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17 Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
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' REPLY IN SUPPORT
OF DEFENDANTS' 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 the following excerpts from
9 May 5, 2010 Transcript of Proceedings relating to the parties’ motions for partial summary
10 judgment: pp. 39-47.

11 2. Attached as **Exhibit 2** is a true and correct copy of the following excerpts from the
12 May 19, 2010 Paul C. Pinto Deposition: 173:6-17, 175:22-178:1, 217:13-24, 305:13-306:23.

13 3. Attached as **Exhibit 3** is a true and correct copy of the following excerpts from the
14 Expert Report of Donald Reifer, dated March 26, 2010, which was produced by Defendants in
15 this case: p. 8.

16 4. Attached as **Exhibit 4** is a true and correct copy of the following excerpts from the
17 June 18, 2010 Donald Reifer Deposition: 88:11-89:3, 101:12-23, 110:13-20, 157:6-158:8, 192:2-
18 25.

19 5. Attached as **Exhibit 5** is a true and correct copy of the following excerpts from the
20 September 25, 2003 Donald Reifer Deposition in the case of *Evolution, Inc. v. Sun Trust Bank*,
21 No. 01-2409-CM (D. Kan.): 95:13-96:3, 96:15-97:8, 97:17-23.

22 6. Attached as **Exhibit 6** is a true and correct copy of *Fechtig v. Sea Pac. Inc.*, No. C
23 03-4056 JL, 2006 WL 2982148 (N.D. Cal. Oct. 17, 2006).

24 7. Attached as **Exhibit 7** is a true and correct copy of *Fresenius Med. Care Holdings,*
25 *Inc. v. Baxter Int’l, Inc.*, No. C 03-01431 SBA(EDL), 2006 WL 1646113 (N.D. Cal. June 12,
26 2006).

27 8. Attached as **Exhibit 8** is a true and correct copy of *Hynix Semiconductor Inc. v.*
28 *Rambus Inc.*, Nos. CV-00-20905 RMW, C-05-00334 RMW, C-05-02298 RMW, C-06-00244

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RMW, 2008 WL 73681 (N.D. Cal. Jan. 5, 2008).

9. Attached as **Exhibit 9** is a true and correct copy of *IMA N. Am., Inc. v. Maryln Nutraceuticals, Inc.*, No. CV-06-344-PHX-LOA, 2008 U.S. Dist. LEXIS 109623 (D. Ariz. Oct. 17, 2008).

10. Attached as **Exhibit 10** is a true and correct copy of *In re Guam Asbestos Litig.*, No. 92-00064A, 1993 WL 470426 (D. Guam Oct. 19, 1993).

11. Attached as **Exhibit 11** is a true and correct copy of *Morin v. McCulloch Corp.*, No. CV 01-6431 SVW (SHx), 2002 WL 34357202 (C.D. Cal. July 3, 2002).

12. Attached as **Exhibit 12** is a true and correct copy of *U.S. ex rel. Suter v. National Rehab Partners Inc.*, Nos. CV-03-015-S-BLW, CV-03-128-S-BLW, 2009 WL 3151099 (D. Idaho Sept. 24, 2009).

13. Attached as **Exhibit 13** is a true and correct copy of *Walsh v. City of Richland*, No. CV-02-5067 EFS, 2005 WL 6201455 (E.D. Wash. Feb. 24, 2005).

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed this 16th day of September, 2010 in Palo Alto, California.

/s/ Tharan Gregory Lanier
Tharan Gregory Lanier