

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 OAKLAND DIVISION

22 ORACLE USA, INC., et al.,

23 Plaintiffs,

24 v.

25 SAP AG, et al.,

26 Defendants.  
27  
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Case No. 07-CV-1658 PJH (EDL)

DECLARATION OF WERNER BRANDT  
IN SUPPORT OF PLAINTIFFS'  
ADMINISTRATIVE  
MOTION TO PERMIT PLAINTIFFS  
TO FILE UNDER SEAL  
DEFENDANTS' INFORMATION  
SUPPORTING PLAINTIFFS'  
OPPOSITION TO DEFENDANTS'  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT

1 I, WERNER BRANDT, declare as follows:


2 1. I am the Chief Financial Officer of SAP AG and a member of its Executive Board.  
3 I have personal knowledge of the facts stated in this declaration and could competently testify to  
4 them if required.

5 2. Exhibit 44 to the Declaration of Paul K. Meyer in Support of Plaintiffs' Opposition  
6 to Defendants' Motion for Partial Summary Judgment ("Meyer Declaration") is an excerpt from  
7 an SAP document entitled "SAP AG, Fair Value of Certain Assets, Liabilities and Legal Entities  
8 of Business Objects S.A. As of January 21, 2008." Exhibit 44 contains non-public, commercially  
9 sensitive and confidential information, the disclosure of which would create a risk of significant  
10 competitive injury and particularized harm and prejudice to SAP. Specifically, Exhibit 44  
11 consists of a non-public October 5, 2008 analysis by Deloitte Financial Advisory Services LLP of  
12 the fair value of certain assets and liabilities of Business Objects S.A., which SAP acquired on  
13 January 21, 2008. Disclosure of this information would grant SAP's competitors, partners,  
14 customers, future acquisition targets, and other interested parties insight into SAP's internal  
15 assessments, strategy and operations, providing them with an unfair competitive advantage over  
16 SAP with respect to current and future operations and negotiations. Additionally, disclosure of  
17 this internal and highly-sensitive information about the value of the assets and liabilities of a  
18 recent acquisition could potentially affect stock values. This document is treated as confidential  
19 within SAP. I also understand that Defendants have protected Exhibit 44 from improper public  
20 disclosure through the Stipulated Protective Order ("Protective Order") that is designed to prevent  
21 the parties' private, commercial information from being improperly disclosed. Under the terms of  
22 the Protective Order, Defendants have designated Exhibit 44 "Highly Confidential – Attorneys'  
23 Eyes Only."

24 3. I have also reviewed portions of Plaintiffs' Opposition to Defendants' Motion for  
25 Partial Summary Judgment Regarding Plaintiffs' Hypothetical [Fair Market Value] License  
26 Damages ("Opposition") at 22:13-14 and portions of the Declaration of Lawrence Ellison in  
27 support at 3:21-23, which both reference payments made by SAP to Oracle pursuant to the  
28 parties' database reseller agreement. Information regarding the amount SAP has paid to Oracle

1 over the last seven years pursuant to the ongoing database reseller agreement comprises non-  
2 public, commercially sensitive and confidential information, the disclosure of which would create  
3 a risk of significant competitive injury and particularized harm and prejudice to SAP. In  
4 particular, disclosure of the royalty payments SAP has paid to Oracle over the last seven years  
5 would impact other reseller relationships SAP maintains with other database vendors. Permitting  
6 SAP's other database partners access to information regarding the price SAP pays to license  
7 Oracle database technology would provide these entities with an unfair competitive advantage  
8 with respect to future negotiations regarding their ongoing database licenses with SAP. SAP  
9 treats the amount it has paid Oracle in royalties pursuant to the parties' database reseller  
10 agreement as confidential and does not permit public disclosure of this information.

11 I declare under penalty of perjury under the laws of the United States and the State of  
12 California that the foregoing is true and correct. Executed this 30 day of September, 2009 in  
13 Walldorf, Germany.



Werner Brandt

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