

EXHIBIT 17

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15
16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 ORACLE USA, INC., a Colorado Corporation, *et*
20 *al.*,

21 Plaintiffs,

22 v.

23 SAP AG, a German corporation, *et al.*,

24 Defendants.

CASE NO. 07-CV-01658 PJH (EDL)

**DECLARATION OF GARY GATES,
Director, Business Systems of Amsted
Rail Company, INC, formerly known as
BRESCO, INC.**

1 DECLARATION OF GARY GATES

2 I, Gary Gates, declare as follows:

3 1. I am over the age of 18 and competent to testify to the facts stated in this
4 declaration. All statements made in this declaration are based upon my personal knowledge and
5 belief.

6 2. I am currently employed as Director, Business Systems, at Brenco, Inc. (now a part of
7 and known as Amsted Rail Company, Inc.) (collectively referred to as "Brenco"). I have been
8 employed by
9 Brenco since April, 2007. My current job duties include managing all Business Systems and
10 Applications within Amsted Rail.

11 3. Brenco is a manufacturer of bearings for railroad freight cars.

12 4. Brenco has licensed and used Oracle proprietary J.D. Edwards applications in the past,
13 and formerly received software support from Oracle (f.k.a. J.D. Edwards) for J.D. Edwards
14 software applications.

15 5. Brenco also formerly received software support services from TomorrowNow, Inc.
16 ("TomorrowNow"). TomorrowNow provided J.D. Edwards software support services for
17 Brenco at a significantly lower price compared to the cost of software support from Oracle (f.k.a.
18 J.D. Edwards).

19 6. Given Brenco's policies, business ethics and/or internal guidelines, Brenco would not do
20 business with any company known to be misappropriating Oracle's intellectual property.

21 I declare under penalty of perjury under the laws of the United States that the foregoing is
22 true and correct and that this declaration is executed at Petersburg, Virginia on July 21, 2009.

23
24 By: 
25 Gary Gates