

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 jlfuncs@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)

**DECLARATION OF THARAN
 GREGORY LANIER IN SUPPORT OF
 DEFENDANTS' OPPOSITIONS TO
 PLAINTIFFS' MOTIONS IN LIMINE**

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

FILED PURSUANT TO D.I. 915

DECLARATION OF THARAN GREGORY LANIER ISO
 DEFS.' OPP. TO PLS.' MOTIONS IN LIMINE
 Case No. 07-CV-1658 PJH (EDL)

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., and
4 TomorrowNow, Inc. (collectively, "Defendants") in the above-captioned matter. I am a member
5 in good standing of the State Bar of California and admitted to practice before this Court. I make
6 this declaration based on personal knowledge and, if called upon to do so, could testify
7 competently thereto.

8 1. Attached as **Exhibit 1** is a true and correct copy of the following excerpts from the
9 May 21, 2009 Seth Ravin Deposition: 1, 172:18-173:24.

10 2. Attached as **Exhibit 2** is a true and correct copy of the following excerpts from the
11 September 26, 2008 Henning Kagermann Deposition: 230, 341:5-342:7.

12 3. Attached as **Exhibit 3** is a true and correct copy of the following excerpts from the
13 October 22, 2008 Christopher Faye Deposition: 1, 64:11-65:21.

14 4. Attached as **Exhibit 4** is a true and correct copy of the Amended Notice of
15 Deposition of Christopher Faye, dated August 25, 2008.

16 5. Attached as **Exhibit 5** is a true and correct copy of the Amended Notice of
17 Deposition of Tim Crean, dated January 7, 2009.

18 6. Attached as **Exhibit 6** is a true and correct copy of the Amended Notice of
19 Deposition of SAP AG and SAP America Pursuant to Fed. R. Civ. P. 30(b)(6) re: Project Blue,
20 dated February 25, 2009.

21 7. Attached as **Exhibit 7** is a true and correct copy of Plaintiffs' Second Set of
22 Requests for Production of Documents to Defendants, dated July 28, 2008.

23 8. Attached as **Exhibit 8** is a true and correct copy of Plaintiff Oracle Corporation's
24 Third Set of Interrogatories to Defendant TomorrowNow, Inc. and Second Set of Interrogatories
25 to Defendants SAP AG and SAP America, dated July 28, 2008.

26 9. Attached as **Exhibit 9** is a true and correct copy of the following excerpts from the
27 August 28, 2008 Transcript of Proceedings (D.I. 176): 1, 71:4-10.

28

1 10. Attached as **Exhibit 10** is a true and correct copy of the following excerpts from
2 the February 13, 2008 Discovery Hearing Transcript: 1, 152:24-154:11.

3 11. Attached as **Exhibit 11** is a true and correct copy of the following excerpts from
4 the March 4, 2008 Discovery Hearing Transcript: 1, 105:13-24.

5 12. Attached as **Exhibit 12** is a true and correct copy of the following excerpts from
6 the February 23, 2010 Expert Report of Paul K. Meyer: cover page and ¶¶ 88, 381.

7 13. Attached as **Exhibit 13** is a true and correct copy of a document entitled “PSFT-
8 JDE 3rd party risk analysis 1-25-08REDACTED.xls,” produced by Plaintiffs in this case at
9 ORCL00079745, and marked in this case as Defendants’ Deposition Exhibit 311.

10 14. Attached as **Exhibit 14** is a true and correct copy of the following excerpts from
11 the April 21, 2009 Richard Cummins Deposition: 1, 234:1-15.

12 15. Attached as **Exhibit 15** is a true and correct copy of the following excerpts from
13 the September 16, 2008 Richard Cummins Deposition: 1, 212:4-213:25, 216:13-23, 225:2-4.

14 16. Attached as **Exhibit 16** is a true and correct copy of a document entitled “Oracle
15 Support Services – The Best Protection Money Can Buy,” produced by Plaintiffs in this case at
16 ORCL00130706–728, and marked in this case as Defendants’ Deposition Exhibit 217.

17 17. Attached as **Exhibit 17** is a true and correct copy of a February 8, 2007 e-mail
18 from B. Ransom to T. Keiffer produced by Plaintiffs in this case at ORCL00087892–893, and
19 marked in this case as Defendants’ Deposition Exhibit 61.

20 18. Attached as **Exhibit 18** is a true and correct copy of a May 9, 2006 e-mail from R.
21 Cummins to W. Bagshaw, et al., produced by Plaintiffs in this case at ORCL00032750, and
22 marked in this case as Defendants’ Deposition Exhibit 58.

23 19. Attached as **Exhibit 19** is a true and correct copy of the following excerpts from
24 the September 23, 2008 Richard Cummins 30(b)(6) Deposition: 256, 316:19-317:8.

25 20. Attached as **Exhibit 20** is a true and correct copy of a January 13, 2007 e-mail
26 from R. Cummins to J. Jones and C. Madsen, produced by Plaintiffs in this case at
27 ORCL00188690–703, and marked in this case as Defendants’ Deposition Exhibit 299.

28

1 21. Attached as **Exhibit 21** is a true and correct copy of a document titled “North
2 America Support Review” produced by Plaintiffs in this case at ORCL00131360–384, and
3 marked in this case as Defendants’ Deposition Exhibit 334.

4 22. Attached as **Exhibit 22** is a true and correct copy of a January 10, 2006 e-mail
5 from R. Cummins to R. Lachs, et al., produced by Plaintiffs in this case at ORCL00126451–453,
6 and marked in this case as Defendants’ Deposition Exhibit 309.

7 23. Attached as **Exhibit 23** is a true and correct copy of a June 3, 2005 e-mail from S.
8 Moses-Reed to J. Bruno, et al., produced by Plaintiffs in this case at ORCL00160328–335, and
9 marked in this case as Defendants’ Deposition Exhibit 214.

10 24. Attached as **Exhibit 24** is a true and correct copy of a July 29, 2005 e-mail from R.
11 Cummins to P. Harharan produced by Plaintiffs in this case at ORCL00088216–230, and marked
12 in this case as Defendants’ Deposition Exhibit 63.

13 25. Attached as **Exhibit 25** is a true and correct copy of the following excerpts from
14 Defendant TomorrowNow, Inc.’s Seventh Amended and Supplemental Response to Plaintiff
15 Oracle USA, Inc.’s First Set of Interrogatories, dated December 4, 2009: 1, 9-26.

16 26. Attached as **Exhibit 26** is a true and correct copy of the following excerpts from
17 Plaintiffs’ Fifth Amended and Supplemental Responses and Objections to TomorrowNow, Inc.’s
18 First Set of Interrogatories, dated December 4, 2009: cover page and 64-66.

19 27. Attached as **Exhibit 27** is a true and correct copy of the following excerpts from
20 Defendants’ Response to Plaintiffs’ Fifth Set of Requests for Admission to Defendants
21 TomorrowNow, Inc., SAP AG and SAP America, Inc., dated November 23, 2009: 1, 7-8.

22 28. Attached as **Exhibit 28** is a true and correct copy of the following excerpts from
23 Defendant TomorrowNow, Inc.’s Eighth Amended and Supplemental Response to Plaintiff
24 Oracle Corporation’s First Set of Interrogatories, dated December 4, 2009: 1, 11-20, 24-27, 34-42,
25 55-71, 73-77.

26 29. Attached as **Exhibit 29** is a true and correct copy of the following excerpts from
27 the December 6, 2007 Shelley Nelson Deposition: 59, 153:11-154:22, 241.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

30. Attached as **Exhibit 30** is a true and correct copy of the following excerpts from the March 31, 2009 Discovery Conference Hearing Transcript: 1, 7:19-8:1.

31. Attached as **Exhibit 31** is a true and correct copy of a November 30, 2006 e-mail from D. Carpenter to J. Webb, produced by Plaintiffs in this case at ORCL00347112-114.

32. Attached as **Exhibit 32** is a true and correct copy of a April 27, 2005 e-mail from OSSINFO-Allison, produced by Plaintiffs in this case at ORCL00323912-915.

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 19th day of August, 2010 in San Francisco, California.

/s/ Tharan Gregory Lanier
Tharan Gregory Lanier