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TOMORROWNOW, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

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

Plaintiffs,

v.

SAP AG, *et al.*,

Defendants.

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

**DEFENDANTS' ADMINISTRATIVE  
MOTION TO PERMIT  
DEFENDANTS TO FILE UNDER  
SEAL DOCUMENTS SUPPORTING  
DEFENDANTS' MOTION FOR  
SANCTIONS AND MOTION TO  
COMPEL**

DEFENDANTS' ADMINISTRATIVE MOTION  
TO FILE UNDER SEAL  
Case No. 07-CV-1658 PJH (EDL)

## I. INTRODUCTION

Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc. (collectively, Defendants) respectfully request that the Court order the Clerk of the Court to file the following documents under seal:

1. Portions of Defendants' Motion for Sanctions Pursuant to Fed. R. Civ. P. 37(c) and 16(f);
2. Exhibits D, J, K, L, P and Q to the Declaration of Elaine Wallace in Support of Defendants' Motion for Sanctions Pursuant to Fed. R. Civ. P. 37(c) and 16(f) with;
3. Portions of the Declaration of Stephen K. Clarke in Support of Defendants' Motion for Sanctions Pursuant to Fed. R. Civ. P. 37(c) and 16(f);
4. Portions of Defendants' Motion to Compel Production of Financial Information of Plaintiffs; and
5. Exhibits 6, 7, 8, 9, 10, 11, 18 and 19 to the Declaration of Jason McDonell in Support of Defendants' Motion to Compel Production of Financial Information of Plaintiffs.

Unredacted versions of these documents were lodged with the Court on July 14, 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 Defendants' Administrative Motion to Seal, filed concurrently with this Motion.

## II. ARGUMENT

Defendants request that the above listed documents, discussed in the attached Declaration of Elaine Wallace ("Wallace Declaration") be filed under seal. Good cause exists for filing them under seal because they contain content that was designated by Plaintiffs as either "Highly Confidential Information - Attorneys' Eyes Only," or "Confidential Information," pursuant to the Stipulated Protective Order. Defendants' request is narrowly tailored, as required by Local Rule 79-5(a), and seeks to protect only those documents that contain information so designated.

This request is supported by the accompanying Declaration of Elaine Wallace in Support of Defendants' Administrative Motion to File Under Seal and the parties' Stipulation.

**III. CONCLUSION**

For the foregoing reasons, Defendants respectfully request that the Court order the filing of the documents listed in detail in the attached declaration under seal. Pursuant to Local Rule 79-5, a Proposed Order is submitted with this Motion.

DATED: July 14, 2009

JONES DAY

By: /s/ Jason McDonell  
Jason McDonell

Attorneys for Defendants  
SAP AG, SAP AMERICA, INC., and  
TOMORROWNOW, INC.

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