

1 Robert A. Mittelstaedt (SBN 060359)
Jason McDonell (SBN 115084)
2 Elaine Wallace (SBN 197882)
JONES DAY
3 555 California Street, 26th Floor
San Francisco, CA 94104
4 Telephone: (415) 626-3939
Facsimile: (415) 875-5700
5 ramittelstaedt@jonesday.com
jmcdonell@jonesday.com
6 ewallace@jonesday.com

7 Tharan Gregory Lanier (SBN 138784)
Jane L. Froyd (SBN 220776)
8 JONES DAY
1755 Embarcadero Road
9 Palo Alto, CA 94303
Telephone: (650) 739-3939
10 Facsimile: (650) 739-3900
tglanier@jonesday.com
11 jfroyd@jonesday.com

12 Scott W. Cowan (Admitted *Pro Hac Vice*)
Joshua L. Fuchs (Admitted *Pro Hac Vice*)
13 JONES DAY
717 Texas, Suite 3300
14 Houston, TX 77002
Telephone: (832) 239-3939
15 Facsimile: (832) 239-3600
swcowan@jonesday.com
16 jl fuchs@jonesday.com

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.

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

**[PROPOSED] ORDER DENYING IN
PART AND GRANTING IN PART
PLAINTIFFS' MOTION TO AMEND
COMPLAINT**

1 Before this Court is Plaintiffs' July 15, 2009 Motion to Amend Complaint ("Motion")
2 seeking leave to file a Fourth Amended Complaint to add four categories of proposed
3 amendments: (1) amendments relating to Siebel software and certain post-litigation conduct, (2)
4 amendments relating to the addition of seven copyright registrations for Oracle database
5 technology, (3) amendments relating to the addition of two copyright registrations for PeopleSoft
6 and J.D. Edwards "Database[s] of Documentary Support" ("Knowledge Management
7 registrations") and (4) amendments relating to the addition of 20 historic PeopleSoft copyright
8 registrations.

9 Having considered the Motion, and pursuant to Rule 16(b) and Rule 15(a) of the Federal
10 Rules of Civil Procedure and paragraph five of the June 11, 2009 Revised Case Management and
11 Pretrial Order,

12 IT IS HEREBY ORDERED THAT:

13 As to categories (2), (3) and (4) of the proposed amendments described above, the Court
14 DENIES Plaintiffs' Motion pursuant to Rule 16(b) because Plaintiffs' lack of diligence in moving
15 to amend fails to establish good cause to modify the scheduling order. Additionally, the Court
16 DENIES Plaintiffs' Motion pursuant to Rule 15(a) because the Motion has been brought in bad
17 faith, after undue delay, to the prejudice Defendants and the interests of justice.

18 As to category (1) of the proposed amendments described above, the Court GRANTS
19 Plaintiffs' Motion.

20 **IT IS SO ORDERED.**

21 DATED: _____

22 By: _____
23 Hon. Phyllis J. Hamilton
24 United States District Court Judge