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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
THOMAS ZIEMEN IN SUPPORT OF
DEFENDANTS' RESPONSE TO
PLAINTIFFS' MOTION TO COMPEL
PRODUCTION OF CLAWED BACK
DOCUMENTS**

Date: N/A

Time: N/A

Courtroom: E, 15th Floor

Judge: Hon. Elizabeth D. Laporte

ZIEMEN DECL. ISO DEFS. RESP. TO PLS. MOT. TO COMPEL
PROD. OF CLAWED BACK DOCUMENTS
Case No. 07-CV-1658 PJH(EDL)

1 I, THOMAS ZIEMEN, declare:

2 I am a Vice President, Service Solution Management – Global Services and Support of
3 SAP AG, on of the Defendants in this case. I make this declaration based on personal knowledge
4 and, if called upon to do so, could testify competently thereto.

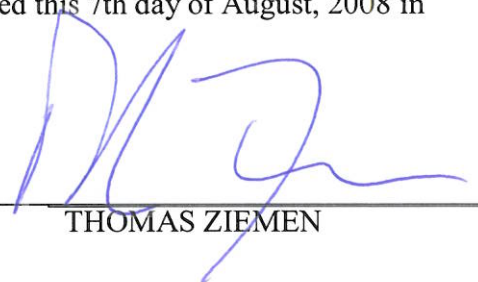
5 1. In 2007, I drafted the document that has been produced by TomorrowNow, Inc. in
6 this case and Bates labeled TN-OR00164402 through TN-OR00164410. It was designed as a
7 presentation to SAP’s management providing the business case for Tomorrow Now’s and SAP’s
8 future business plans relating to Oracle’s eBusiness Suite products and seeking management’s
9 business advice and direction on those plans. This presentation was intended by me to be a
10 highly confidential, non-public internal SAP document relating to certain of TomorrowNow’s and
11 SAP’s future business plans and competitive strategies. Because of the management-level
12 strategic considerations contained in the document, the disclosure of this presentation to Oracle
13 without the “Highly Confidential” protections provided by the Agreed Protective Order in this
14 case could likely cause competitive and business injury to TomorrowNow and SAP.

15 2. The bottom portion of page TN-OR00164404 of the presentation contains a
16 section called “Risk Status”. The information included in the “Summary of Key Risks” portion
17 of that section is a high-level summary that was created by and provided to me by Markus Geng,
18 one of SAP’s risk managers, of what he told me had been explained to him by SAP’s in-house
19 attorneys Chris Faye, Jochen Scholten as the key legal risks of the proposed business strategy
20 reflected elsewhere in the presentation. I believe that the fact that the referenced risk analysis
21 involved legal advice from SAP’s attorneys is self-evident in the presentation itself because
22 Markus Geng noted in the “Overall Risk Status” portion of that section that the more detailed
23 results of the legal analysis could be made available under “Attorney Client Privilege.” And, I
24 believe that, as Markus Geng had footnoted on that same page that the in depth technical
25 examination was outstanding, therefore the technical risk assessment had not yet been performed.

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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 7th day of August, 2008 in Walldorf, Germany.



THOMAS ZIEMER