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

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

No. 07-CV-1658 PJH (EDL)

**DECLARATION OF KEVIN  
 MANDIA 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 p.m.  
 Place: Courtroom E, 15th Floor  
 Judge: Hon. Elizabeth D. Laporte

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 Oracle 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, Defendants have produced  
8 copies of several Lotus Notes application databases that I am informed and believe resided at the  
9 facilities of TomorrowNow, Inc. (“SAP TN”). I am informed and believe that these Lotus Notes  
10 application databases have been collectively described by Defendants as their “SAS Database.”  
11 The SAS Database contains certain records of SAP TN’s support activities for the PeopleSoft,  
12 J.D. Edwards, and Siebel products lines, including certain records relating to the development,  
13 testing, and delivery of SAP TN-delivered fixes, updates, patches, documentation, and other  
14 material delivered (collectively, a “fix” or “fixes”). The combined size of the copies of the SAS  
15 Database that Mandiant has received to date exceeds 30 gigabytes.

16 3. As part of the discovery process in this case, Mandiant has been given  
17 access to copies of images of servers that I am informed and believe resided at SAP TN’s  
18 facilities. Both the servers and the produced images or copies of servers have been described by  
19 the Parties as the “Data Warehouse” materials. The Data Warehouse materials contain SAP  
20 TN’s copies of Oracle software environments and downloads of Oracle Software and Support  
21 Materials (as that term is used in the Third Amended Complaint) from Oracle’s password-  
22 protected systems. Based on Mandiant’s review, the Data Warehouse information appears to  
23 reflect some of SAP TN’s daily activities, showing its continuing support of specific customers  
24 over time. As stated in my July 15, 2009, declaration filed in this matter in support of Oracle’s  
25 Motion to Amend, Docket No. 349, based on all of the information available to me, I estimate  
26 that the sum decompressed size of the Data Warehouse production, once complete, could exceed  
27 16 terabytes and 15 million files. I include in my reference to the Data Warehouse materials the  
28 separately produced server images referred to as the Delivered Updates & Fixes (though these

1 materials were not subject to initial review and selection by Oracle prior to production).

2 4. Based on testimony from SAP TN witnesses and review of the SAS  
3 Database and the Data Warehouse materials, Mandiant has identified at least six distinct steps in  
4 SAP TN's fix-delivery process for the PeopleSoft product line at which SAP TN may have used  
5 a PeopleSoft environment: replication, development, unit testing, individual fix testing,  
6 bundling, and bundle testing. *See generally* Exhibit A to the Parties' February 9, 2009 Joint  
7 Discovery Conference Statement (previously filed under seal). To fully understand SAP TN's  
8 use of the environments locally hosted at SAP TN as part of the code fix delivery process, one  
9 would need information identifying the environment used at the various steps described above  
10 for each fix delivered by SAP TN.

11 5. For the PeopleSoft product line portion of the SAS Database, certain  
12 records related to certain SAP TN-delivered fixes are stored as "Master Fix" and related records.  
13 The Master Fix records typically provide information that allows Mandiant to link the use of  
14 specific PeopleSoft environments to the process by which particular PeopleSoft fixes were  
15 delivered. For example, each Master Fix record may contain text or attachments that names the  
16 environments used at specific points in the fix-delivery process.

17 6. I have reviewed the Declaration of Joshua L. Fuchs in Support of  
18 Defendants' Opposition to Plaintiffs' Motion to Compel Production of Documents Related to  
19 Damages Model, executed July 14, 2009 ("Fuchs Decl."), Docket No. 337.

20 7. Based on Mandiant's analysis, the screenshot in ¶ 9 of the Fuchs Decl.  
21 appears to be a screenshot of a portion of the Master Fix record for CSS-TN-0112069292, a fix  
22 delivered by SAP TN for the PeopleSoft product line.

23 8. By reviewing the Master Fix record for CSS-TN-0112069292, Mandiant  
24 has determined that this record contains four attachments, each of which names one environment  
25 identified as having been used during individual fix testing. These four environments—  
26 H751ACTM, HR702CSS, H831TAIM, and H881PCAO—are also listed by name in the body of  
27 the Master Fix record. A fifth environment, H801QGIS, is also referenced. Neither the Master  
28 Fix record for CSS-TN-0112069292 nor its attachments appear to provide direct information

1 regarding the environment or environments that SAP TN used to replicate, develop, unit test,  
2 bundle, or bundle test the CSS-TN-0112069292 fix.

3 I declare under penalty of perjury under the laws of the United States that the  
4 foregoing is true and correct and that this declaration is executed on July 21, 2009, in

5 Richmond VA

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