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

19 ORACLE USA, INC. *et al.*,  
 20 Plaintiffs,  
 21 v.  
 22 SAP AG, *et al.*,  
 23 Defendants.

No. 07-CV-01658 PJH (EDL)

**DECLARATION OF GEOFFREY M.  
 HOWARD IN SUPPORT OF  
 PLAINTIFFS' REPLY IN SUPPORT  
 OF MOTION TO COMPEL  
 PRODUCTION OF DOCUMENTS  
 RELATED TO DAMAGES MODEL  
 AND INTERROGATORY  
 RESPONSES RELATED TO USE OF  
 PLAINTIFFS' INTELLECTUAL  
 PROPERTY**

Date: August 4, 2009  
 Time: 2:00 pm  
 Place: E, 15th Floor  
 Judge: Hon. Elizabeth D. Laporte

1 I, Geoffrey M. Howard, declare as follows:

2 1. I am an attorney at law licensed to practice in the State of California and  
3 before this Court, and am a partner at Bingham McCutchen LLP, counsel of record for plaintiffs  
4 Oracle USA, Inc., Oracle International Corporation, and Oracle EMEA Limited (together,  
5 “Oracle”) in this action. I have personal knowledge of the facts stated below and, if called as a  
6 witness, could competently testify as to them.

7 2. Attached as **Exhibit A** is a true and correct copy of an excerpt from  
8 Defendant TomorrowNow’s Fourth Amended and Supplemental Response to Plaintiff to Oracle  
9 Corporation’s First Set of Interrogatories, containing Defendants’ responses and objections to  
10 Interrogatory 13.

11 3. Attached as **Exhibit B** is a true and correct copy of an excerpt from  
12 Defendant TomorrowNow’s First Amended and Supplemental Response to Plaintiff Oracle  
13 USA’s Second Set of Interrogatories, containing Defendants’ responses and objections to  
14 Interrogatory 14.

15 4. Oracle estimates that it has spent over \$160,000 just in expert fees trying  
16 to understand and manipulate the information in SAS, and estimates it has spent more than \$2  
17 million reviewing the database, analyzing the available information, and preparing for and taking  
18 depositions on these issues. Oracle even consulted with a technical SAS expert provided by  
19 Defendants. Overall, based on Defendants’ representations regarding the cost incurred to review  
20 and produce documents, it appears the parties have spent roughly comparable amounts on those  
21 activities.

22 5. Attached as **Exhibit C** are true and correct copies of excerpts from the  
23 following deposition transcripts: February 5, 2009 Deposition of Roderic Russell at 203:3-  
24 203:21; March 13, 2009 Deposition of John Tanner at 20:23-21:20; May 12, 2009 Deposition of  
25 Catherine Hyde at 186:19-187:11.

26 6. Attached as **Exhibit D** is a true and correct copy of an excerpt from the  
27 December 6, 2007 Deposition of Shelley Nelson at 185:3-186:8.

28 7. Attached as **Exhibit E** is a true and correct copy of a July 3, 2007 press

