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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.,

23 Plaintiffs,

24 v.

25 SAP AG, et al.,

26 Defendants.

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

**DECLARATION OF ELAINE  
 WALLACE IN SUPPORT OF  
 DEFENDANTS' FED. R. EVID. 1006  
 SUMMARY OF EVIDENCE**

***SUBMITTED UNDER SEAL***

Date: May 5, 2010

Time: 9:00 am

Courtroom: 3, 3rd Floor

Judge: Hon. Phyllis J. Hamilton

1 I, ELAINE WALLACE, declare:

2 I am an associate with the law firm of Jones Day and counsel for Defendants SAP AG,  
3 SAP America, Inc. (together, "SAP") and TomorrowNow, Inc. ("TN") (collectively,  
4 "Defendants") in the above-captioned matter. I am a member in good standing of the state bar of  
5 California and admitted to practice before this Court. I make this declaration based on personal  
6 knowledge and, if called upon to do so, could testify competently thereto. Nothing in this  
7 declaration is intended to waive, or should be construed as a waiver of, the attorney-client  
8 privilege or attorney work product immunity.

9 1. I personally prepared the document entitled Defendants' Fed. R. Evid. 1006  
10 Summary of Evidence in Support of Motion for Partial Summary Judgment ("Rule 1006  
11 Summary"), attached hereto as **Exhibit 1**.

12 2. The Rule 1006 Summary summarizes information from three sources. [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 REDACTED  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]

19 3. The second source of information in the Rule 1006 Summary consists of [REDACTED]  
20 [REDACTED]  
21 REDACTED  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

25 4. The third source of information in the Rule 1006 Summary is a [REDACTED]  
26 REDACTED  
27 [REDACTED]

28 5. Collectively, these three sources comprise information relating [REDACTED]

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**REDACTED** that is too voluminous to be conveniently examined by the Court and that is more conveniently presented in the form of a summary chart. All of the source documents were produced by Plaintiffs and thus are available to them for examination. Additionally, Defendants would be happy to provide at the Court's request the documents upon which Defendants' Rule 1006 Summary is based.

6. I personally prepared the Rule 1006 Summary following a thorough review of the relevant information contained in the sources described above. I believe the Rule 1006 Summary to be an accurate summary of the information contained in the relevant portions of the documents on which it is based.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed this 3rd day of March, 2010 in San Francisco, California.

/s/ Elaine Wallace  
Elaine Wallace