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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

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

**DECLARATION OF KEITH SHANKLE IN SUPPORT
OF DEFENDANTS' REPLY TO ORACLE'S
OPPOSITION TO DEFENDANTS MOTION TO
COMPEL**

1 I, KEITH SHANKLE, declare:

2 1. I am a former Senior Software Engineer for TomorrowNow, Inc., a Defendant in
3 this case. I make this declaration based on personal knowledge and, if called upon to do so, could
4 testify competently thereto.

5 2. I have reviewed the document titled "DownloadMetrics.xls" with Bates number
6 TN-OR01502369, which I understand was produced from my files at TomorrowNow, Inc.

7 3. I created this document using Customer Connection. In order to create the
8 document, I ran searches for different types of available JD Edwards files on Customer
9 Connection and manually typed the results returned by those searches into the spreadsheet. I did
10 not open or download the files listed in the search results. And I also did not electronically cut or
11 paste the information from Customer Connection or generate the information in any automated
12 way. The creation of the spreadsheet was a tedious manual process. To assist in the work of
13 creating the spreadsheet I assigned sections of the spreadsheet to other TomorrowNow
14 employees, who performed the same manual process.

15 4. I never completed the spreadsheet and it currently represents an incomplete listing
16 of certain available files and system codes.

17 5. I spent several months working to create this document using the manual process
18 of searching for available files and recording the results in the spreadsheet. At the time I created
19 this spreadsheet I did not know of a way to create a listing of available downloads and system
20 codes in an automated fashion. I would not have spent months creating the "DownloadMetrics"
21 document if I knew of an automated method to compile this information. I presently know of no
22 way to use Customer Connection or any other means to map in an automated fashion the
23 downloads conducted by TomorrowNow, Inc. to the products or system codes.

24 I declare under penalty of perjury under the laws of the United States and the State of
25 California that the foregoing is true and correct. Executed this 12th day of January 2010 in
26 _____, Texas.

27
28

Keith Shankle

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24 I declare under penalty of perjury under the laws of the United States and the State of
25 California that the foregoing is true and correct. Executed this 12th day of January 2010 in
26 Duncanville, Texas.

27
28



Keith Shankle