

1 Robert A. Mittelstaedt (SBN 060359)
Jason McDonell (SBN 115084)
2 Elaine Wallace (SBN 197882)
JONES DAY
3 555 California Street, 26th 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 jl fuchs@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 THARAN
GREGORY LANIER ISO
DEFENDANTS' ADMINISTRATIVE
MOTION TO PERMIT DEFENDANTS
TO FILE UNDER SEAL PLAINTIFFS'
DOCUMENTS SUPPORTING REPLY IN
SUPPORT OF 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 Reply in
11 Support of Defendants’ 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 the
14 Reply in Support of Defendants’ Motion for Partial Summary Judgment (“Defendants’ Reply”)
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 portions of documents filed and lodged with the Court contain information
18 designated by Plaintiffs as “Highly Confidential - Attorneys’ Eyes Only”:

- 19 • Exhibit 5 to the Declaration of Tharan Gregory Lanier in Support of Defendants’
20 Reply (“Lanier Reply Declaration”): portions of ¶ 433; and
21 • Defendants’ Reply: portions of 15:28.

22 Additionally, the following portions of documents filed and lodged with the Court contain
23 information designated by Plaintiffs as “Confidential Information”:

- 24 • Exhibit 5 to the Lanier Reply Declaration: portions of ¶ 20; and
25 • Defendants’ Reply: portions of 2:11.

26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 14th day of April, 2010 in Palo Alto, California.

/s/ Tharan Gregory Lanier
Tharan Gregory Lanier