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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  
 GREGORY LANIER IN SUPPORT OF  
 DEFENDANTS' MOTION FOR  
 PARTIAL SUMMARY JUDGMENT**

Date: May 5, 2010

Time: 9:00 a.m.

Courtroom: 3, 3rd Floor

Judge: Hon. Phyllis J. Hamilton

**FILED PURSUANT TO D.I. 810**

DECLARATION OF THARAN GREGORY LANIER ISO  
 DEFENDANTS' MOT. FOR PARTIAL SUMMARY JUDGMENT  
 Case No. 07-CV-1658 PJH (EDL)

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 A** is a true and correct copy of the following excerpts from  
9 Plaintiffs’ Expert Report of Paul K. Meyer: ¶¶ 20, ¶¶ 72-73, ¶¶ 91-105, ¶¶ 142-143, ¶¶ 150-152,  
10 ¶¶ 282-288, ¶¶ 351-355, ¶¶ 402-405, ¶¶ 434-435, and ¶¶ 447-458.

11 2. Attached as **Exhibit B** is a true and correct copy of the following excerpts from  
12 Plaintiffs’ Expert Report of Paul C. Pinto: 4-6, 43-44.

13 3. Attached as **Exhibit C** is a true and correct copy of pages 1, 23, and 206 of  
14 Plaintiffs’ Supplemental Responses and Objections to Defendants’ Fifth Set of Interrogatories  
15 (Database), dated November 11, 2009.

16 4. Attached as **Exhibit D** is a true and correct copy of the June 1, 2005 License  
17 Agreement between Oracle Finance S.A.R.L. and Oracle EMEA Limited, produced by Plaintiffs  
18 in this case at Bates numbers ORCL00182248-70.

19 5. Attached as **Exhibit E** is a true and correct copy of the following excerpts from the  
20 April 14, 2009 Uyen Ngoc Ann Kishore Deposition: 1, 139:16-23, 142:5-145:14, and 247.

21 6. Attached as **Exhibit F** is a true and correct copy of the following excerpts from the  
22 September 25, 2009 Uyen Ngoc Ann Kishore Deposition: 250, 289:25-290:11, 362:17-370:2,  
23 539:12-25.

24 7. Attached as **Exhibit G** is a true and correct copy of Exhibit 21.01 to the publicly  
25 filed June 29, 2009 Oracle Corporation Annual Report (Form 10-K).

26 8. Attached as **Exhibit H** is a true and correct copy of the following excerpts from  
27 the July 6, 2009 Fourth Amended and Restated Cost Sharing Agreement, produced by Plaintiffs  
28 in this case at Bates number ORCL00578071: 1.

1           9.       Attached as **Exhibit I** is a true and correct copy of Brief for Respondent-Appellant  
2 in *Sarhank Group v. Oracle Corp.*, 404 F.3d 657 (2d Cir. 2005) (No. 92-9383).

3           10.       Attached as **Exhibit J** is a true and correct copy of the following excerpts from  
4 Plaintiffs' Third Supplemental and Amended Initial Disclosures, dated November 2, 2009: 1, 49-  
5 55, 57.

6           11.       Attached as **Exhibit K** is a true and correct copy of *Applied Hydrogel Tech., Inc. v.*  
7 *Raymedica, Inc.*, No. 06cv2254 DMS (POR), 2008 WL 5500756 (S.D. Cal. Oct. 7, 2008).

8           12.       Attached as **Exhibit L** is a true and correct copy of *Arabian v. Sony Elec. Inc.*, No.  
9 05-CV-1741 WGH (NLS), 2007 U.S. Dist. LEXIS 12715 (S.D. Cal. Feb. 22, 2007).

10          13.       Attached as **Exhibit M** is a true and correct copy of *FAS Techs., Ltd. v. Dainippon*  
11 *Screen Mfg.*, No. C 00-1879 CRB, 2001 U.S. Dist. LEXIS 15444 (N.D. Cal. Sept. 21, 2001).

12          14.       Attached as **Exhibit N** is a true and correct copy of *Guy v. IASCO*, No. B168339,  
13 2004 WL 1354300 (Cal. Ct. App. June 17, 2004).

14          15.       Attached as **Exhibit O** is a true and correct copy of *Quantum Corp. v. Riverbed*  
15 *Tech., Inc.*, No. C 07-04161 WHA, 2008 WL 314490 (N.D. Cal. Feb. 4, 2008).

16          16.       Attached as **Exhibit P** is a true and correct copy of *Resdev, LLC v. Lot Builders*  
17 *Ass'n, Inc.*, No. 6:04-cv-1374-Orl-31DAB, 2005 U.S. Dist. LEXIS 19099 (M.D. Fla. Aug. 10,  
18 2005).

19          17.       Attached as **Exhibit Q** is a true and correct copy of *Reynoso v. Constr. Protective*  
20 *Servs., Inc.*, No. 06-56381, 2008 U.S. App. LEXIS 19681 (9th Cir. Sept. 16, 2008).

21          18.       Attached as **Exhibit R** is a true and correct copy of *Siegel v. Warner Bros. Entm't*,  
22 No. CV 04-08400-SGL (RZx), 2009 WL 2014164 (C.D. Cal. July 8, 2009).

23          19.       Attached as **Exhibit S** is a true and correct copy of *Silong v. U.S.*, No. CV F 06-  
24 0474 LJO DLB, 2007 U.S. Dist. LEXIS 68724 (E.D. Cal. Sept. 5, 2007).

25          20.       Attached as **Exhibit T** is a true and correct copy of *Therasense, Inc. v. Becton,*  
26 *Dickinson & Co.*, No. C 04-02123 WHA, 2008 WL 2323856 (N.D. Cal. May 22, 2008).

27          21.       Attached as **Exhibit U** is a true and correct copy of *Tidenberg v. Bidz.com*, No.  
28 CV 08-5553 PSG (FMO), 2009 U.S. Dist. LEXIS 21916 (C.D. Cal. Mar. 4, 2009).

