

1 Robert A. Mittelstaedt (SBN 060359)  
 Jason McDonell (SBN 115084)  
 2 Elaine Wallace (SBN 197882)  
 JONES DAY  
 3 555 California Street, 26<sup>th</sup> 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 SAN FRANCISCO DIVISION

22 ORACLE CORPORATION, et al.,

23 Plaintiffs,

24 v.

25 SAP AG, et al.,

26 Defendants.

Case No. 07-CV-1658 PJH

**DECLARATION OF JASON  
 McDONELL IN SUPPORT OF  
 STIPULATED REQUEST TO  
 SHORTEN TIME**

Date: N/A

Time: N/A

Courtroom: N/A

Judge: Hon. Elizabeth D. Laporte

1 I, JASON McDONELL, declare:

2 I am a partner in the law firm of Jones Day, 555 California Street, San Francisco,  
3 California 94104, a member in good standing of the bar of this state, and counsel of record for  
4 Defendants SAP AG, SAP Americas, and TomorrowNow, Inc. (“TN”) in the above-captioned  
5 action. I make this declaration based on personal knowledge and, if called upon to do so, could  
6 testify competently thereto.

7 1. On July 3, 2008, the Court issued an Order directing Defendants to produce to  
8 Oracle, no later than July 15, 2008, certain documents produced to the grand. Dkt. 106.

9 2. On July 13, 2006, Defendants filed a Stipulation and [Proposed] Order to Extend  
10 Time to Comply with Discovery Order, requesting an extension to July 23, 2008 to comply with  
11 the Court’s Order on grounds, among others, that Defendants’ wanted the full period of time until  
12 July 18, 2008 to decide whether to appeal the Order. Dkt. 113. On July 17, 2008, the Magistrate  
13 Judge granted this stipulated request. Dkt. 115.

14 3. In my declaration in support of the stipulated request, I informed the Court that if  
15 Defendants decide to appeal, then to avoid waiver and mootness of the appeal, Defendants would  
16 timely seek a stay of that part of the Court’s Order requiring Defendants to produce to Oracle  
17 documents provided to the grand jury. Dkt. 114.

18 4. Defendants have decided to appeal that part of the Court’s Order and are filing  
19 objections with Judge Hamilton today. Defendants thus seek a stay or an additional extension of  
20 time to comply with the Magistrate Judge’s order until a date seven (7) days after the disposition  
21 of Defendants’ objections by Judge Hamilton. If Defendants were required to comply with the  
22 Order before their objections are decided, the resulting production of the documents would occur  
23 before Judge Hamilton can rule on Defendants’ objections.

24 5. Counsel for Oracle has informed me that Oracle intends to oppose Defendants’  
25 motion for a stay or an extension of time, but that Oracle stipulates that the matter can be decided  
26 on shortened time. Specifically, the parties agreed that Oracle may file an opposition brief on  
27 Monday, July 21, 2008 and that Defendants will not file a reply brief.

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6. The requested shortening of time for a hearing on the motion to stay or for an extension of time will not have any detrimental impact on the schedule for the case because it will not impact the time it takes for the appeal to be resolved, but will merely ensure that the Magistrate Judge can consider the parties' respective positions before the current July 23, 2008 due date for the production.

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 18th day of July, 2008 in San Francisco, California.

\_\_\_\_\_  
/S/ Jason McDonell  
JASON McDONELL