

EXHIBIT H

1 Robert A. Mittelstaedt (SBN 060359)
JONES DAY
2 San Francisco Office
555 California Street, 26th Floor
3 San Francisco, CA 94104
Telephone: (415) 626-3939
4 Facsimile: (415) 875-5700
ramittelstaedt@jonesday.com

5
6 Tharan Gregory Lanier (SBN 138784)
Jane L. Froyd (SBN 220776)
JONES DAY
7 Silicon Valley Office
1755 Embarcadero Road
8 Palo Alto, CA 94303
Telephone: (650) 739-3939
9 Facsimile: (650) 739-3900
tglanier@jonesday.com
10 jfroyd@jonesday.com

11 Scott W. Cowan (Admitted *Pro Hac Vice*)
Joshua L. Fuchs (Admitted *Pro Hac Vice*)
12 JONES DAY
717 Texas, Suite 3300
13 Houston, TX 77002
Telephone: (832) 239-3939
14 Facsimile: (832) 239-3600
swcowan@jonesday.com
15 jlfuchs@jonesday.com

16 Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
17 TOMORROWNOW, INC.

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA
20 SAN FRANCISCO DIVISION

21 ORACLE CORPORATION, et al.,
22 Plaintiffs,
23 v.
24 SAP AG, et al.,
25 Defendants.

Case No. 07-CV-1658 PJH
**DEFENDANT TOMORROWNOW,
INC.'S FIRST AMENDED AND
SUPPLEMENTAL RESPONSE TO
PLAINTIFF ORACLE USA, INC.'S
SECOND SET OF
INTERROGATORIES**

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INTERROGATORY NO. 12:

For each Customer for whom SAP TN has created one or more local PeopleSoft environments on SAP TN's systems from copies of that Customer's PeopleSoft software, as testified by Shelley Nelson (Shelley Nelson Dep. at 13:24-17:11 (Oct. 30, 2007)), Identify the Customer, Identify each product name and release copied to create the local environment, and state the total number of local environments created for the customer.

RESPONSE TO INTERROGATORY NO. 12:

THIS RESPONSE IS DESIGNATED AS HIGHLY CONFIDENTIAL.

TomorrowNow objects that this interrogatory is compound, unduly burdensome and oppressive to the extent that it seeks a narrative answer with respect to Peoplesoft environments and each product name and release copied to each such environment. Subject to and without waiving the foregoing objections and the General Responses and Objections, TomorrowNow responds as follows: TomorrowNow has maintained approximately 183 Peoplesoft environments on behalf of approximately 122 different customers, which have variously included one or more of the CRM, EPM, FDM, SA, Portal, and HRMS products, with varying releases of each (including CRM - releases 8.4, 8.8 SP1, and 8.9; EPM- release 8.9; FDM - releases 7.52, 7.53, 8 SP3, 8.4, 8.4 SP1, 8.4 SP2, 8.8 SP1, and 8.9; SA – releases 7.6 and 8 SP1; Portal – releases 8.4 and 9.9; and HRMS - releases 7.02, 7.50, 7.51, 8, 8 SP1, 8.3, 8.3 SP1, 8.8 SP1, and 8.9). Additional information responsive to this interrogatory as to specific customers may be derived or ascertained from TomorrowNow's business records, including specifically TomorrowNow's E Portal .nsf file, produced at TN-OR 00169313, information contained at TN-OR 00169315,

1 TomorrowNow's emails among development and support engineers and its databases of customer
2 service information, including its SAS databases (which have been previously produced, in native
3 format, at TN-OR 00009569), which have been or will be included in TomorrowNow's
4 production of documents and on which TomorrowNow relies to further respond to this
5 interrogatory pursuant to Rule 33(d).

6 **AMENDED AND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12:**

7 TomorrowNow amends the confidentiality designation of its prior response to be
8 designated as Confidential Information.

9 THIS RESPONSE IS DESIGNATED AS CONFIDENTIAL.

10 TomorrowNow further responds that an Excel workbook that has been produced at
11 TN-OR06515456 that contains the most detailed information TomorrowNow has been able to
12 gather regarding the PeopleSoft environment components that might have existed on
13 TomorrowNow's network. Additional information responsive to this interrogatory may be
14 derived or ascertained from TomorrowNow's business records of local PeopleSoft environments
15 and their locations, including specifically TomorrowNow's BakTrack database, produced at TN-
16 OR 06125330, TomorrowNow's SAS database, produced at TN-OR 03775478, TN(Hard
17 drive).67, TN-OR 04446717, TN(Disc).173, TN-OR 04446719, TN(Hard drive).75,
18 TomorrowNow's SAS environment portals, produced at TN-OR 00169313, TN-OR 00871902,
19 TN-OR 03775478, and TN-OR04446719, TomorrowNow's Path Finder database, produced at
20 TN-OR 04498712, and TomorrowNow's DotProject database, produced at TN-OR06220764,
21 TN(Disc).214, as well as through the servers that have been made available in the "Data
22 Warehouse," all which have been included in TomorrowNow's production of documents or
23 otherwise made available to Plaintiffs and on which TomorrowNow relies to further respond to
24 this interrogatory pursuant to Rule 33(d).

25 Further, in response to these noticed topics and during the course of individual depositions
26 of TomorrowNow witnesses, TomorrowNow has provided more than sufficient testimony on the
27 local PeopleSoft environments. *See, e.g.*, February 6-7, 2008 Deposition of John Baugh Pursuant
28 to Rule 30(b)(6); June 25, 2008 Deposition of Rod Russell Pursuant to Rule 30(b)(6); April 1,

1 2008 Deposition of Kathy Williams Pursuant to Rule 30(b)(6); April 1, 2008 Deposition of
2 Catherine Hyde Pursuant to Rule 30(b)(6); December 5, 2008 Deposition of Matthew Bowden;
3 February 12, 2009 Deposition of Catherine Hyde; May 12, 2009 Deposition of Catherine Hyde;
4 February 5, 2009 Deposition of Rod Russell; April 18, 2008 Deposition of Shelley Nelson.
5 Pursuant to Rule 33(d), TomorrowNow relies on this testimony to further respond to this
6 interrogatory.

7 **INTERROGATORY NO. 13:**

8 For each Customer for whom SAP TN has created one or more local J.D. Edwards
9 environments on SAP TN's systems from copies of that Customer's J.D. Edwards software, as
10 testified by Mark Kreutz (Mark Kreutz Dep. at 90:14-94:12-18 (Oct. 30, 2007)), Identify the
11 Customer, Identify each product name and release copied to create the local environment, and
12 state the total number of local environments created for that customer.

13 **RESPONSE TO INTERROGATORY NO. 13:**

14 THIS RESPONSE IS DESIGNATED AS HIGHLY CONFIDENTIAL.

15 TomorrowNow objects that this interrogatory is compound, unduly burdensome and
16 oppressive to the extent that it seeks a narrative answer with respect to JDE environments and
17 each product name and release copied to each such environment. Subject to and without waiving
18 the foregoing objections and the General Responses and Objections, TomorrowNow responds as
19 follows: TomorrowNow has maintained JDE environments on behalf of three different customers:
20 Koontz-Wagner Electric, Inc., The Bonne Bell Company, Inc., and Praxair, Inc. For Koontz-
21 Wagner, there are nine environments, which include products Distribution, Financials, HRMS,
22 and Manufacturing, release A7.3, Cumulative Update 7. For Bonne Bell, there are three
23 environments, which include products Distribution, Financials, HRMS, and Manufacturing,
24 release A8.1, Cumulative Update 6. For Praxair, there are twelve environments, which include
25 products Distribution, Financials, HRMS, and Manufacturing, release Xe SP23G1. Additional
26 Information responsive to this interrogatory as to specific customers may be derived or
27 ascertained from TomorrowNow's business records, including TomorrowNow's emails among
28 development and support engineers and its databases of customer service information, including

1 its SAS databases (which have been previously produced, in native format, at TN-OR 00009569),
2 which have been or will be included in TomorrowNow's production of documents and on which
3 TomorrowNow relies to further respond to this interrogatory pursuant to Rule 33(d).

4 **AMENDED AND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 13:**

5 TomorrowNow amends the confidentiality designation of its prior response to be
6 designated as Confidential.

7 THIS RESPONSE IS DESIGNATED AS CONFIDENTIAL.

8 TomorrowNow further responds that Plaintiffs have questioned TomorrowNow's
9 witnesses extensively in deposition on topics related to this interrogatory. For example, Plaintiffs
10 requested deposition testimony on TomorrowNow's "creation and use of Customer Local
11 Environments, including without limitation: b. The manner and method by which Customer Local
12 Environments were created, stored and Used by You; . . . d. The total number of Customer Local
13 Environments created for each identified customer; e. The name, release, and version of all PSFT
14 or JDE branded Software obtained and/or copied to create each identified Customer Local
15 Environment; f. The identity and description of all Customer Local Environments maintained in
16 any way by You relating to Customers for whom You had ceased to provide support services; g.
17 The identity and description of all Customer Local Environments Used by You in any way to
18 support any Customer other than the one that provided the Software used to create the Customer
19 Local Environment; . . . [and] l. The process by which Customer Local Environments were Used
20 as part of the ordinary course of business for SAP TN, including without limitation to on-
21 boarding of new Customers; support of Customer cases, issues, and problems; reactive and
22 proactive development of bug fixes, updates, patches, explanations, or regulatory changes for
23 Customers; and testing of other operating systems levels. . . ." See January 22, 2008 Amended
24 Notice of Deposition of TomorrowNow, Inc. Pursuant to Fed. R. Civ. P. 30(b)(6).

25 In response to these noticed topics and during the course of individual depositions of
26 TomorrowNow witnesses, TomorrowNow has provided more than sufficient testimony on the
27 creation and use of TomorrowNow's local JDE environments. See, e.g., February 19, 2008
28 Deposition of Mark Kreutz Pursuant to Rule 30(b)(6); April 10, 2009 Deposition of Patti

1 VonFeldt. *See also* Future Deposition of Keith Shankle. In addition, TomorrowNow has made
2 the relevant server partitions available through "Data Warehouse." Pursuant to Rule 33(d),
3 TomorrowNow relies upon all testimony and each document cited in this Supplemental Response
4 to further respond to this interrogatory.
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