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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 GRANTING
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE DOCUMENTS
UNDER SEAL [E-FILED AND
LODGED WITH THE COURT
PURSUANT TO LR 79-5(d)]**

Date: N/A
Time: N/A
Courtroom: E, 15th Floor
Judge: Hon. Elizabeth D. Laporte

1 Plaintiffs Oracle Corporation, Oracle USA, Inc., and Oracle International Corporation
2 (together, “Oracle”) have filed an Administrative Motion to File Their Motion to Compel and
3 Supporting Documents Under Seal. The Administrative Motion requests that portions of the
4 Motion to Compel and certain supporting documents be filed under seal because they contain
5 information designated by Defendants as “Confidential Information” or “Confidential
6 Information – Attorneys’ Eyes Only” under the Protective Order in this action.

7 Federal Rule of Civil Procedure 26(c) provides broad discretion for a trial court to permit
8 sealing of court documents for, *inter alia*, the protection of “a trade secret or other confidential
9 research, development, or commercial information.” Fed. R. Civ. Proc. 26(c). In particular,
10 when the request for sealing concerns discovery documents attached to a non-dispositive motion,
11 a showing of good cause to seal the documents is sufficient to justify protection under Rule 26(c).
12 *See Navarro v. Eskanos & Adler*, Case No. C-06 02231 WHA(EDL), 2007 U.S. Dist. LEXIS
13 24864 at *7 (March 22, 2007) (citing *Kamakana v. Honolulu*, 447 F.3d 1172, 1179 (9th Cir.
14 2006).

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

- 22 1. the redacted versions of Exs. C and W attached to the Declaration of Geoffrey M.
23 Howard in Support of Oracle’s Motion to Compel Production of Clawed Back
24 Documents (“Howard Decl.”);
- 25 2. Exs. E through H, J, and X to the Howard Decl.; and
- 26 3. the non-redacted version of Oracle’s Motion to Compel Production of Clawed
27 Back Documents, which references information contained in Exs. C, E-H, J, W
28 and X to the Howard Decl.

1 Further, the Court ORDERS that because the non-redacted versions of Exs. B, C, U, V
2 and W to the Howard Decl. (the “Contested Documents” in Oracle’s Motion to Compel) are
3 allegedly privileged attorney-client communications that have been lodged by Defendants for *in*
4 *camera* review only, in order to preserve Defendants’ claim of privilege over those documents,
5 Exs. B, C, U, V and W to the Howard Decl. shall not be filed in any manner (public, sealed or
6 otherwise) and instead shall remain protected in the Court’s chambers pending this Court’s
7 resolution of Oracle’s motion to compel production of clawed back documents.

8 IT IS SO ORDERED.

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11 Dated: _____

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13 ELIZABETH D. LAPORTE
14 United States Magistrate Judge
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