

1 BINGHAM MCCUTCHEN LLP  
DONN P. PICKETT (SBN 72257)  
2 GEOFFREY M. HOWARD (SBN 157468)  
HOLLY A. HOUSE (SBN 136045)  
3 ZACHARY J. ALINDER (SBN 209009)  
BREE HANN (SBN 215695)  
4 Three Embarcadero Center  
San Francisco, CA 94111-4067  
5 Telephone: 415.393.2000  
Facsimile: 415.393.2286  
6 donn.pickett@bingham.com  
geoff.howard@bingham.com  
7 holly.house@bingham.com  
zachary.alinder@bingham.com  
8 bree.hann@bingham.com  
  
9 DORIAN DALEY (SBN 129049)  
JENNIFER GLOSS (SBN 154227)  
10 500 Oracle Parkway  
M/S 50p7  
11 Redwood City, CA 94070  
Telephone: (650) 506-4846  
12 Facsimile: (650) 506-7114  
dorian.daley@oracle.com  
13 jennifer.gloss@oracle.com  
  
14 Attorneys for Plaintiffs  
Oracle USA, Inc., Oracle International Corporation, and  
15 Oracle EMEA Limited

16 UNITED STATES DISTRICT COURT  
17  
18 NORTHERN DISTRICT OF CALIFORNIA  
19  
20 SAN FRANCISCO DIVISION

21 ORACLE USA, INC., *et al.*,  
22 Plaintiffs,  
23 v.  
24 SAP AG, *et al.*,  
25 Defendants.  
26

No. 07-CV-1568 PJH (EDL)

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

Date: August 19, 2009  
Time: 9:00 a.m.  
Courtroom: 5, 17th Floor  
Judge: Hon. Phyllis J. Hamilton

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.

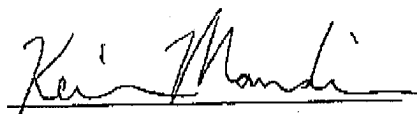
17 4. I understand that Defendants have represented that the Data Warehouse  
18 production, once completed, will total over seven terabytes of data and 14 million files. Much of  
19 the data is produced in a compressed format. As an example, of the materials received to date,  
20 more than 3,000 files 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.

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-compare 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.

18  
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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