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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 USA, INC., et al.,

23 Plaintiffs,

24 v.

25 SAP AG, et al.,

26 Defendants.  
27

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

**[PROPOSED] ORDER GRANTING  
DEFENDANTS' MOTION FOR  
SANCTIONS PURSUANT TO FE. R.  
CIV. P. 37(c) AND 16(f)**

Date: August 18, 2009

Time: TBD

Courtroom: E, 15<sup>th</sup> Floor

Judge: Hon. Elizabeth D. Laporte

1 The Court having before it Defendants’ Motion for Sanctions Pursuant to Fed. R. Civ. P.  
2 37(c) and 16(f), and having considered the papers and argument of the parties, hereby GRANTS  
3 the motion and ORDERS as follows:

4 Pursuant to Rules 37(c) and 16(f) of the Federal Rules of Civil Procedure, Plaintiffs shall  
5 be precluded from presenting evidence on a motion, at a hearing, or at trial in support of any  
6 claim that Plaintiffs’ lost profits damages include: (1) alleged lost profits relating to customers  
7 that were not customers of Defendant TomorrowNow, Inc.; (2) alleged lost profits relating to  
8 license revenues, as opposed to support revenues; and/or (3) alleged lost profits relating to  
9 products that were not supported by Defendant TomorrowNow, Inc.

10 IT IS SO ORDERED.

11  
12 Dated: \_\_\_\_\_

13 \_\_\_\_\_  
14 ELIZABETH D. LAPORTE  
15 United States Magistrate Judge  
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