

EXHIBIT HH

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SAP AG, SAP AMERICA, INC., and
18 TOMORROWNOW, INC.

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 OAKLAND DIVISION

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

23 Plaintiffs,

24 v.

25 SAP AG, et al.,

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

**DEFENDANTS' NOTICE OF
DEPOSITION OF PLAINTIFFS
PURSUANT TO FEDERAL RULE OF
CIVIL PROCEDURE 30(b)(6)**

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE THAT, pursuant to Rule 30(b)(6) of the Federal Rules of Civil
3 Procedure, Defendants SAP AG, SAP America (together, "SAP"), and TomorrowNow, Inc.
4 ("TN") (collectively, "Defendants") will take the deposition of Plaintiffs Oracle USA, Inc.,
5 Oracle International Corporation, Oracle EMEA Limited and Siebel System, Inc.'s (collectively,
6 "Plaintiffs") on December 1, 2009, commencing at 9:00 a.m. at the law offices of Jones Day,
7 1755 Embarcadero Road, Palo Alto, CA 94303.

8 The deposition will be recorded stenographically, using real time transcription, by a
9 certified court reporter, and by video and audio by a certified videographer.

10 Plaintiffs are hereby requested and required, pursuant to Federal Rule of Civil Procedure
11 30(b)(6), to designate and produce a witness or witnesses to testify on its behalf on the topics
12 described below.

13 **SCOPE OF TESTIMONY**

14 The applicable time period for each of the topics below is January 1, 2002 through the
15 present.

16 1. Plaintiffs' allegations related to TN's downloading activity, including specifically
17 the "downloads, the licensing related to those downloads, [and the] mapping of the two," in the
18 context referenced in the third paragraph on page 1 of Zac Alinder's October 13, 2009 letter to
19 Scott Cowan, attached as Exhibit "A" hereto.

20 2. Plaintiffs' position regarding which specific downloads made by TN were covered
21 by each of TN's customers' licenses and all methods Plaintiffs have used to determine their
22 position regarding which downloads each TN customer was permitted to make and which
23 downloads each TN customer was not permitted to make.

24 3. Any and all efforts made, and any and all conclusions reached during those efforts,
25 by Plaintiffs "to map downloads to specific Oracle applications software on the license
26 agreements that Oracle produced for all of the TomorrowNow customers and all of the
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1 SAP/TomorrowNow overlap customers,” as described in the second full paragraph of page 2 of
2 Zac Alinder’s October 13, 2009 letter to Scott Cowan, attached as Exhibit “A” hereto.

3 4. Plaintiffs’ “conclusions,” which are purportedly reflected in each of Oracle’s
4 Complaints, including but not limited to the Fourth Amended Complaint, related to TN’s
5 downloads, the licensing related to those downloads, and the mapping of the two, as described in
6 the second full paragraph of page 2 of Zac Alinder’s October 13, 2009 letter to Scott Cowan,
7 attached as Exhibit “A” hereto.

8 5. The relationship between Plaintiffs’ production of “Oracle’s license agreements,
9 support renewals, and customer reports” and TN’s downloads, the licensing related to those
10 downloads, and the mapping of the two, as described in the first bullet point on page 2 of Zac
11 Alinder’s October 13, 2009 letter to Scott Cowan, attached as Exhibit “A” hereto.

12 6. The relationship between Plaintiffs’ production of “Oracle’s logs showing
13 Defendants’ [alleged] illegal access to and downloading of Oracle’s support materials” and TN’s
14 downloads, the licensing related to those downloads, and the mapping of the two, as described in
15 the first full bullet point on page 3 of Zac Alinder’s October 13, 2009 letter to Scott Cowan,
16 attached as Exhibit “A” hereto.

17 7. The relationship between Plaintiffs’ production of “Oracle’s Customer Connection
18 back-end database servers and PeopleSoft C1 support tables” and TN’s downloads, the licensing
19 related to those downloads, and the mapping of the two, as described in the second full bullet
20 point on page 3 of Zac Alinder’s October 13, 2009 letter to Scott Cowan, attached as Exhibit “A”
21 hereto.

22 8. The relationship between Plaintiffs’ production of the “support materials that
23 Defendants’ counsel downloaded” during Defendants’ inspection and access to Customer
24 Connection and TN’s downloads, the licensing related to those downloads, and the mapping of
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1 the two, as described in the third full bullet point on page 3 of Zac Alinder's October 13, 2009
2 letter to Scott Cowan, attached as Exhibit "A" hereto.

3 9. The relationship between Plaintiffs' production of "the mapping information and
4 system code documents produced both in Oracle's document production in early 2008 and
5 detailed in Oracle's response to Defendants' Interrogatory No. 7 and its incorporated Exhibit" and
6 TN's downloads, the licensing related to those downloads, and the mapping of the two, as
7 described in the fourth full bullet point on page 3 of Zac Alinder's October 13, 2009 letter to
8 Scott Cowan, attached as Exhibit "A" hereto.
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Dated: November 2, 2009

JONES DAY

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

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

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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 2, 2009, I served a copy of the attached document(s):

**DEFENDANTS' NOTICE OF DEPOSITION OF PLAINTIFFS
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 30(B)(6)**

- by hand delivery
- 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 with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.
- 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.

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Geoffrey M. Howard, Esq.
Zachary J. Alinder, Esq.
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Executed on November 2, 2009, at San Francisco, California.

By: 
Laurie Paige Burns