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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