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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' ADMINISTRATIVE
 MOTION FOR AN ORDER
 REGARDING COUNSELS'
 EXTRAJUDICIAL
 COMMUNICATIONS**

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. On October 11, 2010, Defendants proposed to Plaintiffs that the parties agree on a
9 stipulation and proposed order regarding extrajudicial communications by counsel during trial.
10 Defendants further proposed that the jury be instructed not to read or listen to any media, whether
11 in hard copy or in electronic form, pertaining to this case.

12 2. On October 14, 2010, Plaintiffs indicated a willingness to instruct the jury not to
13 use hard copy or electronic materials to conduct independent research about the case.

14 3. On October 16, 2010, Defendants informed Plaintiffs that should Plaintiffs not
15 agree to a stipulation, Defendants would file a motion.

16 4. On October 17, 2010, Plaintiffs informed Defendants that they had not yet
17 considered and discussed the issue.

18 5. On October 20, 2010, during a meet and confer call on a variety of subjects,
19 Defendants reiterated their position regarding a court order prohibiting extrajudicial
20 communications by counsel.

21 6. On October 21, 2010, Plaintiffs informed Defendants that they would not agree to
22 such a stipulation and order.

23 7. Attached as **Exhibit A** is a true and correct copy of the following excerpts from
24 the 9/30/10 Pretrial Conference Transcript: pp. 117-19.

25 8. Attached as **Exhibit B** is a true and correct copy of the New York Times article, A
26 Double Standard at H.P., by Joe Nocera, available at
27 <<http://www.nytimes.com/2010/10/09/business/09nocera.html>>.

28 9. Attached as **Exhibit C** is a true and correct copy of the Order Re: Trial

1 Participant's Communications with Press During Pendency of Trial, issued by Judge Illston in
2 *Bowoto v. Chevron Corp.*, No. C 99-02506 SI.

3 I declare under penalty of perjury under the laws of the United States and the State of
4 California that the foregoing is true and correct. Executed this 22nd day of October, 2010 in San
5 Francisco, California.

6 /s/ Tharan Gregory Lanier
7 Tharan Gregory Lanier
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