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22 UNITED STATES DISTRICT COURT  
23 NORTHERN DISTRICT OF CALIFORNIA  
24 OAKLAND DIVISION

25 ORACLE USA, INC., *et al.*,

26 Plaintiffs,

27 v.

28 SAP AG, *et al.*,

Defendants.

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SAP AG, SAP AMERICA, INC., and  
TOMORROWNOW, INC.

CASE NO. 07-CV-01658 PJH (EDL)

**JOINT PROPOSED FORM OF  
JUDGMENT**

**JOINT PROPOSED FORM OF JUDGMENT**

Pursuant to the November 23, 2010 jury verdict (Dkt. No. 1004) and the Court's December 28, 2010 Order (Dkt. No. 1030), Plaintiffs Oracle USA, Inc., Oracle International Corporation and Siebel Systems, Inc. and Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc. hereby submit the joint proposed form of judgment, attached as Exhibit A.

Respectfully submitted,

Dated: February 2, 2011

BINGHAM McCUTCHEN LLP

By:           /s/ Geoffrey M. Howard            
Geoffrey M. Howard  
Attorneys for Plaintiffs  
Oracle USA, Inc., Oracle International  
Corporation, and Siebel Systems, Inc.

In accordance with General Order No. 45, Rule X, the above signatory attests that concurrence in the filing of this document has been obtained from the signatory below.

Dated: February 2, 2011

JONES DAY

By:           /s/ Tharan Gregory Lanier            
Tharan Gregory Lanier  
Attorneys for Defendants  
SAP AG, SAP America, Inc. and  
TomorrowNow, Inc.

# **EXHIBIT A**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

ORACLE USA, INC., *et al.*,  
Plaintiffs,  
v.  
SAP AG, *et al.*,  
Defendants.

Case No. 07-CV-01658 PJH (EDL)

**[PROPOSED] JUDGMENT**

Judge: Hon. Phyllis J. Hamilton

Trial commenced in this matter on November 1, 2010. Pursuant to the jury’s verdict on November 23, 2010 (Dkt. No. 1004), Amended Trial Stipulation and Order No. 1 Regarding Liability, Dismissal of Claims, Preservation of Defenses, and Objections to Evidence at Trial (Dkt. No. 965), Additional Trial Stipulation and Order Regarding Claims for Damages and Attorneys Fees (Dkt. Nos. 961 and 969), Order Re Motions For Partial Summary Judgment (Dkt. No. 762), and Order Granting Motion to Dismiss in Part and Denying It in Part (Dkt. No. 224), IT IS HEREBY ADJUDGED AND ORDERED that:

- (1) JUDGMENT is entered against Defendant TomorrowNow, Inc. on Plaintiff Oracle International Corporation’s claim for direct copyright infringement and against Defendants SAP AG and SAP America, Inc. on Plaintiff Oracle International Corporation’s claim for indirect copyright infringement, for which Plaintiff Oracle International Corporation shall recover from Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc. (“Defendants”), jointly and severally, (a) the amount of \$1.3 billion

1 (\$1,300,000,000); and, (b) prejudgment interest through February 2, 2011 in  
2 the amount of \$14,751,797, which is the entirety of the relief entered for these  
3 claims (not including the stipulation negotiated between the Parties regarding  
4 destruction of infringing materials).

5 (2) JUDGMENT is entered against Defendants on Plaintiffs Oracle USA, Inc.,  
6 Oracle International Corporation, and Siebel Systems, Inc.'s (collectively,  
7 "Oracle" or "Plaintiffs") claims for past and future reasonable attorneys fees  
8 and costs (including investigative costs) associated with Oracle's  
9 investigation and prosecution of its claims in this case, for which the Parties  
10 agreed that Oracle should recover, and has already been paid by Defendants,  
11 the amount of \$120 million (\$120,000,000).

12 (3) JUDGMENT is entered against Defendant TomorrowNow, Inc. on all liability  
13 for all claims, including for violations of 18 U.S.C. §§ 1030(a)(2)(C), (a)(4),  
14 (a)(5)(i), (a)(5)(ii), and (a)(5)(iii) (the Federal Computer Fraud and Abuse  
15 Act) and California Penal Code §§ 502(c)(2), (c)(3), (c)(6) and (c)(7)  
16 (California's Computer Data Access and Fraud Act), breach of contract,  
17 intentional interference with prospective economic advantage, negligent  
18 interference with prospective economic advantage, unfair competition,  
19 trespass to chattels, unjust enrichment/restitution, and for an accounting,  
20 without separate monetary damages or monetary relief, including punitive  
21 damages, or additional injunctive relief by way of these claims.

22 (4) JUDGMENT of dismissal with prejudice is entered as previously stipulated  
23 by the Parties, on Oracle's remaining claims for violations of 18 U.S.C.  
24 §§ 1030(a)(2)(C), (a)(4), (a)(5)(i), (a)(5)(ii), and (a)(5)(iii) (the Federal  
25 Computer Fraud and Abuse Act) and California Penal Code §§ 502(c)(2),  
26 (c)(3), (c)(6) and (c)(7) (California's Computer Data Access and Fraud Act),  
27 breach of contract, intentional interference with prospective economic  
28 advantage, negligent interference with prospective economic advantage,

1 unfair competition, trespass to chattels, unjust enrichment/restitution, and for  
2 an accounting.

3 (5) JUDGMENT of dismissal is entered, as previously ordered by the Court, on  
4 all claims brought by Oracle Systems Corporation, J.D. Edwards Europe and  
5 Oracle EMEA Limited.

6

7 DATED: February \_\_\_, 2011

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By: \_\_\_\_\_

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Hon. Phyllis J. Hamilton  
United States District Court Judge

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