

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 jlfuncs@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.

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

**DECLARATION OF SCOTT  
COWAN IN SUPPORT OF  
DEFENDANTS' ADMINISTRATIVE  
MOTION TO PERMIT  
DEFENDANTS TO FILE UNDER  
SEAL DOCUMENTS SUPPORTING  
DEFENDANTS' MOTION TO  
COMPEL**

1 I, SCOTT COWAN, declare:

2 I am a partner with the law firm of Jones Day and counsel for Defendants in the above-  
3 captioned matter. I make this declaration based on personal knowledge and, if called upon to do  
4 so, could testify competently thereto.

5 1. I make this declaration in support of Defendant’s Administrative Motion to Permit  
6 Defendants to File Under Seal the following documents:

7 (a) Portions of Defendants’ Motion to Compel (“Motion to Compel”), filed December 11,  
8 2009: Page 8, line 27 through Page 9, line 5, Page 9, line 11 through line 24, page 10,  
9 line 1 through line 8, page 11, line 15 through line 20, page 11, line 22 through line  
10 24, page 12, line 1 through line 4;

11 (b) Exhibits A, C, F, G, H and K and Appendix 5 to the Declaration of Scott Cowan in  
12 Support of Defendants’ Motion to Compel.

13 2. Sealing of the documents identified above is requested because each of these  
14 documents contains information designated by Plaintiffs as Confidential or Highly Confidential –  
15 Attorneys Eyes’ Only under the protective order entered into in this case. Defendants have  
16 narrowly tailored this request by redacting only a limited number of lines or paragraphs of  
17 documents and only the precise text that describes or discloses designated information.

18 I declare under penalty of perjury under the laws of the United States and the State of  
19 California that the foregoing is true and correct.

20 Executed this 11th day of December, 2009 in Houston, Texas.

21 DATED: December 11, 2009

JONES DAY

23 By: /s/ Scott Cowan  
24 Scott W. Cowan

25 Attorneys for Defendants  
26 SAP AG, SAP AMERICA, INC., and  
27 TOMORROWNOW, INC.

28 SFI-625464v1