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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

ORACLE USA, INC., *et al.*,  
Plaintiffs,  
v.  
SAP AG, *et al.*,  
Defendants.

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

**DECLARATION OF UWE KOEHLER  
IN SUPPORT OF ORACLE'S  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

Date: May 5, 2010  
Time: 9:00 am  
Place: 3rd Floor, Courtroom 3  
Judge: Hon. Phyllis J. Hamilton

Case No. 07-CV-01658 PJH (EDL)

1 I, Uwe Koehler, declare as follows:

2 1. I am Senior Director Compliance & Risk for Oracle America, Inc., the  
3 successor-in-interest to Oracle USA, Inc., in the Global Information Security Group ("GIS"). I  
4 have personal knowledge of the facts set forth in this declaration and would competently testify  
5 to them if called upon to do so.

6 2. GIS is the group within Oracle responsible for analyzing and preserving  
7 electronic evidence relevant to Oracle internal information security investigations and, at times,  
8 related to litigation or threatened litigation involving Oracle. Accordingly, I was closely  
9 involved in the investigation of TomorrowNow's access to and downloading from Oracle's  
10 Customer Connection computer systems prior to filing the Complaint in this case (the  
11 "investigation").

12 3. I have reviewed Exhibit 167, which are notes that I prepared prior to my  
13 deposition on December 5, 2008. The second page of these notes contain conservative estimates  
14 of employee time and other expenses related to the investigation. The employee time and other  
15 investigation-related expenses inventoried on the second page of Exhibit 167 all occurred within  
16 the first year of the initial discovery of the access and downloading in November of 2006. Just the  
17 value of the time that I personally spent on the investigation from the start of the initial discovery  
18 of TomorrowNow's downloading in November 2006 to June of 2007 was far above \$5000.

19 4. I also reviewed the reverse proxy log files for Oracle's Customer  
20 Connection systems prior to my deposition in this matter, and those log files reflect that on certain  
21 days between September 2006 and April 2007, TomorrowNow downloaded more bytes of data  
22 from Customer Connection and used more computing resources on those computer systems than  
23 all other users from the rest of the world combined. From my experience working with GIS and  
24 the Customer Connection computer systems, I believe that it is very likely that customers using  
25 the Customer Connection systems during these periods of high downloads from TomorrowNow  
26 experienced slowness and latency issues.

1 I declare under penalty of perjury under the laws of the United States of America  
2 that the foregoing is true and correct and that this declaration was executed on March 02, 2010  
3 at Berlin, Germany.  
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Uwe Koehler