

1 Robert A. Mittelstaedt (SBN 060359)
 Jason McDonell (SBN 115084)
 2 Elaine Wallace (SBN 197882)
 JONES DAY
 3 555 California Street, 26th Floor
 San Francisco, CA 94104
 4 Telephone: (415) 626-3939
 Facsimile: (415) 875-5700
 5 ramittelstaedt@jonesday.com
 jmcdonell@jonesday.com
 6 ewallace@jonesday.com

7 Tharan Gregory Lanier (SBN 138784)
 Jane L. Froyd (SBN 220776)
 8 JONES DAY
 1755 Embarcadero Road
 9 Palo Alto, CA 94303
 Telephone: (650) 739-3939
 10 Facsimile: (650) 739-3900
 tglanier@jonesday.com
 11 jfroyd@jonesday.com

12 Scott W. Cowan (Admitted *Pro Hac Vice*)
 Joshua L. Fuchs (Admitted *Pro Hac Vice*)
 13 JONES DAY
 717 Texas, Suite 3300
 14 Houston, TX 77002
 Telephone: (832) 239-3939
 15 Facsimile: (832) 239-3600
 swcowan@jonesday.com
 16 jlfuchs@jonesday.com

17 Attorneys for Defendants
 SAP AG, SAP AMERICA, INC., and
 18 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA

21 SAN FRANCISCO DIVISION

22 ORACLE USA, INC., *et al.*,

23 Plaintiffs,

24 v.

25 SAP AG, *et al.*,

26 Defendants.

Case No. 07-CV-1658 PJH (EDL)

**DECLARATION OF ELAINE
 WALLACE IN SUPPORT OF
 STIPULATED ADMINISTRATIVE
 MOTION TO REMOVE DOCUMENT
 FROM DOCKET**

1 I, ELAINE WALLACE, declare:

2 I am an associate with the law firm of Jones Day and counsel for Defendants in the above-
3 captioned matter. I make this declaration based on personal knowledge and, if called upon to do
4 so, could testify competently thereto.

5 1. On July 14, 2009, Defendants filed Docket No. 342, Defendants' Motion for
6 Sanctions Pursuant to Fed. R. Civ. P. 37(c) and 16(f) (the "Document"). The Document contains
7 information designated by Plaintiffs as Confidential or Highly Confidential - Attorneys' Eyes
8 Only pursuant to the protective order entered in the case. Defendants therefore lodged the
9 Document with the Court under seal and e-filed a copy in redacted form. Defendants also
10 submitted a motion to file the document under seal. *See* Dkt. Nos. 338-40. The basis for the
11 motion is that the information sought to be sealed has been designated by Plaintiffs under the
12 protective order and Plaintiffs have requested that it not be publicly filed. *Id.* On July 20,
13 Plaintiffs submitted a declaration and proposed order in support of the proposed sealing. *See* Dkt.
14 Nos. 356-57.

15 2. Some designated information inadvertently was not redacted from the Document.
16 Plaintiffs' counsel brought this to Defendants' counsel's attention by email on the evening of July
17 20. The Parties met and conferred by email on July 21 and by telephone and email on July 22.
18 On July 22, Defendants requested that the Court's ECF Help Desk place a temporary lock on the
19 Document pending resolution of a motion to have the Document permanently removed from the
20 docket. The ECF Help Desk promptly did so.

21 3. The information at issue consists of one parenthetical on page 18, lines 8 and 9 of
22 the Document, two words in quotation marks on page 18, line 24, and one sentence on page 19,
23 footnote 12. Concurrently with this motion, Defendants have e-filed a corrected version of the
24 Document with this information redacted.

25 I declare under penalty of perjury under the laws of the United States and the State of
26 California that the foregoing is true and correct.

27 Executed this 22nd day of July, 2009 in San Francisco, California.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: July 22, 2009

JONES DAY

By: /s/ Elaine Wallace
Elaine Wallace

Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
TOMORROWNOW, INC.