

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)

PROOF OF SERVICE

1 I, Shirley Nakano-McSwain, declare:

2 I am a citizen of the United States and employed in Santa Clara County, California. I am
3 over the age of eighteen years and not a party to the within-entitled action. My business address
4 is 1755 Embarcadero Road, Palo Alto, California 94303. On April 14, 2010, I served a copy of
5 the attached document(s):

6 **REPLY IN SUPPORT OF DEFENDANTS' MOTION FOR PARTIAL**
7 **SUMMARY JUDGMENT [SUBMITTED UNDER SEAL]**

8 **EXHIBIT 5 TO THE DECLARATION OF THARAN GREGORY LANIER IN**
9 **SUPPORT OF REPLY IN SUPPORT OF DEFENDANTS' MOTION FOR**
10 **PARTIAL SUMMARY JUDGMENT [SUBMITTED UNDER SEAL]**

- 11 by placing the document(s) listed above in a sealed Federal Express envelope and
12 affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal
13 Express agent for delivery.
- 14 by transmitting via e-mail or electronic transmission the document(s) listed above
15 to the person(s) at the e-mail address(es) set forth below.

16 Donn P. Pickett
17 Geoffrey M. Howard
18 Holly A. House
19 Zachary J. Alinder
20 Bree Hann
21 BINGHAM McCUTCHEN LLP
22 Three Embarcadero Center
23 San Francisco, CA 94111-4067
24 donn.pickett@bingham.com
25 geoff.howard@bingham.com
26 holly.house@bingham.com
27 zachary.alinder@bingham.com
28 bree.hann@bingham.com

I declare that I am employed in the office of a member of the bar of this court at whose
direction the service was made.

Executed on April 14, 2010, at Palo Alto, California.

By: /s/ Shirley Nakano-McSwain
Shirley Nakano-McSwain