

EXHIBIT B

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SAP AG, SAP AMERICA, INC., and
17 TOMORROWNOW, INC.

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

21 ORACLE CORPORATION, et al.,

22 Plaintiffs,

23 v.

24 SAP AG, et al.,

25 Defendants.

Case No. 07-CV-1658 PJH

**DEFENDANT TOMORROWNOW,
INC.'S FIRST AMENDED AND
SUPPLEMENTAL RESPONSE TO
PLAINTIFF ORACLE USA, INC.'S
SECOND SET OF
INTERROGATORIES**

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INTERROGATORY NO. 14:

For each local environment Identified in Your responses to Interrogatories 12 and 13, Identify all Customers who received support based on the Use of that environment, and a detailed description of that support (such as, for example, the retrofit tax updates testified to by Shelley Nelson (Shelley Nelson Dep. at 32:19-34:13 (Oct. 30, 2007)) including, where applicable, Identification of the name, number, version or other Identifying information of the product provided as part of the support.

RESPONSE TO INTERROGATORY NO. 14:

THIS RESPONSE IS DESIGNATED AS HIGHLY CONFIDENTIAL.

TomorrowNow objects that this interrogatory is cumulative, compound, unduly burdensome and oppressive to the extent it seeks to require TomorrowNow to attempt to evaluate millions of pages of documents and data relating to customer support that have been created over several years. Subject to and without waiving the foregoing objections and the General Responses and Objections, TomorrowNow responds as follows: Generally, to the extent a particular entity is or was a TomorrowNow customer, and when TomorrowNow maintains an environment on that customer's behalf, TomorrowNow provided or provides support to that customer utilizing that environment. For updates and/or fixes to Peoplesoft and JDE products, TomorrowNow has generally used the customer's environment(s) (whether maintained by TomorrowNow or the customer) to create or test the updates and/or fixes. TomorrowNow is aware of certain instances where an environment maintained on behalf of one customer may have been used to create or test updates and/or fixes for other customers. *See, e.g.*, Tr. of October 30, 2007 Deposition of Mark Kreutz, at 197:8-199:25; Tr. of October 30, 2007 Deposition of Shelley Nelson at 32:19-41:17, 53:13-55:7; Dec. 6, 2007 Deposition of Shelley Nelson at 126:4-139:3, 145:1-14, 160:16-161:5, 185:3-16, 195:24-196:20. Additional information responsive to this

1 interrogatory as to specific customers may be derived or ascertained from TomorrowNow's
2 business records; specifically, the relevant specific customer support efforts, updates, and fixes
3 are set forth and described in detail in TomorrowNow's emails among development and support
4 engineers and its databases of customer service information, including its SAS databases (which
5 have been previously produced, in native format, at TN-OR 00009569), which have been or will
6 be included in TomorrowNow's production of documents and on which TomorrowNow relies to
7 further respond to this interrogatory pursuant to Rule 33(d).

8 **AMENDED AND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:**

9 TomorrowNow amends the confidentiality designation of its prior response to be
10 designated as Confidential.

11 TomorrowNow supplements its prior response as follows:

12 THIS RESPONSE IS DESIGNATED AS CONFIDENTIAL.

13 TomorrowNow further responds that information responsive to this interrogatory can be
14 found in the SAS database. *See* TN-OR 03775478, TN(Hard drive).67. TomorrowNow further
15 responds that Plaintiffs have questioned TomorrowNow's witnesses extensively in deposition on
16 topics related to this interrogatory. For example, Plaintiffs requested deposition testimony on
17 TomorrowNow's "creation and use of Customer Local Environments, including without
18 limitation: b. The manner and method by which Customer Local Environments were created,
19 stored and Used by You; . . . d. The total number of Customer Local Environments created for
20 each identified customer; e. The name, release, and version of all PSFT or JDE branded Software
21 obtained and/or copied to create each identified Customer Local Environment; f. The identity and
22 description of all Customer Local Environments maintained in any way by You relating to
23 Customers for whom You had ceased to provide support services; g. The identity and description
24 of all Customer Local Environments Used by You in any way to support any Customer other than
25 the one that provided the Software used to create the Customer Local Environment; . . . [and] i.

26 The process by which Customer Local Environments were Used as part of the ordinary course of
27 business for SAP TN, including without limitation to on-boarding of new Customers; support of
28 Customer cases, issues, and problems; reactive and proactive development of bug fixes, updates,

1 patches, explanations, or regulatory changes for Customers; and testing of other operating
2 systems levels. . . ." See January 22, 2008 Amended Notice of Deposition of TomorrowNow, Inc.
3 Pursuant to Fed. R. Civ. P. 30(b)(6).

4 In response to these noticed topics and during the course of individual depositions of
5 TomorrowNow witnesses, TomorrowNow has provided more than sufficient testimony on the use
6 of TomorrowNow's local environments. See, e.g., February 6-7, 2008 Deposition of John Baugh
7 Pursuant to Rule 30(b)(6); February 19, 2008 Deposition of Mark Kreutz Pursuant to Rule
8 30(b)(6); December 6, 2007 Deposition Testimony of Shelley Nelson Pursuant to Rule 30(b)(6);
9 June 25, 2008 Deposition of Rod Russell Pursuant to Rule 30(b)(6); April 1, 2008 Deposition of
10 Kathy Williams Pursuant to Rule 30(b)(6); April 1, 2008 Deposition of Catherine Hyde Pursuant
11 to Rule 30(b)(6); April 18, 2008 Deposition of Shelley Nelson; December 5, 2008 Deposition of
12 Matthew Bowden; February 12, 2009 Deposition of Catherine Hyde; May 12, 2009 Deposition of
13 Catherine Hyde; February 5, 2009 Deposition of Rod Russell; April 10, 2009 Deposition of Patti
14 VonFeldt; February 26, 2009 Deposition for Andrew Nelson; April 29, 2009 Deposition of
15 Andrew Nelson.

16 TomorrowNow further states that it would be impossible and unreasonable to expect
17 TomorrowNow to provide a detailed description of the support provided with each local
18 environment. This interrogatory calls for tracking information for hundreds of environments
19 from 2002 until the local environments were shut down on April 30, 2008. TomorrowNow relies
20 upon all testimony and each document cited in this Supplemental Response to further respond to
21 this interrogatory pursuant to Rule 33(d).

22 Dated: May 22, 2009

JONES DAY

23
24 By: 
25 Jason McDonell

26 Counsel for Defendants
27 SAP AG, SAP AMERICA, INC., and
28 TOMORROWNOW, INC.

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PROOF OF SERVICE

I, Grace Wayte, declare:

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 California Street, 26th Floor, San Francisco, California 94104. On May 22, 2009, I served a copy of the attached document(s):

DEFENDANT TOMORROWNOW, INC.'S FIRST AMENDED AND SUPPLEMENTAL RESPONSE TO PLAINTIFF ORACLE USA, INC.'S SECOND SET OF INTERROGATORIES

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.
- by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

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Executed on May 22, 2009, at Palo Alto, California.

By: Grace Wayte
Grace Wayte