

1 Robert A. Mittelstaedt (SBN 060359)  
Jason McDonell (SBN 115084)  
2 Elaine Wallace (SBN 197882)  
JONES DAY  
3 555 California Street, 26<sup>th</sup> 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 jl fuchs@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 SAN FRANCISCO DIVISION

22 ORACLE CORPORATION, et al.,

23 Plaintiffs,

24 v.

25 SAP AG, et al.,

26 Defendants.

Case No. 07-CV-1658 PJH

**REPLY DECLARATION OF JASON  
McDONELL IN SUPPORT OF  
DEFENDANTS' OBJECTIONS TO  
SPECIAL MASTER'S REPORT AND  
RECOMMENDATIONS RE:  
DISCOVERY HEARINGS 1 AND 2**

Date/Time: July 1, 2008, 11:00 am  
Courtroom: E, 15<sup>th</sup> Floor  
Judge: Hon. Elizabeth D. Laporte

1 I, JASON McDONELL, declare:

2 I am a partner in the law firm of Jones Day, 555 California Street, San Francisco,  
3 California 94104, a member in good standing of the bar of this state, and counsel of record for  
4 Defendants SAP AG, SAP Americas, and TomorrowNow, Inc. ("TN") in the above-captioned  
5 action. I make this declaration based on personal knowledge and, if called upon to do so, could  
6 testify competently thereto.

7 1. Attached hereto as Exhibit 1 is a true and correct copy of an excerpt from the  
8 transcript of the February 13, 2008 hearing with the Special Master on the parties' first set of  
9 motions to compel.

10 2. Attached hereto as Exhibit 2 is a true and correct copy of a July 27, 2002 letter  
11 from James R.J. Spencer, then General Counsel for TN, to David Chavez, then Assistant General  
12 Counsel for PeopleSoft. A copy of this letter was produced to Oracle by Blank Rome LLP on  
13 May 16, 2008 in response to a subpoena from Oracle.

14 3. I have reviewed Oracle's January 28, 2008 Motion to Compel Production of  
15 Documents Related to Government Investigations and Further Responses to Interrogatories (the  
16 "Letter Brief"). The quoted text cited at page 4 of Defendants' reply brief appears at page 4 of  
17 Oracle's Letter Brief. Defendants have not included the Letter Brief itself because Oracle  
18 designated it under the Protective Order as containing confidential and highly confidential  
19 information. Instead, Defendants have quoted the relevant non-confidential text in the reply brief.

20 4. To date, Defendants have produced 2,181,283 Bates-numbered TN documents,  
21 125,591 Bates-numbered SAP documents, and over 6 terabytes of native data (not Bates-  
22 numbered).

23 I declare under penalty of perjury under the laws of the United States and the State of  
24 California that the foregoing is true and correct. Executed this 6th day of June, 2008 in San  
25 Francisco, California.

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/S/ Jason McDonell  
JASON McDONELL