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 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)

**DEFENDANTS' RESPONSE TO
 ORACLE'S STATEMENT
 REGARDING TRIAL SCHEDULE**

1 Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc. (collectively
2 “Defendants”) submit this Response to Oracle International Corporation’s (“Oracle”) Statement
3 Regarding Trial Schedule. Defendants are ready, willing and able to try this case and are
4 prejudiced by delay. Defendants therefore ask that the Court maintain the current case schedule,
5 including pretrial deadlines, at least through the pretrial deadlines set by the Court—including the
6 June 8 hearing on evidentiary issues and the June 13 deadline to submit deposition designation
7 objections, jury instructions and an updated jury questionnaire. That way, should *Invista B.V. v.*
8 *E.I du Pont de Nemours* (S.D.N.Y.) settle before then, this case will be ready to try on the current
9 schedule; if *Invista* has not settled by then, at least this case will be in the best position to quickly
10 resume, should it have to trail.

11 As the Court has stated, having a three-week rather than a two-week trial makes it much
12 more difficult to find an opening on the Court’s schedule. It is worth noting that Oracle’s witness
13 and exhibit lists and deposition designations are devoted heavily to evidence on liability issues
14 and alleged willfulness. This will become even more evident as the Court considers the exhibits
15 submitted for consideration at the June 8 hearing and the depositions designations for which
16 objections will be submitted June 13. The evidence actually necessary to prove lost and
17 infringer’s profits could efficiently be presented in two weeks.

18 Respectfully submitted.

19 Dated: May 31, 2012

JONES DAY

20 By: /s/ Tharan Gregory Lanier
21 Tharan Gregory Lanier

22 Counsel for Defendants
23 SAP AG, SAP AMERICA, INC., and
24 TOMORROWNOW, INC.