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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 SAN FRANCISCO DIVISION

22 ORACLE CORPORATION, et al.,

23 Plaintiffs,

24 v.

25 SAP AG, et al.,

26 Defendants.

Case No. 07-CV-1658 PJH

**[PROPOSED] ORDER ON
DEFENDANTS' ADMINISTRATIVE
REQUEST TO FILE EXHIBITS 3 AND
4 TO THE DECLARATION OF
ELAINE WALLACE UNDER SEAL**

Date: TBD
Time: TBD
Courtroom: E, 15th Floor
Judge: Hon. Elizabeth D. Laporte

1 Defendants' SAP AG, SAP America, and TomorrowNow, Inc. ("Defendants") have filed
2 an Administrative Request to File Exhibits 3 and 4 to the Declaration of Elaine Wallace Under
3 Seal. Defendants request that Exhibits 3 and 4 be filed under seal because they contain
4 information designated by Defendants as "Confidential Information" or "Confidential
5 Information – Attorneys' Eyes Only" under the Protective Order in this action.

6 Federal Rule of Civil Procedure 26(c) provides broad discretion for a trial court to permit
7 sealing of court documents for, *inter alia*, the protection of "a trade secret or other confidential
8 research, development, or commercial information." Fed. R. Civ. Proc. 26(c). In particular,
9 when the request for sealing concerns discovery documents attached to a non-dispositive motion,
10 a showing of good cause to seal the documents is sufficient to justify protection under Rule 26(c).
11 *See Navarro v. Eskanos & Adler*, Case No. C-06 02231 WHA(EDL), 2007 U.S. Dist. LEXIS
12 24864 at *7 (March 22, 2007) (citing *Kamakana v. Honolulu*, 447 F.3d 1172, 1179 (9th Cir.
13 2006).

14 In accordance with Local Rule 79-5, Defendants filed the declaration of Christopher Faye
15 to provide evidence of good cause for this Court to permit filing under seal. That declaration
16 establishes both that Defendants have considered and treated the information contained in the
17 subject documents as confidential or proprietary, and that public disclosure of such information
18 would result in a particularized harm or prejudice to the Defendants. *See Phillips v. General*
19 *Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2006). Accordingly, for good cause shown, the
20 Court ORDERS that the following documents shall be filed under seal:

- 21 1. Exhibit 3 to the Declaration of Elaine Wallace in Support of Defendants' Opposition to
22 Plaintiffs' Motion to Compel Production of Clawed Back Documents; and
- 23 2. Exhibit 4 to the Declaration of Elaine Wallace in Support of Defendants' Opposition to
24 Plaintiffs' Motion to Compel Production of Clawed Back Documents

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IT IS SO ORDERED.

Dated: _____

ELIZABETH D. LAPORTE
United States Magistrate Judge