

1 Robert A. Mittelstaedt (SBN 060359)
 Jason McDonell (SBN 115084)
 2 Elaine Wallace (SBN 197882)
 JONES DAY
 3 555 California Street, 26th Floor
 San Francisco, CA 94104
 4 Telephone: (415) 626-3939
 Facsimile: (415) 875-5700
 5 ramittelstaedt@jonesday.com
 jmcdonell@jonesday.com
 6 ewallace@jonesday.com

7 Tharan Gregory Lanier (SBN 138784)
 Jane L. Froyd (SBN 220776)
 8 JONES DAY
 1755 Embarcadero Road
 9 Palo Alto, CA 94303
 Telephone: (650) 739-3939
 10 Facsimile: (650) 739-3900
 tglanier@jonesday.com
 11 jfroyd@jonesday.com

12 Scott W. Cowan (Admitted *Pro Hac Vice*)
 Joshua L. Fuchs (Admitted *Pro Hac Vice*)
 13 JONES DAY
 717 Texas, Suite 3300
 14 Houston, TX 77002
 Telephone: (832) 239-3939
 15 Facsimile: (832) 239-3600
 swcowan@jonesday.com
 16 jl fuchs@jonesday.com

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

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA

21 SAN FRANCISCO DIVISION

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

23 Plaintiffs,

24 v.

25 SAP AG, *et al.*,

26 Defendants.

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

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

27
 28
 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 Reply containing quotes or other material from documents identified herein that have been designated by Plaintiffs as “Confidential Information” or “Highly Confidential Information - Attorneys’ Eyes Only”;
2. A portion of the Reply Declaration of Stephen K. Clarke in Support of Defendants’ Motion for Sanctions Pursuant to Fed. R. Civ. P. 37(c) and 16(f);
3. Portions of Defendants’ Motion to Compel Reply containing quotes or other material from documents identified herein that have been designated by Plaintiffs as “Confidential Information” or “Highly Confidential Information - Attorneys’ Eyes Only”;
4. Exhibit 8 to the Reply Declaration of Jason McDonell in Support of Defendants’ Motion to Compel Production of Financial Information of Plaintiffs; and,
5. Portions of the Reply Declaration of Stephen K. Clarke in Support of Defendants’ Motion to Compel Production of Financial Information from Plaintiffs.

Unredacted versions of these documents were lodged with the Court on August 4, 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 (“Stipulation”), filed concurrently with this Motion.

II. ARGUMENT

Defendants request that the above listed documents, discussed in the attached Declaration of Jason McDonell (“McDonell 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

1 Confidential Information - Attorneys' Eyes Only," or "Confidential Information," pursuant to the
2 Stipulated Protective Order. Defendants' request is narrowly tailored, as required by Local Rule
3 79-5(a), and seeks to protect only those documents that contain information so designated.

4 This request is supported by the accompanying Declaration of Jason McDonell in Support
5 of Defendants' Administrative Motion to File Under Seal and the parties' Stipulation.

6
7 **III. CONCLUSION**

8 For the foregoing reasons, Defendants respectfully request that the Court order the filing
9 of the documents listed in detail in the attached declaration under seal. Pursuant to Local Rule
10 79-5, a Proposed Order is submitted with this Motion.

11
12 DATED: August 4, 2009

JONES DAY

13
14 By: /s/ Jason McDonell

Jason McDonell

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

19 SFI-616138v1
20
21
22
23
24
25
26
27
28