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18 TOMORROWNOW, INC.

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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' DOCUMENTS  
SUPPORTING DEFENDANTS'  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

1 Pursuant to Local Rules 7-11(a) and 79-5(c), Plaintiffs Oracle USA, Inc.,<sup>1</sup> 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’ Documents Supporting Defendants’ Motion for Partial Summary Judgment  
 6 (“Motion for Partial Summary Judgment”).

7 WHEREAS, Defendants filed their Motion for Partial Summary Judgment, along with the  
 8 Declaration of Tharan Gregory Lanier in Support of Defendants’ Motion for Partial Summary  
 9 Judgment (“Lanier Declaration”) and supporting exhibits, on March 3, 2010;

10 WHEREAS, at Plaintiffs’ request, Defendants have filed an Administrative Motion to  
 11 Permit Defendants to File Under Seal Plaintiffs’ Documents Supporting Defendants’ Motion for  
 12 Partial Summary Judgment;

13 WHEREAS the requested relief is necessary and narrowly tailored to protect the alleged  
 14 confidentiality of the materials put at issue by the Motion for Partial Summary Judgment until  
 15 such time as the Court makes a final ruling as to confidentiality of the relevant subject matter.  
 16 Specifically, the following documents and portions of documents contain information designated  
 17 by Plaintiffs as “Highly Confidential - Attorneys’ Eyes Only”:

- 18 • The following portions of the Lanier Declaration: portions of ¶ 4, ¶ 8;
- 19 • The following portions of Exhibit A to the Lanier Declaration: portions of ¶¶ 150-152,  
 20 ¶¶ 284-285, ¶¶ 287-288, ¶ 354, ¶¶ 402-405, ¶¶ 449-450;
- 21 • The following portions of Exhibit B to the Lanier Declaration: portions of 6, 43-44;
- 22 • The entirety of Exhibit D to the Lanier Declaration;
- 23 • The following portions of Exhibit E to the Lanier Declaration: 139:16-23, 142:5-  
 24 145:14;

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 26  
 27 <sup>1</sup> As Plaintiffs note in their own moving papers, Oracle contends that Oracle’s recent  
 28 acquisition of Sun Microsystems, Inc. has resulted in certain limited changes to Oracle’s  
 corporate structure, including that Oracle America, Inc. has assumed all of plaintiff Oracle USA,  
 Inc.’s rights and obligations.

- 1 • The following portions of Exhibit F to the Lanier Declaration: 289:25-290:11, 362:17-  
2 370:2;
- 3 • The entirety of Exhibit H to the Lanier Declaration;
- 4 • The following portions of the Declaration of Elaine Wallace in Support of Defendants’  
5 Fed. R. Evid. 1006 Summary of Evidence (“Wallace Declaration”): portions of ¶¶ 2-5;
- 6 • The entirety of Exhibit 1 to the Wallace Declaration; and
- 7 • The following portions of the Motion for Partial Summary Judgment: portions of 2:15-  
8 16, 4:8-13, 4:19, 4:21-28, 5:1-5, 9:15-17, 10:16, 11:10.

9 Additionally, the following documents and portions of documents contain information designated  
10 by Plaintiffs as “Confidential Information”:

- 11 • The following portions of Exhibit A to the Lanier Declaration: ¶ 20 (Table 1); and
- 12 • The following portions of Exhibit E to the Lanier Declaration: 1, 247.

13 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their  
14 respective counsel of record, that Defendants be permitted to move for permission to file under  
15 seal portions of the Motion for Partial Summary Judgment, as well as portions of declarations and  
16 exhibits in support thereof, as described above. The Parties further agree that Defendants reserve  
17 their rights to challenge the confidentiality of the information filed under seal pursuant to this  
18 Stipulation. While the Parties agree that portions of the Motion for Partial Summary Judgment  
19 may be publicly filed, the Parties also agree that the filing shall not be construed as a waiver of  
20 any confidentiality designation or other protection with respect to documents, transcripts, or other  
21 information referred to in, or that serve as the basis for, the allegations or arguments made in it.

22 **IT IS SO STIPULATED.**

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DATED: March 3, 2010

JONES DAY

By: /s/ Tharan Gregory Lanier  
Tharan Gregory Lanier

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

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

DATED: March 3, 2010

BINGHAM McCUTCHEN LLP

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

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