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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.

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

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

1  
2 Pursuant to Local Rules 7-11(a) and 79-5(c), Plaintiffs Oracle USA, Inc. Oracle  
3 International Corporation, and Oracle EMEA Limited (“Plaintiffs”) and Defendants SAP AG,  
4 SAP America, Inc., and TomorrowNow, Inc. (“Defendants,” and together with Plaintiffs, the  
5 “Parties”) jointly submit this Stipulation to permit Defendants to file under seal documents  
6 supporting Defendants’ Reply in Support of Motion for Sanctions Pursuant to Fed. R. Civ. P.  
7 37(c) and 16(f) (“Motion for Sanctions Reply”) and Defendants’ Reply in Support of Motion to  
8 Compel Production of Financial Information of Plaintiffs (“Motion to Compel Reply”).

9 WHEREAS, the requested relief is necessary and narrowly tailored to protect the alleged  
10 confidentiality of the materials put at issue by the Defendants’ Motion for Sanctions Reply and  
11 Motion to Compel Reply until such time as the Court makes a final ruling as to confidentiality of  
12 the relevant subject matter. Whereas, with limited exceptions, requested relief similar to that here  
13 was previously ordered by this Court (D.I. 367) or is pending (D.I. 378). Specifically, the  
14 following materials constitute documents that contain information designated by Plaintiffs as  
15 “Confidential Information” or “Highly Confidential Information - Attorneys’ Eyes Only”  
16 pursuant to the Protective Order entered on June 6, 2007 in this action:

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

1 5. Portions of the Reply Declaration of Stephen K. Clarke in Support of Defendants'  
2 Motion to Compel Production of Financial Information from Plaintiffs.

3  
4 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their  
5 respective counsel of record, that Defendant be permitted to file under seal their documents  
6 supporting Defendants' Motion for Sanctions Reply and Motion to Compel Reply. The Parties  
7 further agree that Plaintiffs reserve their rights to challenge the confidentiality of the information  
8 filed under seal pursuant to this Stipulation.

9  
10 DATED: August 4, 2009

JONES DAY

11  
12 By: /s/ Jason McDonell  
13 Jason McDonell

14 Attorneys for Defendants  
15 SAP AG, SAP AMERICA, INC., and  
TOMORROWNOW, INC.

16 In accordance with General Order No. 45, Rule X, the above signatory attests that  
17 concurrence in the filing of this document has been obtained from the signatory below.

18 DATED: August 4, 2009

BINGHAM McCUTCHEN LLP

19  
20 By: /s/ Zachary Alinder  
21 Zachary Alinder

22 Attorneys for Plaintiffs  
23 ORACLE USA, INC., ORACLE  
24 INTERNATIONAL CORPORATION, and,  
ORACLE EMEA LIMITED

25 SFI-616115v2