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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.

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

**DECLARATION OF JOHN BAUGH IN  
SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFFS'  
MOTION TO EXCLUDE EXPERT  
TESTIMONY OF STEPHEN K.  
CLARKE**

Date: September 30, 2010  
Time: 2:30 p.m.  
Courtroom: 3, 3rd Floor  
Judge: Hon. Phyllis J. Hamilton

1 I, JOHN BAUGH, declare as follows:

2 I make this declaration based on personal knowledge and, if called upon to do so, could  
3 testify competently thereto.

4 1. I was formerly employed by TomorrowNow, Inc. as a PeopleSoft technology  
5 specialist. I was a full-time employee of TomorrowNow from approximately September 2003  
6 until approximately October 2008 and have been a consultant to TomorrowNow pursuant to a  
7 consulting contract since that time.

8 2. While employed by TomorrowNow, I helped maintain PeopleSoft software  
9 environments which were used to help support TomorrowNow's customers. As part of my job  
10 responsibilities, I also assisted in the maintenance of TomorrowNow's database software that  
11 included, among the database software products of several other vendors, Oracle database  
12 software that interacted with the PeopleSoft software environments.

13 3. TomorrowNow provided customer support for businesses using certain PeopleSoft,  
14 J. D. Edwards and Siebel enterprise application software products. TomorrowNow's PeopleSoft  
15 support team used Oracle database software internally to assist in developing some of the fixes  
16 and updates that it provided to its customers using certain PeopleSoft enterprise application  
17 software.

18 4. To my knowledge, TomorrowNow's PeopleSoft support team only used the Oracle  
19 database software internally and it did not distribute the database software or any portion thereof  
20 or any modifications thereto to any other person or entity. To my knowledge, TomorrowNow's  
21 PeopleSoft support team did not give access to or make available the software or any portion  
22 thereof or modifications thereto to any other person or entity outside of TomorrowNow and its  
23 agents.

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.


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Executed this 9<sup>th</sup> day of September, 2010 in Austin, Texas.



John Baugh