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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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SAN FRANCISCO DIVISION

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ORACLE USA, INC., *et al.*,	No. 07-CV-1568 PJH (EDL)
Plaintiffs,	**DECLARATION OF KEVIN MANDIA IN SUPPORT OF ORACLE'S MOTION TO AMEND COMPLAINT**
v.	
SAP AG, *et al.*,	
Defendants.	Date: August 19, 2009 Time: 9:00 a.m. Courtroom: 5, 17th Floor Judge: Hon. Phyllis J. Hamilton

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DECLARATION OF KEVIN MANDIA IN SUPPORT OF ORACLE'S MOTION TO AMEND COMPLAINT

1   I, Kevin Mandia, declare:

2   1.   I am CEO and president of Mandiant Corporation ("Mandiant"), a

3   computer forensics and information security consultation firm. Except for matters stated below

4   on information and belief, I have personal knowledge of the matters stated in this Declaration by

5   virtue of my retention by Plaintiffs in this action. If called and sworn as a witness, I could and

6   would competently testify as to such matters.

7   2.   As part of the discovery process in this case, Mandiant has been given

8   access to copies of images of servers that I am informed and believed resided at TomorrowNow,

9   Inc.'s ("SAP TN") facilities and are described by Defendants their "Data Warehouse" materials.

10   3.   The Data Warehouse materials contain SAP TN's copies of Oracle

11   software environments and downloads of Oracle Software and Support Materials (as that term is

12   used in the Third Amended Complaint) from Oracle's password-protected systems. These

13   materials also tend to show how SAP TN created fixes, including by copying and manipulating

14   those environments and downloads. Based on Mandiant's review, the Data Warehouse

15   information appears to reflect some of SAP TN's daily activities, showing its continuing support

16   of specific customers over time, including each fix provided to each customer.
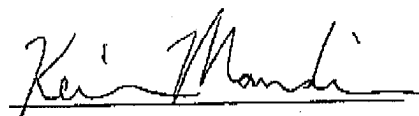
17   4.   I understand that Defendants have represented that the Data Warehouse

18   production, once completed, will total over seven terabytes of data and 14 million files. Much of

19   the data is produced in a compressed format. As an example, of the materials received to date,

20   more than 3,000 files are compressed copies of software environments that appear to have

21   originated from Oracle's software licensed to its customers, and which exist as a copy of that

22   software, sometimes modified, on SAP TN's servers. These environment files are on average

23   roughly 200 megabytes in size but when extracted and decompressed can expand to 3.5

24   gigabytes per environment. In other words, decompression could potentially add approximately

25   10 terabytes to the volume of just our current data set. Furthermore, it takes an average of a

26   week per terabyte to extract and decompress this data. Based on all of the information available

27   to me, I estimate that the sum decompressed size of the Data Warehouse production, once

28   complete, could exceed 16 terabytes and 15 million files.

DECLARATION OF KEVIN MANDIA IN SUPPORT OF ORACLE'S MOTION TO AMEND COMPLAINT

1   5.   In my experience, and by way of comparison, one terabyte is the

2   equivalent of approximately 50 million pages of documents.

3   6.   To determine the extent to which SAP TN copied Oracle code and

4   modified it (or did not modify it), and distributed it to customers, Mandiant must analyze the

5   Data Warehouse and SAS records (which are by far the best information sources available to

6   Mandiant for this purpose) to trace SAP TN's fix development. This includes a code comparison

7   between Oracle code and the code SAP TN provided to its customers and used in developing

8   fixes.

9   7.   Mandiant has been building the necessary infrastructure, and then

10   analyzing the millions of files in the Data Warehouse since Oracle received the first production

11   in October 2008. This data review process is very complex and manually intensive, and not yet

12   complete. Mandiant cannot simply run searches and read the documents like a review of, for

13   instance, an email production. Instead, it must run file-compares and perform forensic analysis

14   on the data – often involving line by line code comparisons – to determine which files are copies

15   of, or modifications of, others, and how the files have been manipulated, and their relationship to

16   the software environment copies. To complete such an analysis for even a reasonable sample of

17   the available data will take Mandiant several more months, if not longer.

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19   I declare under penalty of perjury under the laws of the United States that the

20   foregoing is true and correct and that this declaration is executed on July 14, 2009.

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23   Kevin Mandia

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