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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.

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

**STIPULATION TO PERMIT  
DEFENDANTS TO FILE UNDER  
SEAL PLAINTIFFS' INFORMATION  
DISCLOSED IN DEFENDANTS'  
ANSWER AND AFFIRMATIVE  
DEFENSES TO FOURTH AMENDED  
COMPLAINT**

1 Pursuant to Local Rules 7-11(a) and 79-5(c), Plaintiffs Oracle USA, Inc., Oracle  
2 International Corporation and Oracle EMEA Limited (“Plaintiffs”) and Defendants SAP AG,  
3 SAP America, Inc. and TomorrowNow, Inc. (“Defendants,” and together with Plaintiffs, the  
4 “Parties”) jointly submit this Stipulation to Permit Defendants to File Under Seal Plaintiffs’  
5 Information Disclosed in Defendants’ Answer and Affirmative Defenses to Fourth Amended  
6 Complaint (“Answer”).

7 WHEREAS, Defendants filed their Answer on August 26, 2009;

8 WHEREAS, at Plaintiffs’ request, Defendants have filed an Administrative Motion to  
9 Permit Defendants to File Under Seal Plaintiffs’ Information Disclosed in Defendants’ Answer  
10 and Affirmative Defenses to Fourth Amended Complaint;

11 WHEREAS the requested relief is necessary and narrowly tailored to protect the alleged  
12 confidentiality of the materials put at issue by the Answer. Specifically, a portion of paragraph  
13 13 of the Answer filed and lodged with the Court contains information designated by Plaintiffs as  
14 “Confidential Information.” The parties agree that the materials put at issue by the Answer are  
15 governed by Fed. R. Evid. 408.

16 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their  
17 respective counsel of record, that Defendant be permitted to move for permission to file under  
18 seal a portion of paragraph 13 of the Answer. The Parties further agree that Defendants reserve  
19 their rights to challenge the confidentiality of the information filed under seal pursuant to this  
20 Stipulation. While the Parties agree that portions of the Answer may be publicly filed, the Parties  
21 also agree that the filing shall not be construed as a waiver of any confidentiality designation or  
22 other protection with respect to documents, transcripts or other information referred to in, or that  
23 serve as the basis for, the allegations or arguments made in it.

24 **IT IS SO STIPULATED.**

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1 DATED: August 26, 2009

JONES DAY

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By: /s/ Tharan Gregory Lanier  
Tharan Gregory Lanier

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

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

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DATED: August 26, 2009

BINGHAM McCUTCHEN LLP

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By: /s/ Geoffrey M. Howard  
Geoffrey M. Howard

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

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