

1 Robert A. Mittelstaedt (SBN 060359)  
Jason McDonell (SBN 115084)  
2 Elaine Wallace (SBN 197882)  
JONES DAY  
3 555 California Street, 26<sup>th</sup> Floor  
San Francisco, CA 94104  
4 Telephone: (415) 626-3939  
Facsimile: (415) 875-5700  
5 ramittelstaedt@jonesday.com  
jmcdonell@jonesday.com  
6 ewallace@jonesday.com

7 Tharan Gregory Lanier (SBN 138784)  
Jane L. Froyd (SBN 220776)  
8 JONES DAY  
1755 Embarcadero Road  
9 Palo Alto, CA 94303  
Telephone: (650) 739-3939  
10 Facsimile: (650) 739-3900  
tglanier@jonesday.com  
11 jfroyd@jonesday.com

12 Scott W. Cowan (Admitted *Pro Hac Vice*)  
Joshua L. Fuchs (Admitted *Pro Hac Vice*)  
13 JONES DAY  
717 Texas, Suite 3300  
14 Houston, TX 77002  
Telephone: (832) 239-3939  
15 Facsimile: (832) 239-3600  
swcowan@jonesday.com  
16 jlfuchs@jonesday.com

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

BOIES, SCHILLER & FLEXNER LLP  
DAVID BOIES (Admitted *Pro Hac Vice*)  
333 Main Street  
Armonk, NY 10504  
Telephone: (914) 749-8200  
Facsimile: (914) 749-8300  
dboies@bsfllp.com  
STEVEN C. HOLTZMAN (SBN 144177)  
1999 Harrison St., Suite 900  
Oakland, CA 94612  
Telephone: (510) 874-1000  
Facsimile: (510) 874-1460  
sholtzman@bsfllp.com

BINGHAM McCUTCHEM LLP  
DONN P. PICKETT (SBN 72257)  
GEOFFREY M. HOWARD (SBN 157468)  
HOLLY A. HOUSE (SBN 136045)  
Three Embarcadero Center  
San Francisco, CA 94111-4067  
Telephone: (415) 393-2000  
Facsimile: (415) 393-2286  
donn.pickett@bingham.com  
geoff.howard@bingham.com  
holly.house@bingham.com

DORIAN DALEY (SBN 129049)  
JENNIFER GLOSS (SBN 154227)  
500 Oracle Parkway, M/S 5op7  
Redwood City, CA 94070  
Telephone: (650) 506-4846  
Facsimile: (650) 506-7114  
dorian.daley@oracle.com  
jennifer.gloss@oracle.com

Attorneys for Plaintiffs  
ORACLE USA, INC., *et al.*

20 UNITED STATES DISTRICT COURT  
21 NORTHERN DISTRICT OF CALIFORNIA  
22 OAKLAND DIVISION

23 ORACLE USA, INC., *et al.*,  
24 Plaintiffs,  
25 v.  
26 SAP AG, *et al.*,  
27 Defendants.  
28

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

**STIPULATION TO PERMIT  
DEFENDANTS TO FILE UNDER  
SEAL PLAINTIFFS' DOCUMENTS  
IN SUPPORT OF DEFENDANTS'  
DAUBERT MOTIONS AND  
OPPOSITIONS TO PLAINTIFFS'  
MOTIONS IN LIMINE**

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’ Documents in Support of Defendants’ *Daubert* Motions and Oppositions to  
6 Plaintiffs’ Motions in Limine.

7 WHEREAS, Defendants filed on August 19, 2010 (1) Defendants’ Motion to Exclude  
8 Expert Testimony of Paul K. Meyer, (2) Exhibits 1, 3, 5, 6, and 20 to the Declaration of Elaine  
9 Wallace in Support of Defendants’ Motion to Exclude Expert Testimony of Paul K. Meyer  
10 (“Wallace Decl.”), (3) Defendants’ Oppositions to Plaintiffs’ Motions in Limine, and (4) Exhibits  
11 13, 21, 22, 23, and 31 to the Declaration of Tharan Gregory Lanier in Support of Defendants’  
12 Oppositions to Plaintiffs’ Motions in Limine (“Lanier Decl.”);

13 WHEREAS, at Plaintiffs’ request, Defendants have filed an Administrative Motion to  
14 Permit Defendants to File Under Seal Plaintiffs’ Documents in Support of Defendants’ *Daubert*  
15 Motions and Oppositions to Plaintiffs’ Motions in Limine;

16 WHEREAS the requested relief is necessary and narrowly tailored to protect the alleged  
17 confidentiality of the material put at issue by Defendants’ Motion to Exclude Expert Testimony  
18 of Paul K. Meyer and Defendants’ Oppositions to Plaintiffs’ Motions in Limine until such time as  
19 the Court makes a final ruling as to confidentiality of the relevant subject matter. Specifically,  
20 the following documents and portions of documents contain information designated by Plaintiffs  
21 as “Highly Confidential - Attorneys’ Eyes Only” or “Confidential Information” pursuant to the  
22 Stipulated Protective Order in this case:

- 23 • Portions of Defendants’ Motion to Exclude Expert Testimony of Paul K. Meyer:  
24 portions of 4:14-15 and 10:19-12;
- 25 • Portions of Exhibit 1 to the Wallace Decl.;
- 26 • Portions of Exhibit 3 to the Wallace Decl.;
- 27 • Exhibit 5 to the Wallace Decl.;
- 28 • Exhibit 6 to the Wallace Decl.;

- 1 • Portions of Exhibit 20 to the Wallace Decl.;
- 2 • Portions of Defendants' Oppositions to Plaintiffs' Motions in Limine: portions of
- 3 19:16-17;
- 4 • Portions of Exhibit 13 to the Lanier Decl.;
- 5 • Portions of Exhibit 21 to the Lanier Decl.;
- 6 • Portions of Exhibit 22 to the Lanier Decl.;
- 7 • Portions of Exhibit 23 to the Lanier Decl.; and
- 8 • Exhibit 31 to the Lanier Decl.

9 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their  
10 respective counsel of record, that Defendants be permitted to move for permission to file under  
11 seal (1) portions of Defendants' Motion to Exclude Expert Testimony of Paul K. Meyer, (2)  
12 portions of Exhibits 1, 3, 5, 6, and 20 to the Wallace Decl., (3) portions of Defendants'  
13 Oppositions to Plaintiffs' Motions in Limine, and (4) portions of Exhibits 13, 21, 22, 23, and 31  
14 to the Lanier Decl., as described above. The Parties further agree that Defendants reserve their  
15 rights to challenge the confidentiality of the information filed under seal pursuant to this  
16 Stipulation. While the Parties agree that Defendants' concurrently filed *Daubert* Motions,  
17 Oppositions to Plaintiffs' Motions in Limine, and exhibits filed in support thereof may be  
18 publicly filed, the Parties also agree that the filing shall not be construed as a waiver of any  
19 confidentiality designation or other protection with respect to documents, transcripts, or other  
20 information referred to in, or that serve as the basis for, the allegations or arguments made in  
21 them.

22 **IT IS SO STIPULATED.**

23

24

25

26

27

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DATED: August 19, 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: August 19, 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.