1	Robert A. Mittelstaedt (SBN 060359) Jason McDonell (SBN 115084) Elaine Wallace (SBN 197882) JONES DAY		
$\begin{bmatrix} 2 \\ 2 \end{bmatrix}$			
3 4	555 California Street, 26 th Floor San Francisco, CA 94104 Telephone: (415) 626-3939		
5	Facsimile: (415) 875-5700 ramittelstaedt@jonesday.com		
6	jmcdonell@jonesday.com ewallace@jonesday.com		
7	Tharan Gregory Lanier (SBN 138784)		
8	Jane L. Froyd (SBN 220776) JONES DAY		
9	1755 Embarcadero Road Palo Alto, CA 94303		
10	Telephone: (650) 739-3939 Facsimile: (650) 739-3900		
11	tglanier@jonesday.com jfroyd@jonesday.com		
12	Scott W. Cowan (Admitted <i>Pro Hac Vice</i>) Joshua L. Fuchs (Admitted <i>Pro Hac Vice</i>) JONES DAY 717 Texas, Suite 3300 Houston, TX 77002 Telephone: (832) 239-3939		
13			
14			
15	Facsimile: (832) 239-3600 swcowan@jonesday.com		
16	jlfuchs@jonesday.com		
17 18	Attorneys for Defendants SAP AG, SAP AMERICA, INC., and TOMORROWNOW, INC.		
19	UNITED STATES DISTRICT COURT		
20	NORTHERN DISTRICT OF CALIFORNIA		
21	SAN FRANCISCO DIVISION		
22	ORACLE CORPORATION, et al.,	Case No. 07-CV-1658 PJH	
23	Plaintiffs,	[PROPOSED] ORDER ON DEFENDANTS' ADMINISTRATIVE	
24	v.	REQUEST TO FILE EXHIBITS 3 AND 4 TO THE DECLARATION OF	
25	SAP AG, et al.,	ELAINE WALLACE UNDER SEAL	
26	Defendants.	Date: TBD Time: TBD	
27 28		Courtroom: E, 15 th Floor Judge: Hon. Elizabeth D. Laporte	
20	SFI-589197v1	[PROPOSED] ORDER ON PLFFS.' ADMIN. REQ. TO FILE UNDER SEAL Case No. 07-CV-1658 PJH(EDL)	

	2
	3
	4
	5
	6
	7
	8
	9
	0
	1
	2
l	3
l	4
	5
l	6
	7
l	8
	9
	0
2	1

1

Defendants' SAP AG, SAP America, and TomorrowNow, Inc. ("Defendants") have filed an Administrative Request to File Exhibits 3 and 4 to the Declaration of Elaine Wallace Under Seal. Defendants request that Exhibits 3 and 4 be filed under seal because they contain information designated by Defendants as "Confidential Information" or "Confidential Information – Attorneys' Eyes Only" under the Protective Order in this action.

Federal Rule of Civil Procedure 26(c) provides broad discretion for a trial court to permit sealing of court documents for, *inter alia*, the protection of "a trade secret or other confidential research, development, or commercial information." Fed. R. Civ. Proc. 26(c). In particular, when the request for sealing concerns discovery documents attached to a non-dispositive motion, a showing of good cause to seal the documents is sufficient to justify protection under Rule 26(c). *See* Navarro *v. Eskanos & Adler*, Case No. C-06 02231 WHA(EDL), 2007 U.S. Dist. LEXIS 24864 at *7 (March 22, 2007) (citing *Kamakana v. Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006).

In accordance with Local Rule 79-5, Defendants filed the declaration of Christopher Faye to provide evidence of good cause for this Court to permit filing under seal. That declaration establishes both that Defendants have considered and treated the information contained in the subject documents as confidential or proprietary, and that public disclosure of such information would result in a particularized harm or prejudice to the Defendants. *See Phillips v. General Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2006). Accordingly, for good cause shown, the Court ORDERS that the following documents shall be filed under seal:

- 1. Exhibit 3 to the Declaration of Elaine Wallace in Support of Defendants' Opposition to Plaintiffs' Motion to Compel Production of Clawed Back Documents; and
- 2. Exhibit 4 to the Declaration of Elaine Wallace in Support of Defendants' Opposition to Plaintiffs' Motion to Compel Production of Clawed Back Documents

25

22

23

24

26

27

28

IT IS SO ORDERED. August 15, 2008 Dated:

