

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 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

**DECLARATION OF MARK WHITE IN  
SUPPORT OF DEFENDANTS'  
RESPONSE TO PLAINTIFFS'  
ADMINISTRATIVE MOTION TO FILE  
THEIR MOTION TO COMPEL AND  
SUPPORTING DOCUMENTS UNDER  
SEAL**

Date: N/A

Time: N/A

Courtroom: E, 15<sup>th</sup> Floor

Judge: Hon. Elizabeth D. Laporte

1 I, MARK WHITE, declare:

2 I am an individual over 18 years old. I am the Executive Chairman of TomorrowNow,  
3 Inc., one of the Defendants in this action. I make this declaration based on personal knowledge  
4 and, if called upon to do so, could testify competently thereto.

5 1. The document that TomorrowNow produced in this case and Bates labeled TN-  
6 OR00217199 through TN-OR00217201 is a two-part email string that I originated on March 22,  
7 2005 between myself and several TomorrowNow and SAP employees regarding the status of  
8 TomorrowNow's integration into SAP's global organization. The email describe issues arising  
9 from the integration of TomorrowNow into the SAP family of companies, including financial  
10 assistance, pricing strategies, global terms and conditions for customer participation in the Safe  
11 Passage Program, and the termination of a number of TomorrowNow employees. This email  
12 contains information regarding TomorrowNow's financial plans, business plans, compensation  
13 plans, confidential pricing information and other types of commercially sensitive information.  
14 The entire document is confidential and was always intended to be kept confidentially within  
15 SAP and TomorrowNow. For example, the top half of the email chain dated April 5, 2005  
16 contains very specific information regarding VSOE testing for financial reporting purposes.  
17 VSOE is vendor-specific objective evidence, a method for determining the individual value of  
18 each item within a contract in order to recognize partial revenue before the entire contract is  
19 fulfilled.

20 2. As the former COO and CFO of SAP America, Inc., I am familiar with SAP's  
21 integration strategies and financial reporting practices. The business issues raised and discussed  
22 in this email are descriptive not only of SAP's business model for integrating acquired companies  
23 with regards to Tomorrow Now, but also of SAP's integration and financial reporting strategies  
24 generally. As such, public revelation of the contents of this email would cause competitive injury  
25 to SAP and compromise its negotiation power with companies SAP has or may attempt to acquire  
26 in the future.

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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 on August 11, 2008 in Newtown Square, Pennsylvania.

  
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MARK WHITE