

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,
 15 Oracle EMEA Limited, and Siebel Systems, Inc.

16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 OAKLAND DIVISION

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

CASE NO. 07-CV-01658 PJH (EDL)
**[PROPOSED] ORDER GRANTING
 DEFENDANTS' ADMINISTRATIVE
 MOTION TO PERMIT
 DEFENDANTS TO FILE UNDER
 SEAL PLAINTIFFS' DOCUMENTS
 SUPPORTING DEFENDANTS'
 MOTION TO COMPEL**

25
 26
 27
 28

1 Pending before this Court is Defendants’ Administrative Motion to Permit
2 Defendants to File Under Seal Plaintiffs’ Documents Supporting Defendants’ Motion to Compel
3 (“Defendants’ Motion to Seal”). Through Defendants’ Motion and Plaintiffs’ Response In
4 Support of Defendants’ Motion to Seal, Plaintiffs Oracle USA, Inc., Oracle International
5 Corporation, Oracle EMEA Limited, and Siebel Systems, Inc. (collectively, “Oracle”), together
6 with SAP AG, SAP America, Inc., and TomorrowNow, Inc. (collectively, “Defendants,” and
7 with Oracle, the “Parties”), request an Order sealing portions of Defendants’ Motion to Compel,
8 portions of Exhibit C to the Declaration of Scott W. Cowan in Support of Defendants’ Motion to
9 Compel (“the Cowan Declaration”), and Exhibits A, F, G, H and K to the Cowan Declaration.

10 Federal Rule of Civil Procedure 26(c) provides broad discretion for a trial court to
11 permit sealing of court documents for, inter alia, the protection of “a trade secret or other
12 confidential research, development, or commercial information.” Fed. R. Civ. P. 26(c). In
13 particular, when the request for sealing concerns discovery documents attached to a
14 nondispositive motion, a showing of good cause to seal the documents is sufficient to justify
15 protection under Rule 26(c). *See Navarro v. Eskanos & Adler*, Case No. C-06 02231
16 WHA(EDL), 2007 U.S. Dist. LEXIS 24864 at *7 (March 22, 2007) (citing *Kamakana v.*
17 *Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)).

18 In compliance with this Court’s Standing Order Involving Sealed or Confidential
19 Documents, Rule 26(c) and Civil Local Rule 79-5, Oracle filed the Declaration of Jennifer Gloss
20 (the “Gloss Declaration”) in support of Defendants’ Motion to Seal on December 18, 2009.
21 Through the Gloss Declaration, Oracle provides evidence of good cause sufficient for this Court
22 to permit filing the requested documents under seal. The Gloss Declaration establishes both that
23 Oracle has considered and treated the information contained in the subject documents as
24 confidential, commercially sensitive and proprietary, and that public disclosure of such
25 information would create a risk of significant competitive injury and particularized harm and
26 prejudice to Oracle. The Gloss Declaration also establishes that the request for sealing has been
27 narrowly tailored.

28 Having considered Defendants’ Motion to Seal and the Gloss Declaration in

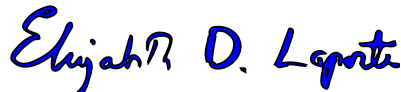
1 Support thereof, and good cause having been shown:

2 IT IS HEREBY ORDERED THAT: Defendants’ Motion to Seal is GRANTED.

3 The Clerk of the Court shall file under seal the unredacted versions of the following documents
4 that have been lodged with the Court:

- 5 1. Defendants’ Motion to Compel - Portions of page 8, line 27, page 9, lines 1-
6 5, 11-24, page 10, lines 1-9, page 11, lines 15-20, 22-24, and page 12, lines
7 1-4.
- 8 2. Exhibit A to the Cowan Declaration - Pages 11:1-13:22 and 67:25-69:14
9 from the deposition of Jason Rice, taken December 4, 2009.
- 10 3. A portion of Exhibit C to the Cowan Declaration, specifically Exhibit A
11 from Plaintiffs’ December 4, 2009 Fifth Amended and Supplemental
12 Responses and Objections to TomorrowNow, Inc.’s First Set of
13 Interrogatories, Response to Interrogatory No. 7.
- 14 4. Exhibit F to the Cowan Declaration - Copy of a CD produced by Plaintiffs’
15 on November 16, 2009 and labeled ORCLX-MAN-000016.
- 16 5. Exhibit G to the Cowan Declaration - Defendants’ deposition exhibit 932.
- 17 6. Exhibit H to the Cowan Declaration - Defendants’ deposition exhibit 935.
- 18 7. Exhibit K to the Cowan Declaration - Plaintiffs’ privilege and redaction log
19 entries dated from February 13, 2007 through March 16, 2007.

20
21 DATED: January 26, 2010, ~~2009~~



22 _____
23 Hon. Elizabeth D. Laporte
24 United States District Court Judge