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

# UNITED STATES DISTRICT COURT

## NORTHERN DISTRICT OF CALIFORNIA

### SAN FRANCISCO DIVISION

ORACLE USA, INC., a Colorado corporation,  
 ORACLE INTERNATIONAL CORPORATION,  
 a California corporation, ORACLE SYSTEMS  
 CORPORATION, a Delaware corporation,  
 ORACLE EMEA LIMITED, an Irish private  
 limited company, and J.D. EDWARDS EUROPE  
 LIMITED, an Irish private limited company,

Plaintiffs,

v.

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

Defendants.

CASE NO. 07-CV-01658 PJH (EDL)

### STIPULATION AND ~~PROPOSED~~ ORDER REGARDING WITHDRAWAL OF DEFENDANTS' ADMINISTRATIVE MOTION TO SEAL

Case No. 07-CV-01658 PJH (EDL)

1                   Plaintiffs Oracle USA, Inc. Oracle International Corporation, Oracle Systems  
2 Corporation, Oracle EMEA Limited, and J.D. Edwards Europe Limited (“Plaintiffs”) and  
3 Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc. (“Defendants,” and together  
4 with Oracle, the “Parties”) jointly submit this Stipulation to withdraw Defendants’ Motion to  
5 Permit Defendants to File Under Seal Plaintiffs’ Documents Supporting Defendants’ FRCP  
6 12(b)(1) and 12(b)(6) Motion to Dismiss.

7                   WHEREAS, Plaintiffs filed their Third Amended Complaint on October 8, 2008;

8                   WHEREAS, Defendants filed their Motion to Dismiss on October 15, 2008;

9                   WHEREAS, On the same day, October 15, 2008, Defendants filed, at Plaintiffs’  
10 request, an Administrative Motion to File Plaintiffs’ Documents Supporting Defendants’ Motion  
11 to Dismiss Under Seal (the “Motion to Seal”). Through the Motion to Seal, the Parties sought an  
12 Order permitting Defendants to file under seal Exhibits 1 through 4 to the Declaration of Tharan  
13 Gregory Lanier in Support of Defendants’ FRCP 12(b)(1) and 12(b)(6) Motion to Dismiss;

14                   WHEREAS, Plaintiffs do not at this time contend that Exhibits 1 through 4,  
15 referenced above, need to be filed under seal;

16                   NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through  
17 their respective counsel of record, that Defendants hereby withdraw the Motion to Seal, filed in  
18 this matter on October 15, 2008. It is further stipulated that Exhibits 1 through 4 to the  
19 Declaration of Tharan Gregory Lanier in Support of Defendants’ FRCP 12(b)(1) and 12(b)(6)  
20 Motion to Dismiss may be filed publicly, and that the filing shall not be construed as a waiver of  
21 any confidentiality designation, right to file under seal, or other protection with respect to  
22 documents or other information related or similar to, or referred to by, the filed documents.

23                   **IT IS SO STIPULATED.**

1 DATED: October 22, 2008

BINGHAM McCUTCHEN LLP

2  
3  
4 By: /s/ Zachary J. Alinder  
Zachary J. Alinder

5 Attorneys for Plaintiffs  
6 Oracle USA, Inc., Oracle International Corp.,  
Oracle Systems Corp., Oracle EMEA Ltd.,  
7 and J.D. Edwards Europe Ltd.  
8

9  
10 In accordance with General Order No. 45, Rule X, the above signatory attests that  
11 concurrence in the filing of this document has been obtained from the signatory below.

12 DATED: October 22, 2008

JONES DAY

13  
14 By: /s/ Tharan Gregory Lanier  
Tharan Gregory Lanier

15 Attorneys for Defendants  
16 SAP AG, SAP AMERICA, INC., and  
TOMORROWNOW, INC.  
17

18  
19  
20 **PURSUANT TO STIPULATION, IT IS  
SO ORDERED:**

21 DATED: 10/27/08  
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By:

