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19 UNITED STATES DISTRICT COURT  
20 NORTHERN DISTRICT OF CALIFORNIA  
21 OAKLAND 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  
SUPPORTING DEFENDANTS'  
REPLY TO PLAINTIFFS'  
OPPOSITION TO DEFENDANTS'  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

1 Pursuant to Local Rules 7-11(a) and 79-5(c), Plaintiffs Oracle USA, Inc., Oracle  
2 International Corporation, Oracle EMEA Limited and Siebel Systems, Inc. (“Plaintiffs”) and  
3 Defendants SAP AG, SAP America, Inc. and TomorrowNow, Inc. (“Defendants,” and together  
4 with Plaintiffs, the “Parties”) jointly submit this Stipulation to Permit Defendants to File Under  
5 Seal Plaintiffs’ Information Supporting Defendants’ Reply to Plaintiffs’ Opposition to  
6 Defendants’ Motion for Partial Summary Judgment.

7 WHEREAS, Defendants filed their Reply to Plaintiffs’ Opposition to Defendants’ Motion  
8 for Partial Summary Judgment Regarding Plaintiffs’ Hypothetical License Damages Claim on  
9 October 7, 2009 (“Reply”);

10 WHEREAS, at Plaintiffs’ request, Defendants have filed an Administrative Motion to  
11 Permit Defendants to File Under Seal Plaintiffs’ Information Supporting Defendants’ Reply;

12 WHEREAS the requested relief is necessary and narrowly tailored to protect the alleged  
13 confidentiality of the materials put at issue by the Reply until such time as the Court makes a final  
14 ruling as to confidentiality of the relevant subject matter. Specifically, the following excerpts of  
15 the Reply contain information designated by Plaintiffs as “Highly Confidential Information -  
16 Attorneys’ Eyes Only”: 7:25-26; 7:28; 8:3-4; 8:6-7; 8:9-11; and 8:12-17. Additionally, the  
17 following excerpts of the Reply contain information designated by Plaintiffs as “Confidential  
18 Information”: 7:12-13; 7:16-17; 7:19-20; 7:22; and 15:14-15.

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

27 **IT IS SO STIPULATED.**

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1 DATED: October 7, 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: October 7, 2009

BINGHAM McCUTCHEN LLP

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

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