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16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION

19 ORACLE USA, INC., *et al.*,

20 Plaintiffs,

21 v.

22 SAP AG, *et al.*,

23 Defendants.

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

**PLAINTIFFS' ADMINISTRATIVE
 MOTION TO FILE DEFENDANTS'
 DOCUMENTS UNDER SEAL;
 DECLARATION IN SUPPORT OF
 ADMINISTRATIVE MOTION**

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I. **INTRODUCTION**

Plaintiffs Oracle USA, Inc., Oracle International Corporation, and Oracle EMEA Limited (collectively, “Oracle”), together with Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc. (collectively, “Defendants,” and with Oracle, the “Parties”), respectfully request an Order sealing (1) portions of the Declaration of Geoffrey M. Howard in support of Oracle’s Motion to Compel Production of Documents, Answers to Interrogatories, and Rule 30(b)(6) Testimony Related to Hyperion, Retek, and EBS Products (“Howard Declaration”), and (2) Exhibits A, D, E, and F to the Howard Declaration. Unredacted versions of these documents were lodged with the Court on January 16, 2009. This request is made pursuant to Civil Local Rules 7-11 and 79-5 and the Protective Order signed by Judge Martin Jenkins on June 6, 2007. This request is supported by the Parties’ Stipulation Regarding Plaintiffs’ Administrative Motion to Seal, filed concurrently with this Motion.

II. **ARGUMENT**

Oracle requests that the documents listed in detail in the attached Declaration of Zachary J. Alinder (“Alinder Declaration”) be filed under seal. Good cause exists for filing the referenced documents under seal, because they contain content that was designated by Defendants as either “Highly Confidential Information - Attorneys’ Eyes Only,” or “Confidential Information,” pursuant to the Parties’ Protective Order. Pursuant to Civil Local Rule 79-5(d) and Paragraph 14 of the Protective Order, Oracle is obligated to lodge these documents with the Court with a request to file them under seal.

Oracle’s request is narrowly tailored, as required by Local Rule 79-5(a), and seeks to protect only those documents that contain Defendants’ allegedly confidential information, until such time as Defendants may submit a declaration in accordance with Civil Local Rule 75-9(d) and the Court makes a final ruling as to the confidentiality of the relevant subject matter. Therefore, good cause supports this request, and the documents referenced herein should appropriately be filed under seal.

1 **DECLARATION OF ZACHARY J. ALINDER IN SUPPORT OF**
2 **PLAINTIFFS' ADMINISTRATIVE MOTION TO FILE UNDER SEAL**

3 I, Zachary J. Alinder, declare:

4 1. I am a member of the State Bar of California and a partner at Bingham
5 McCutchen LLP, counsel of record for Plaintiffs Oracle USA, Inc., Oracle International
6 Corporation, and Oracle EMEA Limited (collectively, "Oracle") in this action. Except for
7 matters stated below on information and belief, I have personal knowledge of the matters stated
8 in this declaration by virtue of my representation of Oracle in this action. If called and sworn as
9 a witness, I could and would competently testify to such matters.

10 2. Pursuant to Civil Local Rule 79-5 and the stipulated Protective Order entered on
11 June 6, 2007 in this case (Docket No. 32), I make this Declaration in support of Oracle's
12 Administrative Motion to File Defendants' Documents Under Seal (the "Motion to Seal").

13 3. The requested relief is necessary and narrowly tailored to protect the alleged
14 confidentiality of the materials put at issue by Oracle's Motion to Compel Production of
15 Documents, Answers to Interrogatories, and Rule 30(b)(6) Testimony Related to Hyperion,
16 Retek, and EBS Products ("Motion to Compel"), until such time as the Court rules on the
17 confidentiality of the relevant subject matter. Specifically, Exhibits A, D, E, and F to the
18 Declaration of Geoffrey M. Howard in Support of Oracle's Motion to Compel (the "Howard
19 Declaration"), and references to these exhibits within the Howard Declaration, contain
20 information designated by Defendants as "Confidential Information" and "Highly Confidential
21 Information - Attorneys' Eyes Only," pursuant to the Protective Order entered in this action on
22 June 6, 2007.

23 4. Pursuant to Civil Local Rule 7-11, a stipulation is included with this
24 Administrative Motion.

25 5. The following documents, or portions of documents, contain information
26 designated Highly Confidential and/or Confidential by Defendants:

27 a. The Howard Declaration

28 Page 3, lines 19-23

