

1 Robert A. Mittelstaedt (SBN 060359)
 Jason McDonell (SBN 115084)
 2 Elaine Wallace (SBN 197882)
 JONES DAY
 3 555 California Street, 26th Floor
 San Francisco, CA 94104
 4 Telephone: (415) 626-3939
 Facsimile: (415) 875-5700
 5 ramittelstaedt@jonesday.com
 jmcdonell@jonesday.com
 6 ewallace@jonesday.com

7 Tharan Gregory Lanier (SBN 138784)
 Jane L. Froyd (SBN 220776)
 8 JONES DAY
 1755 Embarcadero Road
 9 Palo Alto, CA 94303
 Telephone: (650) 739-3939
 10 Facsimile: (650) 739-3900
 tglanier@jonesday.com
 11 jfroyd@jonesday.com

12 Scott W. Cowan (Admitted *Pro Hac Vice*)
 Joshua L. Fuchs (Admitted *Pro Hac Vice*)
 13 JONES DAY
 717 Texas, Suite 3300
 14 Houston, TX 77002
 Telephone: (832) 239-3939
 15 Facsimile: (832) 239-3600
 swcowan@jonesday.com
 16 jlfuchs@jonesday.com

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)

**DEFENDANTS' REVISED TRIAL
 WITNESS LIST**

1 Pursuant to the Court's Pretrial Instructions, Defendants submitted on August 5, 2010 a
2 trial witness list indicating all of those witnesses whom Defendants expect to call at trial, either in
3 person or by deposition. *See* ECF No. 741. In light of the Court's recent order on the Parties'
4 motions for partial summary judgment (ECF No. 762), the Parties' Trial Stipulation and Order
5 (ECF No. 866), and the Parties' ongoing efforts to narrow this case for trial, Defendants submit as
6 Exhibit "A," attached hereto and incorporated by reference as if fully set forth herein, a revised
7 trial witness list, which removes 42 witnesses from Defendants' August 5, 2010 trial witness list.

8 As with Defendants' August 5, 2010 trial witness list, the attached revised trial witness list
9 should be considered to include testimony within the scope of Defendants' deposition
10 designations. Certain witnesses named in the attached list provided all or some of their
11 deposition testimony in a representative capacity (*i.e.*, under Fed. R. Civ. P. 30(b)(6)) on behalf of
12 a party or third party entity and that fact is noted on the face of their deposition transcript. In
13 those instances, the designated witness shall be deemed to be the entity on whose behalf the
14 individual provided the deposition testimony.

15 The attached revised trial witness list is based on the claims and defenses remaining in this
16 case and may be updated in light of the parties' continuing efforts to streamline trial and
17 depending on the Court's rulings on pending motions in limine and *Daubert* motions, as well as
18 any guidance provided by the Court at the September 30, 2010 pretrial conference. Thus,
19 Defendants reserve the right to add, remove, or re-designate as appearing live or by deposition
20 witnesses identified on Defendants' revised trial witness list. Moreover, consistent with this
21 Court's orders, the attached list does not necessarily include all those witnesses whom Defendants
22 may call at trial solely for impeachment or rebuttal.

23
24
25
26
27
28

1 Dated: September 23, 2010

Respectfully submitted,

2

Jones Day

3

4

By: /s/ Tharan Gregory Lanier

5

Tharan Gregory Lanier

6

Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
TOMORROWNOW, INC.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

EXHIBIT A

ORACLE USA, INC. ET AL. v SAP AG ET AL.
USDC -- NORTHERN DIST. OF CALIFORNIA
Case No. C 07 1658 PJH (EDL)

DEFENDANTS' REVISED WITNESS LIST

WITNESS	SUBSTANCE OF TESTIMONY
Abbo, Edward	Plaintiffs' products and services; Plaintiffs' knowledge of TN; Plaintiffs' sales and marketing
Agassi, Shai	TN acquisition; SAP and TN competition with Oracle; SAP's interactions with TN; SAP sales and marketing; SAP's products and services; Causation and damages
Allison, Richard	Plaintiffs' agreements; Plaintiffs' sales and marketing
Andersen, Jesper	Plaintiffs' products and services; Plaintiffs' knowledge of TN; Plaintiffs' sales and marketing; Plaintiffs' business operations; Plaintiffs' competitive intelligence regarding TN; Causation and damages
Anderson, Mark	Causation and damages; Travel Centers of America
Bailey, Thomas	Causation and damages; Honeywell
Baugh, John	TN's services; TN's business operations; TN's computer systems
Brandt, Werner	TN acquisition; TN's business operations; SAP's interactions with TN; SAP's financials and customer information; Causation and damages
Brazile, Steven	Causation and damages; Sara Lee
Breuer, Martin	TN's services; TN's business operations; SAP's interactions with TN
Carey, Thomas	SAP sales and marketing; SAP's products and services; Causation and damages
Catz, Safra	Plaintiffs' financials and customer information; Causation and damages; Oracle's acquisitions of PeopleSoft and Siebel
Clarke, Stephen	Expert report and related issues
Cooley, Paul	Causation and damages; Waste Management
Cummins, Richard	Plaintiffs' products and services; Plaintiffs' knowledge of TN; Plaintiffs' agreements; Plaintiffs' sales and marketing; Plaintiffs' competitive intelligence regarding TN; SAP and TN competition with Oracle; Causation and damages
Custodian(s) or Declarant(s) of Record	Authentication and admission of documents as needed

ORACLE USA, INC. ET AL. v SAP AG ET AL.
USDC -- NORTHERN DIST. OF CALIFORNIA
Case No. C 07 1658 PJH (EDL)

DEFENDANTS' REVISED WITNESS LIST

WITNESS	SUBSTANCE OF TESTIMONY
Ellison, Larry	Plaintiffs' products and services; Plaintiffs' knowledge of TN; Plaintiffs' agreements; Plaintiffs' financials and customer information; Plaintiffs' claims against SAP and TN; Plaintiffs' business operations; SAP and TN competition with Oracle; Causation and damages; Oracle's acquisitions of PeopleSoft and Siebel
Faye, Christopher	TN acquisition; TN's business operations; SAP's interactions with TN
Funck, Gary	Expert report and related issues
Garafola, Michael	TN's services; TN's business operations; TN's computer systems; Causation and damages
Garmus, David	Expert report and related issues
Geib, Bob	TN's business operations; TN sales and marketing; TN's financials and customer information; SAP and TN competition with Oracle; SAP's interactions with TN; Causation and damages
Graf, Peter	SAP sales and marketing
Gray, Stephen	Expert report and related issues
Hallenberger, Tracy	Causation and damages; Baker Botts
Harrel, Robyn	Causation and damages; Apria Healthcare
Henslee, Robbin	Plaintiffs' products and services; Plaintiffs' knowledge of TN; Plaintiffs' sales and marketing; Plaintiffs' claims against SAP and TN; Plaintiffs' investigation of TN; Plaintiffs' business operations; Plaintiffs' competitive intelligence regarding TN; SAP and TN competition with Oracle; Causation and damages
Homs, Charles	Plaintiffs' knowledge of TN; Plaintiffs' investigation of TN; Plaintiffs' competitive intelligence regarding TN
Hurst, Terry	SAP sales and marketing
Hyde, Catherine	TN's services; TN's business operations; TN's computer systems
Jerome, Daniel	Causation and damages; Electrolux
Jones, Juan	Plaintiffs' products and services; Plaintiffs' knowledge of TN; Plaintiffs' agreements; Plaintiffs' sales and marketing; Plaintiffs' competitive intelligence regarding TN; Causation and damages

ORACLE USA, INC. ET AL. v SAP AG ET AL.
USDC -- NORTHERN DIST. OF CALIFORNIA
Case No. C 07 1658 PJH (EDL)

DEFENDANTS' REVISED WITNESS LIST

WITNESS	SUBSTANCE OF TESTIMONY
Kagermann, Henning	TN acquisition; SAP and TN competition with Oracle; SAP's interactions with TN; SAP's financials and customer information; Causation and damages
Kehring, Douglas	Plaintiffs' financials and customer information; Causation and damages; Oracle's acquisitions of PeopleSoft and Siebel
Kobliska, Mary	SAP sales and marketing; SAP's products and services; Causation and damages
Koehler, Uwe	Plaintiffs' knowledge of TN; Plaintiffs' collection and retention of documents; Plaintiffs' claims against SAP and TN; Plaintiffs' computer systems; Plaintiffs' investigation of TN; Plaintiffs' business operations; Causation and damages
Kreul, John	Causation and damages; Pepsi America
Kreutz, Mark	TN's services; TN's business operations; TN's computer systems; SAP's interactions with TN; Causation and damages
Lanford, Peggy	TN's services; TN's business operations; TN's computer systems
Lester, Beth	TN's services; TN's business operations
Lester, George	Plaintiffs' computer systems; TN's services; TN's business operations; TN's computer systems
Ludlam, Robert	TN's business operations; TN sales and marketing; SAP and TN competition with Oracle; SAP's interactions with TN; Causation and damages
Lyskawa, Nancy	Plaintiffs' knowledge of TN; Plaintiffs' sales and marketing; Plaintiffs' collection and retention of documents; Plaintiffs' investigation of TN; Plaintiffs' competitive intelligence regarding TN; Causation and damages
Mackey, James	TN acquisition; SAP and TN competition with Oracle; SAP's interactions with TN
McCloskey, Mike	SAP sales and marketing; SAP's products and services; Causation and damages
McDermott, Bill	SAP and TN competition with Oracle; SAP's interactions with TN; SAP's financials and customer information; SAP sales and marketing; SAP's products and services; Causation and damages

ORACLE USA, INC. ET AL. v SAP AG ET AL.
USDC -- NORTHERN DIST. OF CALIFORNIA
Case No. C 07 1658 PJH (EDL)

DEFENDANTS' REVISED WITNESS LIST

WITNESS	SUBSTANCE OF TESTIMONY
Nelson, Andrew	TN acquisition; TN's services; TN's business operations; TN sales and marketing; TN's financials and customer information; TN's computer systems; SAP and TN competition with Oracle; SAP's interactions with TN; Causation and damages
Nelson, Shelley	TN's services; TN's business operations; TN sales and marketing; TN's computer systems; SAP and TN competition with Oracle
O'Donnell, Jeffrey	Causation and damages; Lexmark
Osterloh, Eric	TN's business operations; TN sales and marketing; TN's financials and customer information; SAP and TN competition with Oracle; SAP's interactions with TN
Phillips, Charles	Plaintiffs' products and services; Plaintiffs' agreements; Plaintiffs' sales and marketing; Plaintiffs' financials and customer information; Plaintiffs' claims against SAP and TN; Plaintiffs' business operations; Causation and damages
Plattner, Hasso	SAP and TN competition with Oracle; SAP's products and services; Causation and damages
Poplack, Michael	Plaintiffs' agreements; Plaintiffs' business operations; Copyrights at issue; Causation and damages
Ravin, Seth	Plaintiffs' products and services; Plaintiffs' knowledge of TN; Plaintiffs' agreements; Plaintiffs' sales and marketing; Plaintiffs' business operations; TN acquisition; TN's services; TN's business operations; TN sales and marketing; SAP and TN competition with Oracle; SAP's interactions with TN; Causation and damages
Reifer, Donald	Expert report and related issues
Restmeyer, Dan	Causation and damages; Amgen
Rottler, Juergen	Plaintiffs' products and services; Plaintiffs' knowledge of TN; Plaintiffs' agreements; Plaintiffs' sales and marketing; Plaintiffs' collection and retention of documents; Plaintiffs' business operations; Plaintiffs' competitive intelligence; Causation and damages
Rozwat, Charles	Plaintiffs' products and services; Plaintiffs' financials and customer information; Plaintiffs' business operations; SAP and TN competition with Oracle; Causation and damages

ORACLE USA, INC. ET AL. v SAP AG ET AL.
USDC -- NORTHERN DIST. OF CALIFORNIA
Case No. C 07 1658 PJH (EDL)

DEFENDANTS' REVISED WITNESS LIST

WITNESS	SUBSTANCE OF TESTIMONY
Russell, Roderic	TN's services; TN's business operations
Shander, Stephen	SAP sales and marketing; SAP's products and services; Causation and damages
Shankle, Keith	TN's services; TN's business operation; TN's computer systems
Shenkman, Arlen	TN acquisition; SAP's interactions with TN
Shippy, Elizabeth	Plaintiffs' knowledge of TN; Plaintiffs' sales and marketing; Plaintiffs' financials and customer information; Plaintiffs' collection and retention of documents; Plaintiffs' investigation of TN; Plaintiffs' business operations; Causation and damages
Sim, Judith	Plaintiffs' sales and marketing; Causation and damages
Singh, Bruno	Causation and damages; NBC Universal
Sommer, Brian	Expert report and related issues
Spencer, Bruce	Expert report and related issues
Subramanian, Rocky	SAP sales and marketing; SAP's products and services; Causation and damages
Thomas, William	TN's services; TN's business operations; TN's computer systems; SAP's interactions with TN
Tseng, Stephen	TN acquisition; TN's business operations; SAP's interactions with TN
Vandaele, Walter	Expert report and related issues
Wasson, Robert	Causation and damages; McLennan County
Welz, Bernd	SAP and TN competition with Oracle; SAP's interactions with TN; SAP's financials and customer information; SAP sales and marketing; SAP's products and services; Causation and damages
Wendell, Michael	SAP sales and marketing
White, Mark	TN's services; TN's business operations; TN sales and marketing; TN's financials and customer information; TN's computer systems; SAP and TN competition with Oracle; SAP's interactions with TN; SAP's financials and customer information; Causation and damages
Wieditz, Uwe	SAP's interactions with TN; SAP's products and services

ORACLE USA, INC. ET AL. v SAP AG ET AL.
USDC -- NORTHERN DIST. OF CALIFORNIA
Case No. C 07 1658 PJH (EDL)

DEFENDANTS' REVISED WITNESS LIST

WITNESS	SUBSTANCE OF TESTIMONY
Williams, Kathy	TN's services; TN's business operations
Wittenbrink, Mark	SAP sales and marketing; SAP's products and services; Causation and damages
Wookey, John	Plaintiffs' products and services; Plaintiffs' sales and marketing; Causation and damages
Zepecki, John	TN acquisition
Ziemen, Thomas	TN acquisition; TN's services; TN's business operations; TN sales and marketing; TN's financials and customer information; SAP and TN competition with Oracle; SAP's interactions with TN; SAP's financials and customer information; SAP sales and marketing; SAP's product and services; Causation and damages