

1 BINGHAM McCUTCHEM 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 DORIAN DALEY (SBN 129049)
 JENNIFER GLOSS (SBN 154227)
 10 500 Oracle Parkway, M/S 5op7
 Redwood City, CA 94070
 11 Telephone: (650) 506-4846
 Facsimile: (650) 506-7114
 12 dorian.daley@oracle.com
 jennifer.gloss@oracle.com
 13

14 Attorneys for Plaintiffs
 Oracle USA, Inc., Oracle International
 Corporation, and Oracle EMEA Limited
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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 DRAFT
 STIPULATION UNDER SEAL;
 DECLARATION IN SUPPORT OF
 ADMINISTRATIVE MOTION**

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11 I. **INTRODUCTION**

12 Plaintiffs Oracle USA, Inc., Oracle International Corporation, and Oracle EMEA Limited
13 (collectively, “Oracle”), together with Defendants SAP AG, SAP America, Inc., and
14 TomorrowNow, Inc. (collectively, “Defendants,” and with Oracle, the “Parties”), respectfully
15 request an Order sealing Exhibit A to the Parties’ February 9, 2009 Joint Discovery Conference
16 Statement (“Statement”). An unredacted version of this exhibit was lodged with the Court on
17 February 9, 2009. This request is made pursuant to Civil Local Rules 7-11 and 79-5 and the
18 Protective Order signed by Judge Martin Jenkins on June 6, 2007. This request is supported by
19 the Parties’ Stipulation to Permit Plaintiffs to File Draft Stipulation Under Seal, filed
20 concurrently with this Motion.

21 II. **ARGUMENT**

22 Oracle requests that the document described in the attached Declaration of Bree Hann
23 (“Hann Declaration”) be filed under seal. Good cause exists for filing the referenced document
24 under seal, because it contains and describes content that was designated by Defendants as either
25 “Highly Confidential Information – Attorneys’ Eyes Only,” or “Confidential Information,”
26 pursuant to the Parties’ Protective Order. Pursuant to Civil Local Rule 79-5(d) and Paragraph 14
27 of the Protective Order, Oracle is obligated to lodge this document with the Court with a request
28 to file it under seal. Moreover, Defendants contend that Exhibit A to the Statement reflects a
“snapshot” of the Parties’ inchoate compromise discussions under Fed. R. Evid. 408 regarding
PeopleSoft HRMS environments and updates/fixes and should be protected accordingly.

Oracle’s request is narrowly tailored, as required by Local Rule 79-5(a), and seeks to
protect only this document that contains 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 document referenced herein should
appropriately be filed under seal.

1 III. CONCLUSION

2 For the foregoing reasons, Oracle respectfully requests that the Court order the filing of
3 the document listed in detail in the attached Hann Declaration under seal. A Proposed Order is
4 submitted with this Motion.

5 DATED: February 9, 2009

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BINGHAM McCUTCHEN LLP

By: _____ /s/ Bree Hann
Bree Hann
Attorneys for Plaintiffs
Oracle Corporation, Oracle USA, Inc., and
Oracle International Corporation

**DECLARATION OF BREE HANN IN SUPPORT OF
PLAINTIFFS' ADMINISTRATIVE MOTION TO FILE UNDER SEAL**

I, Bree Hann, declare:

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

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

3. The requested relief is necessary and narrowly tailored to protect the alleged confidentiality of the materials put at issue by the Parties' February 9, 2009 Joint Discovery Conference Statement ("Statement"), until such time as the Court rules on the confidentiality of the relevant subject matter. Specifically, Exhibit A to the Statement contains and describes information designated by Defendants as "Confidential Information" and "Highly Confidential Information – Attorneys' Eyes Only," pursuant to the Protective Order entered in this action on June 6, 2007.

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

5. The following document contains information designated Highly Confidential and/or Confidential by Defendants:

a. Exhibit A to the Statement: Draft Stipulation

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