1	BINGHAM McCUTCHEN LLP
-	DONN P. PICKETT (SBN 72257)

- 2 GEOFFREY M. HOWARD (SBN 157468) HOLLY A. HOUSE (SBN 136045)
- 3 ZACHARY J. ALINDER (SBN 209009) BREE HANN (SBN 215695)
- 4 Three Embarcadero Center San Francisco, CA 94111-4067
- 5 Telephone: (415) 393-2000 Facsimile: (415) 393-2286
- 6 donn.pickett@bingham.com geoff.howard@bingham.com
- 7 holly.house@bingham.com zachary.alinder@bingham.com
- 8 bree.hann@bingham.com
- 9
- ,

10 DORIAN DALEY (SBN 129049) 11 JENNIFER GLOSS (SBN 154227)

- 500 Oracle Parkway 12 M/S 50p7
- **Redwood City, CA** 94070 **Telephone** (650) 506 484
- Telephone:
 (650)
 506-4846

 Facsimile:
 (650)
 506-7114
- dorian.daley@oracle.com jennifer.gloss@oracle.com
- 16 Attorneys for Plaintiffs Oracle Corporation, Oracle USA, Inc.,

17 and Oracle International Corporation

JONES DAY

ROBERT A. MITTELSTAEDT (SBN 060359) JASON McDONELL (SBN 115084) 555 California Street, 26th Floor San Francisco, CA 94104 Telephone: (415) 626-3939 Facsimile: (415) 875-5700 ramittelstaedt@jonesday.com

JONES DAY

THARAN GREGORY LANIER (SBN 138784) JANE L. FROYD (SBN 220776) 1755 Embarcadero Road Palo Alto, CA 94303 Telephone: (650) 739-3939 Facsimile: (650) 739-3900 tglanier@jonesday.com jfroyd@jonesday.com

JONES DAY

SCOTT W. COWAN (Admitted *Pro Hac Vice*) JOSHUA L. FUCHS (Admitted *Pro Hac Vice*) 717 Texas, Suite 3300 Houston, TX 77002 Telephone: (832) 239-3939 Facsimile: (832) 239-3600 swcowan@jonesday.com jlfuchs@jonesday.com

Attorneys for Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc.

18	UNITED STATES DI	STRICT COURT
19	NORTHERN DISTRICT	OF CALIFORNIA
20	SAN FRANCISCO	O DIVISION
21	ORACLE CORPORATION, a Delaware	Case No. 07-CV-1658 PJH (EDL)
22	corporation, ORACLE USA, INC., a Colorado corporation, and ORACLE INTERNATIONAL	STIPULATION RE ORACLE'S
23	CORPORATION, a California corporation,	PROPOSED THIRD AMENDED COMPLAINT
24	Plaintiffs, v.	
25	SAP AG, a German corporation, SAP	
26	AMERICA, INC., a Delaware corporation, TOMORROWNOW, INC., a Texas corporation,	
27	and DOES 1-50, inclusive,	
•••	Defendants.	

28

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

1	Plaintiffs Oracle Corporation, Oracle USA, Inc. and Oracle International		
2	Corporation ("Oracle") and Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc.		
3	("Defendants" and together with Oracle, the "Parties") jointly submit this Stipulation regarding		
4	Oracle's proposed Third Amended Complaint.		
5	WHEREAS, Oracle filed its First Amended Complaint on June 1, 2007;		
6	WHEREAS, Defendants answered the First Amended Complaint on July 2, 2007;		
7	WHEREAS, Oracle filed its Second Amended Complaint on July 28, 2008;		
8	WHEREAS, Defendants currently must respond to the Second Amended		
9	Complaint by September 11, 2008;		
10	WHEREAS, Oracle wishes to make further amendments related to the plaintiff		
11	entities for each claim;		
12	WHEREAS, the Parties agree that good cause exists for Defendants to consider		
13	the proposed amendments by Oracle before deciding whether to respond to the Second Amended		
14	Complaint or to delay that response pending a potential stipulation to allow Oracle to file its		
15	proposed Third Amended Complaint; and,		
16	WHEREAS, the Parties wish to avoid unnecessary motion practice relating to the		
17	further amendment of the Complaint if possible.		
18	NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through		
19	their respective counsel of record, as follows:		
20	(1) Oracle shall provide its proposed Third Amended Complaint and shall make		
21	reasonable efforts to complete a supplemental production of documents related to the proposed		
22	amendments on or before September 29, 2008;		
23	(2) Within seven calendar days of being provided Oracle's proposed Third		
24	Amended Complaint, Defendants shall respond as to whether they will stipulate to Oracle filing		
25	that Complaint;		
26	(3) Should Defendants elect not to stipulate to the filing of the proposed Third		
27	Amended Complaint, then (a) Oracle may move to amend the Second Amended Complaint, and		
28	(b) Defendants reserve the right to respond to the Second Amended Complaint within seven 1 Case No. 07-CV-1658 PJH (EDL)		

1	calendar days of the date on which the proposed Third Amended Complaint was provided to		
2	them, as set forth in paragraph 1 above;		
3	(4) If Defendants stipulate to Oracle filing the proposed Third Amended		
4	Complaint, Oracle will file that Complaint within two calendar days of receiving the stipulation		
5	signed by Defendants, and Defendants will respond to that Complaint within seven calendar days		
6	of it being filed;		
7	(5) Should Defendants file a motion, rather than an Answer, as their response to		
8	Oracle's Second Amended Complaint or Third Amended Complaint, the Parties further agree to		
9	work together to develop a mutually agreeable extended briefing schedule for any opposition and		
10	reply papers; and,		
11	(6) Oracle agrees that it will not seek to change the discovery scope or limits or		
12	the overall schedule of this case by virtue of the requested additional amendment.		
13	IT IS SO STIPULATED.		
14	DATED: September 11, 2008		
15	BINGHAM McCUTCHEN LLP		
16	By: /s/ Geoff Howard		
17	Geoff Howard Attorneys for Plaintiffs		
18	Oracle Corporation, Oracle International Corporation, and Oracle USA, Inc.		
19	In accordance with General Order No. 45, Rule X, the above signatory attests that		
20	concurrence in the filing of this document has been obtained from the signatory below.		
21	DATED: September 11, 2008		
22	JONES DAY		
23	By: /s/ Tharan Gregory Lanier Tharan Gregory Lanier		
24	Attorneys for Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc.		
25			
26			
27			
28	2 Case No. 07-CV-1658 PJH (EDL)		