

# **EXHIBIT 94**

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SAP AG, SAP AMERICA, INC., and  
17 TOMORROWNOW, INC.

18 UNITED STATES DISTRICT COURT  
19 NORTHERN DISTRICT OF CALIFORNIA  
20 OAKLAND DIVISION

21 ORACLE USA, INC., et al.,  
22 Plaintiffs,  
23 v.  
24 SAP AG, et al.,  
25 Defendants.

Case No. 07-CV-1658 PJH-EDL  
**DEFENDANT TOMORROWNOW,  
INC.'S SECOND AMENDED AND  
SUPPLEMENTAL RESPONSE TO  
PLAINTIFF ORACLE  
CORPORATION'S FIRST SET OF  
REQUESTS FOR ADMISSION**  
**CONFIDENTIAL PURSUANT TO  
PROTECTIVE ORDER**

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**REQUEST FOR ADMISSION NO. 13:**

Admit that You reviewed the “Terms of Use” of Oracle’s Customer Connection website prior to Your use of Customer Connection.

**RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

ADMITTED.

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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.

CONFIDENTIAL—TOMORROWNOW'S 2<sup>ND</sup>  
AMND. & SUPP. RESPONSE TO FIRST SET OF  
REQUESTS FOR ADMISSION  
Case No. 07-CV-1658 PJH (EDL)

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**PROOF OF SERVICE**

I, Laurie Paige Burns, declare

I am a citizen of the United States and employed in San Francisco 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 Street, 26<sup>th</sup> Floor, San Francisco, California 94104. On December 4, 2009, I served a copy of the attached document(s)

**DEFENDANT TOMORROWNOW, INC.'S SECOND AMENDED AND SUPPLEMENTAL RESPONSE TO PLAINTIFF ORACLE CORPORATION'S FIRST SET OF REQUESTS FOR ADMISSION — CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER**

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 500 p.m.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- 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