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17 and Oracle International Corporation

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21 ORACLE CORPORATION, a Delaware  
corporation, ORACLE USA, INC., a Colorado  
22 corporation, and ORACLE INTERNATIONAL  
CORPORATION, a California corporation,

23 Plaintiffs,

24 v.

25 SAP AG, a German corporation, SAP  
AMERICA, INC., a Delaware corporation,  
26 TOMORROWNOW, INC., a Texas corporation,  
and DOES 1-50, inclusive,

27 Defendants.  
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18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA

20 SAN FRANCISCO DIVISION

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

**STIPULATION RE ORACLE'S  
PROPOSED THIRD AMENDED  
COMPLAINT**

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

