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19 UNITED STATES DISTRICT COURT  
20 NORTHERN DISTRICT OF CALIFORNIA  
21 SAN FRANCISCO DIVISION

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

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

**DEFENDANTS' ADMINISTRATIVE  
MOTION TO FILE MOTION TO  
COMPEL AND DECLARATIONS  
AND EXHIBITS IN SUPPORT  
THEREOF, UNDER SEAL;  
DECLARATION IN SUPPORT OF  
ADMINISTRATIVE MOTION**

**I. INTRODUCTION**

1  
2 Plaintiffs Oracle USA, Inc., Oracle International Corporation, and Oracle EMEA Limited  
3 (collectively, "Oracle"), together with Defendants SAP AG, SAP America, Inc., and  
4 TomorrowNow, Inc. (collectively, "Defendants," and with Oracle, the "Parties"), respectfully  
5 request an Order sealing (1) portions of Defendants' Motion to Compel Discovery Concerning  
6 Third Party Support Provided by Oracle's Partners ("Motion to Compel"), and (2) portions of the  
7 Declaration of Jason McDonell in support of Defendants' Motion to Compel ("McDonell  
8 Declaration"), and (3) Exhibits 18 and 19 to the McDonell Declaration.<sup>1</sup> Unredacted versions of  
9 these documents were lodged with the Court on January 16, 2009. This request is made pursuant  
10 to Civil Local Rules 7-11 and 79-5 and the Protective Order signed by Judge Martin Jenkins on  
11 June 6, 2007. This request is supported by the Parties' Stipulation Regarding Defendants'  
12 Administrative Motion to Seal, filed concurrently with this Motion.

**II. ARGUMENT**

13  
14 Defendants request that the documents listed in detail in the attached Declaration of  
15 Elaine Wallace ("Wallace Declaration") be filed under seal. Good cause exists for filing the  
16 referenced documents under seal, because they contain content that was designated by Oracle as  
17 either "Highly Confidential Information - Attorneys' Eyes Only," or "Confidential Information,"  
18 pursuant to the Stipulated Protective Order. Pursuant to Civil Local Rule 79-5(d) and Paragraph  
19 14 of the Protective Order, Defendants are obligated to lodge these documents with the Court  
20 with a request to file them under seal.

21 Defendants' request is narrowly tailored, as required by Local Rule 79-5(a), and seeks to  
22 protect only those documents that contain Oracle's allegedly confidential information, until such  
23 time as Oracle may submit a declaration in accordance with Civil Local Rule 75-9(d) and the  
24 Court makes a final ruling as to the confidentiality of the relevant subject matter. Therefore,  
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26 <sup>1</sup> Multiple exhibits attached to the McDonell Declaration contain redactions of non-relevant  
27 information. These redactions are designated with "Redacted for Relevance" and are not  
28 included as redactions that Defendants are moving to seal. Defendants move to file under seal an  
unredacted version of the Motion to Compel Discovery Concerning Third Party Support  
Provided by Oracle's Partners and Exhibits 18 and 19 in their entirety.



1                   **DECLARATION OF ELAINE WALLACE IN SUPPORT OF**  
2                   **DEFENDANTS’ ADMINISTRATIVE MOTION TO FILE UNDER SEAL**

3           I, Elaine Wallace, declare:

4           1.       I am a member of the State Bar of California and am counsel at Jones Day,  
5           counsel of record for Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc.  
6           (collectively, “Defendants,”) in this action. Except for matters stated below on information and  
7           belief, I have personal knowledge of the matters stated in this declaration by virtue of my  
8           representation of Defendants in this action. If called and sworn as a witness, I could and would  
9           competently testify to such matters.

10          2.       Pursuant to Civil Local Rule 79-5 and the stipulated Protective Order entered on  
11          June 6, 2007 in this case (Docket No. 32), I make this Declaration in support of Defendants’  
12          Administrative Motion to File Motion to Compel and Declarations and Exhibits in Support  
13          Thereof, Under Seal (the “Motion to Seal”).

14          3.       The requested relief is necessary and narrowly tailored to protect the alleged  
15          confidentiality of the materials put at issue by Defendants’ Motion to Compel Discovery  
16          Concerning Third Party Support Provided by Oracle’s Partners (“Motion to Compel”), until such  
17          time as the Court rules on the confidentiality of the relevant subject matter. Specifically,  
18          Exhibits 18 and 19 to the Declaration of Jason McDonell in support of Defendants’ Motion to  
19          Compel (the “McDonell Declaration”), and references to these exhibits within the Motion to  
20          Compel and McDonell Declaration, contain information designated by Oracle as “Confidential  
21          Information” and “Highly Confidential Information - Attorneys’ Eyes Only,” pursuant to the  
22          Protective Order entered in this action on June 6, 2007.

23          4.       Pursuant to Civil Local Rule 7-11, a stipulation is included with this  
24          Administrative Motion.

25          5.       The following documents, or portions of documents, contain information  
26          designated Highly Confidential and/or Confidential by Oracle:

27                  a.       Defendants’ Motion to Compel

28                               Page 10, lines 16 - 18

