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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)

**DEFENDANTS' ADMINISTRATIVE  
MOTION TO PERMIT  
DEFENDANTS TO FILE UNDER  
SEAL DOCUMENTS SUPPORTING  
DEFENDANTS' REPLY IN SUPPORT  
OF MOTION FOR SANCTIONS AND  
REPLY IN SUPPORT OF MOTION  
TO COMPEL**

**I. INTRODUCTION**

Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc. (collectively, Defendants) respectfully request that the Court order the Clerk of the Court to file the following documents under seal:

1. Portions of Defendants’ Motion for Sanctions Reply containing quotes or other material from documents identified herein that have been designated by Plaintiffs as “Confidential Information” or “Highly Confidential Information - Attorneys’ Eyes Only”;
2. A portion of the Reply Declaration of Stephen K. Clarke in Support of Defendants’ Motion for Sanctions Pursuant to Fed. R. Civ. P. 37(c) and 16(f);
3. Portions of Defendants’ Motion to Compel Reply containing quotes or other material from documents identified herein that have been designated by Plaintiffs as “Confidential Information” or “Highly Confidential Information - Attorneys’ Eyes Only”;
4. Exhibit 8 to the Reply Declaration of Jason McDonell in Support of Defendants’ Motion to Compel Production of Financial Information of Plaintiffs; and,
5. Portions of the Reply Declaration of Stephen K. Clarke in Support of Defendants’ Motion to Compel Production of Financial Information from Plaintiffs.

Unredacted versions of these documents were lodged with the Court on August 4, 2009. This request is made pursuant to Civil Local Rules 7-11 and 79-5 and the Protective Order signed by Judge Martin Jenkins on June 6, 2007. This request is supported by the Parties’ Stipulation Regarding Defendants’ Administrative Motion to Seal (“Stipulation”), filed concurrently with this Motion.

**II. ARGUMENT**

Defendants request that the above listed documents, discussed in the attached Declaration of Jason McDonell (“McDonell Declaration”) be filed under seal. Good cause exists for filing them under seal because they contain content that was designated by Plaintiffs as either “Highly

1 Confidential Information - Attorneys' Eyes Only," or "Confidential Information," pursuant to the  
2 Stipulated Protective Order. Defendants' request is narrowly tailored, as required by Local Rule  
3 79-5(a), and seeks to protect only those documents that contain information so designated.

4 This request is supported by the accompanying Declaration of Jason McDonell in Support  
5 of Defendants' Administrative Motion to File Under Seal and the parties' Stipulation.

6  
7 **III. CONCLUSION**

8 For the foregoing reasons, Defendants respectfully request that the Court order the filing  
9 of the documents listed in detail in the attached declaration under seal. Pursuant to Local Rule  
10 79-5, a Proposed Order is submitted with this Motion.

11  
12 DATED: August 4, 2009

JONES DAY

13  
14 By: /s/ Jason McDonell

Jason McDonell

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16 Attorneys for Defendants  
17 SAP AG, SAP AMERICA, INC., and  
18 TOMORROWNOW, INC.

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