

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 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 WILLIAM R.
THOMAS IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' PROPOSED FINAL
JUDGMENT**

1 I, William R. Thomas, declare as follows:

2 (1) I am currently employed by TomorrowNow, Inc. to maintain its computer server
3 hardware systems. Previously, I was employed by TomorrowNow as its Global Information
4 Technology Director. I make this declaration based on personal knowledge and, if called upon to
5 do so, could testify competently thereto.

6 (2) Over time, TomorrowNow had approximately 45 support services servers that
7 were employed at least in part to service customers.

8 (3) Some of those servers contain complex array devices, involving multiple hard
9 drives. These array devices are designed to have redundant safeguard measures and spread the
10 data across multiple physical devices.

11 (4) During the period that I worked for TomorrowNow, each employee had at least
12 one computer and some had multiple computers. Moreover, numerous employees had other
13 electronic media, such as USB devices and external hard drives.

14 (5) I am aware that TomorrowNow had a number of additional databases and
15 programs as well, including the SAS database, BakTrak, dotProject, and Pathfinder.

16 (6) Each of these servers, computers, and databases may contain Oracle intellectual
17 property and it is impossible to return that intellectual property without providing Oracle the
18 entirety of the servers, computers, and databases. Additionally, even if it were possible the files
19 would need to be carefully evaluated to determine what data reside on them. As a matter of
20 practice, TomorrowNow did not systematically store all of Oracle's intellectual property in a
21 confined location that is easy to segregate from other, non-Oracle files.

22 (7) TomorrowNow computer systems contain personal, former employee information
23 and confidential information sent to TomorrowNow by its customers.

24 I declare under penalty of perjury under the laws of the United States and the State of
25 California that the foregoing is true and correct. Executed this 17th day of December, 2010 in
26 Bryan, Texas.

27

28


William R. Thomas

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