

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

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

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

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

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA

21 SAN FRANCISCO DIVISION

22 ORACLE CORPORATION, et al.,

23 Plaintiffs,

24 v.

25 SAP AG, et al.,

26 Defendants.

Case No. 07-CV-1658 PJH

**REPLY DECLARATION OF JASON
 McDONELL IN SUPPORT OF
 DEFENDANTS' OBJECTIONS TO
 SPECIAL MASTER'S REPORT AND
 RECOMMENDATIONS RE:
 DISCOVERY HEARINGS 1 AND 2**

Date/Time: July 1, 2008, 11:00 am
 Courtroom: E, 15th Floor
 Judge: Hon. Elizabeth D. Laporte

1 I, JASON McDONELL, declare:

2 I am a partner in the law firm of Jones Day, 555 California Street, San Francisco,
3 California 94104, a member in good standing of the bar of this state, and counsel of record for
4 Defendants SAP AG, SAP Americas, and TomorrowNow, Inc. (“TN”) in the above-captioned
5 action. I make this declaration based on personal knowledge and, if called upon to do so, could
6 testify competently thereto.

7 1. Attached hereto as Exhibit 1 is a true and correct copy of an excerpt from the
8 transcript of the February 13, 2008 hearing with the Special Master on the parties’ first set of
9 motions to compel.

10 2. Attached hereto as Exhibit 2 is a true and correct copy of a July 27, 2002 letter
11 from James R.J. Spencer, then General Counsel for TN, to David Chavez, then Assistant General
12 Counsel for PeopleSoft. A copy of this letter was produced to Oracle by Blank Rome LLP on
13 May 16, 2008 in response to a subpoena from Oracle.

14 3. I have reviewed Oracle’s January 28, 2008 Motion to Compel Production of
15 Documents Related to Government Investigations and Further Responses to Interrogatories (the
16 “Letter Brief”). The quoted text cited at page 4 of Defendants’ reply brief appears at page 4 of
17 Oracle’s Letter Brief. Defendants have not included the Letter Brief itself because Oracle
18 designated it under the Protective Order as containing confidential and highly confidential
19 information. Instead, Defendants have quoted the relevant non-confidential text in the reply brief.

20 4. To date, Defendants have produced 2,181,283 Bates-numbered TN documents,
21 125,591 Bates-numbered SAP documents, and over 6 terabytes of native data (not Bates-
22 numbered).

23 I declare under penalty of perjury under the laws of the United States and the State of
24 California that the foregoing is true and correct. Executed this 6th day of June, 2008 in San
25 Francisco, California.

26

27

28

/S/ Jason McDonell
JASON McDONELL