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18 TOMORROWNOW, INC.

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)

**DEFENDANTS' REQUEST FOR  
LEAVE TO SUPPLEMENT  
DEFENDANTS' ADMINISTRATIVE  
MOTION FOR AN ORDER RE:  
COUNSELS' EXTRAJUDICIAL  
COMMUNICATIONS**

1 Defendants seek leave to supplement the Administrative Motion for An Order re:  
2 Counsels' Extrajudicial Communications filed on October 22, 2010. ECF No. 939. Two hours  
3 after Plaintiffs filed their Response to Defendants' Administrative Motion (ECF No. 945), Oracle  
4 Corporation issued the following press statement, "attributable to Oracle CEO Larry Ellison:

5 'A few weeks ago I accused HP's new CEO, Leo Apotheker, of overseeing an  
6 industrial espionage scheme centering on the repeated theft of massive amounts of  
7 Oracle's software. A major portion of this theft occurred while Mr. Apotheker was  
8 CEO of SAP. HP's Chairman, Ray Lane, immediately came to Mr. Apotheker's  
9 defense by writing a letter stating, 'Oracle has been litigating this case for years  
10 and has never offered any evidence that Mr. Apotheker was involved.' Well, that's  
11 what we are planning to do during the trial that starts next Monday. Unless, Mr.  
12 Lane and the rest of the HP Board of Directors decide to keep their new CEO far,  
far away from HP Headquarters until that trial is over. If HP keeps Leo Apotheker  
far from HP headquarters we cannot subpoena him to testify at that trial. I don't  
think Ray Lane wants to risk Leo Apotheker testifying under oath as to why he  
allowed the theft of Oracle property to continue for 8 months after he was made  
sole CEO of SAP. I hope I'm wrong, but my guess is that HP's new Chairman,  
Mr. Lane, will keep HP's new CEO, Mr. Apotheker, far, far away from the  
Courthouse until this trial is over.'"

13 See Attachment A. This statement makes it crystal clear that Plaintiffs intend to use the  
14 upcoming trial as a public stage for fights having little to do with this case. At least the lawyers  
15 should be appropriately restrained. Defendants respectfully request that their motion be granted.

16 Dated: October 26, 2010

JONES DAY

17  
18 By: /s/ Tharan Gregory Lanier  
19 Tharan Gregory Lanier

20 Counsel for Defendants  
21 SAP AG, SAP AMERICA, INC., and  
22 TOMORROWNOW, INC.  
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# **ATTACHMENT A**

HOT PICKS MY PICKS MY GROUPS



October 27, 2010 1:03 AM EDT

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MARK HULBERT

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PRESS RELEASE

Oct. 26, 2010, 11:12 p.m. EDT

Oracle Issues Statement



REDWOOD SHORES, CA, Oct 26, 2010 (MARKETWIRE via COMTEX) -- Oracle (ORCL 28.63, -0.21, -0.73%) issued the following statement, attributable to Oracle CEO Larry Ellison: "A few weeks ago I accused HP's new CEO, Leo Apotheker, of overseeing an industrial espionage scheme centering on the repeated theft of massive amounts of Oracle's software. A major portion of this theft occurred while Mr. Apotheker was CEO of SAP. HP's Chairman, Ray Lane, immediately came to Mr. Apotheker's defense by writing a letter stating, 'Oracle has been litigating this case for years and has never offered any evidence that Mr. Apotheker was involved.' Well, that's what we are planning to do during the trial that starts next Monday.

Unless, Mr. Lane and the rest of the HP Board of Directors decide to keep their new CEO far, far away from HP Headquarters until that trial is over. If HP keeps Leo Apotheker far from HP headquarters we cannot subpoena him to testify at that trial.

I don't think Ray Lane wants to risk Leo Apotheker testifying under oath as to why he allowed the theft of Oracle property to continue for 8 months after he was made sole CEO of SAP. I hope I'm wrong, but my guess is that HP's new Chairman, Mr. Lane, will keep HP's new CEO, Mr. Apotheker, far, far away from the Courthouse until this trial is over."

About Oracle Oracle (ORCL 28.63, -0.21, -0.73%) is the world's most complete, open and integrated business software and hardware systems company. For more information about Oracle, please visit oracle.com.

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Oracle Corporation (ORCL)



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