

1 Bingham McCutchen 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 Attorneys for Plaintiffs  
 14 Oracle USA, Inc., Oracle International Corporation, and  
 Oracle EMEA Limited

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

20 ORACLE USA, INC., *et al.*,  
 21 Plaintiffs,  
 22 v.  
 23 SAP AG, *et al.*,  
 24 Defendants.

No. 07-CV-01658 PJH (EDL)

**[PROPOSED] ORDER DENYING  
 DEFENDANTS' MOTION TO  
 COMPEL FINANCIAL  
 INFORMATION**

Date: August 18, 2009  
 Time: 2:00 pm  
 Place: Courtroom E, 15th Floor  
 Judge: Hon. Elizabeth D. Laporte

1                    This Motion to Compel Financial Information filed by Defendants SAP AG, SAP  
2 America, Inc. and TomorrowNow, Inc. (collectively “Defendants”) came on regularly for  
3 hearing before this Court. All parties received notice and an opportunity to be heard. After  
4 considering the pleadings and memoranda submitted by the parties, and all supporting papers,  
5 and having heard the arguments of counsel, the Court issues the following Order:

6                    1.        The Court finds that three of the requests in Defendants’ Motion to  
7 Compel – product profitability reports, plaintiff-specific profit and loss statements, and a  
8 response to Defendants’ Targeted Search Request No. 3 – are moot and DENIES Defendants’  
9 motion on that ground.

10                  2.        Defendants’ motion to compel production of Oracle’s entire General  
11 Ledger data is DENIED as unduly burdensome and overbroad pursuant to Federal Rule of Civil  
12 Procedure 26(b)(C)(iii) and for failure to meet and confer in accordance with N.D. Cal. Civil  
13 Local Rule 37-1(a) and this Court’s Standing Order.

14                  3.        Defendants’ motion to compel further testimony in response to  
15 Defendants’ Amended Second Notice of Deposition of Plaintiff Oracle International Corporation  
16 Pursuant to Federal Rule of Civil Procedure 30(b)(6) (“Amended Second Notice”) is DENIED.  
17 The Court further orders that, absent agreement of the parties or an Order of the Court,  
18 Defendants may not examine any witness testifying as a 30(b)(6) designee regarding the topics  
19 and subtopics of either the First Notice of Deposition of Plaintiff Oracle International  
20 Corporation Pursuant to Federal Rule of Civil Procedure 30(b)(6) or the Amended Second  
21 Notice. Plaintiffs may instruct their 30(b)(6) designees not to answer pursuant to this Order.

22  
23 IT IS SO ORDERED.

24  
25 DATED: \_\_\_\_\_, 2009

\_\_\_\_\_  
Hon. Elizabeth D. Laporte  
United States Magistrate Judge