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 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)

**DECLARATION OF THARAN GREG  
 LANIER IN SUPPORT OF MOTION  
 TO EXCLUDE EXPERT TESTIMONY  
 OF PAUL C. PINTO**

Date: September 30, 2010  
 Time: 2:30 p.m.  
 Courtroom: 3, 3rd Floor  
 Judge: Hon. Phyllis J. Hamilton

1 I, THARAN GREGORY LANIER, declare as follows:

2 I am a partner in the law firm of Jones Day, 1755 Embarcadero Road, Palo Alto,  
3 California 94303, and counsel of record for Defendants SAP AG, SAP America, Inc. (together,  
4 “SAP”), and TomorrowNow, Inc. (“TN”) (collectively, “Defendants”) in the above-captioned  
5 matter. I am a member in good standing of the state bar of California and admitted to practice  
6 before this Court. I make this declaration based on personal knowledge and, if called upon to do  
7 so, could testify competently thereto.

8 1. Attached as **Exhibit 1** is a true and correct copy of Plaintiffs’ Supplemental Expert  
9 Disclosures, dated October 16, 2009.

10 2. Attached as **Exhibit 2** is a true and correct copy of the Expert Report of Paul C.  
11 Pinto, which was produced by Plaintiffs in this case.

12 3. Attached as **Exhibit 3** is a true and correct copy of the following excerpts from the  
13 Supplemental Expert Report of Paul K. Meyer, dated February 23, 2010, which was produced by  
14 Plaintiffs in this case: ¶¶ 15, 150-153, 228-229, 274-275.

15 4. Attached as **Exhibit 4** is a true and correct copy of the following excerpts from the  
16 May 19, 2010 Paul C. Pinto Deposition: 1, 16:5-13, 24:8-25:13, 35:16-37:18, 40:20-46:25, 50:15-  
17 52:16, 53:2-54:2, 57:14-20, 61:2-9, 66:17-67:3, 69:11-24, 75:10-77:22, 86:13-87:5, 103:6-21,  
18 111:1-3, 114:9-14, 176:7-14, 176:24-178:1, 188:3-8, 202:17-203:1, 212:12-21, 213:24-217:7,  
19 219:6-221:9, 221:17-23, 231:11-236:7, 237:20-239:4, 260:25-261:4, 284:5-16, 286:11-288:20,  
20 289:19-23, 293:5-294:6, 302:6-304:7.

21 5. Attached as **Exhibit 5** is a true and correct copy of Appendix A to the Expert  
22 Report of Paul C. Pinto, which was produced by Plaintiffs in this case.

23 6. Attached as **Exhibit 6** is a true and correct copy of the cover page and pages xi and  
24 xxiii of *Function Point Analysis: Measurement Practices for Successful Software Projects*.

25 7. Attached as **Exhibit 7** is a true and correct copy of the USC Center for Systems  
26 and Software Engineering Home Page, available at [http://sunset.usc.edu/csse/research/](http://sunset.usc.edu/csse/research/COCOMOII/cocomo_main.html)  
27 COCOMOII/cocomo\_main.html.

28 8. Attached as **Exhibit 8** is a true and correct copy of the Certification page of the

1 IFPUG Website, available at <http://www.ifpug.org/certification/cfps.htm>.

2 9. Attached as **Exhibit 9** is a true and correct copy of an undated document, marked  
3 in this case as Defendants' Deposition Exhibit 2059.

4 10. Attached as **Exhibit 10** is a true and correct copy of the *COCOMO II Model*  
5 *Definition Manual* at 1, 41, marked in this case as Defendants' Deposition Exhibit 2060.

6 11. Attached as **Exhibit 11** is a true and correct copy of the title page and pages 15  
7 and 141-142 of *Software Cost Estimation With COCOMO II*.

8 12. Attached as **Exhibit 12** is a true and correct copy of pages 1-4 of the SPR  
9 Programming Languages Table, which was produced by Plaintiffs in this case at ORCLX-PIN-  
10 000019.

11 13. Attached as **Exhibit 13** is a true and correct copy of *The Function Point Counting*  
12 *Practices Manual*, Release 4.2, which was produced by Plaintiffs in this case at ORCLX-PIN-  
13 000007.

14 14. Attached as **Exhibit 14** is a true and correct copy of the International Standard  
15 ISO/IEC, 20926, Manual, October 2003, Software engineering – IFPUG 4.1 Unadjusted  
16 functional size measurement method – Counting practices manual, which was produced by  
17 Plaintiffs in this case at ORCLX-PIN-000009.

18 15. Attached as **Exhibit 15** is a true and correct copy of Plaintiffs' Fifth Amended  
19 And Seventh Supplemental Responses and Objections to Defendant TomorrowNow, Inc.'s  
20 Interrogatory No. 13 [Corrected], dated May 17, 2010.

21 16. Attached as **Exhibit 16** is a true and correct copy of a February 8, 2010 e-mail  
22 from Jeffrey Butler to Geoffrey Howard.

23 17. Attached as **Exhibit 17** is a true and correct copy of a February 9, 2010 e-mail  
24 from Amy Donnelly to Jeffrey Butler.

25 18. Attached as **Exhibit 18** is a true and correct copy of a June 23, 2010 e-mail from  
26 Amy Donnelly to Jeffrey Butler.

27 19. Attached as **Exhibit 19** is a true and correct copy of *Democratic Party Wash. State*  
28 *v. Reed*, No. C00-5419FDB, 2002 U.S. Dist. LEXIS 27921 (W.D. Wash. Mar. 27, 2002).

