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

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

**DECLARATION OF JOSHUA L. FUCHS
IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFFS'
PROPOSED FINAL JUDGMENT**

1 I, Joshua L. Fuchs, declare as follows:

2 (1) I am an associate in the law firm of Jones Day, 717 Texas, Suite 3300, Houston,
3 Texas 77002, 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 action. I am a member in good standing of the state bar of Texas and admitted pro hac vice in
6 this matter. I make this declaration based on personal knowledge and, if called upon to do so,
7 could testify competently thereto.

8 (2) Defendants made available TomorrowNow's support services servers, which
9 totaled over 45 servers, for Plaintiffs review. From these servers alone, approximately 12.5
10 terabytes of data was requested and produced.

11 (3) TomorrowNow also had databases including the SAS Database, dotProject,
12 BakTrak, and Pathfinder which were used to provide support services to its customers. These
13 databases contain the equivalent of tens of thousands of files.

14 (4) Defendants collected approximately 300 hard drives from TomorrowNow
15 employees over time.

16 (5) In total, Defendant TomorrowNow produced 10,398,674 bates numbered pages,
17 not including native files.

18 (6) All of the materials referenced above would have to be searched and analyzed in
19 detail to determine which files contain infringing material at issue in this case.

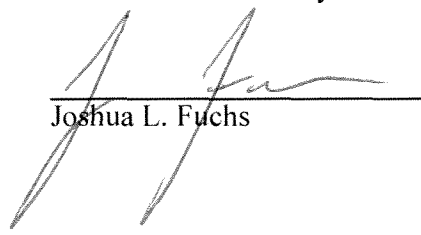
20 (7) Attached as Exhibit A is a true and correct copy of the following excerpts from the
21 May 20, 2010 deposition transcript of Kevin Mandia: 19:16-20:9.

22 (8) Attached as Exhibit B is a true and correct copy of the following excerpts from the
23 May 21, 2010 deposition transcript of Kevin Mandia: 416:12-417:19.

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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 21st day of December, 2010 in Houston, Texas.



Joshua L. Fuchs

HUI-134767v1