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 18 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT  
 20 NORTHERN DISTRICT OF CALIFORNIA  
 21 OAKLAND 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 SCOTT  
 COWAN IN SUPPORT OF  
 DEFENDANTS' ADMINISTRATIVE  
 MOTION TO PERMIT  
 DEFENDANTS TO FILE UNDER  
 SEAL DOCUMENTS SUPPORTING  
 DEFENDANTS' MOTION TO  
 COMPEL**

1 I, SCOTT COWAN, declare:

2 I am a partner 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. I make this declaration in support of Defendant’s Administrative Motion to Permit  
6 Defendants to File Under Seal the following documents:

7 (a) Portions of Defendants’ Motion to Compel (“Motion to Compel”), filed December 11,  
8 2009: Page 8, line 27 through Page 9, line 5, Page 9, line 11 through line 24, page 10,  
9 line 1 through line 8, page 11, line 15 through line 20, page 11, line 22 through line  
10 24, page 12, line 1 through line 4;

11 (b) Exhibits A, C, F, G, H and K and Appendix 5 to the Declaration of Scott Cowan in  
12 Support of Defendants’ Motion to Compel.

13 2. Sealing of the documents identified above is requested because each of these  
14 documents contains information designated by Plaintiffs as Confidential or Highly Confidential –  
15 Attorneys Eyes’ Only under the protective order entered into in this case. Defendants have  
16 narrowly tailored this request by redacting only a limited number of lines or paragraphs of  
17 documents and only the precise text that describes or discloses designated information.

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

20 Executed this 11th day of December, 2009 in Houston, Texas.

21 DATED: December 11, 2009

JONES DAY

23 By: /s/ Scott Cowan  
24 Scott W. Cowan

25 Attorneys for Defendants  
26 SAP AG, SAP AMERICA, INC., and  
27 TOMORROWNOW, INC.

28 SFI-625464v1