

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  
SAN FRANCISCO DIVISION

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

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

**DECLARATION OF THARAN GREGORY  
LANIER ISO DEFENDANTS'  
ADMINISTRATIVE MOTION TO PERMIT  
DEFENDANTS TO FILE UNDER SEAL  
PLAINTIFFS' DOCUMENTS SUPPORTING  
DEFENDANTS' MOTION FOR PARTIAL  
SUMMARY JUDGMENT REGARDING  
PLAINTIFFS' HYPOTHETICAL LICENSE  
DAMAGES CLAIM**

1 I, THARAN GREGORY LANIER, declare:

2 1. I am a partner in the law firm of Jones Day, 1755 Embarcadero Road, Palo Alto,  
3 California 94303, and counsel of record for Defendants SAP AG, SAP America, Inc. and  
4 TomorrowNow, Inc. (collectively, "Defendants") in the above-captioned action. I am a member  
5 in good standing of the state bar of California and admitted to practice before this Court. I make  
6 this declaration based on personal knowledge and, if called upon to do so, could testify  
7 competently thereto.

8 2. Pursuant to Civil Local Rule 79-5 and the stipulated Protective Order entered on  
9 June 6, 2007 in this case, I make this Declaration in support of Defendants' Administrative  
10 Motion to Permit Defendants to File Under Seal Plaintiffs' Documents Supporting Defendants'  
11 Motion for Partial Summary Judgment Regarding Plaintiffs' Hypothetical License Damages  
12 Claim.

13 3. Defendants' file this motion at Plaintiffs' request. The requested relief is  
14 necessary and narrowly tailored to protect the alleged confidentiality of the materials put at issue  
15 by Defendants' Motion for Partial Summary Judgment Regarding Plaintiffs' Hypothetical  
16 License Damages Claim ("Motion for Partial Summary Judgment") until such time as Plaintiffs  
17 may submit a declaration in accordance with Civil Local Rule 79-5(d), and the Court makes a  
18 final ruling as to confidentiality of the relevant subject matter. Specifically, the following  
19 documents and portions of documents filed and lodged with the Court contain information  
20 designated by Plaintiffs as "Confidential Information":

- 21 a. The following portions of Exhibit A to the Declaration of Tharan Gregory  
22 Lanier in Support of Defendants' Motion for Partial Summary Judgment  
23 ("Lanier Declaration"): 10:1-11:17, 159:16-160:2;
- 24 b. The following portions of Exhibit C to the Lanier Declaration: 73:25-84:6,  
25 114:16-24; and
- 26 c. The following portions of the Motion for Partial Summary Judgment:  
27 portions of 2:13-17, 3:11, 4:10-12, 4:15-17, 4:20-24, 5:28, 6:1-8, 11:14,  
28 11:18-19, 11:21-22, 11:24-27, 12:12-13, 13:15-16, 13:18-19, 14:4-6, and

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16:18-19.

Additionally, the following documents and portions of documents filed and lodged with the Court contain information designated by Plaintiffs as “Highly Confidential - Attorneys’ Eyes Only”:

- a. The following portions of Exhibit A to the Lanier Declaration: 19:23-20:25, 25:19-27:15, 46:6-47:15, 158:13-159:15;
- b. The following portions of Exhibit B to the Lanier Declaration: 117:9-120:18;
- c. The following portions of Exhibit H to the Lanier Declaration: portions of page 47, line 20; page 48, lines 9 and 12; and page 49, line 27; and
- d. The following portions of the Motion for Partial Summary Judgment: portions of 1:19-20, 1:24, 2:16, 3:13-14, 4:18-19, 5:26-27, 11:22, 12:12, 13:19, and 20:10.

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 this 26th day of August, 2009 in Palo Alto, California.

/s/ Tharan Gregory Lanier

Tharan Gregory Lanier