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19 Attorneys for Plaintiffs Oracle USA, Inc., *et al.*

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

22 ORACLE USA, INC., *et al.*,

23 Plaintiffs,

24 v.

25 SAP AG, *et al.*,

26 Defendants.

No. 07-CV-01658 PJH (EDL)

**DECLARATION OF GEOFFREY M.
 HOWARD IN SUPPORT OF
 STIPULATED REQUEST FOR
 ORDER SHORTENING TIME RE
 ORACLE'S MOTION FOR STAY**

1 I, Geoffrey M. Howard, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am
3 a partner at Bingham McCutchen LLP, counsel of record for Plaintiffs Oracle USA, Inc. and
4 Oracle International Corporation. I have personal knowledge of the facts stated within this
5 Declaration and could testify competently to them if required.

6 2. On September 1, 2011, the Court issued its Order Granting Defendants'
7 Motion for JMOL, and Motion for New Trial; Order Denying Plaintiffs' Motion for New Trial;
8 Order Partially Vacating Judgment (the "Post-Trial Order") (Docket No. 1081). The Post-Trial
9 Order requires Oracle to submit a statement accepting or rejecting the remittitur no later than
10 September 30, 2011. Post-Trial Order at 20.

11 3. On September 12, 2011, Plaintiff Oracle International Corporation filed a
12 motion to certify the Post-Trial Order for interlocutory appeal under 28 U.S.C. § 1292(b) (the
13 "Certification Motion"). On September 13, 2011, Oracle USA, Inc. and Oracle International
14 Corporation ("Oracle") filed a motion to stay all other case activities and the deadline to accept
15 or reject the remittitur while the certification motion and any resulting appellate proceedings are
16 pending (the "Stay Motion"). Pursuant to the Court's Calendar Schedule Notes, Oracle noticed
17 both motions for the Court's first available hearing date for cases with docket numbers ending in
18 even digits, January 11, 2012.

19 4. Because Oracle must accept or reject the remittitur by September 30, 2011
20 but its stay motion cannot be heard on normal time until January 2012, Oracle's deadline to
21 accept or reject the remittitur will pass before the stay motion is heard. Oracle also anticipates
22 that, absent a stay, additional pretrial or other deadlines may be set or even pass before that time.
23 Since Oracle is seeking a stay of the deadline to accept or reject the remittitur and other pretrial
24 deadlines, effective relief cannot be granted unless the stay motion is heard before those
25 deadlines pass. Oracle therefore requests that the Stay Motion be heard on shortened time,
26 before the deadline to accept or reject the remittitur expires.

27 5. On September 12, 2011, I emailed Tharan Gregory Lanier, counsel for
28 Defendants SAP AG, SAP America, Inc. and TomorrowNow, Inc. to inquire whether Defendants

