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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 THARAN GREGORY  
LANIER ISO DEFENDANTS'  
ADMINISTRATIVE MOTION TO PERMIT  
DEFENDANTS TO FILE UNDER SEAL  
PLAINTIFFS' DOCUMENTS SUPPORTING  
DEFENDANTS' MOTION FOR PARTIAL  
SUMMARY JUDGMENT**

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 matter. 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.

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

19 a. The following portions of Exhibit A to the Declaration of Tharan Gregory  
20 Lanier in Support of Defendants’ Motion for Partial Summary Judgment  
21 (“Lanier Declaration”): ¶ 20 (Table 1); and

22 b. The following portions of Exhibit E to the Lanier Declaration: 1, 247.

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

25 a. The following portions of the Lanier Declaration: portions of ¶ 4, ¶ 8;

26 b. The following portions of Exhibit A to the Lanier Declaration: portions of  
27 ¶¶ 150-152, ¶¶ 284-285, ¶¶ 287-288, ¶ 354, ¶¶ 402-405, ¶¶ 449-450;

28 c. The following portions of Exhibit B to the Lanier Declaration: portions of

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- 6, 43-44;
- d. The entirety of Exhibit D to the Lanier Declaration;
- e. The following portions of Exhibit E to the Lanier Declaration: 139:16-23, 142:5-145:14;
- f. The following portions of Exhibit F to the Lanier Declaration: 289:25-290:11, 362:17-370:2;
- g. The entirety of Exhibit H to the Lanier Declaration;
- h. The following portions of the Declaration of Elaine Wallace in Support of Defendants’ Fed. R. Evid. 1006 Summary of Evidence (“Wallace Declaration”): portions of ¶¶ 2-5;
- i. The entirety of Exhibit 1 to the Wallace Declaration; and
- h. The following portions of the Motion for Partial Summary Judgment: portions of 2:15-16, 4:8-13, 4:19, 4:21-28, 5:1-5, 9:15-17, 10:16, 11:10.

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 3rd day of March, 2010 in Palo Alto, California.

/s/ Tharan Gregory Lanier  
Tharan Gregory Lanier