

EXHIBIT 100

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 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)

**DEFENDANT TOMORROWNOW,
 INC.'S SEVENTH AMENDED AND
 SUPPLEMENTAL RESPONSE TO
 PLAINTIFF ORACLE USA, INC.'S
 FIRST SET OF INTERROGATORIES
 (SET ONE)**

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INTERROGATORY NO. 6:

Describe in as much detail as possible all facts which support Your contention in ¶ 4 of Your Answer’s Affirmative Defenses that “Plaintiffs’ claim for copyright infringement is barred by the doctrine of misuse.”

RESPONSE TO INTERROGATORY NO. 6:

In addition to the General Responses and Objections, TomorrowNow objects that this interrogatory is a premature contention interrogatory and that it is compound, unduly burdensome and oppressive to the extent it seeks a narrative answer as to each of the allegedly copyrighted materials mentioned in Oracle's complaint. TomorrowNow further objects that Oracle has frustrated TomorrowNow's investigation and discovery into this issue by refusing to produce documents and information related to Oracle's alleged copyrighted materials. TomorrowNow will supplement its response to this interrogatory as its continuing investigation and discovery permit.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6:

TomorrowNow further responds that Plaintiffs have acted to restrict creative expression, have leveraged their copyrights in an anti-competitive manner, and have attempted to expand the scope of their copyright protection beyond the limits of the exclusive rights granted by the Copyright Act by improperly purporting to enforce their copyrights and otherwise communicating to potential and actual customers and those who do provide or may consider providing support and maintenance for Oracle products that it is not legally permissible to engage in such support. Notwithstanding that Defendants' investigation and analysis of these issues are ongoing, facts of which Defendants are currently aware include, but are not limited to: (1) testimony by Oracle Corporation's corporate representative that the company knows of no legitimate way in which a third party can provide support for PeopleSoft products, *see, e.g.*, September 23, 2008 Rule 30(b)(6) Deposition of Richard Cummins, 399:10-400:15; (2) testimony by Oracle Corporation's Vice President of Global Support Services that companies must have a relationship with Oracle to provide third party support, *see e.g.* April 30, 2009 Deposition of Buffy Ransom, 67:4-10 (testifying that third party support companies fall into one of two categories—"support partners that are sanctioned and have a relationship with us that provide Level 1 support" and "companies that were not partners, or not sanctioned relationship partners that claimed that they could provide support"); (3) a declaration by the Senior Director of Global Practices for Oracle USA, Inc. and Oracle Corporation that she is "not aware of any license with any Partner that would allow that

1 partner to copy Oracle's application software and support materials in order to create their own
2 fixes, patches or updates for customers," *see* Declaration of Colleen A. Kelly in Support of
3 Oracle's Opposition to Defendants' Motion to Compel Discovery (D.I. 256); (4) Plaintiffs'
4 admissions that, in their "marketing collateral for their support service sales representatives' use
5 in selling against TomorrowNow, Oracle did include multiple references to the unique value of
6 the Oracle-owned and proprietary intellectual property (including IP at the code level) needed to
7 perform full and legal support for every Oracle-owned application licensed to customers," *see*
8 May 1, 2009 Plaintiffs' Responses and Objections to Defendants' Second Set of Requests for
9 Admission ("RFAs"), Responses to RFA Nos. 15, 20, 25, 30, 35, 40, 45, 50, 55, 60, 65, 70, 75,
10 80, 85, 90, 95, 100, 105, 110, 115, 120, 125, 130, 135, 140, and 145 and May 1, 2009 Plaintiffs'
11 Responses and Objections to Defendants' Sixth Set of Interrogatories, Responses to Interrogatory
12 Nos. 105 and 110; (5) and Plaintiffs' continuing inability to identify any "methods Oracle
13 believes companies that provide third-party support for any Oracle product referred to in the
14 Complaint or at issue in this litigation may permissibly employ in providing such support,
15 including with respect to access to, and Downloading of, the Software and Support Materials,"
16 *see* October 26, 2007 Plaintiffs' Amended and Supplemental Responses and Objections to
17 Defendant TomorrowNow, Inc.'s First Set of Interrogatories, Response to Interrogatory No. 10.
18 TomorrowNow will supplement its response to this interrogatory as its continuing investigation
19 and discovery permit.

20 **INTERROGATORY NO. 7:**

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Dated: December 4, 2009

JONES DAY

By: /s/ Jason McDonell

Jason McDonell
Counsel for Defendants
SAP AG, SAP AMERICA, INC., and
TOMORROWNOW, INC.

PROOF OF SERVICE

I, Laurie Paige Burns, declare:

I am a citizen of the United States and employed in Santa Clara County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 California St, 26th Fl., San Francisco, CA 94104. On December 4, 2009, I served a copy of the attached document(s):

**DEFENDANTS' SEVENTH AMENDED AND SUPPLEMENTAL
RESPONSE TO PLAINTIFFS' FOURTH SET OF INTERROGATORIES
TO DEFENDANT TOMORROWNOW, INC. AND THIRD SET OF
INTERROGATORIES TO DEFENDANTS SAP AG AND SAP AMERICA,
INC.**

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by placing the document(s) listed above in a sealed envelope and causing such envelope to be hand delivered to the office of the addressee on the date specified above.
- by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

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Executed on December 4, 2009, at San Francisco, California.

By: 
 LAURIE PAIGE BURNS