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16 UNITED STATES DISTRICT COURT  
 17 NORTHERN DISTRICT OF CALIFORNIA  
 18 OAKLAND DIVISION

19 ORACLE USA, INC., *et al.*,  
 20 Plaintiffs,  
 21 v.  
 22 SAP AG, *et al.*,  
 23 Defendants.

CASE NO. 07-CV-01658 PJH (EDL)

**DECLARATION OF LUCIA  
 MACDONALD IN SUPPORT OF  
 ORACLE'S OPPOSITION TO  
 DEFENDANTS' MOTION TO  
 COMPEL**

Date: January 26, 2010  
 Time: 2 p.m.  
 Place: Courtroom E, 15th Floor  
 Judge: Hon. Elizabeth D. Laporte

1 I, Lucia MacDonald, declare as follows:

2 1. I am an associate at Bingham McCutchen LLP, counsel of record for Plaintiffs  
3 Oracle USA, Inc., et al., (collectively, "Oracle") in the above-referenced action. I make this  
4 declaration based on my personal knowledge from my representation of Oracle and could and  
5 would testify competently to the facts stated herein if called upon to do so.

6 2. I reviewed SAP's requested 64 listed pleadings and the deposition transcripts  
7 from Folger Levin & Kahn LLP's files (PeopleSoft's counsel in the California litigation brought  
8 by PeopleSoft against Oracle in the Alameda Superior Court ("the 2003 Alameda action")).

9 3. The total page count for the 64 items alone is 7,631. It took several days to  
10 complete the review. Only six items on Defendants' list even mentioned any of the 350  
11 customers at issue here.

12 4. My review confirmed that any FUD (fear, uncertainty and doubt) referenced in  
13 the Folger Levin documents is based upon publicly-available information such as press releases,  
14 news media, analyst notes, and pleadings.

15 I declare under penalty of perjury under the laws of the United States that the foregoing is  
16 true and correct and that this declaration is executed at San Francisco, California, on date:  
17 January 5, 2010.

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20 Lucia MacDonald

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