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21 UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

22 ORACLE USA, INC., *et al.*,  
 23 Plaintiffs,  
 24 v.  
 25 SAP AG, *et al.*,  
 26 Defendants.

Case No. 07-CV-01658 PJH (EDL)

**DECLARATION OF NITIN JINDAL IN  
 SUPPORT OF PLAINTIFFS' OPPOSITION  
 TO DEFENDANTS' MOTION TO EXCLUDE  
 EXPERT TESTIMONY OF PAUL K. MEYER**

**[REDACTED EXS. A AND E]**

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

Case No. 07-CV-01658 PJH (EDL)

DECLARATION OF NITIN JINDAL IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS'  
 MOTION TO EXCLUDE EXPERT TESTIMONY OF PAUL K. MEYER

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I. INDEX OF ATTACHED EXHIBITS

Exhibit	Description
A	Supplemental Expert Report of Paul K. Meyer, February 23, 2010 (“Meyer Report”)
B	Deposition of Paul K. Meyer, May 12-14, 2010
C	Attachments 1.SU and 2.SU to Meyer Report
D	Defendants’ Deposition Exhibit 2028
E	Defendants’ Deposition Exhibit 2020
F	Plaintiffs’ Deposition Exhibit 3204
G	Supplemental Expert Report of Stephen K. Clark, May 7, 2010
H	Deposition of Stephen K. Clarke, June 8-10, 2010
I	Deposition of Thomas Ziemen, September 30, 2008
J	Deposition of Gerhard Oswald, December 10, 2008
K	Plaintiffs’ Deposition Exhibit 455
L	Defendants’ Deposition Exhibit 2043
M	Plaintiffs’ Deposition Exhibit 236
N	H.R. REP. NO. 94-1476, at 161 (1976)
O	Gordon V. Smith and Russell L. Parr, <i>Intellectual Property Valuation, Exploitation, and Infringement Damages</i> (2005)

1 I, Nitin Jindal, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and before  
3 this Court, and an associate at Bingham McCutchen LLP, counsel of record for plaintiffs Oracle  
4 USA, Inc. (predecessor to Oracle America, Inc.), Oracle International Corporation, and Siebel  
5 Systems, Inc. (collectively, “Oracle” or “Plaintiffs”). I have personal knowledge of the facts  
6 stated below by virtue of my representation of Oracle in this action if called as a witness could  
7 competently testify as to them. I make this declaration in support of Oracle’s Opposition to  
8 Defendants’ Motion to Exclude Expert Testimony of Paul K. Meyer.

9 2. For ease of use and reference and to the extent possible without losing context,  
10 for all exhibits attached to this Declaration, including deposition transcripts, only the relevant  
11 pages and information have been provided. Unless otherwise noted below for a particular  
12 document, we have provided all highlighting in these exhibits to further assist in identifying the  
13 information relevant to Oracle’s Opposition.

14 **II. MEYER REPORT DOCUMENTS AND DEPOSITION**

15 3. Attached as **Exhibit A** is a true and correct copy of relevant excerpts of the  
16 February 23, 2010 Supplemental Expert Report of Paul K. Meyer (“Meyer”).

17 4. Attached as **Exhibit B** is a true and correct copy of excerpts of the transcript of  
18 the May 12-14, 2010 deposition of Meyer.

19 5. Attached as **Exhibit C** are true and correct copies of Attachments 1.SU and  
20 2.SU to the February 23, 2010 Supplemental Expert Report of Paul K. Meyer.

21 6. Attached as **Exhibit D** is a true and correct copy of Defendants’ Deposition  
22 Exhibit 2028, a document entitled “SAP Management, TomorrowNow/SAP -  
23 Strategy/Projections” that was created by Meyer and produced to Defendants. Attached  
24 **Exhibit D** includes the first page of the copy marked by Defendants as Deposition Exhibit  
25 2028, and a more legible version printed from the original document.

26 7. Attached as **Exhibit E** is a true and correct copy of Defendants’ Deposition  
27 Exhibit 2020, which is a copy of Schedule 42.2.DU of Meyer’s expert report.

28 8. Attached as **Exhibit F** is a true and correct copy of Plaintiffs’ Deposition Exhibit

1 3204, a document entitled “Scope of Use.” The document was provided to Defendants as part  
2 of Meyer’s notes to the May 7, 2010 Supplemental Expert Report of Stephen K. Clarke.

### 3 **III. CLARKE REPORT AND DEPOSITION**

4 9. Attached as **Exhibit G** is a true and correct copy of relevant excerpts of the May  
5 7, 2010 Supplemental Expert Report of Stephen K. Clarke (“Clarke”).

6 10. Attached as **Exhibit H** is a true and correct copy of excerpts of the transcript of  
7 the June 8-10, 2010 deposition of Clarke.

### 8 **IV. OTHER DEPOSITIONS AND DEPOSITION EXHIBITS**

9 11. Attached as **Exhibit I** is a true and correct copy of excerpts of the transcript of  
10 the September 30, 2008 deposition of Thomas Ziemen.

11 12. Attached as **Exhibit J** is a true and correct copy of excerpts of the transcript of  
12 the December 10, 2008 deposition of Gerhard Oswald.

13 13. Attached as **Exhibit K** is a true and correct copy of excerpts of Plaintiffs’  
14 Deposition Exhibit 455, a document produced in this case by SAP entitled “TomorrowNow  
15 Integration Meeting 25-26 January 2005.” Attached **Exhibit K** includes the first page of the  
16 copy marked by Plaintiffs as Deposition Exhibit 455, and a more legible excerpt printed from  
17 the original document.

18 14. Attached as **Exhibit L** is a true and correct copy of an excerpt of Defendants’  
19 Deposition Exhibit 2043, a document entitled “SAP AG Phone Conference,” which is a  
20 transcript of SAP’s January 19, 2005 conference call with analysts in which SAP announced its  
21 acquisition of SAP TomorrowNow.

22 15. Attached as **Exhibit M** is a true and correct copy of an excerpt of Plaintiffs’  
23 Deposition Exhibit 236, a document produced in this case by SAP entitled “Safe Passage:  
24 Winning Customers and Markets From Oracle-PeopleSoft-J.D. Edwards, Executive Overview.”  
25 Attached **Exhibit M** includes the first two pages of the copy marked by Plaintiffs as Deposition  
26 Exhibit 236, and a more legible excerpt of the attached presentation that was printed from the  
27 original document.

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1 **V. AUTHORITIES**

2 16. Attached as **Exhibit N** is a true and correct copy of an excerpt of H.R. REP. NO.  
3 94-1476, at 161 (1976).

4 17. Attached as **Exhibit O** is a true and correct copy of excerpts of Gordon V. Smith  
5 and Russell L. Parr, *Intellectual Property Valuation, Exploitation, and Infringement Damages*  
6 (2005).

7 DATED: September 9, 2008

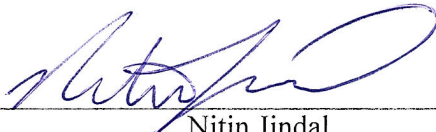
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Bingham McCutchen LLP

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By:   
Nitin Jindal  
Attorneys for Plaintiff  
Oracle USA, Inc., et al.

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