

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 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' WITNESS LIST FOR  
NEW TRIAL**

1 Defendants submit the attached trial witness list indicating all of those witnesses whom  
2 Defendants expect to call at the new trial, either in person or by deposition. *See* Exhibit “A.”  
3 Defendants’ Witness List for New Trial should be considered to include testimony within the  
4 scope of Defendants’ deposition designations. Certain witnesses named in the attached list  
5 provided all or some of their deposition testimony in a representative capacity (*i.e.*, under Fed. R.  
6 Civ. P. 30(b)(6)) on behalf of a party or third party entity and that fact is noted on the face of their  
7 deposition transcript. In those instances, the designated witness shall be deemed to be the entity  
8 on whose behalf the individual provided the deposition testimony.

9 This list is limited to the claims and defenses currently available in this case based on the  
10 parties’ stipulations and the Court’s prior orders. Defendants reserve the right to add, remove, or  
11 re-designate witnesses as appearing live or by deposition in light of the Defendants’ ongoing  
12 efforts to streamline trial and the Court’s further rulings on pending motions. For example,  
13 several witnesses are designated solely for foundational purposes. Should Oracle stipulate to or  
14 the Court rule on the admissibility of documents prior to trial, Defendants’ witness list will be  
15 further narrowed. Moreover, consistent with this Court’s orders, the attached list does not  
16 necessarily include all those witnesses whom Defendants may call at trial solely for impeachment  
17 or rebuttal.

18 Dated: April 26, 2012

Respectfully submitted,

Jones Day

21 By: /s/ Tharan Gregory Lanier  
22 Tharan Gregory Lanier

23 Attorneys for Defendants  
24 SAP AG, SAP AMERICA, INC., and  
25 TOMORROWNOW, INC.

# 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' WITNESS LIST FOR NEW TRIAL**

<b>WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>
Andersen, Jesper	Plaintiff's products and services; Plaintiff's sales and marketing; Plaintiff's business operations; Causation and damages
Anderson, Mary	SAP's financial operations; Causation and damages
Bailey, Thomas	Causation and damages; Honeywell
Block, Keith	Plaintiff's business operations; Plaintiff's sales and marketing; Causation and damages
Blotner, Richard	Plaintiff's business operations; Plaintiff's products and services; Plaintiff's sales and marketing
Brazile, Steven	Causation and damages; Sara Lee
Brook, Paul	Plaintiff's business operations; Causation and damages
Burke, John	Plaintiff's business operations; Plaintiff's competitive intelligence regarding TN
Busillo, Joe	SAP's financial operations; Causation and damages
Clarke, Stephen	Expert report and related issues
Crossman, Meeia	Plaintiff's business operations; Plaintiff's sales and marketing; Causation and damages
Cummins, Richard	Plaintiff's business operations; Plaintiff's products and services; Plaintiff's sales and marketing; Causation and damages
Custodian(s) or Declarant(s) of Record	Authentication and admission of documents as needed
Duggan, Paul	Plaintiff's business operations; Plaintiff's sales and marketing; Causation and damages
Hallenberger, Tracy	Causation and damages; Baker Botts
Henslee, Robbin	Plaintiff's business operations; Plaintiff's sales and marketing; Causation and damages
Homs, Charles	Plaintiff's business operations; Plaintiff's competitive intelligence regarding Safe Passage
Jones, Juan	Plaintiff's business operations; Plaintiff's products and services; Plaintiff's sales and marketing; Plaintiff's competitive intelligence regarding TN; Causation and damages
Kehring, Douglas	Plaintiff's financials and customer information; Oracle's acquisitions of PeopleSoft and Siebel; 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' WITNESS LIST FOR NEW TRIAL**

<b>WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>
Kishore, Ann	Plaintiff's agreements
Kreul, John	Causation and damages; Pepsi America
Lyskawa, Nancy	Plaintiff's business operations; Plaintiff's sales and marketing; Causation and damages
McDermott, Bill	SAP and TN competition with Oracle; SAP's financials and customer information; SAP sales and marketing; SAP's products and services; Causation and damages
McMillan, Eileen	Plaintiff's business operations; Plaintiff's financials and customer information; Causation and damages
Nolan, Brad	Plaintiff's business operations; Plaintiff's products and services; Plaintiff's sales and marketing; Causation and damages
O'Donnell, Jeffrey	Causation and damages; Lexmark
Phillips, Charles	Plaintiff's business operations; Plaintiff's products and services; Plaintiff's sales and marketing; Plaintiff's financials and customer information; Causation and damages
Ransom, Buffy	Plaintiff's business operations; Plaintiff's products and services; Plaintiff's sales and marketing; Causation and damages
Ravin, Seth	Causation and damages
Restmeyer, Dan	Causation and damages; Amgen
Rottler, Juergen	Plaintiff's business operations; Plaintiff's products and services; Plaintiff's sales and marketing; Causation and damages
Rozwat, Charles	Plaintiff's business operations; Plaintiff's products and services; Causation and damages
Ryland, Keith	Plaintiff's business operations; Plaintiff's financials and customer information; Causation and damages
Shippy, Elizabeth	Plaintiff's business operations; Plaintiff's sales and marketing; Plaintiff's financials and customer information; Plaintiff's collection and retention of documents; Causation and damages
Sim, Judith	Plaintiff's sales and marketing; Causation and damages
Singh, Bruno	Causation and damages; NBC Universal
Sommer, Brian	Expert report and related issues

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

**DEFENDANTS' WITNESS LIST FOR NEW TRIAL**

<b>WITNESS</b>	<b>SUBSTANCE OF TESTIMONY</b>
Van Boening, Michael	Plaintiff's business operations; Plaintiff's products and services; Plaintiff's sales and marketing; Plaintiff's financials and customer information; Causation and damages
Van Wissen, Albert	TomorrowNow's financial operations; Causation and damages
Wasson, Robert	Causation and damages; McLennan County