

# United States District Court

## NORTHERN DISTRICT OF CALIFORNIA

E-filing

ORACLE CORPORATION, a Delaware corporation,  
ORACLE USA, INC., a Colorado corporation, and ORACLE  
INTERNATIONAL CORPORATION, a California  
corporation,

**SUMMONS IN A CIVIL CASE**  
CASE NUMBER: **C 07 1653**

**EMC**

**v.**

SAP AG, a German corporation, SAP AMERICA, INC., a  
Delaware corporation, TOMORROWNOW, INC., a Texas  
corporation, and DOES 1-50, inclusive,

TO: (Name and address of defendant)

TOMORROWNOW, INC.  
c/o CT Corporation System  
350 North Saint Paul Street  
Dallas, TX 75201

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

BINGHAM McCUTCHEN LLP  
Christopher B. Hockett (SBN 121539)  
Geoffrey M. Howard (SBN 157468)  
Zachary J. Alinder (SBN 209009)  
Bree Hann (SBN 215695)  
Three Embarcadero Center  
San Francisco, CA 94111-4067

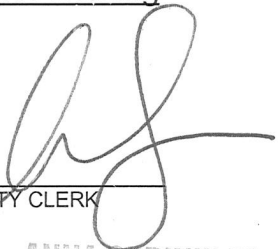
an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

MAR 22 2007

Richard W. Wieking

CLERK

DATE \_\_\_\_\_



(BY) DEPUTY CLERK

**ANNA SPRINKLES**

BINGHAM MCCUTCHEN LLP CHRISTOPHER B. HOCKETT (SBN 121539) GEOFFREY M. HOWARD (SBN 157468) ZACHARY J. ALINDER (SBN 209009) BREE HANN (SBN 215695) THREE EMBARCADERO CENTER SAN FRANCISCO, CA 94111-4067 Telephone: (415) 393-2000 Facsimile: (415) 393-2286 <b>Attorney(s) for:</b> PLAINTIFFS, ORACLE CORPORATION, ORACLE USA, INC., and ORACLE INTERNATIONAL CORPORATION Reference: 674122	
<b>UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA</b>	
ORACLE CORPORATION, a Delaware corporation, et al.  <p style="text-align:right;"><b>Plaintiff (s)</b></p> <p style="text-align:center;">v.</p> SAP AG, a German corporation, et al.  <p style="text-align:right;"><b>Defendant (s)</b></p>	CASE NUMBER: C 07 1658 EMC  <p style="text-align:center;"><b>PROOF OF SERVICE SUMMONS AND COMPLAINT</b></p> (Use separate proof of service for each person/party served)

1. At the time of service I was at least 18 years of age and not a party to this action and I served copies of the (*specify documents*):
 

<input checked="" type="checkbox"/> summons	<input checked="" type="checkbox"/> complaint	<input type="checkbox"/> alias summons	<input type="checkbox"/> first amended complaint
in a civil case			<input type="checkbox"/> second amended complaint
			<input type="checkbox"/> third amended complaint

other (*specify*): STANDING ORDER FOR ALL JUDGES OF THE NORTHERN DISTRICT OF CALIFORNIA CONTENTS OF JOINT CASE MANAGEMENT STATEMENT; PLAINTIFF ORACLE'S DISCLOSURE STATEMENT AND CERTIFICATION OF INTERESTED ENTITIES OR PERSONS PURSUANT TO FED.R.CIVIL PROCEDURE 7.1 AND CIVIL LOCAL RULE 3-16; ECF REGISTRATION INFORMATION HANDOUT; NOTICE OF ASSIGNMENT OF CASE TO A UNITED STATES MAGISTRATE JUDGE FOR TRIAL; (BLANK) CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE; (BLANK) DECLINATION TO PROCEED BEFORE A MAGISTRATE JUDGE AND REQUEST FOR REASSIGNMENT TO A UNITED STATES DISTRICT JUDGE; IN ADDITION TO THE LOCAL RULES, THE FOLLOWING GUIDELINES HAVE BEEN PROVIDED TO ENSURE THAT THE FILING PROCESS IS ACCOMPLISHED WITH EASE AND ACCURACY
  
2. Person served:
  - a.  Defendant (*name*): TOMORROWNOW, INC.
  - b.  Other (*specify name and title or relationship to the party/business named*): MARIE GARCIA, PROCESS SPECIALIST, CT CORPORATION, ACCEPTED SERVICE OF PROCESS ON BEHALF OF MARIE GARCIA
  - c.  Address Where papers were served: **350 NORTH SAINT PAUL STREET, DALLAS, TX 75201**
  
3. **Manner of service** in compliance with (*the appropriate box must be checked*):
  - a.  Federal Rules of Civil Procedure
  - b.  California Code of Civil Procedure
  
4. **I served** the person named in item 2:
  - a.  **By Personal service.** By personally delivering copies. If the person is a minor, by leaving copies with a parent, guardian, conservator or similar fiduciary and to the minor if at least (12) years of age.
    1.  **Papers were served on** (*date*): **MARCH 22, 2007** at (*time*): **3:12PM**
  - b.  **By Substituted service.** By leaving copies:
    1.  (**home**) at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household, at least 18 years of age, who was informed of the general nature of the papers.

**PROOF OF SERVICE-SUMMONS AND COMPLAINT**

- 2.  (business) or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers.
- 3.  Papers were served on (date): \_\_\_\_\_ at (time): \_\_\_\_\_
- 4.  by mailing (by first-class mail, postage prepaid) copies to the person served in item 2(b) at the place where the copies were left in Item 2(c).
- 5.  papers were mailed on (date): \_\_\_\_\_
- 6.  due diligence. I made at least three (3) attempts to personally serve the defendant.
- c.  Mail and acknowledgment of service. By mailing (by first-class mail or air-mail, postage pre-paid) copies to the person served, with two (2) copies of the form of Waiver of Service of Summons and Complaint and a return envelope, postage prepaid to the sender. (Attach completed Waiver of Service of Summons and Complaint).
- d.  Service on domestic corporation, unincorporated association (including partnership), or public entity. (F.R.Civ.P.4(h)) (C.C.P. 416.10) By delivering, during usual business hours, a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute and the statute so requires, a mailing, by first-class mail, postage prepaid, a copy to the defendant.
- e.  Substituted service on domestic corporation, unincorporated association (including partnership), or public entity. (C.C.P. 415.20 only) By leaving during usual office hours, a copy of the summons and complaint in the office of the person served with the person who apparently was in charge and thereafter by mailing (by first-class mail, postage prepaid) copies to the persons at the place where the copies were left in full compliance with C.C.P. 415.20. Substitute service upon the California Secretary of state requires a court order. (Attach a copy of the order to this proof of service).
- f.  Service on a foreign corporation. In any manner prescribed for individuals by FRCP 4(f).
- g.  Certified or registered mail service. By mailing to an address outside California (by first-class mail, postage prepaid, requiring a return receipt) copies to the person served. (Attach signed return receipt or other evidence of actual receipt by the person served).
- h.  Other (specify code section and type of service): \_\_\_\_\_
- 5. Service upon the United States, and Its Agencies, Corporations or Officers.
  - a.  by delivering a copy of the summons and complaint to the clerical employee designated by the U.S. Attorney authorized to accept service, pursuant to the procedures for the Office of the U.S. Attorney for acceptance of service, or by sending a copy of the summons and complaint by registered or certified mail addressed to the civil process clerk at the U.S. Attorneys Office.  
 Name of person served: \_\_\_\_\_  
 Title of person served: \_\_\_\_\_  
 Date and time of service: (date): \_\_\_\_\_ at (time): \_\_\_\_\_
  - b.  By sending a copy of the summons and complaint by registered or certified mail to the Attorney General of the United States at Washington, D.C. (Attached signed return receipt or other evidence of actual receipt by the person served).
  - c.  By sending a copy of the summons and complaint by registered or certified mail to the officer, agency or corporation (Attach signed return receipt or other evidence of actual receipt by the person served).
- 6. At the time of service I was at least 18 years of age and not a party to this action.
- 7. Person serving (name, address and telephone number):

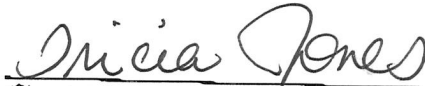
a. Fee for service: \$  
 c/o WORLDWIDE NETWORK, INC.  
 520 TOWNSEND STREET, SUITE D  
 SAN FRANCISCO, CA 94103  
 (415) 503-0900

- b.  Not a Registered California Process Server
- c.  Exempt from registration under B&P 2235(b)
- d.  Registered California Process Server

8.  I am a California sheriff, marshal, or constable and I certify that the foregoing is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Date: MARCH 28, 2007

  
 (Signature)