

# **EXHIBIT A**

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 19 TOMORROWNOW, INC.

20 UNITED STATES DISTRICT COURT  
 21 NORTHERN DISTRICT OF CALIFORNIA

23 ORACLE USA, INC., et al.,  
 24 Plaintiffs,  
 25 v.  
 26 SAP AG, et al.,  
 27 Defendants.

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

**DEFENDANTS' FIFTH SET OF  
 INTERROGATORIES TO  
 PLAINTIFFS**

1 **PROPOUNDING PARTY:** Defendants

2 **RESPONDING PARTY:** Plaintiffs

3 **SET NO:** FIFTH

4 Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant TomorrowNow,  
 5 Inc. (“TN”) hereby requests that Plaintiffs, within thirty days of service, respond to these  
 6 interrogatories, separately and in writing, to Defendants’ counsel, Jones Day, located at 555  
 7 California Street, 26<sup>th</sup> Floor, San Francisco, CA 94104.

8 **DEFINITIONS**

9 For purposes of these interrogatories, the following definitions shall apply:

- 10 1. “Identify” when used in reference to a business organization or entity means the  
 11 full name of the organization or entity and the address of its principal place of business.  
 12 “Identify” when used in reference to a natural person means the person’s full name, current or last  
 13 known business affiliation, and current or last known address.
- 14 2. “Communication” means any and all contact or transmission of information  
 15 between two or more persons, whether in a face-to-face meeting, telephone conversation, or  
 16 otherwise, or whether by letter, electronic mail, instant messaging system, facsimile transmission,  
 17 cable, letters, correspondence, video conference, message, or any other method or medium of  
 18 information transfer or exchange.
- 19 3. Unless otherwise specified, “Complaint” means the Complaint, First Amended  
 20 Complaint, Second Amended Complaint, Third Amended Complaint, and all subsequent  
 21 amendments to the Complaint.
- 22 4. “Describe” means describe in as much detail as possible.
- 23 5. “Document” shall be interpreted broadly and includes all forms of writings,  
 24 tangible things, and other documents contemplated by Federal Rule of Civil Procedure 34 and/or  
 25 Federal Rule of Evidence 1001. This includes without limitation: writings; records; files;  
 26 correspondence; reports; memoranda; calendars; diaries; minutes; electronic messages; voicemail;  
 27 e-mail; telephone message records or logs; computer and network activity logs; data on hard  
 28 drives; backup data; data on removable computer storage media such as tapes, disks, and cards;

1 printouts; document image files; web pages; databases; spreadsheets; software; hardware; books;  
2 ledgers; journals; orders; invoices; bills; vouchers; checks; statements; worksheets; summaries;  
3 compilations; computations; charts; diagrams; graphic presentations; drawings; films; charts;  
4 digital or chemical process photographs; video, phonographic, tape, or digital recordings or  
5 transcripts thereof; drafts; jottings; and notes. Information that serves to identify, locate, or link  
6 such material, such as file inventories, file folders, indices, and metadata, is also included in this  
7 definition.

8 6. "Plaintiff(s)," "YOU," or "YOUR" means Oracle USA, Inc. ("OUSA"), Oracle  
9 International Corporation ("OIC"), Oracle EMEA Limited ("OEMEA"), their predecessors, and  
10 their successors.

11 7. "Registered Works" means the works identified in paragraphs 153 and 155 of the  
12 Third Amended Complaint.

### 13 INSTRUCTIONS

14 1. Each interrogatory must be answered separately, fully, under oath, and in writing.  
15 If objection is made to any interrogatory, or portion thereof, the reasons for the objection must be  
16 stated. If only part of an interrogatory is objected to, the remainder of the interrogatory must be  
17 answered.

18 2. The following rules of construction apply to these interrogatories: (1) the words  
19 "and" or "or" shall be construed conjunctively or disjunctively as necessary to make the requests  
20 inclusive rather than exclusive; (2) the singular includes the plural and vice-versa; (3) the words  
21 "any," "all," "each," and "every" all include any, all, each, and every; (4) "including" shall be  
22 construed to mean "without limitation," so as to acquire the broadest meaning possible; (5)  
23 "relating to" shall be construed to mean referring to, concerning, reflecting, discussing,  
24 comprising, consisting of, constituting, reporting, disclosing, pertaining to, and/or regarding; (6)  
25 "person" shall be construed to mean any natural person or any business, legal, or governmental  
26 entity or association.

27 3. If these interrogatories cannot be responded to in full, you shall respond to the  
28 extent possible, specify the reason for your inability to respond to the remainder, and state

1 whatever information or knowledge you have regarding the portion to which you have not  
2 responded.

3 4. The time period applicable to these requests is January 1, 2002 through the date of  
4 response, or, if the response is supplemented or amended, the date of the supplement or  
5 amendment.

6 5. Plaintiffs are reminded of their obligation under Rule 26(e) of the Federal Rules of  
7 Civil Procedure to timely supplement their responses.

8 **INTERROGATORIES**

9 **INTERROGATORY NO. 22:**

10 DESCRIBE each category of alleged conduct encompassed by the phrase "Using the  
11 Software and Support Materials," as set forth in paragraph 183 of the Third Amended Complaint.

12 **RESPONSE TO INTERROGATORY NO. 22:**

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14 **INTERROGATORY NO. 23:**

15 DESCRIBE each category of alleged conduct encompassed by the phrase "using portions  
16 of the Software and Support Materials," as set forth in paragraph 183 of the Third Amended  
17 Complaint.

18 **RESPONSE TO INTERROGATORY NO. 23:**

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20 **INTERROGATORY NO. 24:**

21 If the alleged conduct described in YOUR responses to Interrogatory Nos. 22 and 23  
22 differs from the conduct alleged in support of YOUR claim that Defendants infringed the  
23 REGISTERED WORKS, DESCRIBE how it differs.

24 **RESPONSE TO INTERROGATORY NO. 24:**

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26 **INTERROGATORY NO. 25:**

27 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
28 YOUR responses to Interrogatory Nos. 22 and 23.

1 **RESPONSE TO INTERROGATORY NO. 25:**

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3 **INTERROGATORY NO. 26:**

4 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
5 responses to Interrogatory Nos. 22 and 23, differs from the harm YOU claim to have suffered as a  
6 result of Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it  
7 differs.

8 **RESPONSE TO INTERROGATORY NO. 26:**

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10 **INTERROGATORY NO. 27:**

11 DESCRIBE each category of alleged conduct encompassed by the statement "Accessing  
12 the content available through Customer Connection, in the form of the Software and Support  
13 Materials, without being an authorized and designated Oracle technical support contact," as set  
14 forth in paragraph 183 of the Third Amended Complaint.

15 **RESPONSE TO INTERROGATORY NO. 27:**

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17 **INTERROGATORY NO. 28:**

18 DESCRIBE each category of alleged conduct encompassed by the statement "Accessing  
19 ... portions of the Software and Support Materials," as set forth in paragraph 183 of the Third  
20 Amended Complaint.

21 **RESPONSE TO INTERROGATORY NO. 28:**

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23 **INTERROGATORY NO. 29:**

24 If the alleged conduct described in YOUR responses to Interrogatory Nos. 27 and 28  
25 differs from the conduct alleged in support of YOUR claim that Defendants infringed the  
26 REGISTERED WORKS, DESCRIBE how it differs.

27 **RESPONSE TO INTERROGATORY NO. 29:**

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1 **INTERROGATORY NO. 30:**

2 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
3 YOUR responses to Interrogatory Nos. 27 and 28.

4 **RESPONSE TO INTERROGATORY NO. 30:**

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6 **INTERROGATORY NO. 31:**

7 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
8 responses to Interrogatory Nos. 27 and 28, differs from the harm YOU claim to have suffered as a  
9 result of Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it  
10 differs.

11 **RESPONSE TO INTERROGATORY NO. 31:**

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REDACTED - NOT RELEVANT

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REDACTED - NOT RELEVANT

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26 **INTERROGATORY NO. 39:**

27 DESCRIBE each category of alleged conduct encompassed by the phrases “using  
28 information learned through the improper access to, and taking from. . . to provide support



1 services to Defendants' customers" as set forth in paragraphs 188 and 198 of the Third Amended  
2 Complaint.

3 **RESPONSE TO INTERROGATORY NO. 39:**

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5 **INTERROGATORY NO. 40:**

6 If the alleged conduct described in YOUR responses to Interrogatory No. 39 differs from  
7 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
8 WORKS, DESCRIBE how it differs.

9 **RESPONSE TO INTERROGATORY NO. 40:**

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11 **INTERROGATORY NO. 41:**

12 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
13 YOUR response to Interrogatory No. 39.

14 **RESPONSE TO INTERROGATORY NO. 41:**

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16 **INTERROGATORY NO. 42:**

17 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
18 response to Interrogatory No. 39, differs from the harm YOU claim to have suffered as a result of  
19 Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

20 **RESPONSE TO INTERROGATORY NO. 42:**

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22 **INTERROGATORY NO. 43:**

23 DESCRIBE each category of alleged conduct encompassed by the phrase "gaining  
24 unauthorized access to Oracle USA's computer systems" as set forth in paragraphs 188 and 198  
25 of the Third Amended Complaint.

26 **RESPONSE TO INTERROGATORY NO. 43:**

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1 **INTERROGATORY NO. 44:**

2 If the alleged conduct described in YOUR responses to Interrogatory No. 43 differs from  
3 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
4 WORKS, DESCRIBE how it differs.

5 **RESPONSE TO INTERROGATORY NO. 44:**

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7 **INTERROGATORY NO. 45:**

8 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
9 YOUR response to Interrogatory No. 43.

10 **RESPONSE TO INTERROGATORY NO. 45:**

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12 **INTERROGATORY NO. 46:**

13 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
14 response to Interrogatory No. 43, differs from the harm YOU claim to have suffered as a result of  
15 Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

16 **RESPONSE TO INTERROGATORY NO. 46:**

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18 **INTERROGATORY NO. 47:**

19 DESCRIBE each category of alleged conduct encompassed by the phrase "gaining  
20 unauthorized access to the Software and Support Materials" as set forth in paragraphs 188 and  
21 198 of the Third Amended Complaint.

22 **RESPONSE TO INTERROGATORY NO. 47:**

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24 **INTERROGATORY NO. 48:**

25 If the alleged conduct described in YOUR response to Interrogatory No. 47 differs from  
26 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
27 WORKS, DESCRIBE how it differs.

28 **RESPONSE TO INTERROGATORY NO. 48:**

1 **INTERROGATORY NO. 49:**

2 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
3 YOUR response to Interrogatory No. 47.

4 **RESPONSE TO INTERROGATORY NO. 49:**

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6 **INTERROGATORY NO. 50:**

7 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
8 response to Interrogatory No. 47, differs from the harm YOU claim to have suffered as a result of  
9 Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

10 **RESPONSE TO INTERROGATORY NO. 50:**

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12 **INTERROGATORY NO. 51:**

13 DESCRIBE each category of alleged conduct encompassed by the phrase "gaining  
14 unauthorized access to Oracle's software releases" as set forth in paragraphs 188 and 198 of the  
15 Third Amended Complaint.

16 **RESPONSE TO INTERROGATORY NO. 51:**

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18 **INTERROGATORY NO. 52:**

19 If the alleged conduct described in YOUR response to Interrogatory No. 51 differs from  
20 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
21 WORKS, DESCRIBE how it differs.

22 **RESPONSE TO INTERROGATORY NO. 52:**

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24 **INTERROGATORY NO. 53:**

25 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
26 YOUR response to Interrogatory No. 51.

27 **RESPONSE TO INTERROGATORY NO. 53:**

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1 **INTERROGATORY NO. 54:**

2 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
3 response to Interrogatory No. 51, differs from the harm YOU claim to have suffered as a result of  
4 Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

5 **RESPONSE TO INTERROGATORY NO. 54:**

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7 **INTERROGATORY NO. 55:**

8 DESCRIBE each category of alleged conduct encompassed by the phrase "causing  
9 customers to breach their license agreements with Oracle" as set forth in paragraphs 188 and 198  
10 of the Third Amended Complaint.

11 **RESPONSE TO INTERROGATORY NO. 55:**

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13 **INTERROGATORY NO. 56:**

14 If the alleged conduct described in YOUR response to Interrogatory No. 55 differs from  
15 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
16 WORKS, DESCRIBE how it differs.

17 **RESPONSE TO INTERROGATORY NO. 56:**

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19 **INTERROGATORY NO. 57:**

20 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
21 YOUR response to Interrogatory No. 55.

22 **RESPONSE TO INTERROGATORY NO. 57:**

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24 **INTERROGATORY NO. 58:**

25 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
26 response to Interrogatory No. 55, differs from the harm YOU claim to have suffered as a result of  
27 Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

28 **RESPONSE TO INTERROGATORY NO. 58:**

1 **INTERROGATORY NO. 59:**

2 Describe each category of alleged conduct encompassed by the phrase "using those copies  
3 for various improper purposes," as set forth in paragraphs 188 and 198 of the Third Amended  
4 Complaint.

5 **RESPONSE TO INTERROGATORY NO. 59:**

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7 **INTERROGATORY NO. 60:**

8 If the alleged conduct described in YOUR response to Interrogatory No. 59 differs from  
9 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
10 WORKS, DESCRIBE how it differs.

11 **RESPONSE TO INTERROGATORY NO. 60:**

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13 **INTERROGATORY NO. 61:**

14 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
15 YOUR response to Interrogatory No. 59.

16 **RESPONSE TO INTERROGATORY NO. 61:**

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18 **INTERROGATORY NO. 62:**

19 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
20 response to Interrogatory No. 59, differs from the harm YOU claim to have suffered as a result of  
21 Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

22 **RESPONSE TO INTERROGATORY NO. 62:**

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24 **INTERROGATORY NO. 63:**

25 Describe each category of alleged conduct encompassed by the phrase "breaching the  
26 agreements governing access to, and use of, the website and the Software and Support materials,"  
27 as set forth in paragraphs 188 and 198 of the Third Amended Complaint.

28 **RESPONSE TO INTERROGATORY NO. 63:**

1 **INTERROGATORY NO. 64:**

2 If the alleged conduct described in YOUR response to Interrogatory No. 63 differs from  
3 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
4 WORKS, DESCRIBE how it differs.

5 **RESPONSE TO INTERROGATORY NO. 64:**

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7 **INTERROGATORY NO. 65:**

8 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
9 YOUR response to Interrogatory No. 63.

10 **RESPONSE TO INTERROGATORY NO. 65:**

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12 **INTERROGATORY NO. 66:**

13 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
14 response to Interrogatory No. 63, differs from the harm YOU claim to have suffered as a result of  
15 Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

16 **RESPONSE TO INTERROGATORY NO. 66:**

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18 **INTERROGATORY NO. 67:**

19 Describe each category of alleged conduct encompassed by the phrase "luring  
20 ...customers by making promotional and marketing statements regarding Defendants' ability to  
21 provide support services that were only possible because of Defendants' improper access to, and  
22 taking from ...," as set forth in paragraphs 188 and 198 of the Third Amended Complaint.

23 **RESPONSE TO INTERROGATORY NO. 67:**

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25 **INTERROGATORY NO. 68:**

26 If the alleged conduct described in YOUR response to Interrogatory No. 67 differs from  
27 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
28 WORKS, DESCRIBE how it differs.

1 **RESPONSE TO INTERROGATORY NO. 68:**

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3 **INTERROGATORY NO. 69:**

4 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
5 YOUR response to Interrogatory No. 67.

6 **RESPONSE TO INTERROGATORY NO. 69:**

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8 **INTERROGATORY NO. 70:**

9 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
10 response to Interrogatory No. 67, differs from the harm YOU claim to have suffered as a result of  
11 Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

12 **RESPONSE TO INTERROGATORY NO. 70:**

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14 **INTERROGATORY NO. 71:**

15 Describe each category of alleged conduct encompassed by the phrases "wrongfully used  
16 the property that they found there" and "used to lure away current and prospective clients," as set  
17 forth in paragraphs 189 and 199 of the Third Amended Complaint.

18 **RESPONSE TO INTERROGATORY NO. 71:**

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20 **INTERROGATORY NO. 72:**

21 If the alleged conduct described in YOUR response to Interrogatory No. 71 differs from  
22 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
23 WORKS, DESCRIBE how it differs.

24 **RESPONSE TO INTERROGATORY NO. 72:**

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26 **INTERROGATORY NO. 73:**

27 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
28 YOUR response to Interrogatory No. 71.

1 **RESPONSE TO INTERROGATORY NO. 73:**

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3 **INTERROGATORY NO. 74:**

4 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
5 response to Interrogatory No. 71, differs from the harm YOU claim to have suffered as a result of  
6 Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

7 **RESPONSE TO INTERROGATORY NO. 74:**

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9 **INTERROGATORY NO. 75:**

10 Identify each class of conduct "wrongful by a measure beyond the fact of the interference  
11 itself" alleged in paragraphs 189 and 199 of the Third Amended Complaint as the basis of  
12 Plaintiffs' claims for Intentional and Negligent Interference With Prospective Economic  
13 Advantage.

14 **RESPONSE TO INTERROGATORY NO. 75:**

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16 **INTERROGATORY NO. 76:**

17 For each class of conduct identified in response to Interrogatory No. 75, DESCRIBE how  
18 each Plaintiff was harmed as a result of such conduct.

19 **RESPONSE TO INTERROGATORY NO. 76:**

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21 **INTERROGATORY NO. 77:**

22 Identify each class of conduct constituting an "unlawful business act or practice" alleged  
23 in paragraph 205 of the Third Amended Complaint as the basis of Plaintiffs' claim for Unfair  
24 Competition.

25 **RESPONSE TO INTERROGATORY NO. 77:**



1 **INTERROGATORY NO. 78:**

2 For each class of conduct identified in response to Interrogatory No. 77, describe in as  
3 much detail as possible how each Plaintiff was damaged as a result of such conduct.

4 **RESPONSE TO INTERROGATORY NO. 78:**

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6 **INTERROGATORY NO. 79:**

7 DESCRIBE each category of alleged conduct encompassed by the phrase "improperly and  
8 unlawfully taken commercial advantage of [Plaintiffs'] investments in their confidential,  
9 proprietary, and copyrighted Software and Support Materials and underlying software  
10 applications," as set forth in paragraph 209 of the Third Amended Complaint.

11 **RESPONSE TO INTERROGATORY NO. 79:**

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13 **INTERROGATORY NO. 80:**

14 If the alleged conduct described in YOUR response to Interrogatory No. 79 differs from  
15 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
16 WORKS, DESCRIBE how it differs.

17 **RESPONSE TO INTERROGATORY NO. 80:**

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19 **INTERROGATORY NO. 81:**

20 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
21 YOUR response to Interrogatory No. 79.

22 **RESPONSE TO INTERROGATORY NO. 81:**

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24 **INTERROGATORY NO. 82:**

25 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
26 response to Interrogatory No. 79, differs from the harm YOU claim to have suffered as a result of  
27 Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

28 **RESPONSE TO INTERROGATORY NO. 82:**

1 **INTERROGATORY NO. 83:**

2 DESCRIBE each category of alleged conduct encompassed by the phrase “unauthorized  
3 and unlawful use of that property,” as set forth in paragraph 209 of the Third Amended  
4 Complaint.

5 **RESPONSE TO INTERROGATORY NO. 83:**

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7 **INTERROGATORY NO. 84:**

8 If the alleged conduct described in YOUR response to Interrogatory No. 83 differs from  
9 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
10 WORKS, DESCRIBE how it differs.

11 **RESPONSE TO INTERROGATORY NO. 84:**

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13 **INTERROGATORY NO. 85:**

14 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
15 YOUR response to Interrogatory No. 83.

16 **RESPONSE TO INTERROGATORY NO. 85:**

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18 **INTERROGATORY NO. 86:**

19 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
20 response to Interrogatory No. 83, differs from the harm YOU claim to have suffered as a result of  
21 Defendants’ alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

22 **RESPONSE TO INTERROGATORY NO. 86:**

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24 **INTERROGATORY NO. 87:**

25 DESCRIBE each category of alleged conduct encompassed by the phrase “unlawful and  
26 unfair use of [Plaintiffs’] stolen property,” as set forth in paragraph 212 of the Third Amended  
27 Complaint.

28 **RESPONSE TO INTERROGATORY NO. 87:**

1 **INTERROGATORY NO. 88:**

2 If the alleged conduct described in YOUR response to Interrogatory No. 87 differs from  
3 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
4 WORKS, DESCRIBE how it differs.

5 **RESPONSE TO INTERROGATORY NO. 88:**

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7 **INTERROGATORY NO. 89:**

8 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
9 YOUR response to Interrogatory No. 87.

10 **RESPONSE TO INTERROGATORY NO. 89:**

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12 **INTERROGATORY NO. 90:**

13 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
14 response to Interrogatory No. 87, differs from the harm YOU claim to have suffered as a result of  
15 Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

16 **RESPONSE TO INTERROGATORY NO. 90:**

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18 **INTERROGATORY NO. 91:**

19 DESCRIBE each class of conduct alleged as the basis of Plaintiffs' claim for an  
20 Accounting.

21 **RESPONSE TO INTERROGATORY NO. 91:**

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23 **INTERROGATORY NO. 92:**

24 If the alleged conduct described in YOUR response to Interrogatory No. 91 differs from  
25 the conduct alleged in support of YOUR claim that Defendants infringed the REGISTERED  
26 WORKS, DESCRIBE how it differs.

27 **RESPONSE TO INTERROGATORY NO. 92:**

28

1 **INTERROGATORY NO. 93:**

2 DESCRIBE the harm YOU claim to have suffered from the alleged conduct described in  
3 YOUR response to Interrogatory No. 91.

4 **RESPONSE TO INTERROGATORY NO. 93:**

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6 **INTERROGATORY NO. 94:**

7 If the harm YOU claim to have suffered from the alleged conduct described in YOUR  
8 response to Interrogatory No. 91, differs from the harm YOU claim to have suffered as a result of  
9 Defendants' alleged infringement of the REGISTERED WORKS, DESCRIBE how it differs.

10 **RESPONSE TO INTERROGATORY NO. 94:**

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12 **INTERROGATORY NO. 95:**

13 Identify each entity, including other Oracle entities, to which OIC has licensed any of the  
14 REGISTERED WORKS under an agreement that permits the entity to provide support services  
15 relating to the REGISTERED WORK or to sublicense to a third party that provides support  
16 services relating to the REGISTERED WORK.

17 **RESPONSE TO INTERROGATORY NO. 95:**

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19 **INTERROGATORY NO. 96:**

20 For each entity identified in the response to Interrogatory No. 95, identify the parties to  
21 each such agreement, the date and titles of each such agreement, the Bates number(s) of each  
22 such agreement, if applicable, and the REGISTERED WORKS covered by the agreement.

23 **RESPONSE TO INTERROGATORY NO. 96:**

24  
25 **INTERROGATORY NO. 97:**

26 For each agreement identified in the response to Interrogatory No. 96, state the amount of  
27 consideration to be paid to OIC under the agreement for licensing each REGISTERED WORK  
28 and DESCRIBE how the amount of consideration to be paid was determined.

1 **RESPONSE TO INTERROGATORY NO. 97:**

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3 **INTERROGATORY NO. 98:**

4 Identify the Regional Managers responsible for Support Sales for each customer listed in  
5 Defendant TomorrowNow, Inc.'s Supplemental Exhibit 1 to its First Sets of Requests for  
6 Production and Interrogatories to Plaintiffs between January 1, 2002 and October 31, 2008.

7 **RESPONSE TO INTERROGATORY NO. 98:**

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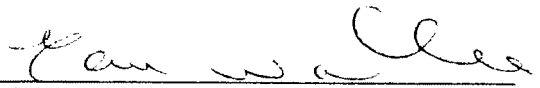
9

10 Dated: February 13, 2009

JONES DAY

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By:   
Elaine Wallace

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14

Counsel for Defendants  
SAP AG, SAP AMERICA, INC., and  
TOMORROWNOW, INC.

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**PROOF OF SERVICE**

I, Lyz Evans, declare:

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the above-entitled action. My business address is 555 California Street, San Francisco, CA 94104. On February 13, 2009, I served a copy of the following document(s):

**DEFENDANTS' FIFTH SET OF INTERROGATORIES TO PLAINTIFFS**

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

X by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.

by placing the document(s) listed above in a sealed \_\_\_\_\_ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a agent for delivery.

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

X by transmitting via electronic mail the document listed above to the email address set forth below.

Donn P. Pickett  
Geoffrey M. Howard  
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Oracle Corporation, Oracle USA, Inc.,  
and Oracle International Corporation

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I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on February 13, 2009, at San Francisco, California.

  
\_\_\_\_\_  
Lyz Evans