

EXHIBIT I

BINGHAM McCUTCHEN LLP
DONN P. PICKETT (SBN 72257)
GEOFFREY M. HOWARD (SBN 157468)
HOLLY A. HOUSE (SBN 136045)
ZACHARY J. ALINDER (SBN 209009)
BREE HANN (SBN 215695)
Three Embarcadero Center
San Francisco, CA 94111-4067
Telephone: (415) 393-2000
Facsimile: (415) 393-2286
donn.pickett@bingham.com
geoff.howard@bingham.com
holly.house@bingham.com
zachary.alinder@bingham.com
bree.hann@bingham.com

DORIAN DALEY (SBN 129049)
JENNIFER GLOSS (SBN 154227)
500 Oracle Parkway
M/S 5op7
Redwood City, CA 94070
Telephone: (650) 506-4846
Facsimile: (650) 506-7114
dorian.daley@oracle.com
jennifer.gloss@oracle.com

Attorneys for Plaintiffs
Oracle USA, Inc., Oracle International
Corporation, and Oracle EMEA Limited

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

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

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

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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiffs,

v.

SAP AG, *et al.*,

Defendants.

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

**JOINT DISCOVERY CONFERENCE
STATEMENT**

Date: January 8, 2009
Time: 2:00 p.m.
Courtroom: E, 15th Floor
Judge: Hon. Elizabeth D. Laporte

1 Plaintiffs Oracle USA, Inc., Oracle International Corporation, and Oracle EMEA Limited
2 (collectively, “Oracle”) and Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc.
3 (collectively, “Defendants,” and with Oracle, the “Parties”) hereby submit this Joint Discovery
4 Conference Statement.

5 The Parties jointly request that the Court schedule sixty minutes on January 8, 2009 to
6 further discuss the following discovery issues.

7 **1. Data Warehouse Review and Production**

8 In its Requests for Production, dated August 2, 2007, Oracle sought copies of the software
9 and other materials downloaded from Oracle’s Customer Connection support site, and of the
10 Oracle software (and works allegedly derived from that software) maintained on
11 TomorrowNow’s computer systems. These materials relate to Oracle’s copyright infringement
12 claims, among others.
13

14 As discussed at prior conferences, these materials are voluminous, making copying and
15 production logistically difficult. As the Parties have continually reported, in approximately April
16 2008 the parties agreed to an arrangement that permits remote access review of certain servers
17 that house these materials so that Oracle can designate relevant material that it wants copied and
18 produced (the “Data Warehouse Agreement”). Oracle began its review under that agreement in
19 mid-July, and, aside from materials relating to Siebel, has now reviewed and tagged for
20 production all available materials, comprising 68 images. Oracle has requested certain metadata
21 from these images, and Defendants have represented that substantially all requested metadata for
22 those respective images has been produced.
23

24 Of the 68 images reviewed through the Data Warehouse protocol prior to December 1,
25 2008, Oracle has currently requested production of selected files and folders from 24 unique
26 images. On November 26, 2008, the Court ordered Defendants to complete production of Data
27 Warehouse files on a rolling basis, but no later than February 16, 2009. As of December 23, 2008,
28

1 Defendants have represented that they have completed production of 5 images: DCPSTEMP01_E,
2 DCPSTEMP02, HOMER, DCITBU02_G and TN-FS01_F. According to Oracle's calculations,
3 Defendants produced approximately two-thirds (61% of files by file count; 68% of files by size)
4 of the requested files in just under three months. If Defendants continue at their present pace, the
5 Parties believe that production will be completed by the date ordered by the Court.
6

7 One partition, DCITBU01_G, and one server, the AS/400, have been reviewed outside the
8 Data Warehouse protocol. For DCITBU01_G, Defendants represent that they have produced all
9 of the logical files and folders for this partition made from a November 2007 backup tape except
10 for personal, family photos and one redacted privilege document. Since the metadata produced
11 was from a May 2007 version of DCITBU01_G, the Parties will meet and confer regarding
12 differences between the produced metadata and the metadata for the produced images. For the
13 AS/400, Defendants produced backup tapes for a November 2008 full system backup of the two
14 requested partitions of the AS/400 machine, and backup tapes comprising a May 2007 partial
15 backup of the same two partitions. While Defendants designated all AS/400 tapes as Highly
16 Confidential in their entirety, Oracle disagrees that these tapes are entitled to such a designation
17 under the Protective Order. The Parties will meet and confer on this issue.
18

19 On December 1, 2008, Defendants made available to Oracle seven images containing
20 Siebel-related information. In the course of its inspection, Oracle determined that these seven
21 images contained over 100 virtual machine files. Oracle can neither review the files contained in
22 those virtual machine files, nor determine their size or file count, due to the manner in which they
23 were presented. Defendants are in the process of evaluating these files, including determining
24 how many virtual machines exist which contain data (there can be several virtual machine files
25 for each machine). Defendants have already agreed to make 17 virtual machines relating to
26 Siebel available for review through the Data Warehouse procedure starting the week of January 5,
27
28

1 2009. These additional 17 images (and there may be more) could add weeks to the review,
2 metadata production, and file production process.

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

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: January 5, 2009

JONES DAY

By: _____ /s/

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