

1 Robert A. Mittelstaedt (SBN 060359)  
 Jason McDonell (SBN 115084)  
 2 Elaine Wallace (SBN 197882)  
 JONES DAY  
 3 555 California Street, 26<sup>th</sup> 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