EXHIBIT Z

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

23   Plaintiffs,   **DEFENDANTS' RESPONSE TO
                                        PLAINTIFFS' FIFTH SET OF
24   v.   REQUESTS FOR ADMISSION TO
                                        DEFENDANTS TOMORROWNOW,
25 SAP AG, et al.,   INC., SAP AG, AND SAP AMERICA,
                                        INC.**
26   Defendants.
                                        **CONFIDENTIAL PURSUANT TO
27   PROTECTIVE ORDER**

28

1 **PROPOUNDING PARTIES:**   Plaintiffs

2 **RESPONDING PARTY:**   Defendants TomorrowNow, Inc., SAP America, Inc., and

3   SAP AG

   SET NUMBER: Five

4

5   Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure, Defendants

6 TomorrowNow, Inc., SAP America, Inc., and SAP AG respond and object as follows to the fifth

7 set of requests for admission from Plaintiffs Oracle USA, Inc., Oracle International Corporation,

8 Oracle EMEA, Ltd. and Siebel Systems, Inc. ("Plaintiffs").

9   **GENERAL OBJECTIONS AND RESPONSES**

10   The following General Objections and Responses apply to and are incorporated by

11 reference into each response set forth below. These objections are made without waiver of, or

12 prejudice to, these or other objections Defendants may make; all such objections are expressly

13 reserved.

14   1.   Defendants object to each Request for Admission to the extent that it enlarges

15 upon or is otherwise inconsistent with the duties imposed by the Federal Rules of Civil Procedure,

16 the Local Rules for the Northern District of California, any applicable order of this Court, or any

17 agreement of the parties.

18   2.   Defendants object to each Request for Admission to the extent that it seeks

19 information that is not within the Defendants' possession, custody, or control.

20   3.   Defendants object to each Request for Admission to the extent that it seeks

21 information that is not relevant to any claim or defense in this action, or is not reasonably

22 calculated to lead to the discovery of admissible evidence that is relevant to any claim or defense,

23 under Rule 26(b)(1) of the Federal Rules of Civil Procedure. Defendants specifically object to

24 each Request for Admission as unduly burdensome, oppressive, and calling for information that is

25 neither relevant to any claim or defense of any party nor reasonably calculated to lead to the

26 discovery of admissible evidence, to the extent the request seeks documents or information

27 unrelated to PeopleSoft, J.D. Edwards ("JDE") or Siebel products, except to the very limited

28 extent the parties have agreed and the Court has ordered otherwise.

1   4.   Defendants object to each Request for Admission as unreasonable and unduly

2 burdensome to the extent that it requests information that is already within Plaintiffs' possession,

3 already known or disclosed to Plaintiffs, or readily accessible and/or equally available to

4 Plaintiffs or is available from public sources.

5   5.   Defendants object to each Request for Admission to the extent that it seeks

6 information protected by the attorney-client privilege, the work-product immunity, or is protected

7 from production by any other applicable privilege or immunity. Inadvertent disclosure of any

8 privileged communications or work product shall not constitute a waiver of privilege or of any

9 other basis for objecting to discovery with respect to such information.

10   6.   Defendants object to each Request for Admission to the extent that it improperly

11 seeks a legal conclusion.

12   7.   Defendants object to each Request for Admission to the extent that it seeks

13 information containing trade secrets, proprietary information, or other confidential or

14 competitively sensitive business information. Such information will be provided only subject to

15 the protective order in this case.

16   8.   Defendants object to the extent the relevant time period is undefined, defined

17 vaguely, or includes time periods that are not relevant to any claim or issue in this case.

18   9.   Defendants object to the definition of "Copy" as being overly broad, unduly

19 burdensome, vague, and not reasonably calculated to lead to the discovery of admissible evidence

20 to the extent it purports to encompass anything other than the plain meaning of the term. For the

21 purpose of responding to these requests, Defendants will interpret the term "Copy" in accordance

22 with its plain and ordinary meaning.

23   10.   Defendants object to the definition of "Customer" to the extent the requests

24 containing the term require Defendants to produce data for all of "Defendants' current and former

25 customers." The definition is overly broad, unduly burdensome, designed to harass, and not

26 reasonably calculated to lead to the discovery of admissible evidence. Defendants will only

27 respond to the extent the Customer had a contract with TomorrowNow.

28

1   11.   Defendants object to the definition of "Customer Connection" as vague and

2   ambiguous to the extent that it does not provide a specific Uniform Resource Identifier. Further,

3   the definition is unduly burdensome, overly broad, vague and ambiguous to the extent it includes

4   "all associated Software and Support Materials, hardware, software, physical server locations, and

5   internet protocol addresses."

6   12.   Defendants object to the definition of "Critical Support Model" as incomplete,

7   vague, ambiguous, and misleading by not including all aspects of the model in the definition.

8   Defendants further object that the deposition testimony cited does not provide a specific

9   definition of this term and is confusing. For the purpose of responding to these requests,

10   Defendants will apply the meaning in its entirety given to the term by TomorrowNow.

11   13.   Defendants object to the definition of "Download" to the extent the requests

12   containing the term require Defendants to provide information related to anything other than

13   PeopleSoft, J.D. Edwards, Siebel, or Oracle related materials that were downloaded from an

14   Oracle maintained website. The current definition of "Download" calls for materials not

15   reasonably calculated to lead to the discovery of admissible evidence, is vague and ambiguous,

16   and imposes an unduly excessive burden.

17   14.   Defendants object to the definition of "Environment" as being overly broad,

18   unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible

19   evidence to the extent it includes individual environment components and is not intended to only

20   refer to all environment components working as one unit.

21   15.   Defendants object to the definition of "Fix Object" as overly broad and unduly

22   burdensome to the extent the definition contains the term "any." Defendants further object that

23   the definition is overly broad, unduly burdensome, vague, and not reasonably calculated to lead to

24   the discovery of admissible evidence to the extent it includes the undefined terms "functions" and

25   "other data structures." Moreover, Defendants object that the list of what is included in the

26   definition ("PeopleCode objects, fields, records, pages, menus, components, messages, panels,

27   stored statements, panel groups, rule packages, COBOL source code files, COBOL executables,

28   SQR files, SQC files, writer files, Crystal Reports files, SQL scripts, database creation scripts,

1 DAT files, DMS files, project files, batch files, configuration files, or other similar units of data

2 contained in the PeopleSoft or JD Edwards products serviced or supported by any Defendant") is

3 overly broad, vague, ambiguous, duplicative, and misleading because this list includes: (1) terms

4 that were not normally part of an object as that term was used at TomorrowNow, e.g., "database

5 creation scripts," "COBOL executables," and "configuration files"; (2) terms that can have the

6 same meaning, e.g. "panels" and "pages"; and (3) terms that are very broad and undefined, e.g.,

7 "writer files," "project files," and "batch files." Defendants will respond as if the undefined term

8 "object" was used in "fix object's" place.

9   16.   Defendants object to the definition of "Generic Environment" as being overly

10 broad, unduly burdensome, vague, and not reasonably calculated to lead to the discovery of

11 admissible evidence. "Generic Environment" is a term created by Plaintiffs and, as used and

12 defined by Plaintiffs, is misleading by attempting to suggest that any such environment or

13 environment component was not used for limited customers, scope or purpose. Defendants

14 further object to the definition of "Generic Environment" to the extent it incorporates the overly

15 broad, unduly burdensome and vague term "Environment," to which Defendants object above.

16   17.   Defendants object to the definition of "Local Environment" as being overly broad,

17 unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible

18 evidence to the extent it is not limited to all environment components working as one unit and

19 located at TomorrowNow. Defendants further object to the definition of "Local Environment" to

20 the extent it incorporates the overly broad, unduly burdensome, and vague term "Environment,"

21 to which Defendants object above.

22   18.   Defendants object to the definition of "Registered Work" as being overly broad,

23 unduly burdensome, vague, and not reasonably calculated to lead to the discovery of admissible

24 evidence to the extent it purports to include "any subsequently added copyright registrations in

25 any later amendment" or any copyright registrations beyond those identified in the Fourth

26 Amended Complaint. Defendants further object to the definition of "Registered Work" to the

27 extent it purports to encompass anything beyond the term as defined under U.S. copyright law.

28

1   Defendants further object to Plaintiffs' use of the term "registered work" in these requests as

2   improperly shifting the burden of proof to Defendants.

3   19.   Defendants object to Plaintiffs' definitions of "SAP AG," "SAP America," and

4   "SAP TN" to the extent that those definitions include persons or entities other than

5   TomorrowNow, SAP America and SAP AG. Defendants further object to the extent Plaintiffs'

6   definitions improperly expand the scope of discovery by seeking data that is not currently in the

7   possession, custody or control of Defendants.

8   20.   Defendants object to Plaintiffs' definition and use of the term "SAP TN," as

9   TomorrowNow, Inc. is not now and never has been known as SAP TN.

10   21.   Defendants object to the definition of "Software and Support Materials" as being

11   vague, overly broad and unduly burdensome to the extent that it would cause a request to include

12   any activities unrelated to TomorrowNow's business and to the extent the definition includes the

13   phrases "derived from," "based on any such materials," and "across the entire family of Oracle

14   products."

15   22.   Defendants object that these requests are improperly disguised interrogatory

16   requests and are being titled requests for admissions to circumvent the interrogatory limits

17   imposed in this case. Defendants specifically reserve the right to argue that each and every

18   request in this set is an improper interrogatory that exceeds the Court imposed limitations in place

19   in this case.

20   23.   Defendants' responses to Plaintiffs' Requests for Admission do not constitute

21   admissions or acknowledgements that the information sought is within the proper scope of

22   discovery or admissible at trial.

23   24.   Defendants' discovery and investigation in connection with this case are

24   continuing. As a result, Defendants' responses are limited to information obtained and reviewed

25   to date, and are given without prejudice to Defendants' right to amend or supplement its

26   responses based on newly obtained or reviewed information.

27   25.   Under Fed. R. Civ. P. 36(b), any and all admissions made by Defendants through

28   the following responses are made for the purpose of this pending civil action only and are not an

1 admission for any other purpose nor may any such admissions be used against Defendants in any

2 other proceeding.

3 **REQUESTS FOR ADMISSION**

4 **REQUEST NO. 1:**

5   Admit that Defendants know of no technical way to determine which Customer's

6 Customer Connection credentials were used to download any given Software and Support

7 Material on SAP TN's systems.[1]

8 **RESPONSE TO REQUEST NO. 1:**

9   Defendants object to this request on the grounds stated in the General Objections and

10 Responses. Defendants further object to this request as vague and ambiguous due to the phrases

11 "technical way" and "SAP TN's systems." Moreover, Defendants object that the request is

12 unduly burdensome and improperly attempts to shift the burden to Defendants to evaluate each

13 and every file on TomorrowNow's systems where the effort associated with responding to this

14 request is substantially similar for the parties, especially because the available documents, data

15 and other information sought from which the answer, if any, could be derived in response to this

16 request have been produced by Defendants in response to Plaintiffs' other discovery requests and

17 thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

18 Defendants. Defendants object that this request calls for information within the control, custody,

19 or possession of Plaintiffs. Subject to, and without waiving the foregoing objections, Defendants

20 respond as follows:

21   ADMITTED on the following qualified basis: Defendants ADMIT that Defendants have

22 always acknowledged that there is no known technical way to specifically tie a downloaded item

23 on TomorrowNow's systems to a Customer Connection ID and password. As far as Defendants

24 have been able to determine, the downloaded files neither contain any physical electronic tagging

25 in the file itself, nor any file-based metadata associated with each file that provides both the exact

26 username and password that was used to download each file. It was TomorrowNow's policy to

27   [1] See, e.g., Defendants' Opposition to Plaintiffs' Motion to Compel Production of documents Related to Damages Model and Interrogatory Responses Related to Use of Plaintiffs'

28 Intellectual Property, July 14, 2009, Dkt. 334, p. 7, fn. 9

1   Interrogatory No. 82, for that Customer.

2   **RESPONSE TO REQUEST NO. 3:**

3   Defendants object to this request on the grounds stated in the General Objections and

4   Responses. As stated in Defendants' General Objections and Responses, Defendants' object to

5   the definition of "Customer." Further, Defendants object that the request actually constitutes

6   hundreds of individual requests and on that basis is overly broad and unduly burdensome. This

7   request, therefore, does not separately state each matter sought. Defendants' response is based

8   solely on Defendant TomorrowNow's knowledge with respect to the information sought in this

9   request because Defendants SAP AG and SAP America have no additional knowledge separate

10   and apart from the information provided by Defendant TomorrowNow in this response. Subject

11   to and without waiving the foregoing objections, Defendants respond as follows:

12   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

13   ADMIT that for each of the TomorrowNow customers listed in TN-OR06058732-51, the "three

14   digit client code" noted therein accurately reflects the "three digit client code" that is contained in

15   the SAS database for each such customer. To the extent this request is not admitted, it is

16   DENIED.

17   **REQUEST NO. 4:**

18   For each file located in DCITBU01_G\JDE\JDE Delivered Updates & Fixes, as identified

19   in Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was

20   originally downloaded from an Oracle website by SAP TN.

21   **RESPONSE TO REQUEST NO. 4:**

22   Defendants object to this request on the grounds stated in the General Objections and

23   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

24   respect to the information sought in this request because Defendants SAP AG and SAP America

25   have no additional knowledge separate and apart from the information provided by Defendant

26   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

27   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

28   Defendants object to this request as compound and unduly burdensome in that this request asks

1   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

2   the review of substantial amounts of data. This request, therefore, does not separately state each

3   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

4   associated with responding to this request is substantially similar to the burden for Plaintiffs to

5   obtain the information sought through this request, especially because the available documents,

6   data and other information sought from which the answer, if any, could be derived in response to

7   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

8   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

9   Defendants. Defendants also object to the extent that this request improperly attempts to shift

10   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

11   objections and qualifications, Defendants respond as follows:

12   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

13   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

14   the files located in DCITBU01_G\JDE\JDE Delivered Updates & Fixes were obtained at some

15   point in time from a PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not

16   undertaken the extreme burden of evaluating each file as this information is as equally accessible

17   to Plaintiffs as it is to Defendants. To the extent this request is not admitted, it is DENIED.

18   **REQUEST NO. 5:**

19   For each file located in DCITBU01_G\PeopleSoft, as identified in Defendants' responses

20   to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally downloaded

21   from an Oracle website by SAP TN.

22   **RESPONSE TO REQUEST NO. 5:**

23   Defendants object to this request on the grounds stated in the General Objections and

24   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

25   respect to the information sought in this request because Defendants SAP AG and SAP America

26   have no additional knowledge separate and apart from the information provided by Defendant

27   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

28   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

1   Defendants object to this request as compound and unduly burdensome in that this request asks

2   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

3   the review of substantial amounts of data. This request, therefore, does not separately state each

4   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

5   associated with responding to this request is substantially similar to the burden for Plaintiffs to

6   obtain the information sought through this request, especially because the available documents,

7   data and other information sought from which the answer, if any, could be derived in response to

8   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

9   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

10   Defendants. Defendants also object to the extent that this request improperly attempts to shift

11   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

12   objections and qualifications, Defendants respond as follows:

13   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

14   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

15   the files located in DCITBU01_G\PeopleSoft were obtained at some point in time from a

16   PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not undertaken the

17   extreme burden of evaluating each file as this information is as equally accessible to Plaintiffs as

18   it is to Defendants. To the extent this request is not admitted, it is DENIED.

19   **REQUEST NO. 6:**

20   For each file located in DCDL1-2 and DCDL4-20, as identified in Defendants' responses

21   to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally downloaded

22   from an Oracle website by SAP TN.

23   **RESPONSE TO REQUEST NO. 6:**

24   Defendants object to this request on the grounds stated in the General Objections and

25   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

26   respect to the information sought in this request because Defendants SAP AG and SAP America

27   have no additional knowledge separate and apart from the information provided by Defendant

28   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

1 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

2 Defendants object to this request as compound and unduly burdensome in that this request asks

3 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

4 the review of substantial amounts of data. This request, therefore, does not separately state each

5 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

6 associated with responding to this request is substantially similar to the burden for Plaintiffs to

7 obtain the information sought through this request, especially because the available documents,

8 data and other information sought from which the answer, if any, could be derived in response to

9 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

10 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

11 Defendants. Defendants also object to the extent that this request improperly attempts to shift

12 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

13 objections and qualifications, Defendants respond as follows:

14   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

15 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

16 the files located in DCDL1-2 and DCDL4-20 were obtained at some point in time from a

17 PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not undertaken the

18 extreme burden of evaluating each file as this information is as equally accessible to Plaintiffs as

19 it is to Defendants. To the extent this request is not admitted, it is DENIED.

20 **REQUEST NO. 7:**

21   For each file located in Tempstore_CE\D\PeopleSoft, as identified in Defendants'

22 responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally

23 downloaded from an Oracle website by SAP TN.

24 **RESPONSE TO REQUEST NO. 7:**

25   Defendants object to this request on the grounds stated in the General Objections and

26 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

27 respect to the information sought in this request because Defendants SAP AG and SAP America

28 have no additional knowledge separate and apart from the information provided by Defendant

1 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

2 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

3 Defendants object to this request as compound and unduly burdensome in that this request asks

4 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

5 the review of substantial amounts of data. This request, therefore, does not separately state each

6 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

7 associated with responding to this request is substantially similar to the burden for Plaintiffs to

8 obtain the information sought through this request, especially because the available documents,

9 data and other information sought from which the answer, if any, could be derived in response to

10 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

11 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

12 Defendants. Defendants also object to the extent that this request improperly attempts to shift

13 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

14 objections and qualifications, Defendants respond as follows:

15   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

16 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

17 the files located in Tempstore_CE\D\PeopleSoft were obtained at some point in time from a

18 PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not undertaken the

19 extreme burden of evaluating each file as this information is as equally accessible to Plaintiffs as

20 it is to Defendants. To the extent this request is not admitted, it is DENIED.

21 **REQUEST NO. 8:**

22   For each file located in TN-FS01_F\C\DellRestore\F Drive\PS\PS Delivered Updates &

23 Fixes, as identified in Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set,

24 admit that the file was originally downloaded from an Oracle website by SAP TN.

25 **RESPONSE TO REQUEST NO. 8:**

26   Defendants object to this request on the grounds stated in the General Objections and

27 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

28 respect to the information sought in this request because Defendants SAP AG and SAP America

1 have no additional knowledge separate and apart from the information provided by Defendant

2 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

3 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

4 Defendants object to this request as compound and unduly burdensome in that this request asks

5 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

6 the review of substantial amounts of data. This request, therefore, does not separately state each

7 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

8 associated with responding to this request is substantially similar to the burden for Plaintiffs to

9 obtain the information sought through this request, especially because the available documents,

10 data and other information sought from which the answer, if any, could be derived in response to

11 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

12 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

13 Defendants. Defendants also object to the extent that this request improperly attempts to shift

14 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

15 objections and qualifications, Defendants respond as follows:

16   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

17 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

18 the files located in TN-FS01_F\C\DellRestore\F Drive\PS\PS Delivered Updates & Fixes were

19 obtained at some point in time from a PeopleSoft, J.D. Edwards, or Oracle website. Defendants,

20 however, have not undertaken the extreme burden of evaluating each file as this information is as

21 equally accessible to Plaintiffs as it is to Defendants. To the extent this request is not admitted, it

22 is DENIED.

23 **REQUEST NO. 9:**

24   For each file located in JD-WSVR01_G\JDE\JDE Delivered Updates & Fixes, as

25 identified in Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that

26 the file was originally downloaded from an Oracle website by SAP TN.

27 **RESPONSE TO REQUEST NO. 9:**

28   Defendants object to this request on the grounds stated in the General Objections and

1 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

2 respect to the information sought in this request because Defendants SAP AG and SAP America

3 have no additional knowledge separate and apart from the information provided by Defendant

4 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

5 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

6 Defendants object to this request as compound and unduly burdensome in that this request asks

7 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

8 the review of substantial amounts of data. This request, therefore, does not separately state each

9 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

10 associated with responding to this request is substantially similar to the burden for Plaintiffs to

11 obtain the information sought through this request, especially because the available documents,

12 data and other information sought from which the answer, if any, could be derived in response to

13 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

14 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

15 Defendants. Defendants also object to the extent that this request improperly attempts to shift

16 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

17 objections and qualifications, Defendants respond as follows:

18   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

19 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

20 the files located in JD-WSVR01_G\JDE\JDE Delivered Updates & Fixes were obtained at some

21 point in time from a PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not

22 undertaken the extreme burden of evaluating each file as this information is as equally accessible

23 to Plaintiffs as it is to Defendants. To the extent this request is not admitted, it is DENIED.

24 **REQUEST NO. 10:**

25   For each file located in AS/400 ENT01 Partition, as identified in Defendants' responses to

26 Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally downloaded from

27 an Oracle website by SAP TN.

28

1   **RESPONSE TO REQUEST NO. 10:**

2   Defendants object to this request on the grounds stated in the General Objections and

3   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

4   respect to the information sought in this request because Defendants SAP AG and SAP America

5   have no additional knowledge separate and apart from the information provided by Defendant

6   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

7   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

8   Defendants object to this request as compound and unduly burdensome in that this requests asks

9   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

10 the review of substantial amounts of data. This request, therefore, does not separately state each

11 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

12 associated with responding to this request is substantially similar to the burden for Plaintiffs to

13 obtain the information sought through this request, especially because the available documents,

14 data and other information sought from which the answer, if any, could be derived in response to

15 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

16 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

17 Defendants. Defendants also object to the extent that this request improperly attempts to shift

18 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

19 objections and qualifications, Defendants respond as follows:

20   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

21 ADMIT that it is likely that some (meaning more than one) of the files located in AS/400 ENT01

22 Partition were obtained at some point in time from a PeopleSoft, J.D. Edwards, or Oracle website.

23 Defendants, however, have not undertaken the extreme burden of evaluating each file as this

24 information is as equally accessible to Plaintiffs as it is to Defendants. To the extent this request

25 is not admitted, it is DENIED.

26 **REQUEST NO. 11:**

27   For each file located in AS/400 World Partition, as identified in Defendants' responses to

28 Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally downloaded from

DEFENDANTS' RESP. TO PLAINTIFFS'
5th SET OF REQUESTS FOR ADMISSION
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1   an Oracle website by SAP TN.

2   **RESPONSE TO REQUEST NO. 11:**

3   Defendants object to this request on the grounds stated in the General Objections and

4   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

5   respect to the information sought in this request because Defendants SAP AG and SAP America

6   have no additional knowledge separate and apart from the information provided by Defendant

7   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

8   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

9   Defendants object to this request as compound and unduly burdensome in that this request asks

10 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

11 the review of substantial amounts of data. This request, therefore, does not separately state each

12 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

13 associated with responding to this request is substantially similar to the burden for Plaintiffs to

14 obtain the information sought through this request, especially because the available documents,

15 data and other information sought from which the answer, if any, could be derived in response to

16 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

17 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

18 Defendants. Defendants also object to the extent that this request improperly attempts to shift

19 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

20 objections and qualifications, Defendants respond as follows:

21   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

22 ADMIT that it is likely that some (meaning more than one) of the files located in AS/400 World

23 Partition were obtained at some point in time from a PeopleSoft, J.D. Edwards, or Oracle website.

24 Defendants, however, have not undertaken the extreme burden of evaluating each file as this

25 information is as equally accessible to Plaintiffs as it is to Defendants. To the extent this request

26 is not admitted, it is DENIED.

27 **REQUEST NO. 12:**

28   For each file located in TN-FS02_E\Delivered Updates & Fixes, as identified in

1   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was

2   originally downloaded from an Oracle website by SAP TN.

3   **RESPONSE TO REQUEST NO. 12:**

4   Defendants object to this request on the grounds stated in the General Objections and

5   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

6   respect to the information sought in this request because Defendants SAP AG and SAP America

7   have no additional knowledge separate and apart from the information provided by Defendant

8   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

9   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

10 Defendants object to this request as compound and unduly burdensome in that this request asks

11 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

12 the review of substantial amounts of data. This request, therefore, does not separately state each

13 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

14 associated with responding to this request is substantially similar to the burden for Plaintiffs to

15 obtain the information sought through this request, especially because the available documents,

16 data and other information sought from which the answer, if any, could be derived in response to

17 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

18 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

19 Defendants. Defendants also object to the extent that this request improperly attempts to shift

20 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

21 objections and qualifications, Defendants respond as follows:

22   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

23 ADMIT that it is likely that the majority (meaning at least one more than half of the total files)

24 located in TN-FS02_E\Delivered Updates & Fixes were obtained at some point in time from a

25 PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not undertaken the

26 extreme burden of evaluating each file as this information is as equally accessible to Plaintiffs as

27 it is to Defendants. To the extent this request is not admitted, it is DENIED.

28

1   **REQUEST NO. 13:**

2   For each file located in TN-FS01_F\C\DellRestore\F Drive\Client Download Links, as

3   identified in Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that

4   the file was originally downloaded from an Oracle website by SAP TN.

5   **RESPONSE TO REQUEST NO. 13:**

6   Defendants object to this request on the grounds stated in the General Objections and

7   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

8   respect to the information sought in this request because Defendants SAP AG and SAP America

9   have no additional knowledge separate and apart from the information provided by Defendant

10   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

11   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

12   Defendants object to this request as compound and unduly burdensome in that this request asks

13   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

14   the review of substantial amounts of data. This request, therefore, does not separately state each

15   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

16   associated with responding to this request is substantially similar to the burden for Plaintiffs to

17   obtain the information sought through this request, especially because the available documents,

18   data and other information sought from which the answer, if any, could be derived in response to

19   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

20   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

21   Defendants. Defendants also object to the extent that this request improperly attempts to shift

22   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

23   objections and qualifications, Defendants respond as follows:

24   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

25   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

26   the files located in TN-FS01_F\C\DellRestore\F Drive\Client Download Links were obtained at

27   some point in time from a PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however,

28   have not undertaken the extreme burden of evaluating each file as this information is as equally

1 accessible to Plaintiffs as it is to Defendants. To the extent this request is not admitted, it is

2 DENIED.

3 **REQUEST NO. 14:**

4   For each file located in TN-FS01_F\C\DellRestore\F Drive\PS\JDE OneWorld

5 International Docs and Release Notes, as identified in Defendants' responses to Interrogatory 11

6 from Oracle Corp.'s first set, admit that the file was originally downloaded from an Oracle

7 website by SAP TN.

8 **RESPONSE TO REQUEST NO. 14:**

9   Defendants object to this request on the grounds stated in the General Objections and

10 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

11 respect to the information sought in this request because Defendants SAP AG and SAP America

12 have no additional knowledge separate and apart from the information provided by Defendant

13 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

14 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

15 Defendants object to this request as compound and unduly burdensome in that this request asks

16 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

17 the review of substantial amounts of data. This request, therefore, does not separately state each

18 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

19 associated with responding to this request is substantially similar to the burden for Plaintiffs to

20 obtain the information sought through this request, especially because the available documents,

21 data and other information sought from which the answer, if any, could be derived in response to

22 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

23 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

24 Defendants. Defendants also object to the extent that this request improperly attempts to shift

25 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

26 objections and qualifications, Defendants respond as follows:

27   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

28 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

1   the files located in TN-FS01_F\C\DellRestore\F Drive\PS\JDE OneWorld International Docs and

2   Release Notes were obtained at some point in time from a PeopleSoft, J.D. Edwards, or Oracle

3   website. Defendants, however, have not undertaken the extreme burden of evaluating each file as

4   this information is as equally accessible to Plaintiffs as it is to Defendants. To the extent this

5   request is not admitted, it is DENIED.

6   **REQUEST NO. 15:**

7   For each file located in TN-FS01_F\C\DellRestore\F Drive\PS\JDE World International

8   Docs and Release Notes, as identified in Defendants' responses to Interrogatory 11 from Oracle

9   Corp.'s first set, admit that the file was originally downloaded from an Oracle website by SAP

10   TN.

11   **RESPONSE TO REQUEST NO. 15:**

12   Defendants object to this request on the grounds stated in the General Objections and

13   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

14   respect to the information sought in this request because Defendants SAP AG and SAP America

15   have no additional knowledge separate and apart from the information provided by Defendant

16   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

17   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

18   Defendants object to this request as compound and unduly burdensome in that this request asks

19   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

20   the review of substantial amounts of data. This request, therefore, does not separately state each

21   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

22   associated with responding to this request is substantially similar to the burden for Plaintiffs to

23   obtain the information sought through this request, especially because the available documents,

24   data and other information sought from which the answer, if any, could be derived in response to

25   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

26   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

27   Defendants. Defendants also object to the extent that this request improperly attempts to shift

28   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

1 objections and qualifications, Defendants respond as follows:

2 ADMITTED on the following qualified basis: Defendants reasonably believe and thus

3 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

4 the files located in TN-FS01_F\C\DellRestore\F Drive\PS\JDE World International Docs and

5 Release Notes were obtained at some point in time from a PeopleSoft, J.D. Edwards, or Oracle

6 website. Defendants, however, have not undertaken the extreme burden of evaluating each file as

7 this information is as equally accessible to Plaintiffs as it is to Defendants. To the extent this

8 request is not admitted, it is DENIED.

9 **REQUEST NO. 16:**

10 For each file located in JDDEV03\D\Downloads\PeopleSoft, as identified in Defendants'

11 responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally

12 downloaded from an Oracle website by SAP TN.

13 **RESPONSE TO REQUEST NO. 16:**

14 Defendants object to this request on the grounds stated in the General Objections and

15 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

16 respect to the information sought in this request because Defendants SAP AG and SAP America

17 have no additional knowledge separate and apart from the information provided by Defendant

18 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

19 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

20 Defendants object to this request as compound and unduly burdensome in that this request asks

21 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

22 the review of substantial amounts of data. This request, therefore, does not separately state each

23 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

24 associated with responding to this request is substantially similar to the burden for Plaintiffs to

25 obtain the information sought through this request, especially because the available documents,

26 data and other information sought from which the answer, if any, could be derived in response to

27 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

28 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

1   Defendants. Defendants also object to the extent that this request improperly attempts to shift

2   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

3   objections and qualifications, Defendants respond as follows:

4   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

5   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

6   the files located in JDDEV03\D\Downloads\PeopleSoft were obtained at some point in time from

7   a PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not undertaken the

8   extreme burden of evaluating each file as this information is as equally accessible to Plaintiffs as

9   it is to Defendants. To the extent this request is not admitted, it is DENIED.

10 **REQUEST NO. 17:**

11   For each file located in JDDEV03\D\ESUhtm, as identified in Defendants' responses to

12 Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally downloaded from

13 an Oracle website by SAP TN.

14 **RESPONSE TO REQUEST NO. 17:**

15   Defendants object to this request on the grounds stated in the General Objections and

16 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

17 respect to the information sought in this request because Defendants SAP AG and SAP America

18 have no additional knowledge separate and apart from the information provided by Defendant

19 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

20 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

21 Defendants object to this request as compound and unduly burdensome in that this request asks

22 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

23 the review of substantial amounts of data. This request, therefore, does not separately state each

24 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

25 associated with responding to this request is substantially similar to the burden for Plaintiffs to

26 obtain the information sought through this request, especially because the available documents,

27 data and other information sought from which the answer, if any, could be derived in response to

28 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

1   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

2   Defendants. Defendants also object to the extent that this request improperly attempts to shift

3   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

4   objections and qualifications, Defendants respond as follows:

5   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

6   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

7   the files located in JDDEV03\D\ESUhtm were obtained at some point in time from a PeopleSoft,

8   J.D. Edwards, or Oracle website. Defendants, however, have not undertaken the extreme burden

9   of evaluating each file as this information is as equally accessible to Plaintiffs as it is to

10 Defendants. To the extent this request is not admitted, it is DENIED.

11 **REQUEST NO. 18:**

12   For each file located in SBLPROD02\SupportWeb-2007.03.11-

13 PSCU_Financial_Services.rar, as identified in Defendants' responses to Interrogatory 11 from

14 Oracle Corp.'s first set, admit that the file was originally downloaded from an Oracle website by

15 SAP TN.

16 **RESPONSE TO REQUEST NO. 18:**

17   Defendants object to this request on the grounds stated in the General Objections and

18 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

19 respect to the information sought in this request because Defendants SAP AG and SAP America

20 have no additional knowledge separate and apart from the information provided by Defendant

21 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

22 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

23 Defendants object to this request as compound and unduly burdensome in that this request asks

24 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

25 the review of substantial amounts of data. This request, therefore, does not separately state each

26 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

27 associated with responding to this request is substantially similar to the burden for Plaintiffs to

28 obtain the information sought through this request, especially because the available documents,

1   data and other information sought from which the answer, if any, could be derived in response to

2   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

3   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

4   Defendants. Defendants also object to the extent that this request improperly attempts to shift

5   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

6   objections and qualifications, Defendants respond as follows:

7   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

8   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

9   the files located in SBLPROD02\SupportWeb-2007.03.11-PSCU_Financial_Services.rar were

10   obtained at some point in time from a PeopleSoft, J.D. Edwards, or Oracle website. Defendants,

11   however, have not undertaken the extreme burden of evaluating each file as this information is as

12   equally accessible to Plaintiffs as it is to Defendants. To the extent this request is not admitted, it

13   is DENIED.

14   **REQUEST NO. 19:**

15   For each file located in TN-FS01_F\C\Siebel\Clients\Actel, as identified in Defendants'

16   responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally

17   downloaded from an Oracle website by SAP TN.

18   **RESPONSE TO REQUEST NO. 19:**

19   Defendants object to this request on the grounds stated in the General Objections and

20   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

21   respect to the information sought in this request because Defendants SAP AG and SAP America

22   have no additional knowledge separate and apart from the information provided by Defendant

23   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

24   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

25   Defendants object to this request as compound and unduly burdensome in that this requests asks

26   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

27   the review of substantial amounts of data. This request, therefore, does not separately state each

28   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

1   associated with responding to this request is substantially similar to the burden for Plaintiffs to

2   obtain the information sought through this request, especially because the available documents,

3   data and other information sought from which the answer, if any, could be derived in response to

4   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

5   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

6   Defendants. Defendants also object to the extent that this request improperly attempts to shift

7   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

8   objections and qualifications, Defendants respond as follows:

9   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

10   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

11   the files located in TN-FS01_F\C\Siebel\Clients\Actel were obtained at some point in time from a

12   PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not undertaken the

13   extreme burden of evaluating each file as this information is as equally accessible to Plaintiffs as

14   it is to Defendants. To the extent this request is not admitted, it is DENIED.

15   **REQUEST NO. 20:**

16   For each file located in TN-FS01_F\C\Siebel\Clients\ATX, as identified in Defendants'

17   responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally

18   downloaded from an Oracle website by SAP TN.

19   **RESPONSE TO REQUEST NO. 20:**

20   Defendants object to this request on the grounds stated in the General Objections and

21   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

22   respect to the information sought in this request because Defendants SAP AG and SAP America

23   have no additional knowledge separate and apart from the information provided by Defendant

24   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

25   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

26   Defendants object to this request as compound and unduly burdensome in that this request asks

27   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

28   the review of substantial amounts of data. This request, therefore, does not separately state each

1   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

2   associated with responding to this request is substantially similar to the burden for Plaintiffs to

3   obtain the information sought through this request, especially because the available documents,

4   data and other information sought from which the answer, if any, could be derived in response to

5   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

6   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

7   Defendants. Defendants also object to the extent that this request improperly attempts to shift

8   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

9   objections and qualifications, Defendants respond as follows:

10   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

11   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

12   the files located in TN-FS01_F\C\Siebel\Clients\ATX were obtained at some point in time either

13   from a PeopleSoft, J.D. Edwards, or Oracle website or from ATX directly. Defendants, however,

14   have not undertaken the extreme burden of evaluating each file as this information is as equally

15   accessible to Plaintiffs as it is to Defendants. To the extent this request is not admitted, it is

16   DENIED.

17   **REQUEST NO. 21:**

18   For each file located in TN-FS01_F\C\Siebel\Clients\CSBP, as identified in Defendants'

19   responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally

20   downloaded from an Oracle website by SAP TN.

21   **RESPONSE TO REQUEST NO. 21:**

22   Defendants object to this request on the grounds stated in the General Objections and

23   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

24   respect to the information sought in this request because Defendants SAP AG and SAP America

25   have no additional knowledge separate and apart from the information provided by Defendant

26   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

27   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

28   Defendants object to this request as compound and unduly burdensome in that this request asks

1 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

2 the review of substantial amounts of data. This request, therefore, does not separately state each

3 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

4 associated with responding to this request is substantially similar to the burden for Plaintiffs to

5 obtain the information sought through this request, especially because the available documents,

6 data and other information sought from which the answer, if any, could be derived in response to

7 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

8 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

9 Defendants. Defendants also object to the extent that this request improperly attempts to shift

10 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

11 objections and qualifications, Defendants respond as follows:

12   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

13 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

14 the files located in TN-FS01_F\C\Siebel\Clients\CSBP were obtained at some point in time either

15 from a PeopleSoft, J.D. Edwards, or Oracle website or from CSBP Limited directly. Defendants,

16 however, have not undertaken the extreme burden of evaluating each file as this information is as

17 equally accessible to Plaintiffs as it is to Defendants. To the extent this request is not admitted, it

18 is DENIED.

19 **REQUEST NO. 22:**

20   For each file located in TN-FS01_F\C\Siebel\Clients\Everdream, as identified in

21 Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was

22 originally downloaded from an Oracle website by SAP TN.

23 **RESPONSE TO REQUEST NO. 22:**

24   Defendants object to this request on the grounds stated in the General Objections and

25 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

26 respect to the information sought in this request because Defendants SAP AG and SAP America

27 have no additional knowledge separate and apart from the information provided by Defendant

28 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

1   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

2   Defendants object to this request as compound and unduly burdensome in that this request asks

3   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

4   the review of substantial amounts of data. This request, therefore, does not separately state each

5   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

6   associated with responding to this request is substantially similar to the burden for Plaintiffs to

7   obtain the information sought through this request, especially because the available documents,

8   data and other information sought from which the answer, if any, could be derived in response to

9   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

10 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

11 Defendants. Defendants also object to the extent that this request improperly attempts to shift

12 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

13 objections and qualifications, Defendants respond as follows:

14 ADMITTED on the following qualified basis: Defendants reasonably believe and thus

15 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

16 the files located in TN-FS01_F\C\Siebel\Clients\Everdream were obtained at some point in time

17 from a PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not undertaken

18 the extreme burden of evaluating each file as this information is as equally accessible to Plaintiffs

19 as it is to Defendants. To the extent this request is not admitted, it is DENIED.

20 **REQUEST NO. 23:**

21 For each file located in TN-FS01_F\C\Siebel\Clients\FSC, as identified in Defendants'

22 responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally

23 downloaded from an Oracle website by SAP TN.

24 **RESPONSE TO REQUEST NO. 23:**

25 Defendants object to this request on the grounds stated in the General Objections and

26 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

27 respect to the information sought in this request because Defendants SAP AG and SAP America

28 have no additional knowledge separate and apart from the information provided by Defendant

1   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

2   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

3   Defendants object to this request as compound and unduly burdensome in that this request asks

4   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

5   the review of substantial amounts of data. This request, therefore, does not separately state each

6   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

7   associated with responding to this request is substantially similar to the burden for Plaintiffs to

8   obtain the information sought through this request, especially because the available documents,

9   data and other information sought from which the answer, if any, could be derived in response to

10   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

11   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

12   Defendants. Defendants also object to the extent that this request improperly attempts to shift

13   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

14   objections and qualifications, Defendants respond as follows:

15   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

16   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

17   the files located in TN-FS01_F\C\Siebel\Clients\FSC were obtained at some point in time from a

18   PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not undertaken the

19   extreme burden of evaluating each file as this information is as equally accessible to Plaintiffs as

20   it is to Defendants. To the extent this request is not admitted, it is DENIED.

21   **REQUEST NO. 24:**

22   For each file located in TN-FS01_F\C\Siebel\Clients\MKS, as identified in Defendants'

23   responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally

24   downloaded from an Oracle website by SAP TN.

25   **RESPONSE TO REQUEST NO. 24:**

26   Defendants object to this request on the grounds stated in the General Objections and

27   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

28   respect to the information sought in this request because Defendants SAP AG and SAP America

1   have no additional knowledge separate and apart from the information provided by Defendant

2   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

3   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

4   Defendants object to this request as compound and unduly burdensome in that this request asks

5   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

6   the review of substantial amounts of data. This request, therefore, does not separately state each

7   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

8   associated with responding to this request is substantially similar to the burden for Plaintiffs to

9   obtain the information sought through this request, especially because the available documents,

10 data and other information sought from which the answer, if any, could be derived in response to

11 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

12 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

13 Defendants. Defendants also object to the extent that this request improperly attempts to shift

14 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

15 objections and qualifications, Defendants respond as follows:

16   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

17 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

18 the files located in TN-FS01_F\C\Siebel\Clients\MKS were obtained at some point in time from a

19 PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not undertaken the

20 extreme burden of evaluating each file as this information is as equally accessible to Plaintiffs as

21 it is to Defendants. To the extent this request is not admitted, it is DENIED.

22 **REQUEST NO. 25:**

23   For each file located in TN-FS01_F\C\Siebel\Clients\NextiraOne, as identified in

24 Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was

25 originally downloaded from an Oracle website by SAP TN.

26 **RESPONSE TO REQUEST NO. 25:**

27   Defendants object to this request on the grounds stated in the General Objections and

28 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

1   respect to the information sought in this request because Defendants SAP AG and SAP America

2   have no additional knowledge separate and apart from the information provided by Defendant

3   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

4   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

5   Defendants object to this request as compound and unduly burdensome in that this request asks

6   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

7   the review of substantial amounts of data. This request, therefore, does not separately state each

8   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

9   associated with responding to this request is substantially similar to the burden for Plaintiffs to

10 obtain the information sought through this request, especially because the available documents,

11 data and other information sought from which the answer, if any, could be derived in response to

12 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

13 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

14 Defendants. Defendants also object to the extent that this request improperly attempts to shift

15 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

16 objections and qualifications, Defendants respond as follows:

17   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

18 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

19 the files located in TN-FS01_F\C\Siebel\Clients\NextiraOne were obtained at some point in time

20 from a PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not undertaken

21 the extreme burden of evaluating each file as this information is as equally accessible to Plaintiffs

22 as it is to Defendants. To the extent this request is not admitted, it is DENIED.

23 **REQUEST NO. 26:**

24   For each file located in TN-FS01_F\C\Siebel\Clients\Pomeroy, as identified in

25 Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was

26 originally downloaded from an Oracle website by SAP TN.

27 **RESPONSE TO REQUEST NO. 26:**

28   Defendants object to this request on the grounds stated in the General Objections and

1   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

2   respect to the information sought in this request because Defendants SAP AG and SAP America

3   have no additional knowledge separate and apart from the information provided by Defendant

4   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

5   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

6   Defendants object to this request as compound and unduly burdensome in that this request asks

7   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

8   the review of substantial amounts of data. This request, therefore, does not separately state each

9   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

10 associated with responding to this request is substantially similar to the burden for Plaintiffs to

11 obtain the information sought through this request, especially because the available documents,

12 data and other information sought from which the answer, if any, could be derived in response to

13 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

14 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

15 Defendants. Defendants also object to the extent that this request improperly attempts to shift

16 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

17 objections and qualifications, Defendants respond as follows:

18   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

19 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

20 the files located in TN-FS01_F\C\Siebel\Clients\Pomeroy were obtained at some point in time

21 either from a PeopleSoft, J.D. Edwards, or Oracle website or from Pomeroy IT Solutions, Inc

22 directly. Defendants, however, have not undertaken the extreme burden of evaluating each file as

23 this information is as equally accessible to Plaintiffs as it is to Defendants. To the extent this

24 request is not admitted, it is DENIED.

25 **REQUEST NO. 27:**

26   For each file located in TN-FS01_F\C\Siebel\Clients\PSCU Financial Services, as

27 identified in Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that

28 the file was originally downloaded from an Oracle website by SAP TN.

1   **RESPONSE TO REQUEST NO. 27:**

2   Defendants object to this request on the grounds stated in the General Objections and

3   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

4   respect to the information sought in this request because Defendants SAP AG and SAP America

5   have no additional knowledge separate and apart from the information provided by Defendant

6   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

7   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

8   Defendants object to this request as compound and unduly burdensome in that this request asks

9   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

10   the review of substantial amounts of data. This request, therefore, does not separately state each

11   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

12   associated with responding to this request is substantially similar to the burden for Plaintiffs to

13   obtain the information sought through this request, especially because the available documents,

14   data and other information sought from which the answer, if any, could be derived in response to

15   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

16   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

17   Defendants. Defendants also object to the extent that this request improperly attempts to shift

18   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

19   objections and qualifications, Defendants respond as follows:

20   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

21   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

22   the files located in TN-FS01_F\C\Siebel\Clients\PSCU Financial Services were obtained at some

23   point in time from a PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not

24   undertaken the extreme burden of evaluating each file as this information is as equally accessible

25   to Plaintiffs as it is to Defendants. To the extent this request is not admitted, it is DENIED.

26   **REQUEST NO. 28:**

27   For each file located in TN-FS01_F\C\Siebel\Clients\Rockwell, as identified in

28   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was

1   originally downloaded from an Oracle website by SAP TN.

2   **RESPONSE TO REQUEST NO. 28:**

3   Defendants object to this request on the grounds stated in the General Objections and

4   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

5   respect to the information sought in this request because Defendants SAP AG and SAP America

6   have no additional knowledge separate and apart from the information provided by Defendant

7   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

8   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

9   Defendants object to this request as compound and unduly burdensome in that this request asks

10   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

11   the review of substantial amounts of data. This request, therefore, does not separately state each

12   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

13   associated with responding to this request is substantially similar to the burden for Plaintiffs to

14   obtain the information sought through this request, especially because the available documents,

15   data and other information sought from which the answer, if any, could be derived in response to

16   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

17   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

18   Defendants. Defendants also object to the extent that this request improperly attempts to shift

19   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

20   objections and qualifications, Defendants respond as follows:

21   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

22   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

23   the files located in TN-FS01_F\C\Siebel\Clients\Rockwell were obtained at some point in time

24   from a PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not undertaken

25   the extreme burden of evaluating each file as this information is as equally accessible to Plaintiffs

26   as it is to Defendants. To the extent this request is not admitted, it is DENIED.

27   **REQUEST NO. 29:**

28   For each file located in TN-FS01_F\C\Siebel\Clients\Smart Center, as identified in

1   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was

2   originally downloaded from an Oracle website by SAP TN.

3   **RESPONSE TO REQUEST NO. 29:**

4   Defendants object to this request on the grounds stated in the General Objections and

5   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

6   respect to the information sought in this request because Defendants SAP AG and SAP America

7   have no additional knowledge separate and apart from the information provided by Defendant

8   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

9   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

10 Defendants object to this request as compound and unduly burdensome in that this request asks

11 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

12 the review of substantial amounts of data. This request, therefore, does not separately state each

13 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

14 associated with responding to this request is substantially similar to the burden for Plaintiffs to

15 obtain the information sought through this request, especially because the available documents,

16 data and other information sought from which the answer, if any, could be derived in response to

17 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

18 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

19 Defendants. Defendants also object to the extent that this request improperly attempts to shift

20 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

21 objections and qualifications, Defendants respond as follows:

22   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

23 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

24 the files located in TN-FS01_F\C\Siebel\Clients\Smart Center were obtained at some point in

25 time either from a PeopleSoft, J.D. Edwards, or Oracle website or from Smart Centers, LLC

26 directly. Defendants, however, have not undertaken the extreme burden of evaluating each file as

27 this information is as equally accessible to Plaintiffs as it is to Defendants. To the extent this

28 request is not admitted, it is DENIED.

1   **REQUEST NO. 30:**

2   For each file located in TN-FS01_F\C\Siebel\Clients\Standard Register, as identified in

3   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was

4   originally downloaded from an Oracle website by SAP TN.

5   **RESPONSE TO REQUEST NO. 30:**

6   Defendants object to this request on the grounds stated in the General Objections and

7   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

8   respect to the information sought in this request because Defendants SAP AG and SAP America

9   have no additional knowledge separate and apart from the information provided by Defendant

10   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

11   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

12   Defendants object to this request as compound and unduly burdensome in that this request asks

13   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

14   the review of substantial amounts of data. This request, therefore, does not separately state each

15   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

16   associated with responding to this request is substantially similar to the burden for Plaintiffs to

17   obtain the information sought through this request, especially because the available documents,

18   data and other information sought from which the answer, if any, could be derived in response to

19   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

20   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

21   Defendants. Defendants also object to the extent that this request improperly attempts to shift

22   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

23   objections and qualifications, Defendants respond as follows:

24   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

25   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

26   the files located in TN-FS01_F\C\Siebel\Clients\Standard Register were obtained at some point in

27   time from a PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not

28   undertaken the extreme burden of evaluating each file as this information is as equally accessible

1   to Plaintiffs as it is to Defendants. To the extent this request is not admitted, it is DENIED.

2   **REQUEST NO. 31:**

3   For each file located in DCITBU01_G\Siebel\Actel, as identified in Defendants'

4   responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was originally

5   downloaded from an Oracle website by SAP TN.

6   **RESPONSE TO REQUEST NO. 31:**

7   Defendants object to this request on the grounds stated in the General Objections and

8   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

9   respect to the information sought in this request because Defendants SAP AG and SAP America

10   have no additional knowledge separate and apart from the information provided by Defendant

11   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

12   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

13   Defendants object to this request as compound and unduly burdensome in that this request asks

14   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

15   the review of substantial amounts of data. This request, therefore, does not separately state each

16   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

17   associated with responding to this request is substantially similar to the burden for Plaintiffs to

18   obtain the information sought through this request, especially because the available documents,

19   data and other information sought from which the answer, if any, could be derived in response to

20   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

21   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

22   Defendants. Defendants also object to the extent that this request improperly attempts to shift

23   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

24   objections and qualifications, Defendants respond as follows:

25   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

26   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

27   the files located in DCITBU01_G\Siebel\Actel were obtained at some point in time from a

28   PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not undertaken the

1   extreme burden of evaluating each file as this information is as equally accessible to Plaintiffs as

2   it is to Defendants. To the extent this request is not admitted, it is DENIED.

3   **REQUEST NO. 32:**

4   For each file located in DCITBU01_G\Siebel\PSCU Financial Services, as identified in

5   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was

6   originally downloaded from an Oracle website by SAP TN.

7   **RESPONSE TO REQUEST NO. 32:**

8   Defendants object to this request on the grounds stated in the General Objections and

9   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

10   respect to the information sought in this request because Defendants SAP AG and SAP America

11   have no additional knowledge separate and apart from the information provided by Defendant

12   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

13   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

14   Defendants object to this request as compound and unduly burdensome in that this request asks

15   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

16   the review of substantial amounts of data. This request, therefore, does not separately state each

17   matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

18   associated with responding to this request is substantially similar to the burden for Plaintiffs to

19   obtain the information sought through this request, especially because the available documents,

20   data and other information sought from which the answer, if any, could be derived in response to

21   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

22   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

23   Defendants. Defendants also object to the extent that this request improperly attempts to shift

24   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

25   objections and qualifications, Defendants respond as follows:

26   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

27   ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

28   the files located in DCITBU01_G\Siebel\PSCU Financial Services were obtained at some point in

1   time from a PeopleSoft, J.D. Edwards, or Oracle website. Defendants, however, have not

2   undertaken the extreme burden of evaluating each file as this information is as equally accessible

3   to Plaintiffs as it is to Defendants. To the extent this request is not admitted, it is DENIED.

4   **REQUEST NO. 33:**

5   For each file located in DCITBU01_G\Siebel\Standard Register, as identified in

6   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that the file was

7   originally downloaded from an Oracle website by SAP TN.

8   **RESPONSE TO REQUEST NO. 33:**

9   Defendants object to this request on the grounds stated in the General Objections and

10 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

11 respect to the information sought in this request because Defendants SAP AG and SAP America

12 have no additional knowledge separate and apart from the information provided by Defendant

13 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

14 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

15 Defendants object to this request as compound and unduly burdensome in that this request asks

16 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

17 the review of substantial amounts of data. This request, therefore, does not separately state each

18 matter sought. Moreover, Defendants object to this request on the basis that Defendants' burden

19 associated with responding to this request is substantially similar to the burden for Plaintiffs to

20 obtain the information sought through this request, especially because the available documents,

21 data and other information sought from which the answer, if any, could be derived in response to

22 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

23 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

24 Defendants. Defendants also object to the extent that this request improperly attempts to shift

25 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

26 objections and qualifications, Defendants respond as follows:

27   ADMITTED on the following qualified basis: Defendants reasonably believe and thus

28 ADMIT that it is likely that the majority (meaning at least one more than half of the total files) of

1   the files located in DCITBU01_G\Siebel\Standard Register were obtained at some point in time

2   either from a PeopleSoft, J.D. Edwards, or Oracle website or from Standard Register Company

3   directly. Defendants, however, have not undertaken the extreme burden of evaluating each file as

4   this information is as equally accessible to Plaintiffs as it is to Defendants. To the extent this

5   request is not admitted, it is DENIED.

6   **REQUEST NO. 34:**

7   For each file located in DCITBU01_G\JDE\JDE Delivered Updates & Fixes, admit that

8   Defendants do not have reasonable access to any readily obtainable information indicating that

9   the file was not originally downloaded from an Oracle website by SAP TN.

10 **RESPONSE TO REQUEST NO. 34:**

11   Defendants object to this request on the grounds stated in the General Objections and

12 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

13 respect to the information sought in this request because Defendants SAP AG and SAP America

14 have no additional knowledge separate and apart from the information provided by Defendant

15 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

16 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

17 Defendants object to this request as compound and unduly burdensome in that this request asks

18 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

19 the review of substantial amounts of data. This request, therefore, does not separately state each

20 matter sought. Moreover, Defendants object that the request is unduly burdensome and

21 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

22 effort associated with responding to this request is substantially similar for the parties, especially

23 because the available documents, data and other information sought from which the answer, if

24 any, could be derived in response to this request have been produced by Defendants in response

25 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

26 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

27 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

28 without waiving the foregoing objections and qualifications, Defendants respond as follows:

1   DENIED. Defendants have reasonable access to the files located in the folder structures

2   located at DCITBU01_G\JDE\JDE Delivered Updates & Fixes. However, given the quantity of

3   the files in the folder structures located at DCITBU01_G\JDE\JDE Delivered Updates & Fixes,

4   there is no readily obtainable way to determine whether any specific file or specific sub-set of

5   files located in the folder structures located at DCITBU01_G\JDE\JDE Delivered Updates &

6   Fixes were obtained at some point in time from a PeopleSoft, JD Edwards, Siebel, or Oracle

7   website. Defendants have not undertaken the extreme burden of evaluating each file and have

8   objected on that basis because the requested information is as equally accessible to Plaintiffs as it

9   is to Defendants.

10 **REQUEST NO. 35:**

11   For each file located in DCITBU01_G\PeopleSoft, admit that Defendants do not have

12 reasonable access to any readily obtainable information indicating that the file was not originally

13 downloaded from an Oracle website by SAP TN.

14 **RESPONSE TO REQUEST NO. 35:**

15   Defendants object to this request on the grounds stated in the General Objections and

16 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

17 respect to the information sought in this request because Defendants SAP AG and SAP America

18 have no additional knowledge separate and apart from the information provided by Defendant

19 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

20 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

21 Defendants object to this request as compound and unduly burdensome in that this request asks

22 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

23 the review of substantial amounts of data. This request, therefore, does not separately state each

24 matter sought. Moreover, Defendants object that the request is unduly burdensome and

25 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

26 effort associated with responding to this request is substantially similar for the parties, especially

27 because the available documents, data and other information sought from which the answer, if

28 any, could be derived in response to this request have been produced by Defendants in response

1 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

2 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

3 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

4 without waiving the foregoing objections and qualifications, Defendants respond as follows:

5   DENIED. Defendants have reasonable access to the files located in the folder structures

6 located at DCITBU01_G\PeopleSoft. However, given the quantity of the files in the folder

7 structures located at DCITBU01_G\PeopleSoft, there is no readily obtainable way to determine

8 whether any specific file or specific sub-set of files located in the folder structures located at

9 DCITBU01_G\PeopleSoft were obtained at some point in time from a PeopleSoft, JD Edwards,

10 Siebel, or Oracle website. Defendants have not undertaken the extreme burden of evaluating each

11 file and have objected on that basis because the requested information is as equally accessible to

12 Plaintiffs as it is to Defendants.

13 **REQUEST NO. 36:**

14   For each file located in DCDL1-2 and DCDL4-20, as identified in Defendants' responses

15 to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do not have reasonable

16 access to any readily obtainable information indicating that the file was not originally

17 downloaded from an Oracle website by SAP TN.

18 **RESPONSE TO REQUEST NO. 36:**

19   Defendants object to this request on the grounds stated in the General Objections and

20 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

21 respect to the information sought in this request because Defendants SAP AG and SAP America

22 have no additional knowledge separate and apart from the information provided by Defendant

23 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

24 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

25 Defendants object to this request as compound and unduly burdensome in that this request asks

26 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

27 the review of substantial amounts of data. This request, therefore, does not separately state each

28 matter sought. Moreover, Defendants object that the request is unduly burdensome and

1   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

2   effort associated with responding to this request is substantially similar for the parties, especially

3   because the available documents, data and other information sought from which the answer, if

4   any, could be derived in response to this request have been produced by Defendants in response

5   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

6   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

7   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

8   without waiving the foregoing objections and qualifications, Defendants respond as follows:

9   DENIED. Defendants have reasonable access to the files located in DCDL1-2 and

10   DCDL4-20. However, given the quantity of the files in the folder structures located in DCDL1-2

11   and DCDL4-20, there is no readily obtainable way to determine whether any specific file or

12   specific sub-set of files located in the folder structures located in DCDL1-2 and DCDL4-20 were

13   obtained at some point in time from a PeopleSoft, JD Edwards, Siebel, or Oracle website.

14   Defendants have not undertaken the extreme burden of evaluating each file and have objected on

15   that basis because the requested information is as equally accessible to Plaintiffs as it is to

16   Defendants.

17   **REQUEST NO. 37:**

18   For each file located in Tempstore_CE\D\PeopleSoft, as identified in Defendants'

19   responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do not have

20   reasonable access to any readily obtainable information indicating that the file was not originally

21   downloaded from an Oracle website by SAP TN.

22   **RESPONSE TO REQUEST NO. 37:**

23   Defendants object to this request on the grounds stated in the General Objections and

24   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

25   respect to the information sought in this request because Defendants SAP AG and SAP America

26   have no additional knowledge separate and apart from the information provided by Defendant

27   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

28   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

1 Defendants object to this request as compound and unduly burdensome in that this request asks

2 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

3 the review of substantial amounts of data. This request, therefore, does not separately state each

4 matter sought. Moreover, Defendants object that the request is unduly burdensome and

5 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

6 effort associated with responding to this request is substantially similar for the parties, especially

7 because the available documents, data and other information sought from which the answer, if

8 any, could be derived in response to this request have been produced by Defendants in response

9 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

10 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

11 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

12 without waiving the foregoing objections and qualifications, Defendants respond as follows:

13 DENIED. Defendants have reasonable access to the files located in the folder structures

14 located at Tempstore_CE\D\PeopleSoft. However, given the quantity of the files in the folder

15 structures located at Tempstore_CE\D\PeopleSoft, there is no readily obtainable way to determine

16 whether any specific file or specific sub-set of files located in the folder structures located at

17 Tempstore_CE\D\PeopleSoft were obtained at some point in time from a PeopleSoft, JD Edwards,

18 Siebel, or Oracle website. Defendants have not undertaken the extreme burden of evaluating each

19 file and have objected on that basis because the requested information is as equally accessible to

20 Plaintiffs as it is to Defendants.

21 **REQUEST NO. 38:**

22 For each file located in TN-FS01_F\C\DellRestore\F Drive\PS\PS Delivered Updates &

23 Fixes, as identified in Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set,

24 admit that Defendants do not have reasonable access to any readily obtainable information

25 indicating that the file was not originally downloaded from an Oracle website by SAP TN.

26 **RESPONSE TO REQUEST NO. 38:**

27 Defendants object to this request on the grounds stated in the General Objections and

28 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

1   respect to the information sought in this request because Defendants SAP AG and SAP America

2   have no additional knowledge separate and apart from the information provided by Defendant

3   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

4   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

5   Defendants object to this request as compound and unduly burdensome in that this request asks

6   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

7   the review of substantial amounts of data. This request, therefore, does not separately state each

8   matter sought. Moreover, Defendants object that the request is unduly burdensome and

9   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

10 effort associated with responding to this request is substantially similar for the parties, especially

11 because the available documents, data and other information sought from which the answer, if

12 any, could be derived in response to this request have been produced by Defendants in response

13 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

14 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

15 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

16 without waiving the foregoing objections and qualifications, Defendants respond as follows:

17   DENIED. Defendants have reasonable access to the files located in the folder structures

18 located at TN-FS01_F\C\DellRestore\F Drive\PS\PS Delivered Updates & Fixes. However,

19 given the quantity of the files in the folder structures located at TN-FS01_F\C\DellRestore\F

20 Drive\PS\PS Delivered Updates & Fixes, there is no readily obtainable way to determine whether

21 any specific file or specific sub-set of files located in the folder structures located at TN-

22 FS01_F\C\DellRestore\F Drive\PS\PS Delivered Updates & Fixes were obtained at some point in

23 time from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not undertaken

24 the extreme burden of evaluating each file and have objected on that basis because the requested

25 information is as equally accessible to Plaintiffs as it is to Defendants.

26 **REQUEST NO. 39:**

27   For each file located in JD-WSVR01_G\JDE\JDE Delivered Updates & Fixes, as

28 identified in Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that

1   Defendants do not have reasonable access to any readily obtainable information indicating that

2   the file was not originally downloaded from an Oracle website by SAP TN.

3   **RESPONSE TO REQUEST NO. 39:**

4   Defendants object to this request on the grounds stated in the General Objections and

5   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

6   respect to the information sought in this request because Defendants SAP AG and SAP America

7   have no additional knowledge separate and apart from the information provided by Defendant

8   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

9   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

10 Defendants object to this request as compound and unduly burdensome in that this request asks

11 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

12 the review of substantial amounts of data. This request, therefore, does not separately state each

13 matter sought. Moreover, Defendants object that the request is unduly burdensome and

14 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

15 effort associated with responding to this request is substantially similar for the parties, especially

16 because the available documents, data and other information sought from which the answer, if

17 any, could be derived in response to this request have been produced by Defendants in response

18 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

19 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

20 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

21 without waiving the foregoing objections and qualifications, Defendants respond as follows:

22   DENIED. Defendants have reasonable access to the files located in the folder structures

23 located at JD-WSVR01_G\JDE\JDE Delivered Updates & Fixes. However, given the quantity of

24 the files in the folder structures located at JD-WSVR01_G\JDE\JDE Delivered Updates & Fixes,

25 there is no readily obtainable way to determine whether any specific file or specific sub-set of

26 files located in the folder structures located at JD-WSVR01_G\JDE\JDE Delivered Updates &

27 Fixes were obtained at some point in time from a PeopleSoft, JD Edwards, Siebel, or Oracle

28 website. Defendants have not undertaken the extreme burden of evaluating each file and have

1   objected on that basis because the requested information is as equally accessible to Plaintiffs as it

2   is to Defendants.

3   **REQUEST NO. 40:**

4   For each file located in AS/400 ENT01 Partition, as identified in Defendants' responses to

5   Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do not have reasonable

6   access to any readily obtainable information indicating that the file was not originally

7   downloaded from an Oracle website by SAP TN.

8   **RESPONSE TO REQUEST NO. 40:**

9   Defendants object to this request on the grounds stated in the General Objections and

10   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

11   respect to the information sought in this request because Defendants SAP AG and SAP America

12   have no additional knowledge separate and apart from the information provided by Defendant

13   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

14   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

15   Defendants object to this request as compound and unduly burdensome in that this request asks

16   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

17   the review of substantial amounts of data. This request, therefore, does not separately state each

18   matter sought. Moreover, Defendants object that the request is unduly burdensome and

19   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

20   effort associated with responding to this request is substantially similar for the parties, especially

21   because the available documents, data and other information sought from which the answer, if

22   any, could be derived in response to this request have been produced by Defendants in response

23   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

24   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

25   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

26   without waiving the foregoing objections and qualifications, Defendants respond as follows:

27   DENIED. Defendants have reasonable access to the files located in the AS/400 ENT01

28   Partition. However, given the quantity of the files in the folder structures located in the AS/400

1   ENT01 Partition, there is no readily obtainable way to determine whether any specific file or

2   specific sub-set of files located in AS/400 ENT01 Partition were obtained at some point in time

3   from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not undertaken the

4   extreme burden of evaluating each file and have objected on that basis because the requested

5   information is as equally accessible to Plaintiffs as it is to Defendants.

6   **REQUEST NO. 41:**

7   For each file located in AS/400 World Partition, as identified in Defendants' responses to

8   Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do not have reasonable

9   access to any readily obtainable information indicating that the file was not originally

10 downloaded from an Oracle website by SAP TN.

11 **RESPONSE TO REQUEST NO. 41:**

12   Defendants object to this request on the grounds stated in the General Objections and

13 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

14 respect to the information sought in this request because Defendants SAP AG and SAP America

15 have no additional knowledge separate and apart from the information provided by Defendant

16 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

17 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

18 Defendants object to this request as compound and unduly burdensome in that this request asks

19 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

20 the review of substantial amounts of data. This request, therefore, does not separately state each

21 matter sought. Moreover, Defendants object that the request is unduly burdensome and

22 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

23 effort associated with responding to this request is substantially similar for the parties, especially

24 because the available documents, data and other information sought from which the answer, if

25 any, could be derived in response to this request have been produced by Defendants in response

26 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

27 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

28 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

1   without waiving the foregoing objections and qualifications, Defendants respond as follows:

2   DENIED. Defendants have reasonable access to the files located in the AS/400 World

3   Partition. However, given the quantity of the files in the AS/400 World Partition, there is no

4   readily obtainable way to determine whether any specific file or specific sub-set of files located in

5   the AS/400 World Partition were obtained at some point in time from a PeopleSoft, JD Edwards,

6   Siebel, or Oracle website. Defendants have not undertaken the extreme burden of evaluating each

7   file and have objected on that basis because the requested information is as equally accessible to

8   Plaintiffs as it is to Defendants.

9   **REQUEST NO. 42:**

10   For each file located in TN-FS02_E\Delivered Updates & Fixes, as identified in

11   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do

12   not have reasonable access to any readily obtainable information indicating that the file was not

13   originally downloaded from an Oracle website by SAP TN.

14   **RESPONSE TO REQUEST NO. 42:**

15   Defendants object to this request on the grounds stated in the General Objections and

16   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

17   respect to the information sought in this request because Defendants SAP AG and SAP America

18   have no additional knowledge separate and apart from the information provided by Defendant

19   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

20   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

21   Defendants object to this request as compound and unduly burdensome in that this request asks

22   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

23   the review of substantial amounts of data. This request, therefore, does not separately state each

24   matter sought. Moreover, Defendants object that the request is unduly burdensome and

25   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

26   effort associated with responding to this request is substantially similar for the parties, especially

27   because the available documents, data and other information sought from which the answer, if

28   any, could be derived in response to this request have been produced by Defendants in response

1   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

2   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

3   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

4   without waiving the foregoing objections and qualifications, Defendants respond as follows:

5   DENIED. Defendants have reasonable access to the files located in the folder structures

6   located at TN-FS02_E\Delivered Updates & Fixes. However, given the quantity of the files in

7   the folder structures located at TN-FS02_E\Delivered Updates & Fixes, there is no readily

8   obtainable way to determine whether any specific file or specific sub-set of files located in the

9   folder structures located at TN-FS02_E\Delivered Updates & Fixes were obtained at some point

10   in time from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not

11   undertaken the extreme burden of evaluating each file and have objected on that basis because the

12   requested information is as equally accessible to Plaintiffs as it is to Defendants.

13   **REQUEST NO. 43:**

14   For each file located in TN-FS01_F\C\DellRestore\F Drive\Client Download Links, as

15   identified in Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that

16   Defendants do not have reasonable access to any readily obtainable information indicating that

17   the file was not originally downloaded from an Oracle website by SAP TN.

18   **RESPONSE TO REQUEST NO. 43:**

19   Defendants object to this request on the grounds stated in the General Objections and

20   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

21   respect to the information sought in this request because Defendants SAP AG and SAP America

22   have no additional knowledge separate and apart from the information provided by Defendant

23   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

24   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

25   Defendants object to this request as compound and unduly burdensome in that this request asks

26   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

27   the review of substantial amounts of data. This request, therefore, does not separately state each

28   matter sought. Moreover, Defendants object that the request is unduly burdensome and

1   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

2   effort associated with responding to this request is substantially similar for the parties, especially

3   because the available documents, data and other information sought from which the answer, if

4   any, could be derived in response to this request have been produced by Defendants in response

5   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

6   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

7   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

8   without waiving the foregoing objections and qualifications, Defendants respond as follows:

9   DENIED. Defendants have reasonable access to the files located in the folder structures

10   located at TN-FS01_F\C\DellRestore\F Drive\Client Download Links. However, given the

11   quantity of the files in the folder structures located at TN-FS01_F\C\DellRestore\F Drive\Client

12   Download Links, there is no readily obtainable way to determine whether any specific file or

13   specific sub-set of files located in the folder structures located at TN-FS01_F\C\DellRestore\F

14   Drive\Client Download Links were obtained at some point in time from a PeopleSoft, JD

15   Edwards, Siebel, or Oracle website. Defendants have not undertaken the extreme burden of

16   evaluating each file and have objected on that basis because the requested information is as

17   equally accessible to Plaintiffs as it is to Defendants.

18   **REQUEST NO. 44:**

19   For each file located in TN-FS01_F\C\DellRestore\F Drive\PS\JDE OneWorld

20   International Docs and Release Notes, as identified in Defendants' responses to Interrogatory 11

21   from Oracle Corp.'s first set, admit that Defendants do not have reasonable access to any readily

22   obtainable information indicating that the file was not originally downloaded from an Oracle

23   website by SAP TN.

24   **RESPONSE TO REQUEST NO. 44:**

25   Defendants object to this request on the grounds stated in the General Objections and

26   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

27   respect to the information sought in this request because Defendants SAP AG and SAP America

28   have no additional knowledge separate and apart from the information provided by Defendant

1   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

2   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

3   Defendants object to this request as compound and unduly burdensome in that this request asks

4   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

5   the review of substantial amounts of data. This request, therefore, does not separately state each

6   matter sought. Moreover, Defendants object that the request is unduly burdensome and

7   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

8   effort associated with responding to this request is substantially similar for the parties, especially

9   because the available documents, data and other information sought from which the answer, if

10   any, could be derived in response to this request have been produced by Defendants in response

11   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

12   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

13   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

14   without waiving the foregoing objections and qualifications, Defendants respond as follows:

15   DENIED. Defendants have reasonable access to the files located in the folder structures

16   located at TN-FS01_F\C\DellRestore\F Drive\PS\JDE OneWorld International Docs and Release

17   Notes. However, given the quantity of the files in the folder structures located at TN-

18   FS01_F\C\DellRestore\F Drive\PS\JDE OneWorld International Docs and Release Notes, there is

19   no readily obtainable way to determine whether any specific file or specific sub-set of files

20   located in the folder structures located at TN-FS01_F\C\DellRestore\F Drive\PS\JDE OneWorld

21   International Docs and Release Notes were obtained at some point in time from a PeopleSoft, JD

22   Edwards, Siebel, or Oracle website. Defendants have not undertaken the extreme burden of

23   evaluating each file and have objected on that basis because the requested information is as

24   equally accessible to Plaintiffs as it is to Defendants.

25   **REQUEST NO. 45:**

26   For each file located in TN-FS01_F\C\DellRestore\F Drive\PS\JDE World International

27   Docs and Release Notes, as identified in Defendants' responses to Interrogatory 11 from Oracle

28   Corp.'s first set, admit that Defendants do not have reasonable access to any readily obtainable

1   information indicating that the file was not originally downloaded from an Oracle website by

2   SAP TN.

3   **RESPONSE TO REQUEST NO. 45:**

4   Defendants object to this request on the grounds stated in the General Objections and

5   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

6   respect to the information sought in this request because Defendants SAP AG and SAP America

7   have no additional knowledge separate and apart from the information provided by Defendant

8   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

9   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

10 Defendants object to this request as compound and unduly burdensome in that this request asks

11 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

12 the review of substantial amounts of data. This request, therefore, does not separately state each

13 matter sought. Moreover, Defendants object that the request is unduly burdensome and

14 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

15 effort associated with responding to this request is substantially similar for the parties, especially

16 because the available documents, data and other information sought from which the answer, if

17 any, could be derived in response to this request have been produced by Defendants in response

18 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

19 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

20 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

21 without waiving the foregoing objections and qualifications, Defendants respond as follows:

22 DENIED. Defendants have reasonable access to the files located in the folder structures

23 located at TN-FS01_F\C\DellRestore\F Drive\PS\JDE World International Docs and Release

24 Notes. However, given the quantity of the files in the folder structures located at TN-

25 FS01_F\C\DellRestore\F Drive\PS\JDE World International Docs and Release Notes, there is no

26 readily obtainable way to determine whether any specific file or specific sub-set of files located in

27 the folder structures located at TN-FS01_F\C\DellRestore\F Drive\PS\JDE World International

28 Docs and Release Notes were obtained at some point in time from a PeopleSoft, JD Edwards,

1   Siebel, or Oracle website. Defendants have not undertaken the extreme burden of evaluating each

2   file and have objected on that basis because the requested information is as equally accessible to

3   Plaintiffs as it is to Defendants.

4   **REQUEST NO. 46:**

5   For each file located in JDDEV03\D\Downloads\PeopleSoft, as identified in Defendants'

6   responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do not have

7   reasonable access to any readily obtainable information indicating that the file was not originally

8   downloaded from an Oracle website by SAP TN.

9   **RESPONSE TO REQUEST NO. 46:**

10   Defendants object to this request on the grounds stated in the General Objections and

11   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

12   respect to the information sought in this request because Defendants SAP AG and SAP America

13   have no additional knowledge separate and apart from the information provided by Defendant

14   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

15   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

16   Defendants object to this request as compound and unduly burdensome in that this request asks

17   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

18   the review of substantial amounts of data. This request, therefore, does not separately state each

19   matter sought. Moreover, Defendants object that the request is unduly burdensome and

20   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

21   effort associated with responding to this request is substantially similar for the parties, especially

22   because the available documents, data and other information sought from which the answer, if

23   any, could be derived in response to this request have been produced by Defendants in response

24   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

25   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

26   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

27   without waiving the foregoing objections and qualifications, Defendants respond as follows:

28   DENIED. Defendants have reasonable access to the files located in the folder structures

1   located at JDDEV03\D\Downloads\PeopleSoft. However, given the quantity of the files in the

2   folder structures located at JDDEV03\D\Downloads\PeopleSoft, there is no readily obtainable

3   way to determine whether any specific file or specific sub-set of files located in the folder

4   structures located at JDDEV03\D\Downloads\PeopleSoft were obtained at some point in time

5   from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not undertaken the

6   extreme burden of evaluating each file and have objected on that basis because the requested

7   information is as equally accessible to Plaintiffs as it is to Defendants.

8   **REQUEST NO. 47:**

9   For each file located in JDDEV03\D\ESUhtm, as identified in Defendants' responses to

10 Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do not have reasonable

11 access to any readily obtainable information indicating that the file was not originally

12 downloaded from an Oracle website by SAP TN.

13 **RESPONSE TO REQUEST NO. 47:**

14   Defendants object to this request on the grounds stated in the General Objections and

15 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

16 respect to the information sought in this request because Defendants SAP AG and SAP America

17 have no additional knowledge separate and apart from the information provided by Defendant

18 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

19 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

20 Defendants object to this request as compound and unduly burdensome in that this request asks

21 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

22 the review of substantial amounts of data. This request, therefore, does not separately state each

23 matter sought. Moreover, Defendants object that the request is unduly burdensome and

24 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

25 effort associated with responding to this request is substantially similar for the parties, especially

26 because the available documents, data and other information sought from which the answer, if

27 any, could be derived in response to this request have been produced by Defendants in response

28 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

1   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

2   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

3   without waiving the foregoing objections and qualifications, Defendants respond as follows:

4   DENIED. Defendants have reasonable access to the files located in the folder structures

5   located at JDDEV03\D\ESUhtm. However, given the quantity of the files in the folder structures

6   located at JDDEV03\D\ESUhtm, there is no readily obtainable way to determine whether any

7   specific file or specific sub-set of files located in the folder structures located at

8   JDDEV03\D\ESUhtm were obtained at some point in time from a PeopleSoft, JD Edwards,

9   Siebel, or Oracle website. Defendants have not undertaken the extreme burden of evaluating each

10   file and have objected on that basis because the requested information is as equally accessible to

11   Plaintiffs as it is to Defendants.

12   **REQUEST NO. 48:**

13   For each file located in SBLPROD02\SupportWeb-2007.03.11-

14   PSCU_Financial_Services.rar, as identified in Defendants' responses to Interrogatory 11 from

15   Oracle Corp.'s first set, admit that Defendants do not have reasonable access to any readily

16   obtainable information indicating that the file was not originally downloaded from an Oracle

17   website by SAP TN.

18   **RESPONSE TO REQUEST NO. 48:**

19   Defendants object to this request on the grounds stated in the General Objections and

20   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

21   respect to the information sought in this request because Defendants SAP AG and SAP America

22   have no additional knowledge separate and apart from the information provided by Defendant

23   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

24   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

25   Defendants object to this request as compound and unduly burdensome in that this request asks

26   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

27   the review of substantial amounts of data. This request, therefore, does not separately state each

28   matter sought. Moreover, Defendants object that the request is unduly burdensome and

1   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

2   effort associated with responding to this request is substantially similar for the parties, especially

3   because the available documents, data and other information sought from which the answer, if

4   any, could be derived in response to this request have been produced by Defendants in response

5   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

6   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

7   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

8   without waiving the foregoing objections and qualifications, Defendants respond as follows:

9   DENIED. Defendants have reasonable access to the files located in the folder structures

10 located at SBLPROD02\SupportWeb-2007.03.11-PSCU_Financial_Services.rar. However, given

11 the quantity of the files in the folder structures located at SBLPROD02\SupportWeb-2007.03.11-

12 PSCU_Financial_Services.rar, there is no readily obtainable way to determine whether any

13 specific file or specific sub-set of files located in the folder structures located at

14 SBLPROD02\SupportWeb-2007.03.11-PSCU_Financial_Services.rar were obtained at some

15 point in time from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not

16 undertaken the extreme burden of evaluating each file and have objected on that basis because the

17 requested information is as equally accessible to Plaintiffs as it is to Defendants.

18 **REQUEST NO. 49:**

19   For each file located in TN-FS01_F\C\Siebel\Clients\Actel, as identified in Defendants'

20 responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do not have

21 reasonable access to any readily obtainable information indicating that the file was not originally

22 downloaded from an Oracle website by SAP TN.

23 **RESPONSE TO REQUEST NO. 49:**

24   Defendants object to this request on the grounds stated in the General Objections and

25 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

26 respect to the information sought in this request because Defendants SAP AG and SAP America

27 have no additional knowledge separate and apart from the information provided by Defendant

28 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

1   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

2   Defendants object to this request as compound and unduly burdensome in that this request asks

3   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

4   the review of substantial amounts of data. This request, therefore, does not separately state each

5   matter sought. Moreover, Defendants object that the request is unduly burdensome and

6   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

7   effort associated with responding to this request is substantially similar for the parties, especially

8   because the available documents, data and other information sought from which the answer, if

9   any, could be derived in response to this request have been produced by Defendants in response

10 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

11 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

12 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

13 without waiving the foregoing objections and qualifications, Defendants respond as follows:

14   DENIED. Defendants have reasonable access to the files located in the folder structures

15 located at TN-FS01_F\C\Siebel\Clients\Actel. However, given the quantity of the files in the

16 folder structures located at TN-FS01_F\C\Siebel\Clients\Actel, there is no readily obtainable way

17 to determine whether any specific file or specific sub-set of files located in the folder structures

18 located at TN-FS01_F\C\Siebel\Clients\Actel were obtained at some point in time from a

19 PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not undertaken the extreme

20 burden of evaluating each file and have objected on that basis because the requested information

21 is as equally accessible to Plaintiffs as it is to Defendants.

22 **REQUEST NO. 50:**

23   For each file located in TN-FS01_F\C\Siebel\Clients\ATX, as identified in Defendants'

24 responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do not have

25 reasonable access to any readily obtainable information indicating that the file was not originally

26 downloaded from an Oracle website by SAP TN.

27 **RESPONSE TO REQUEST NO. 50:**

28   Defendants object to this request on the grounds stated in the General Objections and

1   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

2   respect to the information sought in this request because Defendants SAP AG and SAP America

3   have no additional knowledge separate and apart from the information provided by Defendant

4   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

5   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

6   Defendants object to this request as compound and unduly burdensome in that this request asks

7   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

8   the review of substantial amounts of data. This request, therefore, does not separately state each

9   matter sought. Moreover, Defendants object that the request is unduly burdensome and

10   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

11   effort associated with responding to this request is substantially similar for the parties, especially

12   because the available documents, data and other information sought from which the answer, if

13   any, could be derived in response to this request have been produced by Defendants in response

14   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

15   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

16   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

17   without waiving the foregoing objections and qualifications, Defendants respond as follows:

18   DENIED. Defendants have reasonable access to the files located in the folder structures

19   located at TN-FS01_F\C\Siebel\Clients\ATX. However, given the quantity of the files in the

20   folder structures located at TN-FS01_F\C\Siebel\Clients\ATX, there is no readily obtainable way

21   to determine whether any specific file or specific sub-set of files located in the folder structures

22   located at TN-FS01_F\C\Siebel\Clients\ATX were obtained at some point in time from a

23   PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not undertaken the extreme

24   burden of evaluating each file and have objected on that basis because the requested information

25   is as equally accessible to Plaintiffs as it is to Defendants.

26   **REQUEST NO. 51:**

27   For each file located in TN-FS01_F\C\Siebel\Clients\CSBP, as identified in Defendants'

28   responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do not have

1   reasonable access to any readily obtainable information indicating that the file was not originally

2   downloaded from an Oracle website by SAP TN.

3   **RESPONSE TO REQUEST NO. 51:**

4   Defendants object to this request on the grounds stated in the General Objections and

5   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

6   respect to the information sought in this request because Defendants SAP AG and SAP America

7   have no additional knowledge separate and apart from the information provided by Defendant

8   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

9   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

10 Defendants object to this request as compound and unduly burdensome in that this request asks

11 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

12 the review of substantial amounts of data. This request, therefore, does not separately state each

13 matter sought. Moreover, Defendants object that the request is unduly burdensome and

14 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

15 effort associated with responding to this request is substantially similar for the parties, especially

16 because the available documents, data and other information sought from which the answer, if

17 any, could be derived in response to this request have been produced by Defendants in response

18 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

19 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

20 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

21 without waiving the foregoing objections and qualifications, Defendants respond as follows:

22   DENIED. Defendants have reasonable access to the files located in the folder structures

23 located at TN-FS01_F\C\Siebel\Clients\CSBP. However, given the quantity of the files in the

24 folder structures located at TN-FS01_F\C\Siebel\Clients\CSBP, there is no readily obtainable way

25 to determine whether any specific file or specific sub-set of files located in the folder structures

26 located at TN-FS01_F\C\Siebel\Clients\CSBP were obtained at some point in time from a

27 PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not undertaken the extreme

28 burden of evaluating each file and have objected on that basis because the requested information

1   is as equally accessible to Plaintiffs as it is to Defendants.

2   **REQUEST NO. 52:**

3   For each file located in TN-FS01_F\C\Siebel\Clients\Everdream, as identified in

4   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do

5   not have reasonable access to any readily obtainable information indicating that the file was not

6   originally downloaded from an Oracle website by SAP TN.

7   **RESPONSE TO REQUEST NO. 52:**

8   Defendants object to this request on the grounds stated in the General Objections and

9   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

10   respect to the information sought in this request because Defendants SAP AG and SAP America

11   have no additional knowledge separate and apart from the information provided by Defendant

12   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

13   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

14   Defendants object to this request as compound and unduly burdensome in that this request asks

15   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

16   the review of substantial amounts of data. This request, therefore, does not separately state each

17   matter sought. Moreover, Defendants object that the request is unduly burdensome and

18   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

19   effort associated with responding to this request is substantially similar for the parties, especially

20   because the available documents, data and other information sought from which the answer, if

21   any, could be derived in response to this request have been produced by Defendants in response

22   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

23   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

24   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

25   without waiving the foregoing objections and qualifications, Defendants respond as follows:

26   DENIED. Defendants have reasonable access to the files located in the folder structures

27   located at TN-FS01_F\C\Siebel\Clients\Everdream. However, given the quantity of the files in

28   the folder structures located at TN-FS01_F\C\Siebel\Clients\Everdream, there is no readily

1   obtainable way to determine whether any specific file or specific sub-set of files located in the

2   folder structures located at TN-FS01_F\C\Siebel\Clients\Everdream were obtained at some point

3   in time from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not

4   undertaken the extreme burden of evaluating each file and have objected on that basis because the

5   requested information is as equally accessible to Plaintiffs as it is to Defendants.

6   **REQUEST NO. 53:**

7   For each file located in TN-FS01_F\C\Siebel\Clients\FSC, as identified in Defendants'

8   responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do not have

9   reasonable access to any readily obtainable information indicating that the file was not originally

10   downloaded from an Oracle website by SAP TN.

11   **RESPONSE TO REQUEST NO. 53:**

12   Defendants object to this request on the grounds stated in the General Objections and

13   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

14   respect to the information sought in this request because Defendants SAP AG and SAP America

15   have no additional knowledge separate and apart from the information provided by Defendant

16   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

17   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

18   Defendants object to this request as compound and unduly burdensome in that this request asks

19   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

20   the review of substantial amounts of data. This request, therefore, does not separately state each

21   matter sought. Moreover, Defendants object that the request is unduly burdensome and

22   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

23   effort associated with responding to this request is substantially similar for the parties, especially

24   because the available documents, data and other information sought from which the answer, if

25   any, could be derived in response to this request have been produced by Defendants in response

26   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

27   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

28   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

1   without waiving the foregoing objections and qualifications, Defendants respond as follows:

2   DENIED. Defendants have reasonable access to the files located in the folder structures

3   located at TN-FS01_F\C\Siebel\Clients\FSC. However, given the quantity of the files in the

4   folder structures located at TN-FS01_F\C\Siebel\Clients\FSC, there is no readily obtainable way

5   to determine whether any specific file or specific sub-set of files located in the folder structures

6   located at TN-FS01_F\C\Siebel\Clients\FSC were obtained at some point in time from a

7   PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not undertaken the extreme

8   burden of evaluating each file and have objected on that basis because the requested information

9   is as equally accessible to Plaintiffs as it is to Defendants.

10   **REQUEST NO. 54:**

11   For each file located in TN-FS01_F\C\Siebel\Clients\MKS, as identified in Defendants'

12   responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do not have

13   reasonable access to any readily obtainable information indicating that the file was not originally

14   downloaded from an Oracle website by SAP TN.

15   **RESPONSE TO REQUEST NO. 54:**

16   Defendants object to this request on the grounds stated in the General Objections and

17   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

18   respect to the information sought in this request because Defendants SAP AG and SAP America

19   have no additional knowledge separate and apart from the information provided by Defendant

20   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

21   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

22   Defendants object to this request as compound and unduly burdensome in that this request asks

23   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

24   the review of substantial amounts of data. This request, therefore, does not separately state each

25   matter sought. Moreover, Defendants object that the request is unduly burdensome and

26   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

27   effort associated with responding to this request is substantially similar for the parties, especially

28   because the available documents, data and other information sought from which the answer, if

1   any, could be derived in response to this request have been produced by Defendants in response

2   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

3   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

4   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

5   without waiving the foregoing objections and qualifications, Defendants respond as follows:

6   DENIED. Defendants have reasonable access to the files located in the folder structures

7   located at TN-FS01_F\C\Siebel\Clients\MKS. However, given the quantity of the files in the

8   folder structures located at TN-FS01_F\C\Siebel\Clients\MKS, there is no readily obtainable way

9   to determine whether any specific file or specific sub-set of files located in the folder structures

10   located at TN-FS01_F\C\Siebel\Clients\MKS were obtained at some point in time from a

11   PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not undertaken the extreme

12   burden of evaluating each file and have objected on that basis because the requested information

13   is as equally accessible to Plaintiffs as it is to Defendants.

14   **REQUEST NO. 55:**

15   For each file located in TN-FS01_F\C\Siebel\Clients\NextiraOne, as identified in

16   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do

17   not have reasonable access to any readily obtainable information indicating that the file was not

18   originally downloaded from an Oracle website by SAP TN.

19   **RESPONSE TO REQUEST NO. 55:**

20   Defendants object to this request on the grounds stated in the General Objections and

21   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

22   respect to the information sought in this request because Defendants SAP AG and SAP America

23   have no additional knowledge separate and apart from the information provided by Defendant

24   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

25   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

26   Defendants object to this request as compound and unduly burdensome in that this request asks

27   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

28   the review of substantial amounts of data. This request, therefore, does not separately state each

1   matter sought. Moreover, Defendants object that the request is unduly burdensome and

2   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

3   effort associated with responding to this request is substantially similar for the parties, especially

4   because the available documents, data and other information sought from which the answer, if

5   any, could be derived in response to this request have been produced by Defendants in response

6   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

7   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

8   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

9   without waiving the foregoing objections and qualifications, Defendants respond as follows:

10   DENIED. Defendants have reasonable access to the files located in the folder structures

11   located at TN-FS01_F\C\Siebel\Clients\NextiraOne. However, given the quantity of the files in

12   the folder structures located at TN-FS01_F\C\Siebel\Clients\NextiraOne, there is no readily

13   obtainable way to determine whether any specific file or specific sub-set of files located in the

14   folder structures located at TN-FS01_F\C\Siebel\Clients\NextiraOne were obtained at some point

15   in time from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not

16   undertaken the extreme burden of evaluating each file and have objected on that basis because the

17   requested information is as equally accessible to Plaintiffs as it is to Defendants.

18   **REQUEST NO. 56:**

19   For each file located in TN-FS01_F\C\Siebel\Clients\Pomeroy, as identified in

20   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do

21   not have reasonable access to any readily obtainable information indicating that the file was not

22   originally downloaded from an Oracle website by SAP TN.

23   **RESPONSE TO REQUEST NO. 56:**

24   Defendants object to this request on the grounds stated in the General Objections and

25   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

26   respect to the information sought in this request because Defendants SAP AG and SAP America

27   have no additional knowledge separate and apart from the information provided by Defendant

28   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

1   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

2   Defendants object to this request as compound and unduly burdensome in that this request asks

3   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

4   the review of substantial amounts of data. This request, therefore, does not separately state each

5   matter sought. Moreover, Defendants object that the request is unduly burdensome and

6   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

7   effort associated with responding to this request is substantially similar for the parties, especially

8   because the available documents, data and other information sought from which the answer, if

9   any, could be derived in response to this request have been produced by Defendants in response

10   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

11   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

12   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

13   without waiving the foregoing objections and qualifications, Defendants respond as follows:

14   DENIED. Defendants have reasonable access to the files located in the folder structures

15   located at TN-FS01_F\C\Siebel\Clients\Pomeroy. However, given the quantity of the files in the

16   folder structures located at TN-FS01_F\C\Siebel\Clients\Pomeroy, there is no readily obtainable

17   way to determine whether any specific file or specific sub-set of files located in the folder

18   structures located at TN-FS01_F\C\Siebel\Clients\Pomeroy were obtained at some point in time

19   from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not undertaken the

20   extreme burden of evaluating each file and have objected on that basis because the requested

21   information is as equally accessible to Plaintiffs as it is to Defendants.

22   **REQUEST NO. 57:**

23   For each file located in TN-FS01_F\C\Siebel\Clients\PSCU Financial Services, as

24   identified in Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that

25   Defendants do not have reasonable access to any readily obtainable information indicating that

26   the file was not originally downloaded from an Oracle website by SAP TN.

27   **RESPONSE TO REQUEST NO. 57:**

28   Defendants object to this request on the grounds stated in the General Objections and

1   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

2   respect to the information sought in this request because Defendants SAP AG and SAP America

3   have no additional knowledge separate and apart from the information provided by Defendant

4   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

5   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

6   Defendants object to this request as compound and unduly burdensome in that this request asks

7   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

8   the review of substantial amounts of data. This request, therefore, does not separately state each

9   matter sought. Moreover, Defendants object that the request is unduly burdensome and

10 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

11 effort associated with responding to this request is substantially similar for the parties, especially

12 because the available documents, data and other information sought from which the answer, if

13 any, could be derived in response to this request have been produced by Defendants in response

14 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

15 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

16 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

17 without waiving the foregoing objections and qualifications, Defendants respond as follows:

18   DENIED. Defendants have reasonable access to the files located in the folder structures

19 located at TN-FS01_F\C\Siebel\Clients\PSCU Financial Services. However, given the quantity

20 of the files in the folder structures located at TN-FS01_F\C\Siebel\Clients\PSCU Financial

21 Services, there is no readily obtainable way to determine whether any specific file or specific sub-

22 set of files located in the folder structures located at TN-FS01_F\C\Siebel\Clients\PSCU

23 Financial Services were obtained at some point in time from a PeopleSoft, JD Edwards, Siebel, or

24 Oracle website. Defendants have not undertaken the extreme burden of evaluating each file and

25 have objected on that basis because the requested information is as equally accessible to Plaintiffs

26 as it is to Defendants.

27 **REQUEST NO. 58:**

28   For each file located in TN-FS01_F\C\Siebel\Clients\Rockwell, as identified in

1   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do

2   not have reasonable access to any readily obtainable information indicating that the file was not

3   originally downloaded from an Oracle website by SAP TN.

4   **RESPONSE TO REQUEST NO. 58:**

5   Defendants object to this request on the grounds stated in the General Objections and

6   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

7   respect to the information sought in this request because Defendants SAP AG and SAP America

8   have no additional knowledge separate and apart from the information provided by Defendant

9   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

10 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

11 Defendants object to this request as compound and unduly burdensome in that this request asks

12 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

13 the review of substantial amounts of data. This request, therefore, does not separately state each

14 matter sought. Moreover, Defendants object that the request is unduly burdensome and

15 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

16 effort associated with responding to this request is substantially similar for the parties, especially

17 because the available documents, data and other information sought from which the answer, if

18 any, could be derived in response to this request have been produced by Defendants in response

19 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

20 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

21 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

22 without waiving the foregoing objections and qualifications, Defendants respond as follows:

23   DENIED. Defendants have reasonable access to the files located in the folder structures

24 located at TN-FS01_F\C\Siebel\Clients\Rockwell. However, given the quantity of the files in the

25 folder structures located at TN-FS01_F\C\Siebel\Clients\Rockwell, there is no readily obtainable

26 way to determine whether any specific file or specific sub-set of files located in the folder

27 structures located at TN-FS01_F\C\Siebel\Clients\Rockwell were obtained at some point in time

28 from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not undertaken the

1   extreme burden of evaluating each file and have objected on that basis because the requested

2   information is as equally accessible to Plaintiffs as it is to Defendants.

3   **REQUEST NO. 59:**

4   For each file located in TN-FS01_F\C\Siebel\Clients\Smart Center, as identified in

5   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do

6   not have reasonable access to any readily obtainable information indicating that the file was not

7   originally downloaded from an Oracle website by SAP TN.

8   **RESPONSE TO REQUEST NO. 59:**

9   Defendants object to this request on the grounds stated in the General Objections and

10   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

11   respect to the information sought in this request because Defendants SAP AG and SAP America

12   have no additional knowledge separate and apart from the information provided by Defendant

13   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

14   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

15   Defendants object to this request as compound and unduly burdensome in that this request asks

16   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

17   the review of substantial amounts of data. This request, therefore, does not separately state each

18   matter sought. Moreover, Defendants object that the request is unduly burdensome and

19   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

20   effort associated with responding to this request is substantially similar for the parties, especially

21   because the available documents, data and other information sought from which the answer, if

22   any, could be derived in response to this request have been produced by Defendants in response

23   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

24   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

25   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

26   without waiving the foregoing objections and qualifications, Defendants respond as follows:

27   DENIED. Defendants have reasonable access to the files located in the folder structures

28   located at TN-FS01_F\C\Siebel\Clients\Smart Center. However, given the quantity of the files in

1   the folder structures located at TN-FS01_F\C\Siebel\Clients\Smart Center, there is no readily

2   obtainable way to determine whether any specific file or specific sub-set of files located in the

3   folder structures located at TN-FS01_F\C\Siebel\Clients\Smart Center were obtained at some

4   point in time from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not

5   undertaken the extreme burden of evaluating each file and have objected on that basis because the

6   requested information is as equally accessible to Plaintiffs as it is to Defendants.

7   **REQUEST NO. 60:**

8   For each file located in TN-FS01_F\C\Siebel\Clients\Standard Register, as identified in

9   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do

10   not have reasonable access to any readily obtainable information indicating that the file was not

11   originally downloaded from an Oracle website by SAP TN.

12   **RESPONSE TO REQUEST NO. 60:**

13   Defendants object to this request on the grounds stated in the General Objections and

14   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

15   respect to the information sought in this request because Defendants SAP AG and SAP America

16   have no additional knowledge separate and apart from the information provided by Defendant

17   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

18   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

19   Defendants object to this request as compound and unduly burdensome in that this request asks

20   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

21   the review of substantial amounts of data. This request, therefore, does not separately state each

22   matter sought. Moreover, Defendants object that the request is unduly burdensome and

23   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

24   effort associated with responding to this request is substantially similar for the parties, especially

25   because the available documents, data and other information sought from which the answer, if

26   any, could be derived in response to this request have been produced by Defendants in response

27   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

28   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

1   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

2   without waiving the foregoing objections and qualifications, Defendants respond as follows:

3   DENIED. Defendants have reasonable access to the files located in the folder structures

4   located at TN-FS01_F\C\Siebel\Clients\Standard Register. However, given the quantity of the

5   files in the folder structures located at TN-FS01_F\C\Siebel\Clients\Standard Register, there is no

6   readily obtainable way to determine whether any specific file or specific sub-set of files located in

7   the folder structures located at TN-FS01_F\C\Siebel\Clients\Standard Register were obtained at

8   some point in time from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have

9   not undertaken the extreme burden of evaluating each file and have objected on that basis because

10 the requested information is as equally accessible to Plaintiffs as it is to Defendants.

11 **REQUEST NO. 61:**

12   For each file located in DCITBU01_G\Siebel\Actel, as identified in Defendants'

13 responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do not have

14 reasonable access to any readily obtainable information indicating that the file was not originally

15 downloaded from an Oracle website by SAP TN.

16 **RESPONSE TO REQUEST NO. 61:**

17   Defendants object to this request on the grounds stated in the General Objections and

18 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

19 respect to the information sought in this request because Defendants SAP AG and SAP America

20 have no additional knowledge separate and apart from the information provided by Defendant

21 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

22 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

23 Defendants object to this request as compound and unduly burdensome in that this request asks

24 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

25 the review of substantial amounts of data. This request, therefore, does not separately state each

26 matter sought. Moreover, Defendants object that the request is unduly burdensome and

27 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

28 effort associated with responding to this request is substantially similar for the parties, especially

1   because the available documents, data and other information sought from which the answer, if

2   any, could be derived in response to this request have been produced by Defendants in response

3   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

4   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

5   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

6   without waiving the foregoing objections and qualifications, Defendants respond as follows:

7   DENIED. Defendants have reasonable access to the files located in the folder structures

8   located at DCITBU01_G\Siebel\Actel. However, given the quantity of the files in the folder

9   structures located at DCITBU01_G\Siebel\Actel, there is no readily obtainable way to determine

10 whether any specific file or specific sub-set of files located in the folder structures located at

11 DCITBU01_G\Siebel\Actel were obtained at some point in time from a PeopleSoft, JD Edwards,

12 Siebel, or Oracle website. Defendants have not undertaken the extreme burden of evaluating each

13 file and have objected on that basis because the requested information is as equally accessible to

14 Plaintiffs as it is to Defendants.

15 **REQUEST NO. 62:**

16   For each file located in DCITBU01_G\Siebel\PSCU Financial Services, as identified in

17 Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do

18 not have reasonable access to any readily obtainable information indicating that the file was not

19 originally downloaded from an Oracle website by SAP TN.

20 **RESPONSE TO REQUEST NO. 62:**

21   Defendants object to this request on the grounds stated in the General Objections and

22 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

23 respect to the information sought in this request because Defendants SAP AG and SAP America

24 have no additional knowledge separate and apart from the information provided by Defendant

25 TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

26 "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

27 Defendants object to this request as compound and unduly burdensome in that this request asks

28 for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

1   the review of substantial amounts of data. This request, therefore, does not separately state each

2   matter sought. Moreover, Defendants object that the request is unduly burdensome and

3   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

4   effort associated with responding to this request is substantially similar for the parties, especially

5   because the available documents, data and other information sought from which the answer, if

6   any, could be derived in response to this request have been produced by Defendants in response

7   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

8   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

9   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

10   without waiving the foregoing objections and qualifications, Defendants respond as follows:

11   DENIED. Defendants have reasonable access to the files located in the folder structures

12   located at DCITBU01_G\Siebel\PSCU Financial Services. However, given the quantity of the

13   files in the folder structures located at DCITBU01_G\Siebel\PSCU Financial Services, there is no

14   readily obtainable way to determine whether any specific file or specific sub-set of files located in

15   the folder structures located at DCITBU01_G\Siebel\PSCU Financial Services were obtained at

16   some point in time from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have

17   not undertaken the extreme burden of evaluating each file and have objected on that basis because

18   the requested information is as equally accessible to Plaintiffs as it is to Defendants.

19   **REQUEST NO. 63:**

20   For each file located in DCITBU01_G\Siebel\Standard Register, as identified in

21   Defendants' responses to Interrogatory 11 from Oracle Corp.'s first set, admit that Defendants do

22   not have reasonable access to any readily obtainable information indicating that the file was not

23   originally downloaded from an Oracle website by SAP TN.

24   **RESPONSE TO REQUEST NO. 63:**

25   Defendants object to this request on the grounds stated in the General Objections and

26   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

27   respect to the information sought in this request because Defendants SAP AG and SAP America

28   have no additional knowledge separate and apart from the information provided by Defendant

1   TomorrowNow in this response. Defendants object that the phrases "originally downloaded" and

2   "Oracle website" are overly broad, unduly burdensome, vague, and ambiguous. Further,

3   Defendants object to this request as compound and unduly burdensome in that this request asks

4   for "each file" and, thus, asks hundreds if not thousands of separate questions and would require

5   the review of substantial amounts of data. This request, therefore, does not separately state each

6   matter sought. Moreover, Defendants object that the request is unduly burdensome and

7   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

8   effort associated with responding to this request is substantially similar for the parties, especially

9   because the available documents, data and other information sought from which the answer, if

10 any, could be derived in response to this request have been produced by Defendants in response

11 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

12 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

13 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

14 without waiving the foregoing objections and qualifications, Defendants respond as follows:

15   DENIED. Defendants have reasonable access to the files located in the folder structures

16 located at DCITBU01_G\Siebel\Standard Register. However, given the quantity of the files in

17 the folder structures located at DCITBU01_G\Siebel\Standard Register, there is no readily

18 obtainable way to determine whether any specific file or specific sub-set of files located in the

19 folder structures located at DCITBU01_G\Siebel\Standard Register were obtained at some point

20 in time from a PeopleSoft, JD Edwards, Siebel, or Oracle website. Defendants have not

21 undertaken the extreme burden of evaluating each file and have objected on that basis because the

22 requested information is as equally accessible to Plaintiffs as it is to Defendants.

23 **REQUEST NO. 64:**

24   Admit that SAP TN accessed Customer Connection using log-in credentials provided by

25 at least one of its Customers for the purposes of Developing a Downloading tool known as the

26 Generic File Downloader.[3]

27   [3] See, e.g., Plaintiffs' Deposition Exhibit 1213. This document is provided only as an
    example reference and is not intended to be the exclusive information Defendants should or have
28 the ability to consult in responding to this Interrogatory.

1   Nick Rawls was provided by a TomorrowNow employee to Otmar Schallmayer. Defendants

2   deny that the portions of the information that were provided to Otmar Schallmayer are proprietary.

3   To the extent this request is not admitted, it is DENIED.

4   **REQUEST NO. 130:**

5   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

6   admit that Defendants do not have reasonable access to any readily obtainable information

7   indicating that a Copy of the listed Fix Object was not created using a Local Environment.[42]

8   **RESPONSE TO REQUEST NO. 130:**

9   Defendants object to this request on the grounds stated in the General Objections and

10   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

11   respect to the information sought in this request because Defendants SAP AG and SAP America

12   have no additional knowledge separate and apart from the information provided by Defendant

13   TomorrowNow in this response. Defendants object to the request because the terms "copy,"

14   "created," and "local environment" make this request overly broad, vague, and ambiguous.

15   Further, Defendants object to this request as compound and unduly burdensome in that this

16   request asks 33,186 separate questions, and the request would require Defendants to review

17   substantial business records to determine an answer, if possible, for each of the 33,186 separate

18   requests.   This request, therefore, does not separately state each matter sought. Moreover,

19   Defendants object that the request is unduly burdensome and improperly attempts to shift the

20   burden to Defendants to evaluate each and every file where the effort associated with responding

21   to this request is substantially similar for the parties, especially because the available documents,

22   data and other information sought from which the answer, if any, could be derived in response to

23   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

24   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

25   Defendants. Defendants also object to the extent that this request improperly attempts to shift

26   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

27   objections and qualifications, Defendants respond as follows:

28   [42] See Defendants' Response to Request for Admission No. 13 from Plaintiffs' Third Set.

1   DENIED. Defendants have reasonable access to TomorrowNow's records and other

2   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

3   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

4   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

5   records and other information to determine for each listed item whether a copy of each listed fix

6   object was not created using a local environment. Defendants have not undertaken the extreme

7   burden of evaluating each item and have objected on that basis because the requested information

8   is as equally accessible to Plaintiffs as it is to Defendants.

9   **REQUEST NO. 131:**

10   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

11   admit that Defendants do not have reasonable access to any readily obtainable information

12   indicating that, if a Copy of the listed Fix Object was tested, a Copy of the listed Fix Object was

13   not tested using a Local Environment.[43]

14   **RESPONSE TO REQUEST NO. 131:**

15   Defendants object to this request on the grounds stated in the General Objections and

16   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

17   respect to the information sought in this request because Defendants SAP AG and SAP America

18   have no additional knowledge separate and apart from the information provided by Defendant

19   TomorrowNow in this response. Defendants object to the request because the terms "copy,"

20   "tested," and "local environment" make this request overly broad, vague, and ambiguous. Further,

21   Defendants object to this request as compound and unduly burdensome in that this request asks

22   33,186 separate questions, and the request would require Defendants to review substantial

23   business records to determine an answer, if possible, for each of the 33,186 separate requests.

24   This request, therefore, does not separately state each matter sought. Moreover, Defendants

25   object that the request is unduly burdensome and improperly attempts to shift the burden to

26   Defendants to evaluate each and every file where the effort associated with responding to this

27   request is substantially similar for the parties, especially because the available documents, data

28   _____
     [43] See Defendants' Response to Request for Admission No. 14 from Plaintiffs' Third Set.

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1 and other information sought from which the answer, if any, could be derived in response to this

2 request have been produced by Defendants in response to Plaintiffs' other discovery requests and

3 thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

4 Defendants. Defendants also object to the extent that this request improperly attempts to shift

5 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

6 objections and qualifications, Defendants respond as follows:

7 DENIED. Defendants have reasonable access to TomorrowNow's records and other

8 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

9 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

10 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

11 records and other information to determine for each listed item whether that, if a copy of the

12 listed fix object was tested, a copy of the listed fix object was not tested using a local environment.

13 Defendants have not undertaken the extreme burden of evaluating each item and have objected on

14 that basis because the requested information is as equally accessible to Plaintiffs as it is to

15 Defendants.

16 **REQUEST NO. 132:**

17 For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

18 admit that Defendants do not have reasonable access to any readily obtainable information

19 indicating that a Copy of the listed Fix Object was created using a Local Environment consisting

20 solely of an installation from, a Copy of, or an installation from a Copy of software received from

21 or on behalf of the recipient stated for the respective item.[44]

22 **RESPONSE TO REQUEST NO. 132:**

23 Defendants object to this request on the grounds stated in the General Objections and

24 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

25 respect to the information sought in this request because Defendants SAP AG and SAP America

26 have no additional knowledge separate and apart from the information provided by Defendant

27 TomorrowNow in this response. Defendants object to the request because the terms "copy,"

28 _____

[44] See Defendants' Response to Request for Admission No. 15 from Plaintiffs' Third Set.

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1   "created," and "local environment" make this request overly broad, vague, and ambiguous.

2   Further, Defendants object to this request as compound and unduly burdensome in that this

3   request asks 33,186 separate questions, and the request would require Defendants to review

4   substantial business records to determine an answer, if possible, for each of the 33,186 separate

5   requests.   This request, therefore, does not separately state each matter sought. Moreover,

6   Defendants object that the request is unduly burdensome and improperly attempts to shift the

7   burden to Defendants to evaluate each and every file where the effort associated with responding

8   to this request is substantially similar for the parties, especially because the available documents,

9   data and other information sought from which the answer, if any, could be derived in response to

10 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

11 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

12 Defendants. Defendants also object to the extent that this request improperly attempts to shift

13 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

14 objections and qualifications, Defendants respond as follows:

15   DENIED. Defendants have reasonable access to TomorrowNow's records and other

16 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

17 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

18 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

19 records and other information to determine for each listed item whether a copy of the listed fix

20 object was created using a local environment consisting solely of an installation from, a copy of,

21 or an installation from a copy of software received from or on behalf of the recipient stated for the

22 respective item. Defendants have not undertaken the extreme burden of evaluating each item and

23 have objected on that basis because the requested information is as equally accessible to Plaintiffs

24 as it is to Defendants.

25 **REQUEST NO. 133:**

26   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

27 admit that Defendants do not have reasonable access to any readily obtainable information

28 indicating that a Copy of the listed Fix Object was tested using a Local Environment consisting

1   solely of an installation from, a Copy of, or an installation from a Copy of software received from

2   or on behalf of the recipient stated for the respective item.[45]

3   **RESPONSE TO REQUEST NO. 133:**

4   Defendants object to this request on the grounds stated in the General Objections and

5   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

6   respect to the information sought in this request because Defendants SAP AG and SAP America

7   have no additional knowledge separate and apart from the information provided by Defendant

8   TomorrowNow in this response. Defendants object to the request because the terms "copy,"

9   "tested," and "local environment" make this request overly broad, vague, and ambiguous. Further,

10 Defendants object to this request as compound and unduly burdensome in that this request asks

11 33,186 separate questions, and the request would require Defendants to review substantial

12 business records to determine an answer, if possible, for each of the 33,186 separate requests.

13 This request, therefore, does not separately state each matter sought. Moreover, Defendants

14 object that the request is unduly burdensome and improperly attempts to shift the burden to

15 Defendants to evaluate each and every file where the effort associated with responding to this

16 request is substantially similar for the parties, especially because the available documents, data

17 and other information sought from which the answer, if any, could be derived in response to this

18 request have been produced by Defendants in response to Plaintiffs' other discovery requests and

19 thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

20 Defendants. Defendants also object to the extent that this request improperly attempts to shift

21 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

22 objections and qualifications, Defendants respond as follows:

23   DENIED. Defendants have reasonable access to TomorrowNow's records and other

24 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

25 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

26 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

27 records and other information to determine for each listed item whether a copy of the listed fix

28 _____
           [45] See Defendants' Response to Request for Admission No. 16 from Plaintiffs' Third Set.

1 object was tested using a local environment consisting solely of an installation from, a copy of, or

2 an installation from a copy of software received from or on behalf of the recipient stated for the

3 respective item. Defendants have not undertaken the extreme burden of evaluating each item and

4 have objected on that basis because the requested information is as equally accessible to Plaintiffs

5 as it is to Defendants.

6 **REQUEST NO. 134:**

7   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

8 admit that Defendants do not have reasonable access to any readily obtainable information

9 indicating that a Copy of the listed Fix Object was not created using a Generic Environment.[46]

10 **RESPONSE TO REQUEST NO. 134:**

11   Defendants object to this request on the grounds stated in the General Objections and

12 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

13 respect to the information sought in this request because Defendants SAP AG and SAP America

14 have no additional knowledge separate and apart from the information provided by Defendant

15 TomorrowNow in this response. Defendants object to the request because the terms "copy,"

16 "created," and "generic environment" make this request overly broad, vague, and ambiguous.

17 "Generic environment" is a term created by Plaintiffs and as used and defined by Plaintiffs is

18 misleading by attempting to suggest that any such environment or environment components were

19 not used for limited customers, scope, or purpose. Defendants further object to the definition of

20 "Generic Environment" to the extent it incorporates the overly broad, unduly burdensome, and

21 vague term "environment" to which Defendants object above. Further, Defendants object to this

22 request as compound and unduly burdensome in that this request asks 33,186 separate questions,

23 and the request would require Defendants to review substantial business records to determine an

24 answer, if possible, for each of the 33,186 separate requests. This request, therefore, does not

25 separately state each matter sought. Moreover, Defendants object that the request is unduly

26 burdensome and improperly attempts to shift the burden to Defendants to evaluate each and every

27 file where the effort associated with responding to this request is substantially similar for the

28   [46] See Defendants' Response to Request for Admission No. 17 from Plaintiffs' Third Set.

1   parties, especially because the available documents, data and other information sought from

2   which the answer, if any, could be derived in response to this request have been produced by

3   Defendants in response to Plaintiffs' other discovery requests and thus any relevant, available

4   information is now as equally accessible to Plaintiffs as it is to Defendants. Defendants also

5   object to the extent that this request improperly attempts to shift Plaintiffs' burden of proof to

6   Defendants. Subject to and without waiving the foregoing objections and qualifications,

7   Defendants respond as follows:

8   DENIED. Defendants have reasonable access to TomorrowNow's records and other

9   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

10   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

11   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

12   records and other information to determine for each listed item whether a copy of the listed fix

13   object was not created using a generic environment. Defendants have not undertaken the extreme

14   burden of evaluating each item and have objected on that basis because the requested information

15   is as equally accessible to Plaintiffs as it is to Defendants.

16   **REQUEST NO. 135:**

17   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

18   admit that Defendants do not have reasonable access to any readily obtainable information

19   indicating that, if a Copy of the listed Fix Object was tested, a Copy of the listed Fix Object was

20   not tested using a Generic Environment.[47]

21   **RESPONSE TO REQUEST NO. 135:**

22   Defendants object to this request on the grounds stated in the General Objections and

23   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

24   respect to the information sought in this request because Defendants SAP AG and SAP America

25   have no additional knowledge separate and apart from the information provided by Defendant

26   TomorrowNow in this response. Defendants object to the request because the terms "copy,"

27   "tested," and "generic environment" make this request overly broad, vague, and ambiguous.

28   [47] See Defendants' Response to Request for Admission No. 18 from Plaintiffs' Third Set.

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1   "Generic Environment" is a term created by Plaintiffs and as used and defined by Plaintiffs is

2   misleading by attempting to suggest that any such environment or environment components were

3   not used for limited customers, scope, or purpose. Defendants further object to the definition of

4   "Generic Environment" to the extent it incorporates the overly broad, unduly burdensome, and

5   vague term "environment" to which Defendants object above. Further, Defendants object to this

6   request as compound and unduly burdensome in that this request asks 33,186 separate questions,

7   and the request would require Defendants to review substantial business records to determine an

8   answer, if possible, for each of the 33,186 separate requests. This request, therefore, does not

9   separately state each matter sought. Moreover, Defendants object that the request is unduly

10 burdensome and improperly attempts to shift the burden to Defendants to evaluate each and every

11 file where the effort associated with responding to this request is substantially similar for the

12 parties, especially because the available documents, data and other information sought from

13 which the answer, if any, could be derived in response to this request have been produced by

14 Defendants in response to Plaintiffs' other discovery requests and thus any relevant, available

15 information is now as equally accessible to Plaintiffs as it is to Defendants. Defendants also

16 object to the extent that this request improperly attempts to shift Plaintiffs' burden of proof to

17 Defendants. Subject to and without waiving the foregoing objections and qualifications,

18 Defendants respond as follows:

19   DENIED. Defendants have reasonable access to TomorrowNow's records and other

20 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

21 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

22 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

23 records and other information to determine for each listed item whether that, if a copy of the

24 listed fix object was tested, a copy of the listed fix object was not tested using a generic

25 environment. Defendants have not undertaken the extreme burden of evaluating each item and

26 have objected on that basis because the requested information is as equally accessible to Plaintiffs

27 as it is to Defendants.

28

1   **REQUEST NO. 136:**

2   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

3   admit that Defendants do not have reasonable access to any readily obtainable information

4   indicating that a Copy of the listed Fix Object was not created using a Local Environment to

5   which at least one fix, patch, upgrade or update retrofitted from an Oracle-created or Oracle

6   delivered fix, patch, upgrade or update had been applied.[48]

7   **RESPONSE TO REQUEST NO. 136:**

8   Defendants object to this request on the grounds stated in the General Objections and

9   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

10   respect to the information sought in this request because Defendants SAP AG and SAP America

11   have no additional knowledge separate and apart from the information provided by Defendant

12   TomorrowNow in this response. Defendants object to the request because the terms "copy,"

13   "created," and "local environment" make this request overly broad, vague, and ambiguous.

14   Further, Defendants object to this request as compound and unduly burdensome in that this

15   request asks 33,186 separate questions, and the request would require Defendants to review

16   substantial business records to determine an answer, if possible, for each of the 33,186 separate

17   requests.   This request, therefore, does not separately state each matter sought. Moreover,

18   Defendants object that the request is unduly burdensome and improperly attempts to shift the

19   burden to Defendants to evaluate each and every file where the effort associated with responding

20   to this request is substantially similar for the parties, especially because the available documents,

21   data and other information sought from which the answer, if any, could be derived in response to

22   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

23   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

24   Defendants. Defendants also object to the extent that this request improperly attempts to shift

25   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

26   objections and qualifications, Defendants respond as follows:

27   DENIED. Defendants have reasonable access to TomorrowNow's records and other

28   [48] See Defendants' Response to Request for Admission No. 19 from Plaintiffs' Third Set.

1 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

2 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

3 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

4 records and other information to determine for each listed item whether a copy of the listed fix

5 object was not created using a local environment to which at least one fix, patch, upgrade or

6 update retrofitted from an Oracle-created or Oracle delivered fix, patch, upgrade or update had

7 been applied. Defendants have not undertaken the extreme burden of evaluating each item and

8 have objected on that basis because the requested information is as equally accessible to Plaintiffs

9 as it is to Defendants.

10 **REQUEST NO. 137:**

11   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

12 admit that Defendants do not have reasonable access to any readily obtainable information

13 indicating that, if a Copy of the listed Fix Object was tested, a Copy of the listed Fix Object was

14 not tested using a Local Environment to which at least one fix, patch, upgrade or update

15 retrofitted from an Oracle-created or Oracle-delivered fix, patch, upgrade or update had been

16 applied.[49]

17 **RESPONSE TO REQUEST NO. 137:**

18   Defendants object to this request on the grounds stated in the General Objections and

19 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

20 respect to the information sought in this request because Defendants SAP AG and SAP America

21 have no additional knowledge separate and apart from the information provided by Defendant

22 TomorrowNow in this response. Defendants object to the request because the terms "copy,"

23 "tested," and "local environment" make this request overly broad, vague, and ambiguous. Further,

24 Defendants object to this request as compound and unduly burdensome in that this request asks

25 33,186 separate questions, and the request would require Defendants to review substantial

26 business records to determine an answer, if possible, for each of the 33,186 separate requests.

27 This request, therefore, does not separately state each matter sought. Moreover, Defendants

28   [49] See Defendants' Response to Request for Admission No. 20 from Plaintiffs' Third Set.

1   object that the request is unduly burdensome and improperly attempts to shift the burden to

2   Defendants to evaluate each and every file where the effort associated with responding to this

3   request is substantially similar for the parties, especially because the available documents, data

4   and other information sought from which the answer, if any, could be derived in response to this

5   request have been produced by Defendants in response to Plaintiffs' other discovery requests and

6   thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

7   Defendants. Defendants also object to the extent that this request improperly attempts to shift

8   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

9   objections and qualifications, Defendants respond as follows:

10 DENIED. Defendants have reasonable access to TomorrowNow's records and other

11 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

12 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

13 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

14 records and other information to determine for each listed item whether that, if a copy of the

15 listed fix object was tested, a copy of the listed fix object was not tested using a local environment

16 to which at least one fix, patch, upgrade or update retrofitted from an Oracle-created or Oracle-

17 delivered fix, patch, upgrade or update had been applied. Defendants have not undertaken the

18 extreme burden of evaluating each item and have objected on that basis because the requested

19 information is as equally accessible to Plaintiffs as it is to Defendants.

20 **REQUEST NO. 138:**

21 For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

22 admit that Defendants do not have reasonable access to any readily obtainable information

23 indicating that for the listed Fix Object, every fix, patch, upgrade or update that had been applied

24 to a Local Environment used to create a Copy of the listed Fix Object was developed solely for or

25 on behalf of the recipient stated for that item.[50]

26 **RESPONSE TO REQUEST NO. 138:**

27 Defendants object to this request on the grounds stated in the General Objections and

28 ───────────────
    [50] See Defendants' Response to Request for Admission No. 21 from Plaintiffs' Third Set.

1   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

2   respect to the information sought in this request because Defendants SAP AG and SAP America

3   have no additional knowledge separate and apart from the information provided by Defendant

4   TomorrowNow in this response. Defendants object to the request because the terms "copy,"

5   "create," and "local environment" make this request overly broad, vague, and ambiguous.

6   Defendants object that the phrase "every fix, patch, upgrade or update that had been applied to a

7   local environment used to create a copy of the listed fix object" and the overall sentence structure

8   is vague, confusing, and ambiguous. Further, Defendants object to this request as compound and

9   unduly burdensome in that this request asks 33,186 separate questions, and the request would

10 require Defendants to review substantial business records to determine an answer, if possible, for

11 each of the 33,186 separate requests.   This request, therefore, does not separately state each

12 matter sought. Moreover, Defendants object that the request is unduly burdensome and

13 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

14 effort associated with responding to this request is substantially similar for the parties, especially

15 because the available documents, data and other information sought from which the answer, if

16 any, could be derived in response to this request have been produced by Defendants in response

17 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

18 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

19 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

20 without waiving the foregoing objections and qualifications, Defendants respond as follows:

21   DENIED. Defendants have reasonable access to TomorrowNow's records and other

22 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

23 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

24 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

25 records and other information to determine for each listed item whether for the listed fix object,

26 every fix, patch, upgrade or update that had been applied to a local environment used to create a

27 copy of the listed fix object was developed solely for or on behalf of the recipient stated for that

28 item. Defendants have not undertaken the extreme burden of evaluating each item and have

1   objected on that basis because the requested information is as equally accessible to Plaintiffs as it

2   is to Defendants.

3   **REQUEST NO. 139:**

4   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

5   admit that Defendants do not have reasonable access to any readily obtainable information

6   indicating that for the listed Fix Object, if any testing occurred, every fix, patch, upgrade or

7   update that had been applied to a Local Environment used to test a Copy of the listed Fix Object

8   was developed solely for or on behalf of the recipient stated for that item.[51]

9   **RESPONSE TO REQUEST NO. 139:**

10   Defendants object to this request on the grounds stated in the General Objections and

11 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

12 respect to the information sought in this request because Defendants SAP AG and SAP America

13 have no additional knowledge separate and apart from the information provided by Defendant

14 TomorrowNow in this response. Defendants object to the request because the terms "copy,"

15 "testing," and "local environment" make this request overly broad, vague, and ambiguous.

16 Defendants object that the phrase "every fix, patch, upgrade or update that had been applied to a

17 local environment used to create a copy of the listed fix object" and the overall sentence structure

18 is vague, confusing, and ambiguous. Further, Defendants object to this request as compound and

19 unduly burdensome in that this request asks 33,186 separate questions, and the request would

20 require Defendants to review substantial business records to determine an answer, if possible, for

21 each of the 33,186 separate requests.   This request, therefore, does not separately state each

22 matter sought. Moreover, Defendants object that the request is unduly burdensome and

23 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

24 effort associated with responding to this request is substantially similar for the parties, especially

25 because the available documents, data and other information sought from which the answer, if

26 any, could be derived in response to this request have been produced by Defendants in response

27 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

28   [51] See Defendants' Response to Request for Admission No. 22 from Plaintiffs' Third Set.

1   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

2   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

3   without waiving the foregoing objections and qualifications, Defendants respond as follows:

4   DENIED. Defendants have reasonable access to TomorrowNow's records and other

5   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

6   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

7   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

8   records and other information to determine for each listed item whether for the listed fix object, if

9   any testing occurred, every fix, patch, upgrade or update that had been applied to a local

10   environment used to test a copy of the listed fix object was developed solely for or on behalf of

11   the recipient stated for that item. Defendants have not undertaken the extreme burden of

12   evaluating each item and have objected on that basis because the requested information is as

13   equally accessible to Plaintiffs as it is to Defendants.

14   **REQUEST NO. 140:**

15   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

16   admit that Defendants do not have reasonable access to any readily obtainable information

17   indicating that a Copy of the listed Fix Object was not created using a Copy of PeopleTools.[52]

18   **RESPONSE TO REQUEST NO. 140:**

19   Defendants object to this request on the grounds stated in the General Objections and

20   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

21   respect to the information sought in this request because Defendants SAP AG and SAP America

22   have no additional knowledge separate and apart from the information provided by Defendant

23   TomorrowNow in this response. Defendants object to the request because the terms "copy," and

24   "created" make this request overly broad, vague, and ambiguous. Further, Defendants object to

25   this request as compound and unduly burdensome in that this request asks 33,186 separate

26   questions, and the request would require Defendants to review substantial business records to

27   determine an answer, if possible, for each of the 33,186 separate requests.   This request, therefore,

28   _____
         [52] See Defendants' Response to Request for Admission No. 23 from Plaintiffs' Third Set.

1   does not separately state each matter sought. Moreover, Defendants object that the request is

2   unduly burdensome and improperly attempts to shift the burden to Defendants to evaluate each

3   and every file where the effort associated with responding to this request is substantially similar

4   for the parties, especially because the available documents, data and other information sought

5   from which the answer, if any, could be derived in response to this request have been produced by

6   Defendants in response to Plaintiffs' other discovery requests and thus any relevant, available

7   information is now as equally accessible to Plaintiffs as it is to Defendants. Defendants also

8   object to the extent that this request improperly attempts to shift Plaintiffs' burden of proof to

9   Defendants. Subject to and without waiving the foregoing objections and qualifications,

10 Defendants respond as follows:

11   DENIED. Defendants have reasonable access to TomorrowNow's records and other

12 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

13 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

14 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

15 records and other information to determine for each listed item whether a copy of the listed fix

16 object was not created using a copy of PeopleTools. Defendants have not undertaken the extreme

17 burden of evaluating each item and have objected on that basis because the requested information

18 is as equally accessible to Plaintiffs as it is to Defendants.

19 **REQUEST NO. 141:**

20   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

21 admit that Defendants do not have reasonable access to any readily obtainable information

22 indicating that, if a Copy of the listed Fix Object was tested, a Copy of the listed Fix Object was

23 not tested using a Copy of PeopleTools.[53]

24 **RESPONSE TO REQUEST NO. 141:**

25   Defendants object to this request on the grounds stated in the General Objections and

26 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

27 respect to the information sought in this request because Defendants SAP AG and SAP America

28   [53] See Defendants' Response to Request for Admission No. 24 from Plaintiffs' Third Set.

1 have no additional knowledge separate and apart from the information provided by Defendant

2 TomorrowNow in this response. Defendants object to the request because the terms "copy," and

3 "tested" make this request overly broad, vague, and ambiguous. Further, Defendants object to

4 this request as compound and unduly burdensome in that this request asks 33,186 separate

5 questions, and the request would require Defendants to review substantial business records to

6 determine an answer, if possible, for each of the 33,186 separate requests.   This request, therefore,

7 does not separately state each matter sought. Moreover, Defendants object that the request is

8 unduly burdensome and improperly attempts to shift the burden to Defendants to evaluate each

9 and every file where the effort associated with responding to this request is substantially similar

10 for the parties, especially because the available documents, data and other information sought

11 from which the answer, if any, could be derived in response to this request have been produced by

12 Defendants in response to Plaintiffs' other discovery requests and thus any relevant, available

13 information is now as equally accessible to Plaintiffs as it is to Defendants. Defendants also

14 object to the extent that this request improperly attempts to shift Plaintiffs' burden of proof to

15 Defendants. Subject to and without waiving the foregoing objections and qualifications,

16 Defendants respond as follows:

17   DENIED. Defendants have reasonable access to TomorrowNow's records and other

18 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

19 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

20 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

21 records and other information to determine for each listed item whether that, if a copy of the

22 listed fix object was tested, a copy of the listed fix object was not tested using a copy of

23 PeopleTools. Defendants have not undertaken the extreme burden of evaluating each item and

24 have objected on that basis because the requested information is as equally accessible to Plaintiffs

25 as it is to Defendants.

26 **REQUEST NO. 142:**

27   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

28 admit that Defendants do not have reasonable access to any readily obtainable information

1   indicating that a Copy of the listed Fix Object was created using a Copy of PeopleTools, the

2   source of which was solely an installation from, a Copy of, or an installation from a Copy of

3   software received from or on behalf of the recipient stated for the respective item.[54]

4   **RESPONSE TO REQUEST NO. 142:**

5   　　　Defendants object to this request on the grounds stated in the General Objections and

6   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

7   respect to the information sought in this request because Defendants SAP AG and SAP America

8   have no additional knowledge separate and apart from the information provided by Defendant

9   TomorrowNow in this response. Defendants object to the request because the terms "copy" and

10   "created" make this request overly broad, vague, and ambiguous. Further, Defendants object to

11   this request as compound and unduly burdensome in that this request asks 33,186 separate

12   questions, and the request would require Defendants to review substantial business records to

13   determine an answer, if possible, for each of the 33,186 separate requests.   This request, therefore,

14   does not separately state each matter sought. Moreover, Defendants object that the request is

15   unduly burdensome and improperly attempts to shift the burden to Defendants to evaluate each

16   and every file where the effort associated with responding to this request is substantially similar

17   for the parties, especially because the available documents, data and other information sought

18   from which the answer, if any, could be derived in response to this request have been produced by

19   Defendants in response to Plaintiffs' other discovery requests and thus any relevant, available

20   information is now as equally accessible to Plaintiffs as it is to Defendants. Defendants also

21   object to the extent that this request improperly attempts to shift Plaintiffs' burden of proof to

22   Defendants. Subject to and without waiving the foregoing objections and qualifications,

23   Defendants respond as follows:

24   　　　DENIED. Defendants have reasonable access to TomorrowNow's records and other

25   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

26   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

27   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

28   　　　[54] See Defendants' Response to Request for Admission No. 25 from Plaintiffs' Third Set.

1 records and other information to determine for each listed item whether a copy of the listed fix

2 object was created using a copy of PeopleTools, the source of which was solely an installation

3 from, a copy of, or an installation from a copy of software received from or on behalf of the

4 recipient stated for the respective item. Defendants have not undertaken the extreme burden of

5 evaluating each item and have objected on that basis because the requested information is as

6 equally accessible to Plaintiffs as it is to Defendants.

7 **REQUEST NO. 143:**

8 For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

9 admit that Defendants do not have reasonable access to any readily obtainable information

10 indicating that, if a Copy of the listed Fix Object was tested, a Copy of the listed Fix Object was

11 tested using a Copy of PeopleTools, the source of which was solely an installation from, a Copy

12 of, or an installation from a Copy of software received from or on behalf of the recipient stated

13 for the respective item.[55]

14 **RESPONSE TO REQUEST NO. 143:**

15 Defendants object to this request on the grounds stated in the General Objections and

16 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

17 respect to the information sought in this request because Defendants SAP AG and SAP America

18 have no additional knowledge separate and apart from the information provided by Defendant

19 TomorrowNow in this response. Defendants object to the request because the terms "copy" and

20 "tested" make this request overly broad, vague, and ambiguous. Further, Defendants object to

21 this request as compound and unduly burdensome in that this request asks 33,186 separate

22 questions, and the request would require Defendants to review substantial business records to

23 determine an answer, if possible, for each of the 33,186 separate requests. This request, therefore,

24 does not separately state each matter sought. Moreover, Defendants object that the request is

25 unduly burdensome and improperly attempts to shift the burden to Defendants to evaluate each

26 and every file where the effort associated with responding to this request is substantially similar

27 for the parties, especially because the available documents, data and other information sought

28 _____
[55] See Defendants' Response to Request for Admission No. 26 from Plaintiffs' Third Set.

1   from which the answer, if any, could be derived in response to this request have been produced by

2   Defendants in response to Plaintiffs' other discovery requests and thus any relevant, available

3   information is now as equally accessible to Plaintiffs as it is to Defendants. Defendants also

4   object to the extent that this request improperly attempts to shift Plaintiffs' burden of proof to

5   Defendants. Subject to and without waiving the foregoing objections and qualifications,

6   Defendants respond as follows:

7   DENIED. Defendants have reasonable access to TomorrowNow's records and other

8   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

9   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

10   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

11   records and other information to determine for each listed item whether that, if a copy of the

12   listed fix object was tested, a copy of the listed fix object was tested using a copy of PeopleTools,

13   the source of which was solely an installation from, a copy of, or an installation from a copy of

14   software received from or on behalf of the recipient stated for the respective item. Defendants

15   have not undertaken the extreme burden of evaluating each item and have objected on that basis

16   because the requested information is as equally accessible to Plaintiffs as it is to Defendants.

17   **REQUEST NO. 144:**

18   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

19   admit that Defendants do not have reasonable access to any readily obtainable information

20   indicating that a Copy of the listed Fix Object was not created using a Copy of PeopleTools from

21   a Generic Environment.[56]

22   **RESPONSE TO REQUEST NO. 144:**

23   Defendants object to this request on the grounds stated in the General Objections and

24   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

25   respect to the information sought in this request because Defendants SAP AG and SAP America

26   have no additional knowledge separate and apart from the information provided by Defendant

27   TomorrowNow in this response. Defendants object to the request because the terms "copy,"

28   [56] See Defendants' Response to Request for Admission No. 27 from Plaintiffs' Third Set.

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1   "created," and "generic environment" make this request overly broad, vague, and ambiguous.

2   "Generic Environment" is a term created by Plaintiffs and as used and defined by Plaintiffs is

3   misleading by attempting to suggest that any such environment or environment components were

4   not used for limited customers, scope, or purpose. Defendants further object to the definition of

5   "Generic Environment" to the extent it incorporates the overly broad, unduly burdensome, and

6   vague term "environment" to which Defendants object above. Further, Defendants object to this

7   request as compound and unduly burdensome in that this request asks 33,186 separate questions,

8   and the request would require Defendants to review substantial business records to determine an

9   answer, if possible, for each of the 33,186 separate requests. This request, therefore, does not

10   separately state each matter sought. Moreover, Defendants object that the request is unduly

11   burdensome and improperly attempts to shift the burden to Defendants to evaluate each and every

12   file where the effort associated with responding to this request is substantially similar for the

13   parties, especially because the available documents, data and other information sought from

14   which the answer, if any, could be derived in response to this request have been produced by

15   Defendants in response to Plaintiffs' other discovery requests and thus any relevant, available

16   information is now as equally accessible to Plaintiffs as it is to Defendants. Defendants also

17   object to the extent that this request improperly attempts to shift Plaintiffs' burden of proof to

18   Defendants. Subject to and without waiving the foregoing objections and qualifications,

19   Defendants respond as follows:

20   DENIED. Defendants have reasonable access to TomorrowNow's records and other

21   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

22   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

23   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

24   records and other information to determine for each listed item whether a copy of the listed fix

25   object was not created using a copy of PeopleTools from a generic environment. Defendants

26   have not undertaken the extreme burden of evaluating each item and have objected on that basis

27   because the requested information is as equally accessible to Plaintiffs as it is to Defendants.

28

1

REQUEST NO. 145:

2

    For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

3

admit that Defendants do not have reasonable access to any readily obtainable information

4

indicating that, if a Copy of the listed Fix Object was tested, a Copy of the listed Fix Object was

5

not tested using a Copy of PeopleTools from a Generic Environment.[57]

6

RESPONSE TO REQUEST NO. 145:

7

    Defendants object to this request on the grounds stated in the General Objections and

8

Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

9

respect to the information sought in this request because Defendants SAP AG and SAP America

10

have no additional knowledge separate and apart from the information provided by Defendant

11

TomorrowNow in this response. Defendants object to the request because the terms "copy,"

12

"tested," and "generic environment" make this request overly broad, vague, and ambiguous.

13

"Generic Environment" is a term created by Plaintiffs and as used and defined by Plaintiffs is

14

misleading by attempting to suggest that any such environment or environment components were

15

not used for limited customers, scope, or purpose. Defendants further object to the definition of

16

"Generic Environment" to the extent it incorporates the overly broad, unduly burdensome, and

17

vague term "environment" to which Defendants object above. Further, Defendants object to this

18

request as compound and unduly burdensome in that this request asks 33,186 separate questions,

19

and the request would require Defendants to review substantial business records to determine an

20

answer, if possible, for each of the 33,186 separate requests. This request, therefore, does not

21

separately state each matter sought. Moreover, Defendants object that the request is unduly

22

burdensome and improperly attempts to shift the burden to Defendants to evaluate each and every

23

file where the effort associated with responding to this request is substantially similar for the

24

parties, especially because the available documents, data and other information sought from

25

which the answer, if any, could be derived in response to this request have been produced by

26

Defendants in response to Plaintiffs' other discovery requests and thus any relevant, available

27

information is now as equally accessible to Plaintiffs as it is to Defendants. Defendants also

28

        [57] See Defendants' Response to Request for Admission No. 28 from Plaintiffs' Third Set.

1   object to the extent that this request improperly attempts to shift Plaintiffs' burden of proof to

2   Defendants. Subject to and without waiving the foregoing objections and qualifications,

3   Defendants respond as follows:

4   DENIED. Defendants have reasonable access to TomorrowNow's records and other

5   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

6   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

7   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

8   records and other information to determine for each listed item whether that, if a copy of the

9   listed fix object was tested, a copy of the listed fix object was not tested using a copy of

10   PeopleTools from a generic environment. Defendants have not undertaken the extreme burden of

11   evaluating each item and have objected on that basis because the requested information is as

12   equally accessible to Plaintiffs as it is to Defendants.

13   **REQUEST NO. 146:**

14   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

15   admit that Defendants do not have reasonable access to any readily obtainable information

16   indicating that in Creating a Copy of the listed Fix Object, SAP TN did not make a backup copy

17   of at least one Local Environment.[58]

18   **RESPONSE TO REQUEST NO. 146:**

19   Defendants object to this request on the grounds stated in the General Objections and

20   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

21   respect to the information sought in this request because Defendants SAP AG and SAP America

22   have no additional knowledge separate and apart from the information provided by Defendant

23   TomorrowNow in this response. Defendants object to the request because the terms "copy,"

24   "creating," "backup copy," and "local environment" make this request overly broad, vague, and

25   ambiguous. Further, Defendants object to this request as compound and unduly burdensome in

26   that this request asks 33,186 separate questions, and the request would require Defendants to

27   review substantial business records to determine an answer, if possible, for each of the 33,186

28   [58] See Defendants' Response to Request for Admission No. 29 from Plaintiffs' Third Set.

1   separate requests.   This request, therefore, does not separately state each matter sought.

2   Moreover, Defendants object that the request is unduly burdensome and improperly attempts to

3   shift the burden to Defendants to evaluate each and every file where the effort associated with

4   responding to this request is substantially similar for the parties, especially because the available

5   documents, data and other information sought from which the answer, if any, could be derived in

6   response to this request have been produced by Defendants in response to Plaintiffs' other

7   discovery requests and thus any relevant, available information is now as equally accessible to

8   Plaintiffs as it is to Defendants. Defendants also object to the extent that this request improperly

9   attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and without waiving the

10   foregoing objections and qualifications, Defendants respond as follows:

11   DENIED. Defendants have reasonable access to TomorrowNow's records and other

12   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

13   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

14   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

15   records and other information to determine for each listed item whether in Creating a copy of the

16   listed fix object, TomorrowNow did not make a backup copy of at least one local environment.

17   Defendants have not undertaken the extreme burden of evaluating each item and have objected on

18   that basis because the requested information is as equally accessible to Plaintiffs as it is to

19   Defendants.

20   **REQUEST NO. 147:**

21   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

22   admit that Defendants do not have reasonable access to any readily obtainable information

23   indicating that, if a Copy of the listed Fix Object was tested, in testing a Copy of the listed Fix

24   Object, SAP TN did not make a backup copy of at least one Local Environment.[59]

25   **RESPONSE TO REQUEST NO. 147:**

26   Defendants object to this request on the grounds stated in the General Objections and

27   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

28   [59] See Defendants' Response to Request for Admission No. 30 from Plaintiffs' Third Set.

1   respect to the information sought in this request because Defendants SAP AG and SAP America

2   have no additional knowledge separate and apart from the information provided by Defendant

3   TomorrowNow in this response. Defendants object to the request because the terms "copy,"

4   "tested/testing," "backup copy," and "local environment" make this request overly broad, vague,

5   and ambiguous. Further, Defendants object to this request as compound and unduly burdensome

6   in that this request asks 33,186 separate questions, and the request would require Defendants to

7   review substantial business records to determine an answer, if possible, for each of the 33,186

8   separate requests.   Moreover, Defendants object that the request is unduly burdensome and

9   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

10   effort associated with responding to this request is substantially similar for the parties, especially

11   because the available documents, data and other information sought from which the answer, if

12   any, could be derived in response to this request have been produced by Defendants in response

13   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

14   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

15   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

16   without waiving the foregoing objections and qualifications, Defendants respond as follows:

17   DENIED. Defendants have reasonable access to TomorrowNow's records and other

18   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

19   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

20   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

21   records and other information to determine for each listed item whether that, if a copy of the

22   listed fix object was tested, in testing a copy of the listed fix object, SAP TN did not make a

23   backup copy of at least one local environment. Defendants have not undertaken the extreme

24   burden of evaluating each item and have objected on that basis because the requested information

25   is as equally accessible to Plaintiffs as it is to Defendants.

26   **REQUEST NO. 148:**

27   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

28   admit that Defendants do not have reasonable access to any readily obtainable information

1   indicating that in Creating a Copy of the listed Fix Object, SAP TN did not restore at least one

2   Local Environment from a backup copy.[60]

3   **RESPONSE TO REQUEST NO. 148:**

4   Defendants object to this request on the grounds stated in the General Objections and

5   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

6   respect to the information sought in this request because Defendants SAP AG and SAP America

7   have no additional knowledge separate and apart from the information provided by Defendant

8   TomorrowNow in this response. Defendants object to the request because the terms "creating,"

9   "copy," "restore," "backup copy," and "local environment" make this request overly broad, vague,

10   and ambiguous. Further, Defendants object to this request as compound and unduly burdensome

11   in that this request asks 33,186 separate questions, and the request would require Defendants to

12   review substantial business records to determine an answer, if possible, for each of the 33,186

13   separate requests.   This request, therefore, does not separately state each matter sought.

14   Moreover, Defendants object that the request is unduly burdensome and improperly attempts to

15   shift the burden to Defendants to evaluate each and every file where the effort associated with

16   responding to this request is substantially similar for the parties, especially because the available

17   documents, data and other information sought from which the answer, if any, could be derived in

18   response to this request have been produced by Defendants in response to Plaintiffs' other

19   discovery requests and thus any relevant, available information is now as equally accessible to

20   Plaintiffs as it is to Defendants. Defendants also object to the extent that this request improperly

21   attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and without waiving the

22   foregoing objections and qualifications, Defendants respond as follows:

23   DENIED. Defendants have reasonable access to TomorrowNow's records and other

24   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

25   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

26   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

27   records and other information to determine for each listed item whether in creating a copy of the

28   _____
            [60] See Defendants' Response to Request for Admission No. 31 from Plaintiffs' Third Set.

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5th SET OF REQUESTS FOR ADMISSION
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1   listed fix object, TomorrowNow did not restore at least one local environment from a backup

2   copy. Defendants have not undertaken the extreme burden of evaluating each item and have

3   objected on that basis because the requested information is as equally accessible to Plaintiffs as it

4   is to Defendants.

5   **REQUEST NO. 149:**

6   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

7   admit that Defendants do not have reasonable access to any readily obtainable information

8   indicating that, if a Copy of the listed Fix Object was tested, in testing a Copy of the listed Fix

9   Object, SAP TN did not restore at least one Local Environment from a backup copy.[61]

10 **RESPONSE TO REQUEST NO. 149:**

11   Defendants object to this request on the grounds stated in the General Objections and

12 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

13 respect to the information sought in this request because Defendants SAP AG and SAP America

14 have no additional knowledge separate and apart from the information provided by Defendant

15 TomorrowNow in this response. Defendants object to the request because the terms "copy,"

16 "tested/testing," "restore," "backup copy," and "local environment" make this request overly

17 broad, vague, and ambiguous. Further, Defendants object to this request as compound and

18 unduly burdensome in that this request asks 33,186 separate questions, and the request would

19 require Defendants to review substantial business records to determine an answer, if possible, for

20 each of the 33,186 separate requests.   This request, therefore, does not separately state each

21 matter sought. Moreover, Defendants object that the request is unduly burdensome and

22 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

23 effort associated with responding to this request is substantially similar for the parties, especially

24 because the available documents, data and other information sought from which the answer, if

25 any, could be derived in response to this request have been produced by Defendants in response

26 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

27 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

28   [61] See Defendants' Response to Request for Admission No. 32 from Plaintiffs' Third Set.

1   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

2   without waiving the foregoing objections and qualifications, Defendants respond as follows:

3   DENIED. Defendants have reasonable access to TomorrowNow's records and other

4   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

5   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

6   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

7   records and other information to determine for each listed item whether that, if a copy of the

8   listed fix object was tested, in testing a copy of the listed fix object, TomorrowNow did not

9   restore at least one local environment from a backup copy. Defendants have not undertaken the

10 extreme burden of evaluating each item and have objected on that basis because the requested

11 information is as equally accessible to Plaintiffs as it is to Defendants.

12 **REQUEST NO. 150:**

13   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

14 admit that Defendants do not have reasonable access to any readily obtainable information

15 indicating that in Creating a Copy of the listed Fix Object, SAP TN did not make a Copy of at

16 least one Local Environment.[62]

17 **RESPONSE TO REQUEST NO. 150:**

18   Defendants object to this request on the grounds stated in the General Objections and

19 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

20 respect to the information sought in this request because Defendants SAP AG and SAP America

21 have no additional knowledge separate and apart from the information provided by Defendant

22 TomorrowNow in this response. Defendants object to the request because the terms "copy,"

23 "creating," and "local environment" make this request overly broad, vague, and ambiguous.

24 Further, Defendants object to this request as compound and unduly burdensome in that this

25 request asks 33,186 separate questions, and the request would require Defendants to review

26 substantial business records to determine an answer, if possible, for each of the 33,186 separate

27 requests.   This request, therefore, does not separately state each matter sought. Moreover,

28   [62] See Defendants' Response to Request for Admission No. 33 from Plaintiffs' Third Set.

DEFENDANTS' RESP. TO PLAINTIFFS'
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1   Defendants object that the request is unduly burdensome and improperly attempts to shift the

2   burden to Defendants to evaluate each and every file where the effort associated with responding

3   to this request is substantially similar for the parties, especially because the available documents,

4   data and other information sought from which the answer, if any, could be derived in response to

5   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

6   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

7   Defendants. Defendants also object to the extent that this request improperly attempts to shift

8   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

9   objections and qualifications, Defendants respond as follows:

10   DENIED. Defendants have reasonable access to TomorrowNow's records and other

11   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

12   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

13   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

14   records and other information to determine for each listed item whether in creating a copy of the

15   listed fix object, TomorrowNow did not make a copy of at least one local environment.

16   Defendants have not undertaken the extreme burden of evaluating each item and have objected on

17   that basis because the requested information is as equally accessible to Plaintiffs as it is to

18   Defendants.

19   **REQUEST NO. 151:**

20   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

21   admit that Defendants do not have reasonable access to any readily obtainable information

22   indicating that, if a Copy of the listed Fix Object was tested, in testing a Copy of the listed Fix

23   Object, SAP TN did not make a Copy of at least one Local Environment.[63]

24   **RESPONSE TO REQUEST NO. 151:**

25   Defendants object to this request on the grounds stated in the General Objections and

26   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

27   respect to the information sought in this request because Defendants SAP AG and SAP America

28   [63] See Defendants' Response to Request for Admission No. 34 from Plaintiffs' Third Set.

1   have no additional knowledge separate and apart from the information provided by Defendant

2   TomorrowNow in this response. Defendants object to the request because the terms "copy,"

3   "testing/tested," and "local environment" make this request overly broad, vague, and ambiguous.

4   Further, Defendants object to this request as compound and unduly burdensome in that this

5   request asks 33,186 separate questions, and the request would require Defendants to review

6   substantial business records to determine an answer, if possible, for each of the 33,186 separate

7   requests.   This request, therefore, does not separately state each matter sought. Moreover,

8   Defendants object that the request is unduly burdensome and improperly attempts to shift the

9   burden to Defendants to evaluate each and every file where the effort associated with responding

10 to this request is substantially similar for the parties, especially because the available documents,

11 data and other information sought from which the answer, if any, could be derived in response to

12 this request have been produced by Defendants in response to Plaintiffs' other discovery requests

13 and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

14 Defendants. Defendants also object to the extent that this request improperly attempts to shift

15 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

16 objections and qualifications, Defendants respond as follows:

17   DENIED. Defendants have reasonable access to TomorrowNow's records and other

18 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

19 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

20 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

21 records and other information to determine for each listed item whether that, if a copy of the

22 listed fix object was tested, in testing a copy of the listed fix object, TomorrowNow did not make

23 a copy of at least one local environment. Defendants have not undertaken the extreme burden of

24 evaluating each item and have objected on that basis because the requested information is as

25 equally accessible to Plaintiffs as it is to Defendants.

26 **REQUEST NO. 152:**

27   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

28 admit that Defendants do not have reasonable access to any readily obtainable information

1   indicating that in Creating a Copy of the listed Fix Object, SAP TN did not modify at least one

2   Local Environment.[64]

3   **RESPONSE TO REQUEST NO. 152:**

4   Defendants object to this request on the grounds stated in the General Objections and

5   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

6   respect to the information sought in this request because Defendants SAP AG and SAP America

7   have no additional knowledge separate and apart from the information provided by Defendant

8   TomorrowNow in this response. Defendants object to the request because the terms "copy,"

9   "creating," and "local environment" make this request overly broad, vague, and ambiguous.

10   Further, Defendants object to this request as compound and unduly burdensome in that this

11   request asks 33,186 separate questions, and the request would require Defendants to review

12   substantial business records to determine an answer, if possible, for each of the 33,186 separate

13   requests. This request, therefore, does not separately state each matter sought. Moreover,

14   Defendants object that the request is unduly burdensome and improperly attempts to shift the

15   burden to Defendants to evaluate each and every file where the effort associated with responding

16   to this request is substantially similar for the parties, especially because the available documents,

17   data and other information sought from which the answer, if any, could be derived in response to

18   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

19   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

20   Defendants. Defendants also object to the extent that this request improperly attempts to shift

21   Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

22   objections and qualifications, Defendants respond as follows:

23   DENIED. Defendants have reasonable access to TomorrowNow's records and other

24   information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

25   Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

26   Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

27   records and other information to determine for each listed item whether in creating a copy of the

28   [64] See Defendants' Response to Request for Admission No. 35 from Plaintiffs' Third Set.

1   listed fix object, TomorrowNow did not modify at least one local environment. Defendants have

2   not undertaken the extreme burden of evaluating each item and have objected on that basis

3   because the requested information is as equally accessible to Plaintiffs as it is to Defendants.

4   **REQUEST NO. 153:**

5   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

6   admit that Defendants do not have reasonable access to any readily obtainable information

7   indicating that in Creating a Copy of the listed Fix Object, SAP TN did not modify at least one

8   Local Environment so as to create a derivative work, within the meaning of 17 U.S.C. § 101, that

9   was based on copyrighted Oracle software.[65]

10 **RESPONSE TO REQUEST NO. 153:**

11   Defendants object to this request on the grounds stated in the General Objections and

12 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

13 respect to the information sought in this request because Defendants SAP AG and SAP America

14 have no additional knowledge separate and apart from the information provided by Defendant

15 TomorrowNow in this response. Defendants object to the request because the terms "creating,"

16 "modified," "derivative work," "copyrighted Oracle software," and "local environment" make

17 this request overly broad, vague, and ambiguous. Defendants object to this request for admission

18 because it calls for a conclusion of law, and is thus invasive of the attorney work product and

19 attorney-client privileges. Further, Defendants object to this request as compound and unduly

20 burdensome in that this request asks 33,186 separate questions, and the request would require

21 Defendants to review substantial business records to determine an answer, if possible, for each of

22 the 33,186 separate requests. Moreover, Defendants object that the request is unduly burdensome

23 and improperly attempts to shift the burden to Defendants to evaluate each and every file where

24 the effort associated with responding to this request is substantially similar for the parties,

25 especially because the available documents, data and other information sought from which the

26 answer, if any, could be derived in response to this request have been produced by Defendants in

27 response to Plaintiffs' other discovery requests and thus any relevant, available information is

28   [65] See Defendants' Response to Request for Admission No. 36 from Plaintiffs' Third Set.

1 now as equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent

2 that this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to

3 and without waiving the foregoing objections and qualifications, Defendants respond as follows:

4 DENIED. Defendants have reasonable access to TomorrowNow's records and other

5 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

6 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

7 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

8 records and other information to determine for each listed item whether in creating a copy of the

9 listed fix object, TomorrowNow did not modify at least one local environment so as to create a

10 derivative work, within the meaning of 17 U.S.C. § 101, that was based on copyrighted Oracle

11 software. Defendants have not undertaken the extreme burden of evaluating each item and have

12 objected on that basis because the requested information is as equally accessible to Plaintiffs as it

13 is to Defendants. Moreover, in any event, Defendants refuse to answer this request to the extent it

14 seeks a pure conclusion of law.

15 **REQUEST NO. 154:**

16 For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

17 admit that Defendants do not have reasonable access to any readily obtainable information

18 indicating that, if a Copy of the listed Fix Object was tested, in testing a Copy of the listed Fix

19 Object, SAP TN did not modify at least one Local Environment.[66]

20 **RESPONSE TO REQUEST NO. 154:**

21 Defendants object to this request on the grounds stated in the General Objections and

22 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

23 respect to the information sought in this request because Defendants SAP AG and SAP America

24 have no additional knowledge separate and apart from the information provided by Defendant

25 TomorrowNow in this response. Defendants object to the request because the terms "copy,"

26 "testing/tested," and "local environment" make this request overly broad, vague, and ambiguous.

27 Further, Defendants object to this request as compound and unduly burdensome in that this

28 [66] See Defendants' Response to Request for Admission No. 38 from Plaintiffs' Third Set.

1   request asks 33,186 separate questions, and the request would require Defendants to review

2   substantial business records to determine an answer, if possible, for each of the 33,186 separate

3   requests. This request, therefore, does not separately state each matter sought. Moreover,

4   Defendants object that the request is unduly burdensome and improperly attempts to shift the

5   burden to Defendants to evaluate each and every file where the effort associated with responding

6   to this request is substantially similar for the parties, especially because the available documents,

7   data and other information sought from which the answer, if any, could be derived in response to

8   this request have been produced by Defendants in response to Plaintiffs' other discovery requests

9   and thus any relevant, available information is now as equally accessible to Plaintiffs as it is to

10 Defendants. Defendants also object to the extent that this request improperly attempts to shift

11 Plaintiffs' burden of proof to Defendants. Subject to and without waiving the foregoing

12 objections and qualifications, Defendants respond as follows:

13   DENIED. Defendants have reasonable access to TomorrowNow's records and other

14 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

15 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

16 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

17 records and other information to determine for each listed item whether that, if a copy of the

18 listed fix object was tested, in testing a copy of the listed fix object, TomorrowNow did not

19 modify at least one local environment. Defendants have not undertaken the extreme burden of

20 evaluating each item and have objected on that basis because the requested information is as

21 equally accessible to Plaintiffs as it is to Defendants.

22 **REQUEST NO. 155:**

23   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

24 admit that Defendants do not have reasonable access to any readily obtainable information

25 indicating that, if a Copy of the listed Fix Object was tested, in testing a Copy of the listed Fix

26 Object, SAP TN did not modify at least one Local Environment so as to create a derivative work,

27 within the meaning of 17 U.S.C. § 101, that was based on copyrighted Oracle software.[67]

28   [67] See Defendants' Response to Request for Admission No. 39 from Plaintiffs' Third Set.

1   **RESPONSE TO REQUEST NO. 155:**

2   Defendants object to this request on the grounds stated in the General Objections and

3   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

4   respect to the information sought in this request because Defendants SAP AG and SAP America

5   have no additional knowledge separate and apart from the information provided by Defendant

6   TomorrowNow in this response. Defendants object to the request because the terms

7   "tested/testing," "modified," "derivative work," "copyrighted Oracle software," and "local

8   environment" make this request overly broad, vague, and ambiguous. Defendants object to this

9   request for admission because it calls for a conclusion of law, and is thus invasive of the attorney

10 work product and attorney-client privileges. Further, Defendants object to this request as

11 compound and unduly burdensome in that this request asks 33,186 separate questions, and the

12 request would require Defendants to review substantial business records to determine an answer,

13 if possible, for each of the 33,186 separate requests. Moreover, Defendants object that the request

14 is unduly burdensome and improperly attempts to shift the burden to Defendants to evaluate each

15 and every file where the effort associated with responding to this request is substantially similar

16 for the parties, especially because the available documents, data and other information sought

17 from which the answer, if any, could be derived in response to this request have been produced by

18 Defendants in response to Plaintiffs' other discovery requests and thus any relevant, available

19 information is now as equally accessible to Plaintiffs as it is to Defendants. Defendants also

20 object to the extent that this request improperly attempts to shift Plaintiffs' burden of proof to

21 Defendants. Subject to and without waiving the foregoing objections and qualifications,

22 Defendants respond as follows:

23   DENIED. Defendants have reasonable access to TomorrowNow's records and other

24 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

25 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

26 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

27 records and other information to determine for each listed item whether that, if a copy of the

28 listed fix object was tested, in testing a copy of the listed fix object, SAP TN did not modify at

1 least one local environment so as to create a derivative work, within the meaning of 17 U.S.C. §

2 101, that was based on copyrighted Oracle software. Defendants have not undertaken the

3 extreme burden of evaluating each item and have objected on that basis because the requested

4 information is as equally accessible to Plaintiffs as it is to Defendants. Moreover, in any event,

5 Defendants refuse to answer this request to the extent it seeks a pure conclusion of law.

6 **REQUEST NO. 156:**

7   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

8 admit that Defendants do not have reasonable access to any readily obtainable information

9 indicating that a Copy of the contents of the listed Fix Object (with or without the same file name)

10 was not sent to at least one entity other than the recipient stated for that item.[68]

11 **RESPONSE TO REQUEST NO. 156:**

12   Defendants object to this request on the grounds stated in the General Objections and

13 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

14 respect to the information sought in this request because Defendants SAP AG and SAP America

15 have no additional knowledge separate and apart from the information provided by Defendant

16 TomorrowNow in this response. Defendants object to the request because the terms and phrases

17 "copy," "contents," and "with or without the same file name" make this request overly broad,

18 vague, and ambiguous. Further, Defendants object to this request as compound and unduly

19 burdensome in that this request asks 33,186 separate questions, and the request would require

20 Defendants to review substantial business records to determine an answer, if possible, for each of

21 the 33,186 separate requests.   This request, therefore, does not separately state each matter

22 sought. Moreover, Defendants object that the request is unduly burdensome and improperly

23 attempts to shift the burden to Defendants to evaluate each and every file where the effort

24 associated with responding to this request is substantially similar for the parties, especially

25 because the available documents, data and other information sought from which the answer, if

26 any, could be derived in response to this request have been produced by Defendants in response

27 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

28   [68] See Defendants' Response to Request for Admission No. 41 from Plaintiffs' Third Set.

1 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

2 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

3 without waiving the foregoing objections and qualifications, Defendants respond as follows:

4   DENIED. Defendants have reasonable access to TomorrowNow's records and other

5 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

6 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

7 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

8 records and other information to determine for each listed item whether a copy of the contents of

9 the listed fix object (with or without the same file name) was not sent to at least one entity other

10 than the recipient stated for that item. Defendants have not undertaken the extreme burden of

11 evaluating each item and have objected on that basis because the requested information is as

12 equally accessible to Plaintiffs as it is to Defendants.

13 **REQUEST NO. 157:**

14   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

15 admit that Defendants do not have reasonable access to any readily obtainable information

16 indicating that a Copy of the contents of the listed Fix Object (with or without the same file name)

17 was not used to update or modify at least one Local Environment.[69]

18 **RESPONSE TO REQUEST NO. 157:**

19   Defendants object to this request on the grounds stated in the General Objections and

20 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

21 respect to the information sought in this request because Defendants SAP AG and SAP America

22 have no additional knowledge separate and apart from the information provided by Defendant

23 TomorrowNow in this response. Defendants object to the request because the terms and phrases

24 "copy," "contents," "was not used to update or modify," and "with or without the same file name"

25 make this request overly broad, vague, and ambiguous. Further, Defendants object to this request

26 as compound and unduly burdensome in that this request asks 33,186 separate questions, and the

27 request would require Defendants to review substantial business records to determine an answer,

28   [69] See Defendants' Response to Request for Admission No. 42 from Plaintiffs' Third Set.

1   if possible, for each of the 33,186 separate requests.   This request, therefore, does not separately

2   state each matter sought. Moreover, Defendants object that the request is unduly burdensome and

3   improperly attempts to shift the burden to Defendants to evaluate each and every file where the

4   effort associated with responding to this request is substantially similar for the parties, especially

5   because the available documents, data and other information sought from which the answer, if

6   any, could be derived in response to this request have been produced by Defendants in response

7   to Plaintiffs' other discovery requests and thus any relevant, available information is now as

8   equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

9   this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

10 without waiving the foregoing objections and qualifications, Defendants respond as follows:

11   DENIED. Defendants have reasonable access to TomorrowNow's records and other

12 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

13 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

14 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

15 records and other information to determine for each listed item whether a copy of the contents of

16 the listed fix object (with or without the same file name) was not used to update or modify at least

17 one local environment. Defendants have not undertaken the extreme burden of evaluating each

18 item and have objected on that basis because the requested information is as equally accessible to

19 Plaintiffs as it is to Defendants.

20 **REQUEST NO. 158:**

21   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

22 admit that Defendants do not have reasonable access to any readily obtainable information

23 indicating that a Copy of the contents of the listed Fix Object (with or without the same file name)

24 was not used to update or modify at least one Local Environment that was not a customer specific

25 environment for the recipient stated for that it.[70]

26 **RESPONSE TO REQUEST NO. 158:**

27   Defendants object to this request on the grounds stated in the General Objections and

28   [70] See Defendants' Response to Request for Admission No. 43 from Plaintiffs' Third Set.

1   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

2   respect to the information sought in this request because Defendants SAP AG and SAP America

3   have no additional knowledge separate and apart from the information provided by Defendant

4   TomorrowNow in this response. Defendants object to the request because the terms and phrases

5   "copy," "contents," "was not used to update or modify," and "with or without the same file name"

6   make this request overly broad, vague, and ambiguous. Further, Defendants object to this request

7   as compound and unduly burdensome in that this request asks 33,186 separate questions, and the

8   request would require Defendants to review substantial business records to determine an answer,

9   if possible, for each of the 33,186 separate requests.   This request, therefore, does not separately

10 state each matter sought. Moreover, Defendants object that the request is unduly burdensome and

11 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

12 effort associated with responding to this request is substantially similar for the parties, especially

13 because the available documents, data and other information sought from which the answer, if

14 any, could be derived in response to this request have been produced by Defendants in response

15 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

16 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

17 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

18 without waiving the foregoing objections and qualifications, Defendants respond as follows:

19   DENIED. Defendants have reasonable access to TomorrowNow's records and other

20 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

21 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

22 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

23 records and other information to determine for each listed item whether a copy of the contents of

24 the listed fix object (with or without the same file name) was not used to update or modify at least

25 one local environment that was not a customer specific environment for the recipient stated for

26 that it. Defendants have not undertaken the extreme burden of evaluating each item and have

27 objected on that basis because the requested information is as equally accessible to Plaintiffs as it

28 is to Defendants.

1   **REQUEST NO. 159:**

2   For each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for Admission,

3   admit that Defendants do not have reasonable access to any readily obtainable information

4   indicating that a Copy of the contents of the listed Fix Object (with or without the same file name)

5   was not used to update or modify at least one Generic Environment.[71]

6   **RESPONSE TO REQUEST NO. 159:**

7   Defendants object to this request on the grounds stated in the General Objections and

8   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

9   respect to the information sought in this request because Defendants SAP AG and SAP America

10 have no additional knowledge separate and apart from the information provided by Defendant

11 TomorrowNow in this response. Defendants object to the request because the terms and phrases

12 "copy," "contents," "generic environment," "was not used to update or modify," and "with or

13 without the same file name" make this request overly broad, vague, and ambiguous. "Generic

14 Environment" is a term created by Plaintiffs and as used and defined by Plaintiffs is misleading

15 by attempting to suggest that any such environment or environment components were not used

16 for limited customers, scope, or purpose. Defendants further object to the definition of "Generic

17 Environment" to the extent it incorporates the overly broad, unduly burdensome, and vague term

18 "environment" to which Defendants object above. Further, Defendants object to this request as

19 compound and unduly burdensome in that this request asks 33,186 separate questions, and the

20 request would require Defendants to review substantial business records to determine an answer,

21 if possible, for each of the 33,186 separate requests.   This request, therefore, does not separately

22 state each matter sought. Moreover, Defendants object that the request is unduly burdensome and

23 improperly attempts to shift the burden to Defendants to evaluate each and every file where the

24 effort associated with responding to this request is substantially similar for the parties, especially

25 because the available documents, data and other information sought from which the answer, if

26 any, could be derived in response to this request have been produced by Defendants in response

27 to Plaintiffs' other discovery requests and thus any relevant, available information is now as

28 _____
        [71] See Defendants' Response to Request for Admission No. 44 from Plaintiffs' Third Set.

1 equally accessible to Plaintiffs as it is to Defendants. Defendants also object to the extent that

2 this request improperly attempts to shift Plaintiffs' burden of proof to Defendants. Subject to and

3 without waiving the foregoing objections and qualifications, Defendants respond as follows:

4 DENIED. Defendants have reasonable access to TomorrowNow's records and other

5 information relating to each item 1-33,186 on Exhibit D to Oracle's Third Set of Requests for

6 Admission. However, given the quantity of the items 1-33,186 on Exhibit D to Oracle's Third

7 Set of Requests for Admission, there is no readily obtainable way to review TomorrowNow's

8 records and other information to determine for each listed item whether a copy of the contents of

9 the listed fix object (with or without the same file name) was not used to update or modify at least

10 one generic environment. Defendants have not undertaken the extreme burden of evaluating each

11 item and have objected on that basis because the requested information is as equally accessible to

12 Plaintiffs as it is to Defendants.

13 **REQUEST NO. 160:**

14 For each item 18,462-33,186 on Exhibit D to Oracle's Third Set of Requests for

15 Admission, admit that Defendants do not have reasonable access to any readily obtainable

16 information indicating that a Copy of the listed Fix Object was not created by modifying a file in

17 SAP TN's possession, custody or control that had been created by Oracle or had been delivered

18 by Oracle as part of a PeopleSoft application release, fix, update, upgrade or patch.[72]

19 **RESPONSE TO REQUEST NO. 160:**

20 Defendants object to this request on the grounds stated in the General Objections and

21 Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

22 respect to the information sought in this request because Defendants SAP AG and SAP America

23 have no additional knowledge separate and apart from the information provided by Defendant

24 TomorrowNow in this response. Defendants object to the request because the terms and phrases

25 "copy," "created," "modifying," and "PeopleSoft application release, fix, update, upgrade or

26 patch" make this request overly broad, vague, and ambiguous. Further, Defendants object to this

27 request as compound and unduly burdensome in that this request asks 14,724 separate questions,

28 _____
[72] See Defendants' Response to Request for Admission No. 46 from Plaintiffs' Third Set.

1   and the request would require Defendants to review substantial business records to determine an

2   answer, if possible, for each of the 14,724 separate requests. This request, therefore, does not

3   separately state each matter sought. Moreover, Defendants object that the request is unduly

4   burdensome and improperly attempts to shift the burden to Defendants to evaluate each and every

5   file where the effort associated with responding to this request is substantially similar for the

6   parties, especially because the available documents, data and other information sought from

7   which the answer, if any, could be derived in response to this request have been produced by

8   Defendants in response to Plaintiffs' other discovery requests and thus any relevant, available

9   information is now as equally accessible to Plaintiffs as it is to Defendants. Defendants also

10   object to the extent that this request improperly attempts to shift Plaintiffs' burden of proof to

11   Defendants. Subject to and without waiving the foregoing objections and qualifications,

12   Defendants respond as follows:

13   DENIED. Defendants have reasonable access to TomorrowNow's records and other

14   information relating to each item 18,462-33,186 on Exhibit D to Oracle's Third Set of Requests

15   for Admission. However, given the quantity of the items 18,462-33,186 on Exhibit D to Oracle's

16   Third Set of Requests for Admission, there is no readily obtainable way to review

17   TomorrowNow's records and other information to determine for each listed item whether a copy

18   of the listed fix object was not created by modifying a file in TomorrowNow's possession,

19   custody or control that had been created by Oracle or had been delivered by Oracle as part of a

20   PeopleSoft application release, fix, update, upgrade or patch. Defendants have not undertaken the

21   extreme burden of evaluating each item and have objected on that basis because the requested

22   information is as equally accessible to Plaintiffs as it is to Defendants.

23   **REQUEST NO. 161:**

24   For each item 18,462-33,186 on Exhibit D to Oracle's Third Set of Requests for

25   Admission, admit that Defendants do not have reasonable access to any readily obtainable

26   information indicating that a Copy of the listed Fix Object was not created by using as a reference

27   a file in SAP TN's possession, custody or control that had been created by Oracle or had been

28

1   delivered by Oracle as part of a PeopleSoft application release, fix, update, upgrade or patch.[73]

2   **RESPONSE TO REQUEST NO. 161:**

3   Defendants object to this request on the grounds stated in the General Objections and

4   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

5   respect to the information sought in this request because Defendants SAP AG and SAP America

6   have no additional knowledge separate and apart from the information provided by Defendant

7   TomorrowNow in this response. Defendants object to the request because the terms and phrases

8   "copy," "created," "reference file," and "PeopleSoft application release, fix, update, upgrade or

9   patch" make this request overly broad, vague, and ambiguous. Further, Defendants object to this

10   request as compound and unduly burdensome in that this request asks 14,724 separate questions,

11   and the request would require Defendants to review substantial business records to determine an

12   answer, if possible, for each of the 14,724 separate requests.   This request, therefore, does not

13   separately state each matter sought. Moreover, Defendants object that the request is unduly

14   burdensome and improperly attempts to shift the burden to Defendants to evaluate each and every

15   file where the effort associated with responding to this request is substantially similar for the

16   parties, especially because the available documents, data and other information sought from

17   which the answer, if any, could be derived in response to this request have been produced by

18   Defendants in response to Plaintiffs' other discovery requests and thus any relevant, available

19   information is now as equally accessible to Plaintiffs as it is to Defendants. Defendants also

20   object to the extent that this request improperly attempts to shift Plaintiffs' burden of proof to

21   Defendants. Subject to and without waiving the foregoing objections and qualifications,

22   Defendants respond as follows:

23   DENIED. Defendants have reasonable access to TomorrowNow's records and other

24   information relating to each item 18,462-33,186 on Exhibit D to Oracle's Third Set of Requests

25   for Admission. However, given the quantity of the items 18,462-33,186 on Exhibit D to Oracle's

26   Third Set of Requests for Admission, there is no readily obtainable way to review

27   TomorrowNow's records and other information to determine for each listed item whether a copy

28   _____
            [73] See Defendants' Response to Request for Admission No. 47 from Plaintiffs' Third Set.

1   of the listed fix object was not created by using as a reference a file in SAP TN's possession,

2   custody or control that had been created by Oracle or had been delivered by Oracle as part of a

3   PeopleSoft application release, fix, update, upgrade or patch. Defendants have not undertaken the

4   extreme burden of evaluating each item and have objected on that basis because the requested

5   information is as equally accessible to Plaintiffs as it is to Defendants.

6   **REQUEST NO. 162:**

7   For each item 18,462-33,186 on Exhibit D to Oracle's Third Set of Requests for

8   Admission, admit that Defendants do not have reasonable access to any readily obtainable

9   information indicating that the listed Fix Object is not a derivative work within the meaning of 17

10   U.S.C. § 101.[74]

11   **RESPONSE TO REQUEST NO. 162:**

12   Defendants object to this request on the grounds stated in the General Objections and

13   Responses. Defendants' response is based solely on Defendant TomorrowNow's knowledge with

14   respect to the information sought in this request because Defendants SAP AG and SAP America

15   have no additional knowledge separate and apart from the information provided by Defendant

16   TomorrowNow in this response. Defendants object to the request because the term "derivative

17   work" makes this request overly broad, vague, and ambiguous. Defendants object to this request

18   for admission because it calls for a conclusion of law, and is thus invasive of the attorney work

19   product and attorney-client privileges. Further, Defendants object to this request as compound

20   and unduly burdensome in that this request asks 14,724 separate questions, and the request would

21   require Defendants to review substantial business records to determine an answer, if possible, for

22   each of the 14,724 separate requests. Moreover, Defendants object that the request is unduly

23   burdensome and improperly attempts to shift the burden to Defendants to evaluate each and every

24   file where the effort associated with responding to this request is substantially similar for the

25   parties, especially because the available documents, data and other information sought from

26   which the answer, if any, could be derived in response to this request have been produced by

27   Defendants in response to Plaintiffs' other discovery requests and thus any relevant, available

28   _____
     [74] See Defendants' Response to Request for Admission No. 48 from Plaintiffs' Third Set.

1 information is now as equally accessible to Plaintiffs as it is to Defendants. Defendants also

2 object to the extent that this request improperly attempts to shift Plaintiffs' burden of proof to

3 Defendants. Subject to and without waiving the foregoing objections and qualifications,

4 Defendants respond as follows:

5 DENIED. Defendants have reasonable access to TomorrowNow's records and other

6 information relating to each item 18,462-33,186 on Exhibit D to Oracle's Third Set of Requests

7 for Admission. However, given the quantity of the items 18,462-33,186 on Exhibit D to Oracle's

8 Third Set of Requests for Admission, there is no readily obtainable way to review

9 TomorrowNow's records and other information to determine for each listed item whether a copy

10 of each listed fix object was not created using a local environment. Defendants have not

11 undertaken the extreme burden of evaluating each item and have objected on that basis because

12 the requested information is as equally accessible to Plaintiffs as it is to Defendants. Moreover,

13 in any event, Defendants refuse to answer this request to the extent it seeks a pure conclusion of

14 law.

15 **REQUEST NO. 163:**

16 Admit that as of April 25, 2007, Ruben Laguna was an employee of SAP Mexico S.A. de

17 C.V.[75]

18 **RESPONSE TO REQUEST NO. 163:**

19 Defendants object to this request on the grounds stated in the General Objections and

20 Responses. Subject to and without waiving the foregoing objections and qualifications,

21 Defendants respond as follows:

22 ADMITTED on the following qualified basis: Defendants admit that Ruben Laguna

23 worked for TomorrowNow and was the only TomorrowNow employee that resided in Mexico, a

24 country where TomorrowNow never had set up a separate corporate entity. Therefore, for

25 administrative reasons, Laguna that was classified as an employee of SAP Mexico S.A. de C.V.

26 as of April 25, 2007. To the extent not admitted, this request is DENIED.

27

28 [75] See, e.g., TN-OR00294010.

1   from out [sic] new customer, ZMC Technologies, Signapore . . . I tested in our KW, Bonne Bell

2   and One world, I could not get Certificate and Delivery instructions in the resultant PO." To the

3   extent not admitted, this request is DENIED.

4

5

6   Dated: November 23, 2009   JONES DAY

7

8   By: /s/ Jason McDonell
                                                     Jason McDonell
9
                                                Counsel for Defendants
10   SAP AG, SAP AMERICA, INC., and
                                                TOMORROWNOW, INC.
11

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DEFENDANTS' RESP. TO PLAINTIFFS'
5th SET OF REQUESTS FOR ADMISSION
Case No. 07-CV-1658 PJH

PROOF OF SERVICE

I, Laurie Paige Burns , 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 November 23, 2009, I served a copy of the attached document(s):

DEFENDANTS' RESPONSES TO PLAINTIFFS' FIFTH SET OF REQUESTS FOR ADMISSIONS TO DEFENDANTS

☐   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 and causing such envelope to be hand delivered to the office of the addressee on the date specified above.

☒   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.

Donn Pickett, Esq.
Geoffrey M. Howard, Esq.
Holly House, Esq.
Zachary J. Alinder, Esq.
Bree Hann, Esq.
BINGHAM McCUTCHEN LLP
Three Embarcadero Center
San Francisco, CA 94111-4067
donn.pickett@bingham.com
geoff.howard@bingham.com
zachary.alinder@bingham.com
bree.hann@bingham.com

Executed on November 23, 2009, at San Francisco, California.

By: _____
LAURIE PAIGE BURNS

HUI-121280

DEFENDANTS' RESP. TO PLAINTIFFS'
5th SET OF REQUESTS FOR ADMISSION
Case No. 07-CV-1658 PJH