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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

ORACLE USA, INC., *et al.*,
 Plaintiffs,
 v.
 SAP AG, *et al.*,
 Defendants.

No. 07-CV-01658 PJH (EDL)

**[PROPOSED] ORDER DENYING SAP'S
 MOTION FOR APPROVAL OF
 SECURITY**

1 Before the Court is the Motion for Approval of Security Pursuant to Fed. R. Civ.
2 P. 62 (the “Motion”) filed by Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc.
3 (collectively, “SAP”) and opposed by Plaintiffs Oracle USA, Inc., Oracle International
4 Corporation, and Siebel Systems, Inc. (collectively, “Oracle,” and together with SAP, the
5 “Parties”).

6 After considering the pleadings, memoranda, and supporting papers and
7 arguments from the Parties, **IT IS HEREBY ORDERED** that SAP’s Motion is **DENIED**. **IT**
8 **IS FURTHER ORDERED THAT** SAP shall modify its proposed bond as follows:

- 9 (1) In the first paragraph, Oracle USA, Inc. and Siebel Systems, Inc. shall be
10 removed as parties to the bond;
- 11 (2) In the first paragraph, the phrase “its successors and assignees” shall be
12 added after “Oracle International Corporation,”;
- 13 (3) The paragraph beginning “NOW, THEREFORE” shall be modified to
14 read as follows: “NOW, THEREFORE, the condition of this obligation is
15 such that this obligation shall be void if Defendants prosecute their
16 postjudgment motions and/or any subsequent appeals to the Ninth Circuit
17 Court of Appeals and/or the United States Supreme Court, and either (a)
18 Defendants satisfy said judgment in full together with costs, interest and
19 damages for delay if for any reason the motions are not granted and the
20 appeal is dismissed or if the judgment is affirmed; or (b) Defendants
21 satisfy in full such modification of the judgment and such costs, interest
22 and damages as the United States District Court for the Northern District
23 of California, the Ninth Circuit Court of Appeals and/or the United States
24 Supreme Court may adjudge and award. Otherwise this obligation shall
25 remain in full force and effect.”; and
- 26 (4) The following language shall be added as the last paragraph of the bond:
27 “IT IS FURTHER AGREED by each Surety that it meets the qualification
28 requirements of Civil L.R. 65.1-1(b), and that, in the event that the Surety

1 defaults or refuses to obey any court order requiring payment, the Court
2 may, upon notice to the Surety of not less than ten days, proceed
3 summarily and render judgment against the Surety in accordance with its
4 obligation and award execution thereon.”

5 **IS FURTHER ORDERED THAT** SAP shall re-file the revised bond for the
6 Court’s approval within ten days of entry of this Order:

7 **IT IS SO ORDERED.**

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10 Dated: _____

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12 PHYLLIS J. HAMILTON
13 United States District Court Judge
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