

1 Robert A. Mittelstaedt (SBN 060359)
 Jason McDonell (SBN 115084)
 2 Elaine Wallace (SBN 197882)
 JONES DAY
 3 555 California Street, 26th Floor
 San Francisco, CA 94104
 4 Telephone: (415) 626-3939
 Facsimile: (415) 875-5700
 5 ramittelstaedt@jonesday.com
 jmcdonell@jonesday.com
 6 ewallace@jonesday.com

7 Tharan Gregory Lanier (SBN 138784)
 Jane L. Froyd (SBN 220776)
 8 JONES DAY
 1755 Embarcadero Road
 9 Palo Alto, CA 94303
 Telephone: (650) 739-3939
 10 Facsimile: (650) 739-3900
 tglanier@jonesday.com
 11 jfroyd@jonesday.com

12 Scott W. Cowan (Admitted *Pro Hac Vice*)
 Joshua L. Fuchs (Admitted *Pro Hac Vice*)
 13 JONES DAY
 717 Texas, Suite 3300
 14 Houston, TX 77002
 Telephone: (832) 239-3939
 15 Facsimile: (832) 239-3600
 swcowan@jonesday.com
 16 jlfuchs@jonesday.com

17 Attorneys for Defendants
 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.

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

**DECLARATION OF THARAN
 GREGORY LANIER IN SUPPORT OF
 DEFENDANTS' MOTION FOR
 PARTIAL SUMMARY JUDGMENT**

SUBMITTED UNDER SEAL

Date: May 5, 2010

Time: 9:00 a.m.

Courtroom: 3, 3rd Floor

Judge: Hon. Phyllis J. Hamilton

1 I, THARAN GREGORY LANIER, declare as follows:

2 I am a partner in the law firm of Jones Day, 1755 Embarcadero Road, Palo Alto,
3 California 94303, and counsel of record for Defendants SAP AG, SAP America, Inc. (together,
4 "SAP") and TomorrowNow, Inc. ("TN") (collectively, "Defendants") in the above-captioned
5 matter. I am a member in good standing of the state bar of California and admitted to practice
6 before this Court. I make this declaration based on personal knowledge and, if called upon to do
7 so, could testify competently thereto.

8 1. Attached as **Exhibit A** is a true and correct copy of the following excerpts from
9 Plaintiffs' Expert Report of Paul K. Meyer: ¶¶ 20, ¶¶ 72-73, ¶¶ 91-105, ¶¶ 142-143, ¶¶ 150-152,
10 ¶¶ 282-288, ¶¶ 351-355, ¶¶ 402-405, ¶¶ 434-435, and ¶¶ 447-458.

11 2. Attached as **Exhibit B** is a true and correct copy of the following excerpts from
12 Plaintiffs' Expert Report of Paul C. Pinto: 4-6, 43-44.

13 3. Attached as **Exhibit C** is a true and correct copy of pages 1, 23, and 206 of
14 Plaintiffs' Supplemental Responses and Objections to Defendants' Fifth Set of Interrogatories
15 (Database), dated November 11, 2009.

16 4. Attached as **Exhibit D** is a true and correct copy of the [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 5. Attached as **Exhibit E** is a true and correct copy of the following excerpts from the
20 April 14, 2009 Uyen Ngoc Ann Kishore Deposition: 1, 139:16-23, 142:5-145:14, and 247.

21 6. Attached as **Exhibit F** is a true and correct copy of the following excerpts from the
22 September 25, 2009 Uyen Ngoc Ann Kishore Deposition: 250, 289:25-290:11, 362:17-370:2,
23 539:12-25.

24 7. Attached as **Exhibit G** is a true and correct copy of Exhibit 21.01 to the publicly
25 filed June 29, 2009 Oracle Corporation Annual Report (Form 10-K).

26 8. Attached as **Exhibit H** is a true and correct copy of the following excerpts from
27 the [REDACTED]
28 [REDACTED]

1 9. Attached as **Exhibit I** is a true and correct copy of Brief for Respondent-Appellant
2 in *Sarhank Group v. Oracle Corp.*, 404 F.3d 657 (2d Cir. 2005) (No. 92-9383).

3 10. Attached as **Exhibit J** is a true and correct copy of the following excerpts from
4 Plaintiffs' Third Supplemental and Amended Initial Disclosures, dated November 2, 2009: 1, 49-
5 55, 57.

6 11. Attached as **Exhibit K** is a true and correct copy of *Applied Hydrogel Tech., Inc. v.*
7 *Raymedica, Inc.*, No. 06cv2254 DMS (POR), 2008 WL 5500756 (S.D. Cal. Oct. 7, 2008).

8 12. Attached as **Exhibit L** is a true and correct copy of *Arabian v. Sony Elec. Inc.*, No.
9 05-CV-1741 WGH (NLS), 2007 U.S. Dist. LEXIS 12715 (S.D. Cal. Feb. 22, 2007).

10 13. Attached as **Exhibit M** is a true and correct copy of *FAS Techs., Ltd. v. Dainippon*
11 *Screen Mfg.*, No. C 00-1879 CRB, 2001 U.S. Dist. LEXIS 15444 (N.D. Cal. Sept. 21, 2001).

12 14. Attached as **Exhibit N** is a true and correct copy of *Guy v. IASCO*, No. B168339,
13 2004 WL 1354300 (Cal. Ct. App. June 17, 2004).

14 15. Attached as **Exhibit O** is a true and correct copy of *Quantum Corp. v. Riverbed*
15 *Tech., Inc.*, No. C 07-04161 WHA, 2008 WL 314490 (N.D. Cal. Feb. 4, 2008).

16 16. Attached as **Exhibit P** is a true and correct copy of *Resdev, LLC v. Lot Builders*
17 *Ass'n, Inc.*, No. 6:04-cv-1374-Orl-31DAB, 2005 U.S. Dist. LEXIS 19099 (M.D. Fla. Aug. 10,
18 2005).

19 17. Attached as **Exhibit Q** is a true and correct copy of *Reynoso v. Constr. Protective*
20 *Servs., Inc.*, No. 06-56381, 2008 U.S. App. LEXIS 19681 (9th Cir. Sept. 16, 2008).

21 18. Attached as **Exhibit R** is a true and correct copy of *Siegel v. Warner Bros. Entm't*,
22 No. CV 04-08400-SGL (RZx), 2009 WL 2014164 (C.D. Cal. July 8, 2009).

23 19. Attached as **Exhibit S** is a true and correct copy of *Silong v. U.S.*, No. CV F 06-
24 0474 LJO DLB, 2007 U.S. Dist. LEXIS 68724 (E.D. Cal. Sept. 5, 2007).

25 20. Attached as **Exhibit T** is a true and correct copy of *Therasense, Inc. v. Becton,*
26 *Dickinson & Co.*, No. C 04-02123 WHA, 2008 WL 2323856 (N.D. Cal. May 22, 2008).

27 21. Attached as **Exhibit U** is a true and correct copy of *Tidenberg v. Bidz.com*, No.
28 CV 08-5553 PSG (FMO), 2009 U.S. Dist. LEXIS 21916 (C.D. Cal. Mar. 4, 2009).

