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 SAP AG, SAP AMERICA, INC., and  
 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)

**DECLARATION OF THARAN  
 GREGORY LANIER IN SUPPORT OF  
 STIPULATED REQUEST AND  
 [PROPOSED] ORDER TO EXTEND  
 BRIEFING SCHEDULE AND  
 EXPAND PAGE LIMITS FOR POST-  
 JUDGMENT BRIEFS**

1 I, THARAN GREGORY LANIER, declare as follows:

2 I am a partner in the law firm of Jones Day, 1755 Embarcadero Road, Palo Alto,  
3 California 94303, and counsel of record for Defendants SAP AG, SAP America, Inc. (together,  
4 “SAP”), and TomorrowNow, Inc. (“TN”) (collectively, “Defendants”) in the above-captioned  
5 matter. I am a member in good standing of the state bar of California and admitted to practice  
6 before this Court. I make this declaration based on personal knowledge and, if called upon to do  
7 so, could testify competently thereto.

8 1. Following the entry of judgment in this matter, Defendants plan to file post-  
9 judgment motions pursuant to Rules 50 and 59 of the Federal Rules of Evidence. Oracle USA,  
10 Inc., Oracle International Corporation, and Siebel Systems, Inc. (“Plaintiffs”) plan to move  
11 conditionally pursuant to Rule 59.

12 2. According to Civil Local Rule 7-2, “all motions must be filed, served and noticed  
13 in writing . . . for hearing not less than 35 days after service of the motion.” Civ. L.R. 7-2. The  
14 rule also requires that “[a]ny opposition to a motion must be served and filed not less than 21  
15 days before the hearing date” and that “[a]ny reply to an opposition must be served and filed by  
16 the moving party not less than 14 days before the hearing date.” However, the Commentary to  
17 Civil Local Rule 7-2 advises that, “[f]or complex motions, parties are encouraged to stipulate to  
18 or seek a Court order establishing a longer notice period with correspondingly longer periods for  
19 response or reply.” *Id.*

20 3. With respect to page limits, Civil Local Rule 7-2 and Civil Local Rule 7-4 provide  
21 that, absent a Court order expressly permitting otherwise, neither motions nor opposition briefs  
22 may exceed 25 pages of text, and reply briefs may not exceed 15 pages of text. *Id.*; Civ. L.R. 7-4  
23 (“Unless the Court expressly orders otherwise pursuant to a party’s request made prior to the due  
24 date, briefs or memoranda filed with opposition papers may not exceed 25 pages of text and the  
25 reply brief or memorandum may not exceed 15 pages of text.”).

26 4. After meet and confer, the Parties have agreed amongst themselves, subject to the  
27 Court’s approval, to (1) file their opening briefs on February 23 (a week before the March 3  
28 deadline), (2) have five weeks to file opposition briefs, and (3) have two weeks to reply.

1           5.       In light of the advisory Commentary to Civil Local Rule 7-2, and given the  
2 complexity of the issues to be addressed in these motions and the Parties' agreement on the  
3 proposed schedule, the Parties have requested in their concurrently filed Stipulated Request and  
4 [Proposed] Order to Extend Briefing Schedule and Expand Page Limits ("Stipulated Request")  
5 that the Court set the post-judgment briefing schedule as follows:

6                       February 23    Deadline to file Opening Briefs

7                       March 30     Deadline to file Opposition Briefs

8                       April 13     Deadline to file Reply Briefs

9                       April 27     Hearing

10           6.       For these same reasons, the Parties have agreed and have so requested in their  
11 Stipulated Request that the Court (1) allow Defendants 50 pages total for their opening brief or  
12 briefs (covering all motions), as well as 25 pages for a compendium of record citations, which  
13 includes either direct quotes/cites from the record and/or non-argumentative, neutral, and accurate  
14 descriptions of specific testimony; (2) allow Plaintiffs 50 pages total for their opposition brief or  
15 briefs, as well as 25 pages for any non-argumentative compendium of record citations or similar  
16 supporting declaration; and (3) allow Defendants 30 pages total for their reply brief or briefs. The  
17 proposed compendia will take the form of attorney declarations, and the 25-page limit on those  
18 documents shall not include any attached exhibits.

19           7.       The Parties do not seek to expand the page limits for briefs relating to Plaintiffs'  
20 conditional Rule 59 motion, and therefore, in addition to any supporting papers, they shall file  
21 opening and opposition briefs of no more than 25 pages and a reply brief of up to 15 pages.

22           8.       The Parties have jointly and separately requested and received unrelated pre-trial  
23 time modifications in this matter.

24           9.       The Parties have jointly requested and received unrelated post-trial time  
25 modifications in this matter, including the Parties' Stipulation and [Proposed] Order to  
26 Temporarily Stay Execution of Judgment (ECF No. 1035) and the Parties' Stipulation and  
27 [Proposed] Order to Extend Temporary Stay of Execution of Judgment (ECF No. 1039).

28           10.      Other than as described above, the concurrently filed Stipulated Request would

1 have no other effect on the current case schedule.

2 I declare under penalty of perjury under the laws of the United States and the State of  
3 California that the foregoing is true and correct. Executed this 18th day of February, 2011 in Palo  
4 Alto, California.

5 /s/ Tharan Gregory Lanier  
6 Tharan Gregory Lanier

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