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 18 TOMORROWNOW, INC.

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

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

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

**DECLARATION OF THARAN
 GREGORY LANIER IN SUPPORT OF
 DEFENDANTS' OPPOSITIONS TO
 ORACLE'S MOTIONS *IN LIMINE***

Date: May 24, 2012
 Time: 2:30 p.m.
 Place: 3rd Floor, Courtroom 3
 Judge: Hon. Phyllis J. Hamilton

LANIER DECLARATION IN SUPPORT OF DEFS.'
 OPPOSITIONS TO ORACLE'S MOTIONS *IN LIMINE*
 Case No. 07-CV-1658 PJH (EDL)

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., and
4 TomorrowNow, Inc. (collectively, "Defendants") in the above-captioned matter. I am a member
5 in good standing of the state bar of California and admitted to practice before this Court. I make
6 this declaration based on personal knowledge and, if called upon to do so, could testify
7 competently thereto.

8 1. Attached as **Exhibit 1** is a true and correct copy of relevant excerpts from the May
9 12, 2010 deposition of Paul K. Meyer.

10 2. Attached as **Exhibit 2** is a true and correct copy of relevant excerpts from the May
11 13, 2010 deposition of Paul K. Meyer.

12 3. Attached as **Exhibit 3** is a true and correct copy of relevant excerpts from the May
13 14, 2010 deposition of Paul K. Meyer.

14 4. Attached as **Exhibit 4** is a true and correct copy of a document titled "Changes to
15 Lost Profits Customer Analyses," marked as Defendants' Deposition Exhibit 2019.

16 5. Attached as **Exhibit 5** is a true and correct copy of relevant excerpts from the June
17 8, 2010 deposition of Stephen K. Clarke.

18 6. Attached as **Exhibit 6** is a true and correct copy of relevant excerpts from the June
19 9, 2010 deposition of Stephen K. Clarke.

20 7. Attached as **Exhibit 7** is a true and correct copy of relevant excerpts from the
21 Supplemental Expert Report of Paul K. Meyer, dated February 23, 2010.

22 8. Attached as **Exhibit 8** is a true and correct copy of Schedule 30.1.SU to the Expert
23 Report of Paul K. Meyer.

24 9. Attached as **Exhibit 9** is a true and correct copy of relevant excerpts from the
25 Expert Report of Stephen K. Clarke, dated May 7, 2010.

26 10. Attached as **Exhibit 10** is a true and correct copy of the Third Supplement of
27 Stephen K. Clarke, dated August 4, 2010.

28 11. Attached as **Exhibit 11** is a true and correct copy of relevant excerpts of the

1 transcript of proceedings for the Final Pretrial Conference on September 30, 2010.

2 12. Attached as **Exhibit 12** is a true and correct copy of relevant excerpts of the
3 official trial transcripts for the following dates: November 12, 2010; November 16, 2010; and
4 November 18, 2010.

5 13. Attached as **Exhibit 13** is a true and correct copy of an excerpt from Mark
6 Hirschey, *Managerial Economics* (10th ed. 2003).

7 14. Attached as **Exhibit 14** is a true and correct copy of *Abila v. United States*, No.
8 2:09-cv-01345-KJD-LRL, 2011 U.S. Dist. LEXIS 42944 (D. Nev. Apr. 4, 2011).

9 15. Attached as **Exhibit 15** is a true and correct copy of *Conlon Grp. Ariz., LLC v.*
10 *CNL Resort Biltmore Real Estate, Inc.*, No. CV-08-0965-PHX-FJM, 2009 WL 2259734 (D. Ariz.
11 July 27, 2009).

12 16. Attached as **Exhibit 16** is a true and correct copy of *Indus. Automation Supply,*
13 *LLC v. United Rentals Highway Techs.*, No. 3:04-CV-99, 2006 WL 5219390 (D.N.D. Feb. 8,
14 2006).

15 17. Attached as **Exhibit 17** is a true and correct copy of *Maionchi v. Union Pac.*
16 *Corp.*, No. C 03-0647 JF PVT, 2007 WL 2022027 (N.D. Cal. July 9, 2007).

17 18. Attached as **Exhibit 18** is a true and correct copy of *Martinez-Hernandez v.*
18 *Butterball, L.L.C.*, No. 5:07-CV-174-H, 2011 U.S. Dist. LEXIS 111000 (E.D.N.C. Sept. 26,
19 2011).

20 19. Attached as **Exhibit 19** is a true and correct copy of *NetQuote, Inc. v. Byrd*, No.
21 07-cv-00630-DME-MEH, 2008 WL 2442048 (D. Colo. June 13, 2008).

22 20. Attached as **Exhibit 20** is a true and correct copy of *Robert Billet Promotions, Inc.*
23 *v. IMI Cornelius, Inc.*, Civ. A. No. 95-1376, 1998 WL 151806 (E.D. Pa. Apr. 1, 1998).

24 21. Attached as **Exhibit 21** is a true and correct copy of *Therasense, Inc. v. Becton,*
25 *Dickinson and Co.*, No. C 04-02123 WHA, 2008 WL 2323856 (N.D. Cal. May 22, 2008).

26 22. Attached as **Exhibit 22** is a true and correct copy of *United States v. 14.3 Acres of*
27 *Land*, No. 07cv886-W(NLS), 2008 U.S. Dist. LEXIS 66667 (S.D. Cal. Aug. 29, 2008).

28 23. Attached as **Exhibit 23** is a true and correct copy of *Valley Forge Ins. Co. v.*

1 *Zurich Am. Ins. Co.*, No. C 09-2007 SBA, 2012 U.S. Dist. LEXIS 8378 (N.D. Cal. Jan. 25, 2012).

2 I declare under penalty of perjury under the laws of the United States and the State of
3 California that the foregoing is true and correct.

4 Executed this 10th day of May, 2012 in New York, New York.

5 /s/ Tharan Gregory Lanier
6 Tharan Gregory Lanier

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