

1 Robert A. Mittelstaedt (SBN 060359)
Jason McDonell (SBN 115084)
2 Elaine Wallace (SBN 197882)
JONES DAY
3 555 California Street, 26th 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 USA, INC., et al.,

23 Plaintiffs,

24 v.

25 SAP AG, et al.,

26 Defendants.

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

**DECLARATION OF ALBERT VAN
WISSEN IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION TO COMPEL**

Date: N/A
Time: N/A
Courtroom: E, 15th Floor
Judge: Hon. Elizabeth D. Laporte

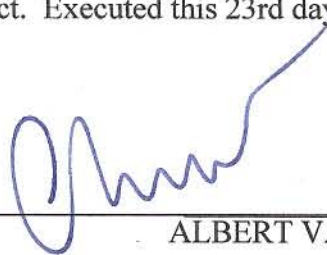
1 I, ALBERT VAN WISSEN, declare:

2 Since June 1, 2006, I have been the Chief Financial Officer (“CFO”) of TomorrowNow,
3 Inc. (“TN”), one of the Defendants in this case and a subsidiary of SAP America, Inc., which is a
4 subsidiary of SAP AG (collectively “SAP”). I make this declaration based on personal
5 knowledge and, if called upon to do so, could testify competently thereto.

6 1. Prior to the present litigation, I am aware that TN considered providing third party
7 support for the Hyperion and eBusiness Suite (“EBS”) software product lines. TN’s
8 consideration of servicing Hyperion and EBS products involved, among other things, an analysis
9 of the projected revenues, expenses and other logistics associated with those potential new service
10 offerings.

11 2. Ultimately, TN did not provide third party support for Hyperion and EBS
12 products. To my knowledge, while I have been CFO, TN has never received any revenue for
13 providing such support services, it never incur any expenses related to Hyperion and EBS
14 products, and it never received revenue or incurred expenses related to Retek products.

15 I declare under penalty of perjury under the laws of the United States and the State of
16 California that the foregoing is true and correct. Executed this 23rd day of January, 2009 in
17 Amsterdam, The Netherlands.

18 
19 _____
20 ALBERT VAN WISSEN