

EXHIBIT 10

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

21 ORACLE CORPORATION, et al.,

22 Plaintiffs,

23 v.

24 SAP AG, et al.,

25 Defendants.

Case No. 07-CV-1658 PJH (EDL)

**DEFENDANT TOMORROWNOW,
INC.'S THIRD AMENDED AND
SUPPLEMENTAL RESPONSE TO
PLAINTIFF ORACLE USA, INC.'S
SECOND SET OF
INTERROGATORIES**

6 **INTERROGATORY NO. 14:**

7 For each local environment Identified in Your responses to Interrogatories 12 and 13,
8 Identify all Customers who received support based on the Use of that environment, and a detailed
9 description of that support (such as, for example, the retrofit tax updates testified to by Shelley
10 Nelson (Shelley Nelson Dep. at 32:19-34:13 (Oct. 30, 2007)) including, where applicable,
11 Identification of the name, number, version or other Identifying information of the product
12 provided as part of the support.

13 **RESPONSE TO INTERROGATORY NO. 14:**

14 THIS RESPONSE IS DESIGNATED AS HIGHLY CONFIDENTIAL.

15 TomorrowNow objects that this interrogatory is cumulative, compound, unduly
16 burdensome and oppressive to the extent it seeks to require TomorrowNow to attempt to evaluate
17 millions of pages of documents and data relating to customer support that have been created over
18 several years. Subject to and without waiving the foregoing objections and the General
19 Responses and Objections, TomorrowNow responds as follows: Generally, to the extent a
20 particular entity is or was a TomorrowNow customer, and when TomorrowNow maintains an
21 environment on that customer's behalf, TomorrowNow provided or provides support to that
22 customer utilizing that environment. For updates and/or fixes to Peoplesoft and JDE products,
23 TomorrowNow has generally used the customer's environment(s) (whether maintained by
24 TomorrowNow or the customer) to create or test the updates and/or fixes. TomorrowNow is
25 aware of certain instances where an environment maintained on behalf of one customer may have
26 been used to create or test updates and/or fixes for other customers. *See, e.g.*, Tr. of October 30,
27 2007 Deposition of Mark Kreutz, at 197:8-199:25; Tr. of October 30, 2007 Deposition of Shelley
28 Nelson at 32:19-41:17, 53:13-55:7; Dec. 6, 2007 Deposition of Shelley Nelson at 126:4-139:3,

1 145:1-14, 160:16-161:5, 185:3-16, 195:24-196:20. Additional information responsive to this
2 interrogatory as to specific customers may be derived or ascertained from TomorrowNow's
3 business records; specifically, the relevant specific customer support efforts, updates, and fixes
4 are set forth and described in detail in TomorrowNow's emails among development and support
5 engineers and its databases of customer service information, including its SAS databases (which
6 have been previously produced, in native format, at TN-OR 00009569), which have been or will
7 be included in TomorrowNow's production of documents and on which TomorrowNow relies to
8 further respond to this interrogatory pursuant to Rule 33(d).

9 **AMENDED AND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:**

10 TomorrowNow amends the confidentiality designation of its prior response to be
11 designated as Confidential.

12 TomorrowNow supplements its prior response as follows:

13 THIS RESPONSE IS DESIGNATED AS CONFIDENTIAL.

14 TomorrowNow further responds that information responsive to this interrogatory can be
15 found in the SAS database. *See* TN-OR 03775478, TN(Hard drive).67. TomorrowNow further
16 responds that Plaintiffs have questioned TomorrowNow's witnesses extensively in deposition on
17 topics related to this interrogatory. For example, Plaintiffs requested deposition testimony on
18 TomorrowNow's "creation and use of Customer Local Environments, including without
19 limitation: b. The manner and method by which Customer Local Environments were created,
20 stored and Used by You; . . . d. The total number of Customer Local Environments created for
21 each identified customer; e. The name, release, and version of all PSFT or JDE branded Software
22 obtained and/or copied to create each identified Customer Local Environment; f. The identity and
23 description of all Customer Local Environments maintained in any way by You relating to
24 Customers for whom You had ceased to provide support services; g. The identity and description
25 of all Customer Local Environments Used by You in any way to support any Customer other than
26 the one that provided the Software used to create the Customer Local Environment; . . . [and] l.
27 The process by which Customer Local Environments were Used as part of the ordinary course of
28 business for SAP TN, including without limitation to on-boarding of new Customers; support of

1 Customer cases, issues, and problems; reactive and proactive development of bug fixes, updates,
2 patches, explanations, or regulatory changes for Customers; and testing of other operating
3 systems levels. . . .” See January 22, 2008 Amended Notice of Deposition of TomorrowNow, Inc.
4 Pursuant to Fed. R. Civ. P. 30(b)(6).

5 In response to these noticed topics and during the course of individual depositions of
6 TomorrowNow witnesses, TomorrowNow has provided more than sufficient testimony on the use
7 of TomorrowNow’s local environments. See, e.g., February 6-7, 2008 Deposition of John Baugh
8 Pursuant to Rule 30(b)(6); February 19, 2008 Deposition of Mark Kreutz Pursuant to Rule
9 30(b)(6); December 6, 2007 Deposition Testimony of Shelley Nelson Pursuant to Rule 30(b)(6);
10 June 25, 2008 Deposition of Rod Russell Pursuant to Rule 30(b)(6); April 1, 2008 Deposition of
11 Kathy Williams Pursuant to Rule 30(b)(6); April 1, 2008 Deposition of Catherine Hyde Pursuant
12 to Rule 30(b)(6); April 18, 2008 Deposition of Shelley Nelson; December 5, 2008 Deposition of
13 Matthew Bowden; February 12, 2009 Deposition of Catherine Hyde; May 12, 2009 Deposition of
14 Catherine Hyde; February 5, 2009 Deposition of Rod Russell; April 10, 2009 Deposition of Patti
15 VonFeldt; February 26, 2009 Deposition for Andrew Nelson; April 29, 2009 Deposition of
16 Andrew Nelson.

17 TomorrowNow further states that it would be impossible and unreasonable to expect
18 TomorrowNow to provide a detailed description of the support provided with each local
19 environment. This interrogatory calls for tracking information for hundreds of environments
20 from 2002 until the local environments were shut down on April 30, 2008. TomorrowNow relies
21 upon all testimony and each document cited in this Supplemental Response to further respond to
22 this interrogatory pursuant to Rule 33(d).

23 **SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:**

24 THIS RESPONSE IS DESIGNATED AS CONFIDENTIAL.

25 This response supplements the responses above and provides, to the extent reasonably
26 possible, the information required by Judge Laporte’s August 31, 2009 Order for the fixes
27 associated with the following master fix IDs selected by Plaintiffs: for PeopleSoft, CSS-TN-
28 0112069292, TN-AP06OCT, CSS-TN0103076718, 2005B-751C and CSS-TN-0114089315; and

1 for JD Edwards, 1101064011, 1010067551, 1012062843, 1122054572 and 1015079561. This
2 response contains what TomorrowNow, with the assistance of its counsel¹ in this litigation, was
3 reasonably able to locate and include after extensive, specific investigations related to each of
4 these master fix records. The supplemental information provided below represents
5 TomorrowNow's best reasonable efforts, in the time permitted by the Court's August 31, 2009
6 Order (including the extension granted by paragraph 2 of this Court's October 5, 2009 Order), to
7 compile a complete as possible narrative regarding the environment and/or environment
8 components used and related to each master fix record. The narratives for each master fix record
9 below contain TomorrowNow's best reasonable belief as of October 9, 2009 as to the activities
10 described below. The narratives provided below are primarily based on the analysis of the non-
11 privileged documents and data in TomorrowNow's possession that are both relevant to each
12 master fix record and that have been previously made available to Plaintiffs in this case. To the
13 extent that any former TomorrowNow employees were believed to have relevant, substantive
14 information, could reasonably be located, and agreed to make themselves available, those former
15 employees were interviewed in an attempt to determine what, if any, additional factual
16 information they could possibly provide in addition to the documents and other data that serve as
17 the primary basis of each narrative response below. The master fix records described below are
18 dated between April 2005 and January 2008. Although TomorrowNow has taken reasonable
19 efforts to make the information contained in the narratives below as complete and accurate as
20 possible, the supplemental information provided below is necessarily limited by: (a) the
21 individual memories of the former TomorrowNow employees who were interviewed as part of
22 the investigation that led to this supplementation; and (b) the fact the relevant documents and data
23 maintained by TomorrowNow and produced to Plaintiffs in this case that served as the primary
24 basis for the analysis that led to this supplementation, though quite extensive, do not record each
25 and every single detail of each and every single action related to each master fix record.

26 ¹ Judge Laporte's August 31, 2009 Order (Dkt. 460), pursuant to which this supplemental
27 response is made, specifically states: "Defendants' supplemental response to Interrogatory 14 and
28 response to Interrogatory 14(a) shall not be construed as a waiver of either the attorney-client
privilege or work product immunity." Thus, this response is made subject to, and without
waiving, the attorney-client privilege, work product immunity or any other applicable privilege.
This supplemental response does not, and is not intended to, contain any legal advice or opinions.

1 The supplemental information provided below and each of the following narratives only
2 apply to the specific, single master fix record to which each narrative relates, and should not be
3 construed as an express or implied admission by TomorrowNow or any other Defendant that the
4 activities associated with any other master fix record were the same or even similar to the
5 activities described below. Moreover, the purpose of the following supplemental responses is to
6 describe, in a narrative format, what activities TomorrowNow reasonably believes actually
7 occurred with respect to each specific master fix record identified below. This interrogatory does
8 not seek information regarding TomorrowNow's or any other Defendants' opinions on whether
9 the activities described in detail below were consistent with, or in violation of, TomorrowNow's
10 policies, procedures and best practices. Therefore, the following supplementation should not be
11 construed as TomorrowNow's acceptance or rejection of any of the activities below as being
12 conforming or nonconforming with TomorrowNow's policies, procedures and best practices.
13 Plaintiffs have sought, and Defendants have provided, other discovery responses in a variety of
14 forms (*e.g.*, interrogatory responses, document production, individual deposition testimony,
15 30(b)(6) corporate deposition testimony) relating to TomorrowNow's policies, procedures and
16 best practices regarding how TomorrowNow provided updates, fixes and other related services to
17 its customers.

18 **PeopleSoft Master Fix Record CSS-TN-0112069292**

19 Fix ID CSS-TN-0112069292 is not an actual fix that was provided to any customer, it is
20 only the identifier for the internal TomorrowNow record of a particular reported issue affecting
21 one or more TomorrowNow customers. The master fix record ID is simply a reference by which
22 TomorrowNow tracked its efforts to create individual client fixes to correct the issue identified in
23 the master fix record. *See* TN-OR04446719, TN (Hard Drive).75 at View:4. Master Fixes\4. By
24 Fix ID\CSS-TN-0112069292. This particular master fix record denotes that there were updates
25 and changes required by local Ohio W-2 and tax reporting agencies for TomorrowNow customers
26 with PeopleSoft payroll applications on HRMS that required Ohio tax updates. *Id.* Catherine
27 Hyde was listed as the "fix owner" of this master fix record. *Id.* TomorrowNow reasonably
28 believes that 41 customers received objects that are associated with this particular master fix

1 record. Below is detailed information regarding the processes related to this master fix record
2 and any environments or environment components used as part of those processes that
3 TomorrowNow, with the assistance of its counsel² in this litigation, was reasonably able to locate
4 and include after extensive investigation related to this particular master fix record.

5 ***Scoping***

6 Scoping is the initial process of identifying an issue and determining a plan for resolving
7 that issue. TomorrowNow generally monitored certain regulatory websites and materials to
8 watch for potential regulatory or legislative changes affecting state and local governments. After
9 a review of all available data and a number of interviews with former TomorrowNow employees
10 involved with this particular master fix record, TomorrowNow has not been able to confirm the
11 specific website or materials used as the source for the information associated with this master fix
12 record, but reasonably believes that any information used as the background for this particular
13 master fix record was derived from researching the websites or materials TomorrowNow
14 regularly monitored.

15 TomorrowNow reasonably believes that Catherine Hyde activated this master fix record
16 and began the scoping process. TomorrowNow reasonably believes that to begin the scoping
17 process, Hyde likely reviewed a regulatory website or materials and developed a spreadsheet
18 listing the Ohio localities, local tax rates, local tax credit information, etc. *See* TN-OR04446719,
19 TN (Hard Drive).75 at View:4. Master Fixes\4. By Fix ID\CSS-TN-0112069292>Select Fix Notes
20 (Internal Use Only)\Select General Notes>Select Locality Updates and Supporting
21 Documentation\PY06MAR-0112069292_v3.xls. TomorrowNow also reasonably believes that
22 this spreadsheet was likely completed by reviewing the updated rates and credits from the
23 monitored websites or materials and then researching the current local Ohio tax rates, local tax
24 credit information, etc. Based on this, TomorrowNow reasonably believes that Hyde likely
25 developed the spreadsheet without using a customer environment or environment component;
26 however TomorrowNow has not located sufficient information to determine exactly what was
27 used. If any environment or environment component was used during this process,

28 ² *See* fn. 1, *supra*.

1 TomorrowNow has not yet located any records or information that reveals what, if any,
2 environment or environment component was used in this portion of the scoping process.

3 TomorrowNow reasonably believes that the fixes associated with this master fix record
4 were delivered as part of the TN-PY06MAR customer specific bundles. TomorrowNow also
5 reasonably believes that the HRMS 7.02 customers identified as potentially contracting with
6 TomorrowNow to receive fixes associated with this particular master fix record were North
7 Carolina State University and Robert Half International, Inc.

8 TomorrowNow further reasonably believes that the HRMS 7.51 customers it identified as
9 potentially contracting with TomorrowNow to fixes associated with this master fix record were as
10 follows:

- 11 • A.C. Transit
- 12 • Advance Auto Parts
- 13 • Bear Stearns & Co., Inc.
- 14 • Berkshire Realty Holdings, L.P.
- 15 • BiLLit Accounting and Information
- 16 • City of Flint, Michigan
- 17 • The Empire District Electric Company
- 18 • Heritage Valley Health System
- 19 • ICF Consulting Group, Inc.
- 20 • Norwegian Cruise Lines
- 21 • Providence Health Systems
- 22 • Universal City Studios, LLP
- 23 • University of Massachusetts

24 TomorrowNow reasonably believes that the HCM 8SP1 customers identified as
25 potentially contracting with TomorrowNow to receive fixes associated with this master fix record
26 were as follows:

- 27 • Borders Group, Inc.
- 28 • ConAgra

- 1 • Quad Graphics, Inc.
- 2 • Rolls Royce of North America Inc.
- 3 • Suburban Propane, L.P.

4 TomorrowNow reasonably believes that the HCM 8.3SP1 customers it identified to
5 potentially receive the fixes associated with this master fix record were as follows:

- 6 • American Council on Education
- 7 • Arvin Meritor, Inc.
- 8 • Big Lots Stores, Inc.
- 9 • Ciber, Inc.
- 10 • Fairchild Semiconductor
- 11 • Foot Locker Incorporated
- 12 • Health and Human Services Commission
- 13 • High Industries, Inc.
- 14 • LS Management, Inc.
- 15 • Olin Corporation
- 16 • PepsiAmericas
- 17 • Rent-a-Center, Inc.
- 18 • Seattle Public Schools
- 19 • Susquehanna Pfaltzgraff Company
- 20 • Toshiba America Information Systems
- 21 • Tropical Shipping USA, LLC

22 TomorrowNow reasonably believes that the HCM 8.8SP1 customers it identified to
23 potentially receive the fixes associated with this master fix record were as follows:

- 24 • Children's Health System of Alabama
- 25 • City of Huntsville
- 26 • Delta Dental of Michigan
- 27 • Kent County Michigan
- 28 • Waste Management Resources LLP

1 **Replication**

2 TomorrowNow has not been able to locate any information regarding any replication that
3 may have been performed relating to this particular master fix record. This may indicate that
4 replication for this particular master fix record was unnecessary and thus not performed.

5 **Development**

6 As stated above, the master fix record itself is only a description of an issue or problem to
7 be addressed, and is not a developed deliverable fix or update of any type. The actual objects
8 developed and delivered that relate to this particular master fix record are the actual delivered
9 fixes and updates that were provided to customers and identified with this master fix record.

10 For this particular master fix record, two objects types required development. While the
11 actual content of the objects were different for most release levels, the names of the objects were
12 the same across all release levels and were “UPD0112069292_TN.dat” and
13 “UPD0112069292_TN.dms. *See* TN-OR04446719, TN (Hard Drive).75 at View:4. Master
14 Fixes\4. By Fix ID\CSS-TN-0112069292>Select Fix Deliverables. TomorrowNow reasonably
15 believes that the data file (.dat) was created to include the updates for the Ohio W-2 reporting
16 agencies. TomorrowNow reasonably believes that the data moving script (.dms) was created to
17 move the data contained in the data file to the proper location.

18 TomorrowNow believes that Catherine Hyde developed the .dat files at the release level
19 using the following database environment components for this particular master fix record:

- 20 • HR702DAT—*See* TN-OR0657705, TN (Hard Drive).94 at TN-
21 FS01_F\C\DellRestore\F\Development Staging\CSS HRMS 7.02\Prior
22 Bundles\PY06MAR\Individual Fixes\TN-0112069292\UPD0112069292_TN.DAT.
- 23 • D751DATM—*See* TN-OR0657705, TN (Hard Drive).94 at TN-
24 FS01_F\C\DellRestore\F\Development Staging\CSS HRMS 7.51 Commercial\Prior
25 Bundles\PY06MAR\Individual Fixes\TN-0112069292\UPD0112069292_TN.DAT.
- 26 • D831DATM—*See* TN-OR0657705, TN (Hard Drive).94 at TN-
27 FS01_F\C\DellRestore\F\Development Staging\CSS HRMS 8.3SP1\Prior
28 Bundles\PY06MAR\Individual Fixes\TN-0112069292\UPD0112069292_TN.DAT.

- D881DATM—*See* TN-OR0657705, TN (Hard Drive).94 at TN-FS01_F\C\DellRestore\F\Development Staging\CSS HRMS 8.8SP1\Prior Bundles\PY06MAR\Individual Fixes\TN-0112069292\UPD0112069292_TN.DAT.

TomorrowNow further reasonably believes that Hyde used the D831DATM database environment component to develop the .dat files for both the 8SP1 and 8.3SP1 release levels for this particular master fix record. *See* TN-OR0657705, TN (Hard Drive).94 at TN-

FS01_F\C\DellRestore\F\Development Staging\CSS HRMS 8SP1\Prior Bundles\PY06MAR\Individual Fixes\TN-0112069292\UPD0112069292_TN.DAT.

TomorrowNow has not been able to determine if any additional environment components or environments were used to develop the .dat files.

TomorrowNow has not been able to locate any information regarding what, if any, environments or environment components were used for the development of the .dms objects with regard to this particular master fix record. This may indicate that no environments or environment components were used for .dms development for this particular master fix record.

Packaging

As noted above, TomorrowNow reasonably believes that the objects developed and associated with this particular master fix record were generally delivered as part of the objects included in the customer specific TN-PY06MAR bundles. TomorrowNow further reasonably believes that TomorrowNow employees likely packaged all of the .dat objects, including any specific .dat objects associated with this particular master fix record that any specific customer was scheduled to receive as part that customer's specific TN-PY06MAR bundle into one complete .dat file for that specific customer. While TomorrowNow reasonably believes the final .dat file each customer received as part of the customer specific TN-PY06MAR bundle was different for each specific customer, the packaged .dat file was always named TN_PY06MAR_U.DAT. Since each customers' TN_PY06MAR_U.DAT file was specific to each customer, not all customers who received a TN_PY06MAR_U.DAT file received objects associated with this particular master fix record. For a list of those customers that TomorrowNow reasonably believes received objects or fixes associated with this particular master fix record see

1 the Delivery section below. As part of the packaging process for the .dat objects associated with
2 this particular master fix record that were contained in the customer specific TN-PY06MAR
3 bundles, TomorrowNow reasonably believes that TomorrowNow employees used the following
4 database environment components for packaging:

- 5 • D702DATM—*See* TN-OR0657705, TN (Hard Drive).94 at TN-
6 FS01_F\C\DellRestore\F\Development Staging\CSS HRMS 7.02\Prior
7 Bundles\PY06MAR\RHI-TN-
8 PY06MAR\PY06MAR\PY06MAR_BATCH\data\TN_PY06MAR_U.DAT.
- 9 • D751DATM—*See* TN-OR0657705, TN (Hard Drive).94 at TN-
10 FS01_F\C\DellRestore\F\Development Staging\CSS HRMS 7.51 Commercial\Prior
11 Bundles\PY06MAR\bundle dev\data work\TN_PY06MAR_U.DAT.
- 12 • D831DATM—*See* TN-OR0657705, TN (Hard Drive).94 at TN-
13 FS01_F\C\DellRestore\F\Development Staging\CSS HRMS 8.3SP1\Prior
14 Bundles\PY06MAR\bundle dev\data work\TN_PY06MAR_U.DAT.
- 15 • D881DATM—*See* TN-OR0657705, TN (Hard Drive).94 at TN-
16 FS01_F\C\DellRestore\F\Development Staging\CSS HRMS 8.8SP1\Prior
17 Bundles\PY06MAR\bundle dev\TN_PY06MAR_U.DAT.

18 TomorrowNow reasonably believes that the data in the database environment components listed
19 were cleared of the data for each customer after that customer's deliverable was packaged to
20 facilitate the customer specific packaging of the next deliverable on a customer-by-customer
21 basis. For example, for Robert Half International the D702DATM database environment
22 component was likely used to package the .dat objects that Robert Half received as part of the its
23 customer specific TN-PY06MAR bundle. The data in the D702DATM database environment
24 component was likely then cleared and the data relevant to North Carolina State University was
25 then used to package North Carolina State University .dat objects that it received as part of the its
26 customer specific TN-PY06MAR bundle.

27 TomorrowNow reasonably believes that each database environment component listed
28 above was used to do the packaging for each customer that received .dat objects associated with

1 this particular master fix record using the database environment component that corresponded
2 with the release level that customer was on with the exception of the D831DATM database
3 environment component, which was likely used for both the 8SP1 and 8.3SP1 release level. *See*
4 TN-OR0657705, TN (Hard Drive).94 at TN-FS01_F\C\DellRestore\F\Development Staging\CSS
5 HRMS 8SP1\Prior Bundles\PY06MAR\bundle dev\data work\TN_PY06MAR_U.DAT.

6 The .dms objects associated with this particular master fix record were likely packaged in
7 a similar manner; however, TomorrowNow has not been able to locate any information regarding
8 what, if any, environments or environment components were used for the packaging of the .dms
9 objects. And, because .dms objects do not require environments or environment components for
10 packaging, TomorrowNow reasonably believes that no environments or environment components
11 were used for the packaging of .dms objects related to this particular master fix record.

12 *Testing*

13 *(a) Unit Testing*

14 TomorrowNow reasonably believes Catherine Hyde tested the objects associated with this
15 particular master fix record using one of the database environment components listed above for
16 development, but TomorrowNow has not located sufficient information to determine with any
17 certainty which one was used.

18 *(b) Quality Assurance Testing – Individual Fix Testing*

19 TomorrowNow reasonably believes that the process of individual fix testing for the fixes
20 associated with this particular master fix record involved testing the objects to make sure the
21 applications performed as expected. TomorrowNow reasonably believes that TomorrowNow
22 employees performed individual fix tests related to this particular master fix record using the
23 following environment components:

- 24 • HR702CSS— *See* TN-OR04446719, TN (Hard Drive). 75 at View:4. Master Fixes\4.
25 By Fix ID\CSS-TN-0112069292>Select Fix Notes (Internal Use Only)\Select General
26 Notes\Testing Documentation; TN-OR0657705, TN (Hard Drive).94 at TN-
27 FS01_F\C\DellRestore\F Drive\Consultant Docs & Templates\Fix Delivery Work
28 Documents\TN-PY06MAR\Individual Fix Testing\CSS-TN-W2 Reporting Agency-

- 1 MMREF Fixes\CSS-TN 01120692 RITA – CCA Ohio W2 Agencies and Tax
2 Codes\CSS-TN-0112069292 RITA-CCS Ohio W2 Reporting Agencies_702.doc.
- 3 • HR751ACTM— *See* TN-OR04446719, TN (Hard Drive). 75 at View:4. Master
4 Fixes\4. By Fix ID\CSS-TN-0112069292>Select Fix Notes (Internal Use Only)\Select
5 General Notes\Testing Documentation; TN-OR0657705, TN (Hard Drive).94 at TN-
6 FS01_F\C\DellRestore\F Drive\Consultant Docs & Templates\Fix Delivery Work
7 Documents\TN-PY06MAR\Individual Fix Testing\CSS-TN-W2 Reporting Agency-
8 MMREF Fixes\CSS-TN 01120692 RITA – CCA Ohio W2 Agencies and Tax
9 Codes\CSS-TN-0112069292 RITA-CCS Ohio W2 Reporting Agencies_751.doc.
 - 10 • H831TAIM— *See* TN-OR04446719, TN (Hard Drive). 75 at View:4. Master Fixes\4.
11 By Fix ID\CSS-TN-0112069292>Select Fix Notes (Internal Use Only)\Select General
12 Notes\Testing Documentation; TN-OR0657705, TN (Hard Drive).94 at TN-
13 FS01_F\C\DellRestore\F Drive\Consultant Docs & Templates\Fix Delivery Work
14 Documents\TN-PY06MAR\Individual Fix Testing\CSS-TN-W2 Reporting Agency-
15 MMREF Fixes\CSS-TN 01120692 RITA – CCA Ohio W2 Agencies and Tax
16 Codes\CSS-TN-0112069292 RITA-CCS Ohio W2 Reporting Agencies_831.doc.
 - 17 • H881PCAO— *See* TN-OR04446719, TN (Hard Drive). 75 at View:4. Master Fixes\4.
18 By Fix ID\CSS-TN-0112069292>Select Fix Notes (Internal Use Only)\Select General
19 Notes\Testing Documentation; TN-OR0657705, TN (Hard Drive).94 at TN-
20 FS01_F\C\DellRestore\F Drive\Consultant Docs & Templates\Fix Delivery Work
21 Documents\TN-PY06MAR\Individual Fix Testing\CSS-TN-W2 Reporting Agency-
22 MMREF Fixes\CSS-TN 01120692 RITA – CCA Ohio W2 Agencies and Tax
23 Codes\Recover.CSS-TN-0112069292 RITA-CCA_881.doc.

24 TomorrowNow reasonably believes that Wanda Jones and Kristen Page performed the
25 individual fix testing for the objects developed associated with this particular master fix record.
26 *See* TN-OR04446719, TN (Hard Drive).75 at View:4. Master Fixes\4. By Fix ID\CSS-TN-
27 0112069292>Select Fix Notes (Internal Use Only)\Select General Notes\Testing Documentation;
28 TN-OR03639758; TN-OR07002786; TN-OR03639582; TN-OR03640068.

1 TomorrowNow has not been able to locate any information to determine whether quality
2 assurance testing was performed using any environment or environment component at the 8SP1
3 release level. It appears that Jones intended to test the fix objects associated with this master fix
4 record using the environment or environment components for Quad Graphics Incorporated's
5 8SP1 environment. *See* TN-OR04446719, TN (Hard Drive).75 at View:4. Master Fixes\4. By Fix
6 ID\CSS-TN-0112069292>Select Fix Notes (Internal Use Only)\Select General Notes\Testing
7 Documentation; TN-OR07002786. However, after an extensive review of the available data and
8 interviews with former TomorrowNow employees, TomorrowNow does not believe a quality
9 assurance test was completed for any customer fix associated with this particular master fix
10 record in any environment component or environment for Quad Graphics, Incorporated
11 (H801QGIS); however, TomorrowNow has not yet located any information to confirm with any
12 certainty that no such testing was performed.

13 *(c) Quality Assurance Testing – Bundle Testing*

14 Further quality assurance testing was done as part of the bundling testing process for the
15 customer specific TN-PY06MAR bundles that were delivered to each specific customer that
16 received fixes associated with this particular master fix record. TomorrowNow reasonably
17 believes that a bundle test was completed separately for each of the customers that received
18 objects related to this master fix record as part of the TN-PY06MAR bundle, using the
19 environment or environment components assigned to each respective customer.

20 TomorrowNow reasonably believes that the following environment or environment
21 components were used relating to the bundle testing for the fixes associated with this master fix
22 record and that were delivered as part of the customer's specific TN-PY06MAR bundles or sync-
23 up bundles:

- 24 • HR702CSS (Robert Half International, Ltd. and North Carolina State University)
- 25 • HG751CSS (University of Massachusetts)
- 26 • HR751CSS (Advance Auto Parts, Bear Stearns & Co., Inc., Heritage Valley Health
27 System, Norwegian Cruise Lines Ltd. and Universal City Studios)
- 28 • H751ACTM (AC Transit)

- 1 • H751BRHO (Berkshire Realty Holdings)
- 2 • H751COFO (City of Flint)
- 3 • H751EDEO (The Empire District Electric Company)
- 4 • H751ICFM (ICF Consulting Group)
- 5 • HR751PHS (Providence Health Systems)
- 6 • H751TPAM (BiLLit Accounting & Information)
- 7 • H801BGPO (Borders Group)
- 8 • H801CAGO – sync up (ConAgra)
- 9 • H801QGIS (Quad Graphics Incorporated)
- 10 • H801RRNO (Rolls Royce North America)
- 11 • H801SPLO (Suburban Propane, L.P.)
- 12 • H831ACEM (American Council on Education)
- 13 • H831ARMO (Arvin Meritor)
- 14 • H831BLSD (Big Lots Stores)
- 15 • H831CBRO (Ciber Incorporated)
- 16 • H831FCSO – sync-up (Fairchild Semiconductor)
- 17 • H831FLIO (Foot Locker Incorporated)
- 18 • H831HHSO (Health and Human Services Commission)
- 19 • H831HIIO (High Industries, Inc.)
- 20 • H831OLNI (Olin Corporation)
- 21 • H831PASO (Pepsi Americas)
- 22 • H831RWCM (Rent-a-Center)
- 23 • H831SPCO (Susquehanna Pfaltzgraff Company)
- 24 • H831SPSM (Seattle Public Schools)
- 25 • H831STAO (LS Management)
- 26 • H831TAIM (Toshiba American Information)
- 27 • H831TSUM (Tropical Shipping USA)
- 28 • H881COHM (City of Huntsville)

- 1 • H881CHSO (Children's Health System of Alabama)
- 2 • H881DDMO – sync-up (Delta Dental of Michigan)
- 3 • H881KCMO – sync-up (Kent County Michigan)
- 4 • H881WMIO – sync-up (Waste Management Resources, Ltd.)

5 ***Delivery***

6 TomorrowNow reasonably believes the majority of fixes associated with the master fix
7 CSS-TN-0112069292 were delivered as part of the customer specific TN-PY06MAR bundles.
8 *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-PY06MAR; TN-OR04497668, TN
9 (Hard Drive).78 at Mail03\ClientFix\TN-PY06MAR.

10 TomorrowNow reasonably believes that the following HRMS 7.02 customers received a
11 customer specific bundle containing fixes associated with this particular master fix record:

- 12 • North Carolina State University— *See* TN-OR04497673, TN (Disc).186 at
13 Web01\ClientFix\TN-PY06MAR\NCS-TN-PY06MAR\NCS-TN-PY06MAR.zip.
- 14 • Robert Half International, Inc. — *See* TN-OR04497673, TN (Disc).186 at
15 Web01\ClientFix\TN-PY06MAR\RHI-TN-PY06MAR\RHI-TN-PY06MAR.zip.

16 TomorrowNow reasonably believes that the following HRMS 7.51 customers received a
17 customer specific bundle containing fixes associated with this particular master fix record:

- 18 • A.C. Transit— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
19 PY06MAR\ACT-TN-PY06MAR\ACT-TN-PY06MAR.zip.
- 20 • Advance Auto Parts— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
21 PY06MAR\ADV-TN-PY06MAR\ADV-TN-PY06MAR.zip.
- 22 • Bear Stearns & Co., Inc. — *See* TN-OR04497673, TN (Disc).186 at
23 Web01\ClientFix\TN-PY06MAR\BSC-TN-PY06MAR\BSC-TN-PY06MAR.zip.
- 24 • Heritage Valley Health System— *See* TN-OR04497673, TN (Disc).186 at
25 Web01\ClientFix\TN-PY06MAR\HVH-TN-PY06MAR\HVH-TN-PY06MAR.zip.
- 26 • Norwegian Cruise Lines— *See* TN-OR04497673, TN (Disc).186 at
27 Web01\ClientFix\TN-PY06MAR\NCL-TN-PY06MAR\NCL-TN-PY06MAR.zip.

- 1 • Universal City Studios, LLP— *See* TN-OR04497673, TN (Disc).186 at
2 Web01\ClientFix\TN-PY06MAR\UNI-TN-PY06MAR\UNI-TN-PY06MAR.zip.
- 3 • Berkshire Realty Holdings, L.P— *See* TN-OR04497673, TN (Disc).186 at
4 Web01\ClientFix\TN-PY06MAR\BRH-TN-PY06MAR\BRH-TN-PY06MAR.zip.
- 5 • City of Flint— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
6 PY06MAR\COF-TN-PY06MAR\COF-TN-PY06MAR.zip.
- 7 • The Empire District Electric Company— *See* TN-OR04497673, TN (Disc).186 at
8 Web01\ClientFix\TN-PY06MAR\EDE-TN-PY06MAR\EDE-TN-PY06MAR.zip.
- 9 • ICF Consulting— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
10 PY06MAR\ICF-TN-PY06MAR\ICF-TN-PY06MAR.zip.
- 11 • Providence Health Systems— *See* TN-OR04497673, TN (Disc).186 at
12 Web01\ClientFix\TN-PY06MAR\PHS-TN-PY06MAR\PHS-TN-PY06MAR.zip.
- 13 • BiLLit Accounting Services— *See* TN-OR04497673, TN (Disc).186 at
14 Web01\ClientFix\TN-PY06MAR\TPA-TN-PY06MAR\TPA-TN-PY06MAR.zip.
- 15 • University of Massachusetts— *See* TN-OR04497673, TN (Disc).186 at
16 Web01\ClientFix\TN-PY06MAR\UOM-TN-PY06MAR\UOM-TN-PY06MAR.zip.

17 TomorrowNow reasonably believes that the following HCM 8SP1 customers received a
18 customer specific bundle containing fixes associated with this particular master fix record:

- 19 • Borders Group— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
20 PY06MAR\BGP-TN-PY06MAR\BGP-TN-PY06MAR.zip.
- 21 • ConAgra— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
22 PY06MAR\CAG-TN-PY06MAR\CAG-TN-PY06MAR.zip. (sync up)
- 23 • Quad Graphics, Inc. — *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
24 PY06MAR\QGI-TN-PY06MAR\QGI-TN-PY06MAR.zip.
- 25 • Rolls Royce of North America— *See* TN-OR04497673, TN (Disc).186 at
26 Web01\ClientFix\TN-PY06MAR\RRN-TN-PY06MAR\RRN-TN-PY06MAR.zip.
- 27 • Suburban Propane, LLP— *See* TN-OR04497673, TN (Disc).186 at
28 Web01\ClientFix\TN-PY06MAR\SPL-TN-PY06MAR\SPL-TN-PY06MAR.zip.

1 TomorrowNow reasonably believes that the following HCM 8.3SP1 customers received a
2 customer specific bundle containing fixes associated with this particular master fix record:

- 3 • American Council on Education— *See* TN-OR04497673, TN (Disc).186 at
4 Web01\ClientFix\TN-PY06MAR\ACE-TN-PY06MAR\ACE-TN-PY06MAR.zip.
- 5 • Arvin Meritor— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
6 PY06MAR\ARM-TN-PY06MAR\ARM-TN-PY06MAR.zip.
- 7 • Big Lots Stores— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
8 PY06MAR\BLS-TN-PY06MAR\BLS-TN-PY06MAR.zip.
- 9 • Ciber— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
10 PY06MAR\CBR-TN-PY06MAR\CBR-TN-PY06MAR.zip.
- 11 • Fairchild Semiconductor— *See* TN-OR04497673, TN (Disc).186 at
12 Web01\ClientFix\TN-PY06MAR\FCS-TN-PY06MAR\FCS-TN-PY06MAR.zip.
13 (sync up)
- 14 • Foot Locker Incorporated— *See* TN-OR04497673, TN (Disc).186 at
15 Web01\ClientFix\TN-PY06MAR\FLI-TN-PY06MAR\FLI-TN-PY06MAR.zip.
- 16 • Health and Human Services— *See* TN-OR04497673, TN (Disc).186 at
17 Web01\ClientFix\TN-PY06MAR\HHS-TN-PY06MAR\HHS-TN-PY06MAR.zip.
- 18 • High Industries Inc.— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
19 PY06MAR\HII-TN-PY06MAR\HII-TN-PY06MAR.zip.
- 20 • Olin Corporation— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
21 PY06MAR\OLN-TN-PY06MAR\OLN-TN-PY06MAR.zip.
- 22 • PepsiAmericas— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
23 PY06MAR\PAS-TN-PY06MAR\PAS-TN-PY06MAR.zip.
- 24 • Rent-a-Center, Inc.— *See* TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
25 PY06MAR\RWC-TN-PY06MAR\RWC-TN-PY06MAR.zip.
- 26 • Susquehanna Pfaltzgraff Company— *See* TN-OR04497673, TN (Disc).186 at
27 Web01\ClientFix\TN-PY06MAR\SPC-TN-PY06MAR\SPC-TN-PY06MAR.zip.
- 28

- 1 • Seattle Public Schools— See TN-OR04497673, TN (Disc).186 at
2 Web01\ClientFix\TN-PY06MAR\SPS-TN-PY06MAR\SPS-TN-PY06MAR.zip.
- 3 • LS Management— See TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
4 PY06MAR\STA-TN-PY06MAR\STA-TN-PY06MAR.zip.
- 5 • Toshiba America Information Systems— See TN-OR04497673, TN (Disc).186 at
6 Web01\ClientFix\TN-PY06MAR\TAI-TN-PY06MAR\TAI-TN-PY06MAR.zip.
- 7 • Tropical Shipping USA— See TN-OR04497673, TN (Disc).186 at
8 Web01\ClientFix\TN-PY06MAR\TSU-TN-PY06MAR\TSU-TN-PY06MAR.zip.
9 (sync up)

10 TomorrowNow reasonably believes that the following HCM 8.8SP1 customers received a
11 customer specific bundle containing fixes associated with this particular master fix record:

- 12 • Children’s Health System of Alabama— See TN-OR04497673, TN (Disc).186 at
13 Web01\ClientFix\TN-PY06MAR\CHS-TN-PY06MAR\CHS-TN-PY06MAR.zip.
- 14 • City of Huntsville— See TN-OR04497673, TN (Disc).186 at Web01\ClientFix\TN-
15 PY06MAR\COH-TN-PY06MAR\COH-TN-PY06MAR.zip.
- 16 • Delta Dental of Michigan— See TN-OR04497673, TN (Disc).186 at
17 Web01\ClientFix\TN-PY06MAR\DDM-TN-PY06MAR\DDM-TN-PY06MAR.zip.
18 (sync up)
- 19 • Kent County Michigan— See TN-OR04497673, TN (Disc).186 at
20 Web01\ClientFix\TN-PY06MAR\KCM-TN-PY06MAR\KCM-TN-PY06MAR.zip.
21 (sync up)
- 22 • Waste Management Resources, Inc.— See TN-OR04497673, TN (Disc).186 at
23 Web01\ClientFix\TN-PY06MAR\WMI-TN-PY06MAR\WMI-TN-PY06MAR.zip.
24 (sync up)

25 ***Sources of Environments Referenced Above***

26 For TomorrowNow’s PeopleSoft customers for whom TomorrowNow created a local
27 environment on TomorrowNow’s network, it was TomorrowNow’s general practice to build an
28 environment on each customer’s behalf using that customer’s PeopleSoft application files

1 provided to TomorrowNow by that customer on CD, tape, or some other way determined by the
2 specific customer providing those application files. TomorrowNow's standard naming
3 convention for the customer environments TomorrowNow maintained on its network on behalf of
4 each such customer included the following: (1) the first character was the type of application
5 being used (H for human resources or F for financials); (2) the next three characters corresponded
6 to the PeopleSoft release (i.e., 801 for 8SP1 or 842 for 8.4SP2); (3) the next three characters
7 identified the customer (i.e., RHI for Robert Half International); and (4) the final character
8 represented the type of database the environment was built to access (i.e., O for Oracle or M for
9 Microsoft).

10 Based on the foregoing, TomorrowNow reasonably believes the following environments
11 or environment components were built using the PeopleSoft application files provided by the
12 specific customers, who are identified through the standard environment naming convention
13 depicted in the following environment names:

- 14 • H751BRHO—from Berkshire Realty Holdings
- 15 • H751EDEO—from The Empire District Electric Company
- 16 • H751ICFM—from ICF Consulting Group
- 17 • H751TPAM—from BiLLit Accounting & Information
- 18 • H801BGPO—from Borders Group
- 19 • H801CAGO—from ConAgra (sync up)
- 20 • H801QGIS—from Quad Graphics Incorporated
- 21 • H801RRNO—from Rolls Royce North America
- 22 • H801SPLO—from Suburban Propane, L.P.
- 23 • H831ACEM—from American Council on Education
- 24 • H831ARMO—from Arvin Meritor
- 25 • H831BLSD—from Big Lots Stores
- 26 • H831CBRO—from Ciber, Incorporated
- 27 • H831FCSO—from Fairchild Semiconductor
- 28 • H831FLIO—from Foot Locker Incorporated

- 1 • H831HHSO—from Health and Human Services Commission
- 2 • H831HIIO—from High Industries, Inc.
- 3 • H831OLNI—from Olin Corporation
- 4 • H831PASO—from Pepsi Americas
- 5 • H831RWCM—from Rent-a-Center
- 6 • H831SPSM—from Seattle Public Schools
- 7 • H831STAO—from LS Management
- 8 • H831TAIM—from Toshiba American Information
- 9 • H831TSUM—from Tropical Shipping USA
- 10 • H881COHM—from the City of Huntsville
- 11 • H881DDMO—from Delta Dental of Michigan
- 12 • H881KCMO—from the Kent County Michigan
- 13 • H881WMIO—from Waste Management Resources, Ltd.

14 While TomorrowNow is not certain of the specific source, TomorrowNow reasonably
15 believes based on the testimony of Catherine Hyde that the following environments or
16 environment components were likely originally created from PeopleSoft applications provided by
17 either Safeway or Washington Gas Light:

- 18 • D702DATM
- 19 • D751DATM
- 20 • HR702CSS
- 21 • HR702DAT
- 22 • HR751CSS
- 23 • HR751PHS

24 See TN-OR 06125330, TN (Disc).202 at BakTrak\Search Restore Log; April 2, 2008 Deposition
25 of Catherine Hyde at 75:4-9; May 12, 2009 Deposition of Catherine Hyde at 31:13-33:4, 42:20-
26 44:3, 44:19-45:11, 83:4-8.

27 While TomorrowNow is not certain of the specific source, TomorrowNow reasonably
28 believes based on the testimony of Catherine Hyde that the following environments or

1 environment components were likely originally created from PeopleSoft applications provided by
2 North Carolina State University:

- 3 • HG751CSS
- 4 • H751ACTM
- 5 • H751COFO

6 *See* TN-OR 06125330, TN (Disc).202 at BakTrak\Search Restore Log; April 2, 2008 Deposition
7 of Catherine Hyde at 119:17-120:23; May 12, 2009 Deposition of Catherine Hyde at 18:1-19:13.

8 While TomorrowNow is not certain of the specific source, TomorrowNow reasonably
9 believes based on the testimony of Catherine Hyde that D831DATM was likely originally created
10 from a PeopleSoft application provide by Rentway *See* TN-OR 06125330, TN (Disc).202 at
11 BakTrak\Search Restore Log; April 2, 2008 Deposition of Catherine Hyde at 83:23-84:1.

12 TomorrowNow has not currently located any information regarding the source of
13 D881DATM.

TEXT REMOVED - NOT RELEVANT TO MOTION

TEXT REMOVED - NOT RELEVANT TO MOTION

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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.