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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

23 ORACLE USA, INC., et al.,
24 Plaintiffs,
25 v.
26 SAP AG, et al.,
27 Defendants.

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

**DEFENDANTS' OPPOSITION TO
AMENDED MOTION FOR LEAVE
TO INTERVENE**

Date: December 8, 2011
Time: 9:00 a.m.
Courtroom: 3, 3rd Floor
Judge: Hon. Phyllis J. Hamilton

1 Defendants SAP AG, SAP America, Inc. and TomorrowNow, Inc. (“Defendants”) file
 2 this Opposition to Terry M. Myers’ Amended Motion for Leave to Intervene (“Amended Motion”)
 3 and ask the Court to deny the Amended Motion for the same reasons that the Court denied Mr.
 4 Myers’ original motion to intervene—namely, that the Amended Motion is “incomprehensible”
 5 and fails to state a basis for intervention. ECF No. 1065; *see also* ECF No. 1064.

6 Mr. Myers filed his original motion to intervene on April 8, 2011, *see* ECF No. 1064,
 7 which the Court denied on April 26, 2011, finding that “[t]he motion is incomprehensible, and no
 8 basis for intervention is stated.” ECF No. 1065. On December 5, 2011, Defendants’ counsel
 9 received via U.S. Mail Mr. Myers’ “Notice of Filing Amended Motion for Leave to Intervene”
 10 (“Notice”) and “Movants [sic] Amended Motion for Leave to Intervene.” *See* Declaration of Jane
 11 L. Froyd (“Froyd Decl.”), Exs. A & B. The Notice states that the Amended Motion was filed
 12 with the Court on November 30, 2011, although it has not yet been posted to the ECF electronic
 13 docket for this case. *See* Froyd Decl., Ex. A. Despite the requirement set forth in Civil Local
 14 Rule 7-2 that a hearing be no earlier than 35 days after service of a motion, as well as the Court’s
 15 stated unavailability for civil hearings until February 8, 2012, Mr. Myers improperly noticed the
 16 hearing for the Amended Motion for December 8, 2011.

17 Rule 24(c) of the Federal Rules of Civil Procedure provides that “[a] motion to intervene
 18 must . . . state the grounds for intervention and be accompanied by a pleading that sets out the
 19 claim or defense for which invention is sought.” Fed. R. Civ. P. 24(c). However, despite
 20 including new allegations, the Amended Motion remains “incomprehensible”—largely repeating
 21 the allegations of the original motion to intervene—and again wholly fails to state any grounds
 22 for intervention as required by the Federal Rules. Thus, Defendants request that the Court deny
 23 the Amended Motion.

24 Dated: December 7, 2011

JONES DAY

25 By: /s/ Tharan Gregory Lanier
 26 Tharan Gregory Lanier

27 Counsel for Defendants
 28 SAP AG, SAP AMERICA, INC., and
 TOMORROWNOW, INC.