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 18 SAP AG, SAP AMERICA, INC., and
 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA
 21 OAKLAND DIVISION

22 ORACLE USA, INC., et al.,
 23 Plaintiffs,
 24 v.
 25 SAP AG, et al.,
 26 Defendants.
 27

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

**DECLARATION OF THARAN
 GREGORY LANIER IN SUPPORT OF
 DEFENDANTS' RESPONSE TO
 PLAINTIFFS' PROPOSED JUDGMENT**

1 I, THARAN GREGORY LANIER, declare as follows:

2 I am a partner in the law firm of Jones Day, 1755 Embarcadero Road, Palo Alto,
3 California 94303, and counsel of record for Defendants SAP AG, SAP America, Inc. (together,
4 “SAP”), and TomorrowNow, Inc. (“TN”) (collectively, “Defendants”) in the above-captioned
5 matter. I am a member in good standing of the state bar of California and admitted to practice
6 before this Court. I make this declaration based on personal knowledge and, if called upon to do
7 so, could testify competently thereto.

8 1. Attached as **Exhibit 1** is a true and correct copy of the following excerpts from the
9 Trial Transcript on November 2, 2010: 335, 343, 453, 458.

10 2. Attached as **Exhibit 2** is a true and correct copy of the following excerpts from the
11 Trial Transcript on November 4, 2010: 528-30, 541-42.

12 3. Attached as **Exhibit 3** is a true and correct copy of the following excerpt from the
13 Trial Transcript on November 8, 2010: 856.

14 4. Attached as **Exhibit 4** is a true and correct copy of the following excerpts from the
15 Trial Transcript on November 9, 2010: 973-74, 993-94, 996-98, 1022.

16 5. Attached as **Exhibit 5** is a true and correct copy of the following excerpt from the
17 Trial Transcript on November 12, 2010: 1333.

18 6. Attached as **Exhibit 6** is a true and correct copy of the following excerpt from the
19 Trial Transcript on November 19, 2010: 1940.

20 7. Attached as **Exhibit 7** is a true and correct copy of the following excerpts from the
21 Trial Transcript on November 22, 2010: 2040, 2217.

22 8. Attached as **Exhibit 8** is a true and correct copy of *Berry v. Hawaii Express Serv.,*
23 *Inc.*, No. 03-00385 SOM/LEK, 2006 U.S. Dist. LEXIS 13718 (D. Haw. Mar. 9, 2006).

24 9. Attached as **Exhibit 9** is a true and correct copy of *Brayton Purcell LLP v.*
25 *Recordon & Recordon*, No. C-04-4995 EMC, 2007 WL 420122 (N.D. Cal. Feb. 6, 2007).

26 10. Attached as **Exhibit 10** is a true and correct copy of *Brighton Collectibles, Inc. v.*
27 *Coldwater Creek Inc.*, No. 06-CV-01848-H (POR), 2009 WL 160235 (S.D. Cal. Jan. 20, 2009).

28 11. Attached as **Exhibit 11** is a true and correct copy of *Fleming v. Parametric Tech.*

1 Corp., Nos. 97-56262, 97-56350, 1999 WL 451764 (9th Cir. June 29, 1999).

2 12. Attached as **Exhibit 12** is a true and correct copy of *N. Am. Karaoke-Works Trade*
3 *Assoc., Inc., v. Entral Group Int'l, LLC*, No. 06 Civ. 5158 (LTS)(MHO), 2010 U.S. Dist. LEXIS
4 53385 (S.D.N.Y. May 27, 2010).

5 13. Attached as **Exhibit 13** is a true and correct copy of *Pietz v. Amato*, Nos. 89-35413,
6 89-35442, 1990 WL 160970 (9th Cir. Oct. 22, 1990).

7 14. Attached as **Exhibit 14** is a true and correct copy of *Procter & Gamble Co. v.*
8 *Haugen*, No. 1:95-CV-94 TS, 2008 WL 2518719 (D. Utah June 20, 2008).

9 15. Attached as **Exhibit 15** is a true and correct copy of *Roger Miller Music, Inc. v.*
10 *Sony/ATV Pub., LLC*, No. 3:04-1132, 2010 WL 1026980 (M.D. Tenn. Mar. 18, 2010).

11 16. Attached as **Exhibit 16** is a true and correct copy of *SEB S.A. v. Sunbeam Corp.*,
12 No. 02-80257-CIV, 2004 WL 5564188 (S.D. Fla. Mar. 22, 2004).

13 17. Attached as **Exhibit 17** is a true and correct copy of *Sony BMG Music Entm't v.*
14 *Cody*, No. 1:08-cv-00590-LJO-SMS, 2009 U.S. Dist. LEXIS 100092 (E.D. Cal. Oct. 26, 2009).

15 18. Attached as **Exhibit 18** is a true and correct copy of *Tracy v. Skate Key, Inc.*, No.
16 86 CIV. 3439 (MBM), 1990 WL 9855 (S.D.N.Y. Feb. 2, 1990).

17 19. Attached as **Exhibit 19** is a true and correct copy of *UMG Recordings v.*
18 *Fredrickson*, No. 1:08-cv-00589-OWW-SMS, 2008 U.S. Dist. LEXIS 100123 (E.D. Cal. Dec. 1,
19 2008).

20 20. Attached as **Exhibit 20** is a true and correct copy of *UMG Recordings v.*
21 *Fredrickson*, No. 1:08-cv-00589-OWW-SMS, 2009 U.S. Dist. LEXIS 11926 (E.D. Cal. Feb. 17,
22 2009).

23 21. Attached as **Exhibit 21** is a true and correct copy of *U.S. Payphone, Inc. v.*
24 *Executives Unlimited of Durham, Inc.*, Nos. 89-1081, 89-1085, 1991 WL 64957 (4th Cir. Apr. 29,
25 1991).

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I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed this 23rd day of December, 2010 in Palo Alto, California.

/s/ Tharan Gregory Lanier
Tharan Gregory Lanier