

1 BINGHAM McCUTCHEN LLP
DONN P. PICKETT (SBN 72257)
2 GEOFFREY M. HOWARD (SBN 157468)
HOLLY A. HOUSE (SBN 136045)
3 ZACHARY J. ALINDER (SBN 209009)
BREE HANN (SBN 215695)
4 Three Embarcadero Center
San Francisco, CA 94111-4067
5 Telephone: (415) 393-2000
Facsimile: (415) 393-2286
6 donn.pickett@bingham.com
geoff.howard@bingham.com
7 holly.house@bingham.com
zachary.alinder@bingham.com
8 bree.hann@bingham.com

9 BOIES, SCHILLER & FLEXNER LLP
DAVID BOIES (Admitted *Pro Hac Vice*)
333 Main Street
10 Armonk, NY 10504
Telephone: (914) 749-8200
11 Facsimile: (914) 749-8300
dboies@bsfllp.com

12 STEVEN C. HOLTZMAN (SBN 144177)
13 FRED NORTON (SBN 224725)
1999 Harrison St., Suite 900
14 Oakland, CA 94612
Telephone: (510) 874-1000
15 Facsimile: (510) 874-1460
sholtzman@bsfllp.com
16 fnorton@bsfllp.com

17 DORIAN DALEY (SBN 129049)
JENNIFER GLOSS (SBN 154227)
500 Oracle Parkway, M/S 5op7
18 Redwood City, CA 94070
Telephone: (650) 506-4846
19 Facsimile: (650) 506-7114
dorian.daley@oracle.com
20 jennifer.gloss@oracle.com

21 Attorneys for Plaintiffs
Oracle USA, Inc., *et al.*

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

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

25 Plaintiffs,
26 v.

27 SAP AG, *et al.*,

28 Defendants.

Robert A. Mittelstaedt (SBN 060359)
Jason McDonell (SBN 115084)
Elaine Wallace (SBN 197882)
JONES DAY
555 California Street, 26th Floor
San Francisco, CA 94104
Telephone: (415) 626-3939
Facsimile: (415) 875-5700
ramittelstaedt@jonesday.com
jmcdonell@jonesday.com
ewallace@jonesday.com

Tharan Gregory Lanier (SBN 138784)
Jane L. Froyd (SBN 220776)
JONES DAY
1755 Embarcadero Road
Palo Alto, CA 94303
Telephone: (650) 739-3939
Facsimile: (650) 739-3900
tglanier@jonesday.com
jfroyd@jonesday.com

Scott W. Cowan (Admitted *Pro Hac Vice*)
Joshua L. Fuchs (Admitted *Pro Hac Vice*)
JONES DAY
717 Texas, Suite 3300
Houston, TX 77002
Telephone: (832) 239-3939
Facsimile: (832) 239-3600
swcowan@jonesday.com
jlfuchs@jonesday.com

Attorneys for Defendants
SAP AG, SAP AMERICA, INC., and
TOMORROWNOW, INC.

NO. 07-CV-01658PJH (EDL)

**STIPULATION AND [PROPOSED]
ORDER REGARDING INFRINGING
MATERIALS IN DEFENDANTS'
POSSESSION**

1 Pursuant to the Court's December 28, 2010 Order, Dkt. No. 1030, and 17 U.S.C. § 503,
2 Plaintiffs Oracle USA, Inc., Oracle International Corporation, and Siebel Systems, Inc.
3 (collectively, "Oracle") and Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc.
4 (collectively, "Defendants," and together with Oracle, the "Parties"), jointly enter this Stipulation
5 Regarding Infringing Materials in Defendants' Possession (the "Stipulation").

6 The Parties agree that infringing application software, database software, and support
7 materials obtained by TomorrowNow (whether currently in the possession of TomorrowNow or
8 SAP) remain in the possession, custody, and/or control of Defendants, including Oracle's
9 confidential, proprietary, and copyrighted software and support materials and any derivative
10 works or other partial or modified components of any Oracle Registered Work (*see* Attachment
11 A), based on or containing in whole or in part Oracle's copyrighted materials (the "Infringing
12 Materials").

13 The Parties agree that the Infringing Materials should be destroyed, but only after (1) the
14 final conclusion of the above-captioned matter, including the final conclusion of all available
15 appeals of this matter, (2) the final conclusion of any related investigation of Defendants by any
16 governmental agency or authority, and, (3) the final conclusion, including all available appeals, of
17 any litigation that is currently pending or that may arise and that may implicate the Infringing
18 Materials in Defendants' possession, where Oracle or any Defendant is a party, including but not
19 limited to Oracle's lawsuit against Rimini Street pending in the United States District Court,
20 District of Nevada, Case No. 2:10-cv-0106-LRH-PAL (the "Other Litigation").

21 **NOW, THEREFORE, THE PARTIES HEREBY STIPULATE AS FOLLOWS:**

22 Pursuant to 17 U.S.C. § 503, Defendants shall, at their own expense, destroy all Infringing
23 Materials within their possession, custody, and/or control within 90 days after all three of the
24 following events have occurred: (1) the final conclusion of the above-captioned matter, including
25 the final conclusion of all available appeals of this matter; (2) the final conclusion of any related
26 investigation of Defendants by any governmental agency or authority; and, (3) the final
27 conclusion of the Other Litigation, including the final conclusion of all available appeals of the
28 Other Litigation. To ensure that all Parties have notice of the final conclusion of the second and

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1 third events, Defendants' counsel shall provide written notice to Oracle's counsel by electronic
2 mail and U.S. mail within 7 business days following the final conclusion of any related
3 investigation of Defendants by any governmental agency or authority or the final conclusion of
4 any Other Litigation, and Oracle's counsel shall provide written notice to Defendants' counsel by
5 electronic mail and U.S. mail within 7 business days following the final conclusion any Other
6 Litigation, including the final conclusion of all available appeals of any Other Litigation. Further,
7 Oracle shall have the right to physically monitor and attend the destruction process, in person,
8 with any representatives it may choose, and Defendants shall provide Oracle at least 7 business
9 days' notice with the time(s) and place(s) where such destruction shall occur. Defendants shall
10 then certify to Oracle in writing, within 7 business days of completion of such destruction, that it
11 is full and complete.

12 **IT IS SO STIPULATED.**

13 Dated: February 2, 2011

BINGHAM McCUTCHEN LLP

14 By: /s/ Geoffrey M. Howard

15 Geoffrey M. Howard
16 Attorneys for Plaintiffs
17 Oracle USA, Inc., Oracle International
Corporation, and Siebel Systems, Inc.

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

20 Dated: February 2, 2011

JONES DAY

21 By: /s/ Tharan Gregory Lanier

22 Tharan Gregory Lanier
23 Attorneys for Defendants
24 SAP AG, SAP America, Inc. and
TomorrowNow, Inc.

25 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

26 Dated: February ____, 2011

27 _____
28 Honorable Phyllis J. Hamilton
United States District Judge

ATTACHMENT A – THE “REGISTERED WORKS”

| Title of Work | Date of Registration | Registration Number |
|---|-----------------------------|----------------------------|
| PeopleSoft 8 Customer Relationship Management | September 27, 2001 | TX-5-456-777 |
| PeopleSoft 8.8 Customer Relationship Management | June 11, 2004 | TX 6-015-317 |
| PeopleSoft 8.8 Enterprise Performance Management | June 11, 2004 | TX-5-993-616 |
| PeopleSoft Financials, Distribution & Manufacturing 7.5 | December 15, 1998 | TX 4-792-574 |
| PeopleSoft 8 Financials and Supply Chain Management: Service Pack 2 | September 27, 2001 | TX-5-456-780 |
| PeopleSoft 8.4 Financials and Supply Chain Management | August 5, 2002 | TX-5-586-247 |
| PeopleSoft HRMS 7.0 | December 15 1998 | TX 4-792-577 |
| PeopleSoft HRMS 7.5 | December 15, 1998 | TX 4-792-575 |
| PeopleSoft 8 HRMS SP1 | March 26, 2001 | TX 5-501-312 |
| PeopleSoft 8.3 HRMS | February 1, 2002 | TX 5-469-032 |
| PeopleSoft 8.8 HRMS | June 11, 2004 | TX 6-093-947 |
| PeopleSoft 8 Student Administration Solutions | November 30, 2001 | TX 5-431-289 |
| PeopleTools 7.5 | November 20, 1998 | TX 4-792-578 |
| PeopleTools 8.10 | September 5, 2000 | TX 5-266-221 |
| PeopleTools 8.4 | August 5, 2002 | TX 5-586-248 |
| PeopleSoft 8.1 Customer Relationship Management | March 20, 2002 | TX 5-493-450 |
| PeopleSoft 8 EPM SP3 | March 30, 2001 | TX 5-345-698 |
| PeopleSoft 8.3 Enterprise Performance Management | March 11, 2002 | TX 5-485-839 |
| PeopleSoft 7.0 financials, distribution & manufacturing 7.0 | December 15, 1998 | TX 4-792-576 |
| PeopleSoft Financials and Supply Chain Management (FIN/SCM) 8.0 | November 20, 2000 | TX 5-291-439 |
| PeopleSoft 8 FIN/SCM SP1 | March 26, 2001 | TX 5-501-313 |
| PeopleSoft HRMS 8.0 | November 20, 2000 | TX 5-291-440 |
| PeopleTools 8.0 | September 5, 2000 | TX 5-266-222 |
| PeopleSoft Pension Administration 7 | June 21, 1999 | TX 3-772-290 |
| PeopleSoft Payroll 7 | June 22, 1999 | TX 4-501-140 |
| PeopleSoft Payroll Interface 7 | June 22, 1999 | TX 4-501-138 |
| PeopleSoft Time and Labor 7.0 | June 28, 1999 | TX 4-994-866 |
| PeopleSoft Benefits Administration 7.0 | June 15, 1999 | TX 4-258-824 |
| PeopleSoft Human Resources 7 | June 28, 1999 | TX 4-994-865 |
| PeopleSoft Payroll Interface 7 Higher Education | June 28, 1999 | TX 5-013-124 |
| PeopleSoft Time and Labor 7 | June 28, 1999 | TX 5-013-128 |
| PeopleSoft Benefits Administration 7.50 | June 14, 1999 | TX 5-072-090 |
| PeopleSoft Payroll Interface 7.50 | June 21, 1999 | TX 3-772-292 |
| PeopleSoft Pension Administration 7.50 | June 21, 1999 | TX 3-772-291 |
| PeopleSoft Human Resources 7.50 | June 28, 1999 | TX 5-013-123 |
| PeopleSoft Payroll 7.50 | June 28, 1999 | TX 5-013-125 |
| PeopleSoft Time and Labor 7.50 | June 28, 1999 | TX 4-994-867 |

Table A-1: PeopleSoft Application Registrations

| Title of Work | Date of Registration | Registration Number |
|---|----------------------|---------------------|
| Database of Documentary Customer Support Materials for PeopleSoft Software | July 1, 2009 | TXu1-607-454 |
| PeopleTools Third Party Daylight Saving Time Required Modifications | April 26, 2007 | TX 6-541-019 |
| PeopleTools Third Party Daylight Saving Time Required Modifications (Revised) | April 26, 2007 | TX 6-541-018 |
| PeopleSoft 8.01 & 8.31 Payroll Tax Update 05-F Year-End Processing: Canada | May 2, 2008 | TX 6-838-549 |
| PeopleSoft Payroll 1200457000 - User Documentation | May 2, 2008 | TX 6-838-537 |
| PeopleSoft Application Update Installation Instructions (UPD595817) | May 2, 2008 | TX 6-838-544 |

Table A-2: Oracle Updates and Support Materials Registrations for Oracle's PeopleSoft-branded Products

| Title of Work | Date of Registration | Registration Number |
|---|----------------------|---------------------|
| Initial release of JD Edwards EnterpriseOne Xe | April 26, 2007 | TX 6-541-033 |
| Initial release of JD Edwards EnterpriseOne 8.0 | April 26, 2007 | TX 6-541-050 |
| Initial release of JD Edwards EnterpriseOne 8.10 | April 26, 2007 | TX 6-541-038 |
| Initial release of JD Edwards EnterpriseOne 8.11 | April 26, 2007 | TX 6-541-028 |
| Initial release of JD Edwards EnterpriseOne 8.12 | April 26, 2007 | TX 6-541-041 |
| Initial release of JD Edwards World A7.3 | April 26, 2007 | TX 6-541-029 |
| Initial release of JD Edwards World A8.1 | April 26, 2007 | TX 6-541-047 |
| Current development environment for JD Edwards EnterpriseOne Xe | April 26, 2007 | TXu1-345-109 |
| Current development environment for JD Edwards EnterpriseOne 8.0 | April 26, 2007 | TXu1-345-111 |
| Current development environment for JD Edwards EnterpriseOne 8.9 | April 26, 2007 | TXu1-345-112 |
| Current development environment for JD Edwards EnterpriseOne 8.10 | April 26, 2007 | TXu1-345-113 |
| Current development environment for JD Edwards EnterpriseOne 8.11 | April 26, 2007 | TXu1-345-114 |
| Current development environment for JD Edwards EnterpriseOne 8.11 SP1 | April 26, 2007 | TXu1-345-115 |
| Current development environment for JD Edwards EnterpriseOne 8.12 | April 26, 2007 | TXu1-346-350 |
| Current development environment for JD Edwards World A7.3 | April 26, 2007 | TXu1-345-110 |
| Current development environment for JD Edwards World A8.1 | May 1, 2007 | TX 6-545-422 |
| Initial release of JD Edwards EnterpriseOne 8.9 | April 26, 2007 | TX 6-541-049 |
| Initial release of JD Edwards EnterpriseOne 8.11 SP1 | April 26, 2007 | TX 6-541-040 |
| Initial release of JD Edwards World A9.1 | April 26, 2007 | TX 6-541-030 |
| Accounts Payable program | March 7, 1995 | TXu 619-320 |
| Accounts Receivable program | March 7, 1995 | TXu 619-312 |
| Capacity Requirements Planning program | March 7, 1995 | TXu 619-307 |
| Configuration Management program | March 7, 1995 | TXu 619-305 |

| Title of Work | Date of Registration | Registration Number |
|---|----------------------|---------------------|
| EDI Interface (6) program | March 7, 1995 | TXu 619-304 |
| Enterprise Facility Planning program | March 7, 1995 | TXu 619-311 |
| Equipment Management (5) program | March 7, 1995 | TXu 619-309 |
| Financial Modeling, Budgeting & Allocations program | March 7, 1995 | TXu 619-321 |
| Financial Reporting (FASTR) program | March 7, 1995 | TXu 619-318 |
| General Ledger & Basic Financial program | March 7, 1995 | TXu 619-310 |
| Inventory Management program | March 7, 1995 | TXu 619-314 |
| Master Production Scheduling program | March 7, 1995 | TXu 619-306 |
| Product Data Management program | March 7, 1995 | TXu 619-317 |
| Purchase Order Processing program | March 7, 1995 | TXu 619-316 |
| Sales Order Processing/Sales Analysis program | March 7, 1995 | TXu 619-315 |
| Shop Floor Control program | March 7, 1995 | TXu 619-303 |
| Warehouse Management program | March 7, 1995 | TXu 619-313 |
| WorldCASE Development Environment program | March 7, 1995 | TXu 619-308 |
| WorldCASE Foundation Environment (3) program | March 7, 1995 | TXu 619-319 |

Table A-3: J.D. Edwards Application Registrations

| Title of Work | Date of Registration | Registration Number |
|---|----------------------|---------------------|
| Cumulative Update 8 for JD Edwards EnterpriseOne Xe | April 26, 2007 | TX 6-541-048 |
| Cumulative Update 1 for JD Edwards EnterpriseOne 8.0 | April 26, 2007 | TX 6-541-034 |
| Cumulative Update 2 for JD Edwards EnterpriseOne 8.10 | April 26, 2007 | TX 6-541-032 |
| Cumulative Update 1 for JD Edwards EnterpriseOne 8.12 | April 26, 2007 | TX 6-541-042 |
| Cumulative Update 16 for JD Edwards World A7.3 | April 26, 2007 | TX 6-541-031 |
| Cumulative Update 6 for JD Edwards World A8.1 | May 1, 2007 | TX 6-545-421 |
| Cumulative Update 1 for JD Edwards EnterpriseOne 8.11 SP1 | April 26, 2007 | TX 6-541-039 |

Table A-4: J.D. Edwards Cumulative Update Registrations

| Title of Work | Date of Registration | Registration Number |
|--|----------------------|---------------------|
| Database of Documentary Customer Support Materials for J.D. Edwards Software | July 1, 2009 | TXu1-607-455 |
| Changes to Daylight Savings Time for 2007 (DST) | April 26, 2007 | TX 6-541-025 |
| ESU for JD Edwards EnterpriseOne Xe | May 3, 2007 | TX 6-541-051 |
| ESU for JD Edwards EnterpriseOne 8.0 | April 26, 2007 | TX 6-541-046 |
| ESU for JD Edwards EnterpriseOne 8.9 | April 26, 2007 | TX 6-541-036 |
| ESU for JD Edwards EnterpriseOne 8.10 | April 26, 2007 | TX 6-541-037 |
| ESU for JD Edwards EnterpriseOne 8.11 | April 26, 2007 | TX 6-541-035 |
| ESU for JD Edwards EnterpriseOne 8.11 SP1 | April 26, 2007 | TX 6-541-027 |
| ESU for JD Edwards EnterpriseOne 8.12 | April 26, 2007 | TX 6-541-045 |
| Code Change for JD Edwards World A7.3 | April 26, 2007 | TX 6-541-043 |
| Code Change for JD Edwards World A8.1 | April 26, 2007 | TX 6-541-044 |
| E1: 07/77: Quantum for Payroll Tax v.280 | April 26, 2007 | TX 6-541-022 |
| E1: 1099: Year 2006 1099 ESUs | April 26, 2007 | TX 6-541-024 |

| Title of Work | Date of Registration | Registration Number |
|--|----------------------|---------------------|
| EAP WTHD06: 1099 IRS changes for the year 2006 | April 26, 2007 | TX 6-541-023 |
| JD Edwards World -- 1099 Changes for Tax Year 2006 | April 26, 2007 | TX 6-541-026 |
| ECRM89: Common Errors on Mobile Sales | April 26, 2007 | TX 6-541-020 |
| GM--Grants issues resolved by FMS ESA 8.9 Bundle #10-653723 (Oct 06) | April 26, 2007 | TX 6-541-021 |

Table A-5: Oracle Updates and Support Materials Registrations for Oracle's J.D. Edwards-branded Products¹

| Title of Work | Date of Registration | Registration Number |
|--|----------------------|---------------------|
| Siebel 6.3 Initial Release and Documentation | June 29, 2009 | TX 6-941-989 |
| Siebel 7.0.5 Initial Release and Documentation | June 29, 2009 | TX 6-941-988 |
| Siebel 7.5.2 Initial Release and Documentation | June 29, 2009 | TX 6-941-990 |
| Siebel 7.7.1 Initial Release and Documentation | June 29, 2009 | TX 6-941-993 |
| Siebel 7.8 Initial Release and Documentation | June 29, 2009 | TX 6-941-995 |
| Siebel 8.0 Initial Release and Documentation | June 29, 2009 | TX 6-942-000 |
| Siebel 8.1.1 Initial Release and Documentation | June 29, 2009 | TX 6-942-001 |

Table A-6: Siebel Application Registrations

| Title of Work | Date of Registration | Registration Number |
|--|----------------------|---------------------|
| Database of Documentary Customer Support Materials for Siebel Software | July 1, 2009 | TXu1-607-453 |

Table A-7: Oracle Updates and Support Materials Registrations for Oracle's Siebel-branded Products

| Title of Work | Date of Registration | Registration Number |
|---|----------------------|---------------------|
| Oracle 8i Enterprise Edition, release 2 (8.1.6) | February 2, 2001 | TX 5-222-106 |
| Oracle9i Database Enterprise : Edition Release 2 | June 13, 2003 | TX 5-673-282 |
| Oracle Database 10g: Release 2 | June 29, 2009 | TX 6-942-003 |
| Oracle Relational Database Management System (RDBMS): Release 8.0.4 | November 21, 2001 | TX 5-392-842 |
| Oracle Relational Database Management System (RDBMS), Release 8.0.5 | November 21, 2001 | TX 5-392-861 |
| Oracle9i Database Enterprise : Edition Release 1 | June 13, 2003 | TX 5-673-281 |
| Oracle Database 10g: Release 1 | January 16, 2009 | TX 6-938-648 |

Table A-8: Oracle Database Registrations

¹ The Cumulative Updates, separately listed in Table A-3, are also Oracle Update and Support Materials for Oracle's J.D. Edwards-branded products.