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14 Attorneys for Plaintiffs  
 15 Oracle Corporation, Oracle USA, Inc.,  
 and Oracle International Corporation

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

19 ORACLE CORPORATION, a Delaware  
 20 corporation, ORACLE USA, INC., a Colorado  
 corporation, and ORACLE INTERNATIONAL  
 21 CORPORATION, a California corporation,

22 Plaintiffs,

23 v.

24 SAP AG, a German corporation, SAP  
 AMERICA, INC., a Delaware corporation,  
 25 TOMORROWNOW, INC., a Texas corporation,  
 and DOES 1-50, inclusive,

26 Defendants.

Case No. 07-CV-1658 PJH (EDL)

**DECLARATION OF HOLLY A.  
 HOUSE IN SUPPORT OF ORACLE'S  
 OPPOSITION TO DEFENDANTS'  
 OBJECTIONS TO SPECIAL  
 MASTER'S REPORT AND  
 RECOMMENDATIONS RE:  
 DISCOVERY HEARINGS 1 AND 2**

Date: July 1, 2008

Time: 9:00 a.m.

Place: Courtroom E, Floor 15

Judge: Honorable Elizabeth D. Laporte

1 I, Holly A. House, declare as follows:

2 1. I am an attorney admitted to practice law in the State of California and  
3 before this Court, and a partner at Bingham McCutchen LLP, counsel of record for plaintiffs  
4 Oracle Corporation, Oracle USA, Inc. and Oracle International Corporation (collectively,  
5 “Oracle” or “Plaintiffs”) in this matter. I have personal knowledge of the facts contained in this  
6 Declaration and could competently testify to them if required to do so.

7 2. Oracle served its First Sets of Requests for Production of Documents  
8 (“Requests”) on TomorrowNow, Inc. on August 2, 2007, and on SAP AG and SAP America,  
9 Inc. on August 30, 2007. I am informed and believe that at the time that Oracle served these  
10 Requests, it was unaware that Defendants had received a subpoena from a grand jury or, indeed,  
11 that a grand jury had been impaneled. On February 13, 2008, at the hearing on Oracle’s first  
12 motion to compel, counsel for Defendants stated for the first time that a grand jury subpoena had  
13 been served on Defendants.

14 3. Attached as **Exhibit A** is a true and correct copy of a printout of a July 3,  
15 2007 press release, available at [http://www.tnlawsuit.com/uploads/pdf/pressrelease/  
16 pressrelease\\_RespondetoOracleComplaint.pdf](http://www.tnlawsuit.com/uploads/pdf/pressrelease/pressrelease_RespondetoOracleComplaint.pdf) (a website maintained by Defendants), last visited  
17 on May 30, 2008.

18 4. Attached as **Exhibit B** is a true and correct copy of a November 16, 2007  
19 letter from Jason McDonnell of Jones Day, counsel for Defendants, to Zachary Alinder of  
20 Bingham McCutchen. I am further informed and believe that, during meet and confer calls in  
21 fall 2007 with Mr. Alinder and Bree Hann, also of Bingham McCutchen, counsel for Defendants  
22 refused to produce documents in response to Oracle’s Requests for Production relating to  
23 government investigation documents and would not elaborate on their reasons for that refusal.

24 5. Attached as **Exhibit C** are excerpts from a true and correct copy of  
25 Oracle’s January 28, 2008 letter brief to Judge Legge. The excerpt includes Oracle’s motion to  
26 compel production of documents in response to its Requests for Production relating to  
27 government investigation documents. In an abundance of caution, Oracle has redacted footnote  
28 2 and Section III to protect references to Defendants’ confidential information.

1           6. Attached as **Exhibit D** are true and correct copies of bracketed excerpts  
2 from the transcript of the hearing held by Judge Legge on February 13, 2008, during which the  
3 parties and Judge Legge discussed Oracle's motion to compel production of government  
4 investigation documents.

5           7. Attached as **Exhibit E** is a true and correct copy of a December 12, 2007  
6 letter from Mr. McDonell to Mr. Alinder and Geoff Howard, also of Bingham McCutchen.

7           8. Attached as **Exhibit F** is a true and correct copy of a January 4, 2008 letter  
8 from Mr. Alinder to Mr. McDonell.

9           9. Attached as **Exhibit G** is a true and correct copy of a January 14, 2008  
10 email from Mr. Alinder to Mr. McDonell.

11          10. Attached as **Exhibit H** is a true and correct copy of a January 24, 2008  
12 email from Mr. McDonell to Mr. Alinder.

13          11. Attached as **Exhibit I** are true and correct copies of excerpts from  
14 Oracle's Responses and Supplemental Responses to TomorrowNow Inc.'s First Set of Document  
15 Requests, including Responses and Supplemental Responses Nos. 2, 4, 82-84, 90, 92-93 and 95-  
16 96.

17           I declare under penalty of perjury under the laws of the State of California and of  
18 the United States that the foregoing is true and correct, and that this Declaration was executed on  
19 May 30, 2008 in San Francisco, California.

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23 Holly A. House  
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