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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 USA, INC., et al.,

23 Plaintiffs,

24 v.

25 SAP AG, et al.,

26 Defendants.

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

**DECLARATION OF CATHERINE
HYDE**

1 I, Catherine Hyde, declare as follows:

2 1. I am a former TomorrowNow, Inc. employee. I have personal knowledge of the
3 facts stated in this declaration and could competently testify to them if required.

4 2. I was employed by TomorrowNow as a developer for the PeopleSoft product lines
5 from October 2002 through October 31, 2008. During my employment at TomorrowNow, I used
6 a TomorrowNow-created database, referred to as the SAS database, which was created to
7 document the support activity for TomorrowNow's customers. As a general practice, the SAS
8 database was used by TomorrowNow employees to document the scoping (researching of an
9 issue), development and testing of the fixes and regulatory updates created for TomorrowNow
10 customers. This documentation often included information about the environments and/or
11 environment components that were accessed or used during that process. In my experience at
12 TomorrowNow, these researching, development and testing activities documented in SAS were
13 usually performed on a daily basis, and included use of several TomorrowNow customer
14 environments and/or environment components in servicing customers' needs.

15 3. For a portion of the time I was employed by TomorrowNow, I used a
16 TomorrowNow-created database, referred to as BakTrak, to track the backup, restore, check-in
17 and check-out of TomorrowNow customers' environments and environment components. As a
18 general practice, TomorrowNow used BakTrak to track when and why TomorrowNow customer
19 environments and/or environment components were backed-up and/or restored. As a general
20 practice, TomorrowNow also used BakTrak to track which environments and/or environment
21 components were being used, and by whom, through a check-in and check-out process.

22 4. Based on my experience, the SAS database is the best record, if any, of how and
23 when TomorrowNow customer environments and/or environment components were used to
24 support customers. The SAS database is relatively easy to use, and, with minimal training,
25 relevant material can be easily extracted. The SAS database has a self-contained index and is
26 fully searchable. The data can be sorted and reviewed in a number of different ways including,
27 but not limited to, by customer, fix, case and product line. All of the different ways to view the
28 data can be determined by the index. The BakTrak database has self-explanatory buttons that

1 allow the user to view the restores, backups, and check-in and check-out information. Within
2 these views, the user can pick the product line or environment/environment component they want
3 to see.

4 5. So far, in this case, I have been deposed as a 30(b)(6) witness and in my individual
5 capacity for approximately 22 hours collectively on April 1, 2008, April 2, 2008, February 12,
6 2009 and March 12, 2009. During those 22 hours, Oracle's attorneys have questioned me
7 regarding numerous printouts and documents from the SAS database and regarding spreadsheets
8 generated from BakTrak. Those printouts and documents appear exactly as they would if I had
9 printed them at TomorrowNow while I was an employee. It is apparent to me that whoever
10 printed these documents from the SAS and BakTrak databases for Oracle's attorneys is a
11 competent user of both the SAS database and BakTrak. It was also apparent to me from Oracle's
12 counsel's questions that they understand how to locate the necessary information from both
13 sources. Much of Oracle's counsel's questioning of me has involved reference to specific
14 TomorrowNow's customer environments and/or environment components. And a substantial
15 portion of those questions involved simply asking me to confirm the information in the SAS
16 database printouts and/or the BakTrak spreadsheets. In fact, the 30(b)(6) deposition that took
17 place on April 1 and 2, 2008 was focused principally on the creation and use of TomorrowNow
18 customer environments and/or environment components.

19 6. I have read Oracle's Motion to Compel and Geoff Howard's supporting
20 declaration, and I acknowledge that during my individual deposition on March 12, 2009, Mr.
21 Howard asked me questions about the CDs used to build TomorrowNow customer environments
22 and/or environment components. However, Mr. Howard also asked almost the exact same
23 questions during my 30(b)(6) deposition regarding the same TomorrowNow customer
24 environments and/or environment components, in addition to many more that he did not ask me
25 about during my individual deposition. In preparing for my 30(b)(6) testimony, I spent numerous
26 hours reviewing the SAS database and BakTrak to help educate myself for that deposition
27 because I believed these to contain the most complete and accurate record of the creation and use
28 of environments and/or environment components at TomorrowNow. I also relayed some of the

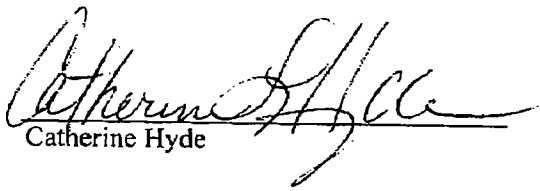
1 results of my research from my 30(b)(6) testimony in my individual deposition. During all of the
2 deposition testimony I have provided, I believe I have exhausted all of my personal knowledge
3 regarding the source of environments; therefore, I do not believe I could provide any additional
4 information regarding the sources of environments. Also, the source of each TomorrowNow
5 customer environment and/or environment component is a different question than how each and
6 every environment and/or environment component was used, about which Oracle's attorneys also
7 exhaustively questioned me.

8 7. I also read Mr. Howard's statement that I am a paid litigation consultant. It is true
9 that I have a consulting agreement with TomorrowNow to help locate and provide information
10 relating to the litigation. However, the consulting agreement does not prevent me from being
11 employed elsewhere, and I am actively seeking that employment. When I entered into the
12 consulting agreement, I did not envision and do not now believe that it requires me to spend
13 months or even years extracting information out of the SAS and BakTrak databases. I have
14 further read Plaintiff Oracle USA, Inc.'s Second Set of Interrogatories to Defendant
15 TomorrowNow, Inc. Interrogatory No. 14 and believe that it would takes thousands of man-hours
16 to go through the SAS database and provide the most complete answer possible to interrogatory
17 14, and that answer would still be incomplete. I also believe that with Oracle's attorneys'
18 knowledge of the databases that was demonstrated during their questioning of me, they are in
19 substantially the same position as I would be to conduct the review. This is particularly true
20 because I have no independent recollection of the specific information Oracle seeks and the
21 information in the SAS databases is essentially the best information available to answer
22 Interrogatory No. 14.

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8. I declare under the penalty of perjury that the above facts are based on my personal knowledge and are true and correct. This Declaration was executed on July 14, 2009, at Melbourne, Florida.


Catherine Hyde