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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'  
CROSS MOTION FOR PARTIAL  
SUMMARY JUDGMENT AND  
OPPOSITION TO PLAINTIFFS'  
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’ Cross Motion for Partial Summary Judgment  
 6 and Opposition to Plaintiffs’ Motion for Partial Summary Judgment (“Defendants’ Cross Motion  
 7 and Opposition”).

8 WHEREAS, Defendants filed Defendants’ Cross Motion and Opposition, along with the  
 9 Declaration of Tharan Gregory Lanier in Support of Defendants’ Cross Motion and Opposition  
 10 (“Lanier Declaration”) and supporting exhibits, on March 31, 2010;

11 WHEREAS, at Plaintiffs’ request, Defendants have filed an Administrative Motion to  
 12 Permit Defendants to File Under Seal Plaintiffs’ Documents Supporting Defendants’ Cross  
 13 Motion and Opposition;

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

- 19 • The following portions of Exhibit 14 to the Lanier Declaration: 41:11-24;
- 20 • The following portions of Exhibit 19 to the Lanier Declaration: 11:24-12:1;
- 21 • The following portions of Exhibit 20 to the Lanier Declaration: 42:10-43:3; and
- 22 • The following portions of the Cross Motion and Opposition: portions of i:22-23, 11:4-  
 23 5, 15:4, 16:11-14, 16:27-28, 17:2-4, and 17:11-13.

24 Additionally, the following portion of a document filed and lodged with the Court contains  
 25 information designated by Plaintiffs as “Confidential Information”:

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 20 to the Lanier Declaration: 42:7-9.

2 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their  
 3 respective counsel of record, that Defendants be permitted to move for permission to file under  
 4 seal portions of the Cross Motion and Opposition, as well as portions of declarations and exhibits  
 5 in support thereof, as described above. The Parties further agree that Defendants reserve their  
 6 rights to challenge the confidentiality of the information filed under seal pursuant to this  
 7 Stipulation. While the Parties agree that portions of the Cross Motion and Opposition may be  
 8 publicly filed, the Parties also agree that the filing shall not be construed as a waiver of any  
 9 confidentiality designation or other protection with respect to documents, transcripts, or other  
 10 information referred to in, or that serve as the basis for, the allegations or arguments made in it.

11 **IT IS SO STIPULATED.**

12 DATED: March 31, 2010

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

20 DATED: March 31, 2010

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,  
 ORACLE EMEA LIMITED, and SIEBEL  
 SYSTEMS, INC.

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