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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.

No. 07-CV-01658 PJH (EDL)

**[PROPOSED] ORDER GRANTING  
 PLAINTIFFS' MOTION TO  
 COMPEL PRODUCTION OF  
 DAMAGES-RELATED  
 DOCUMENTS AND INFORMATION**

1                   After considering the pleadings and memoranda submitted by the Parties  
2 and supporting papers, and having heard the arguments of counsel, IT IS HEREBY ORDERED  
3 that Plaintiffs' Motion to Compel Production of Damages-Related Documents and Information  
4 in the above-named action is GRANTED as follows:

5                   1.       Within 15 days of the date of this Order, Defendants shall produce  
6 documents sufficient to show research and development:

7                   (a) expenses for SAP applications and support and TN support broken out (1) by  
8 product line to the extent available and (2) by function with the greatest detail  
9 available, plus accompanying explanatory presentations and analyses for the time  
10 period from January 1, 2004 through October 31, 2008; and

11                   (b) employee headcount for SAP applications and support and TN support  
12 broken out (1) by product line to the extent available and (2) by function with the  
13 greatest detail available, plus accompanying explanatory presentations and  
14 analyses for the time period from January 1, 2004 through October 31, 2008.

15                   2.       Within 15 days of the date of this Order, Defendants shall provide a  
16 supplemental response to Interrogatory 69 from Plaintiffs' Fourth Set of Interrogatories to  
17 Defendant TomorrowNow, Inc. and Third Set of Interrogatories to Defendants SAP AG and SAP  
18 America, Inc. The supplement shall detail any available analyses, projections, models,  
19 calculations, or other valuations by Defendants relating to licensing later versions of a product or  
20 licensing different products to a specific customer or categories of customers.

21                   3.       Within 15 days of the date of this Order, Defendants shall produce  
22 complete copies, including all terms, conditions, exhibits, appendices, attachments, and/or  
23 incorporated documents, of the three licenses, executed or in effect in the last five years,  
24 pursuant to which SAP AG and/or SAP America has been paid the largest overall sum of money  
25 for grants by SAP AG and/or SAP America to any Person for the use of SAP's Intellectual  
26 Property and of the three licenses, executed or in effect in the last five years, pursuant to which  
27 SAP AG and/or SAP America has paid the largest overall sum of money for grants of other  
28 Persons' Intellectual Property.

1           4.       Within 15 days of the date of this Order, Defendants shall produce:  
2           (a) for SAP AG and SAP America, Inc., quarterly income statement, balance  
3           sheet and trial balance reports for the period January 1, 2002 through October 31,  
4           2008; The income statement and balance sheet reports shall be the most detailed  
5           reports that Defendants' reporting systems can produce; and  
6           (b) with respect to Plaintiffs' infringer's profits claim, any other evidence of  
7           deductible expenses and elements of profit attributable to factors other than the  
8           copyrighted work that Defendants may rely upon.

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10  
11 DATED: \_\_\_\_\_, 2009

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Hon. Elizabeth D. Laporte  
United States Magistrate Judge