendants object to Request No. 50 because it is
11 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
12 admissible evidence. Subject to and without waiving their General Objections, Defendants will
13 produce documents created or sent to the senior executives during the Relevant Period referring
14 or relating to the Company's stock price to the extent any such documents exist, are not
15 privileged, and can be located through reasonable search efforts.

16 **REQUEST NO. 51:**

17 All documents created by the Company or Company employees during the period 2003
18 through 2004 referring or relating to the Company's valuation.

19 **RESPONSE TO REQUEST NO. 51:**

20 In addition to the General Objections, Defendants object to Request No. 51 because it is
21 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
22 admissible evidence. Subject to and without waiving their General Objections, Defendants refer
23 plaintiffs to publicly available documents documenting the price of SupportSoft stock during the
24 Relevant Period.

25 **REQUEST NO. 52:**

26 All documents created by: (a) the Company; (b) Company employees; and/or (c) third
27 parties during the period 2003 through 2004 referring or relating to SupportSoft's financial
28 forecasts, analysts' forecasts, and/or SupportSoft's ability to meet such forecasts.

1 **RESPONSE TO REQUEST NO. 52:**

2 In addition to the General Objections, Defendants object to Request No. 52 because it is
3 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
4 admissible evidence, in part because it seeks documents not in the possession, custody or control
5 of Defendants. Subject to and without waiving their General Objections, Defendants refer
6 plaintiffs to the documents produced in response to Request Nos. 5 – 8, 11, 12 and 42.

7 **REQUEST NO. 53:**

8 All documents referring or relating to SupportSoft's document retention policy from 2003
9 to the present.

10 **RESPONSE TO REQUEST NO. 53:**

11 Subject to and without waiving their General Objections, Defendants will produce
12 documents referring or relating to SupportSoft's document retention policy to the extent any such
13 documents exist, are not privileged, and can be located through reasonable search efforts.

14 **REQUEST NO. 54:**

15 All documents relating to the creation of, issuance of and/or reaction to: (a) the
16 Company's public statements alleged in the operative complaint; (b) the Company's public
17 statements concerning its business model; and (c) the Company's public statements concerning
18 ratable and/or perpetual contracts.

19 **RESPONSE TO REQUEST NO. 54:**

20 In addition to the General Objections, Defendants object to Request No. 54 because it is
21 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
22 admissible evidence. Subject to and without waiving their General Objections, Defendants will
23 produce documents relating to the creation of, issuance of and/or reaction to the Company's
24 press releases dated January 20, 2004, April 19, 2004, July 20, 2004, October 4, 2004 and
25 October 16, 2004 to the extent any such documents exist, are not privileged, and can be located
26 through reasonable search efforts.

1 **REQUEST NO. 55:**

2 All documents relating to communications with analysts and/or investors about:

3 (a) SupportSoft's forecasts; (b) the Company's business model; (c) ratable and/or perpetual
4 contracts; and (d) the Company's revenue.

5 **RESPONSE TO REQUEST NO. 55:**

6 In addition to the General Objections, Defendants object to Request No. 55 because it is
7 overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of
8 admissible evidence. Subject to and without waiving their General Objections, Defendants refer
9 plaintiffs to the documents produced in response to Request Nos. 28 and 43.

10
11
12 Dated: April 6, 2006

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

13
14 By: 

15 David E. Lansky

16 Attorneys for Defendants SupportSoft, Inc.,
17 Radha R. Basu and Brian M. Beattie

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

PROOF OF SERVICE BY NEXT-DAY DELIVERY

I, Norma Carvalho, declare:

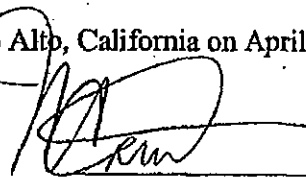
I am employed in Santa Clara County. I am over the age of 18 years and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304-1050. I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and processing of correspondence for next-day delivery by an express mail service. In the ordinary course of business, correspondence would be consigned to an express mail service on this date.

On this date, I served **RESPONSE TO PLAINTIFFS' FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS** on the person(s) listed below by placing the document(s) described above in an envelope addressed as indicated below, which I sealed. I consigned the envelope(s) to an express mail service by placing it/them for collection and processing on this day, following ordinary business practices at Wilson Sonsini Goodrich & Rosati.

Joseph Sternberg
Labaton Sucharow & Rudoff LLP
100 Park Avenue
New York, New York 10017-5563
Fax: 212-818-0477

Mark P. Kindall
Schatz & Nobel, P.C.
20 Church Street
Hartford, Connecticut 06103
Fax: 860-493-6290

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Palo Alto, California on April 6, 2006.



Norma Carvalho

**PROOF OF SERVICE BY ELECTRONIC POSTING
PURSUANT TO NORTHERN DISTRICT OF CALIFORNIA LOCAL RULES AND
ECF GENERAL ORDER NO. 45
AND BY MAIL ON ALL KNOWN NON-REGISTERED PARTIES**

I, the undersigned, say:

I am a citizen of the United States and am employed in the office of a member of the Bar of this Court. I am over the age of 18 and not a party to the within action. My business address is 1801 Avenue of the Stars, Suite 311, Los Angeles, California 90067.

On July 21, 2006, I served the following by posting such documents electronically to the ECF website of the United States District Court for the Northern District of California:

- 1 LETTER TO JUDGE ILLSTON DATED July 21, 2006 WITH ATTACHED EXHIBITS A & B**

on all ECF-registered parties in the action and, upon all others not so-registered but instead listed below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Los Angeles, California. They are:

SEE SERVICE LIST

Executed on July 21, 2006, at Los Angeles, California.

I certify under penalty of perjury that the foregoing is true and correct.

S/Kyaa Heller
Kyaa Heller

SERVICE LIST
Electronically To All ECF-Registered Entities
By US Mail To All Known Non-ECF-Registered Entities

Joseph Sternberg
Christopher Keller
Goodkind Labaton Rudoff & Sucharow LLP
100 Park Avenue
New York, NY 10017