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 Oracle EMEA Limited, and Siebel Systems, Inc.  
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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.  
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 27  
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CASE NO. 07-CV-01658 PJH (EDL)

**DECLARATION OF JENNIFER  
 GLOSS IN SUPPORT OF  
 PLAINTIFFS' RESPONSE IN  
 SUPPORT OF DEFENDANTS'  
 ADMINISTRATIVE MOTION TO  
 PERMIT DEFENDANTS TO FILE  
 UNDER SEAL PLAINTIFFS'  
 DOCUMENTS SUPPORTING  
 DEFENDANTS' MOTION FOR  
 PARTIAL SUMMARY JUDGMENT**

Case No. 07-CV-01658 PJH (EDL)

1 I, Jennifer Gloss, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am Senior  
3 Corporate Counsel at Oracle America, Inc., successor to Oracle USA, Inc. (“Oracle”). I have  
4 personal knowledge of the facts stated within this Declaration and could testify competently to  
5 them if required.

6 2. I have reviewed the following documents and testimony filed in support of  
7 Defendants’ Motion for Partial Summary Judgment (“Defendants’ Motion”): (1) Exhibit A to the  
8 Declaration of Tharan Gregory Lanier filed in Support of Defendants’ Motion for Partial  
9 Summary Judgment (“Lanier Declaration”); (2) Exhibit B to the Lanier Declaration; (3) portions  
10 of Defendants’ Motion for Partial Summary Judgment as described below. Each of these  
11 documents contains non-public, commercially sensitive, private and confidential information, the  
12 disclosure of which would create a risk of significant competitive injury and particularized harm  
13 and prejudice to Oracle.

14 3. Oracle has narrowly tailored its request by only requesting redaction or sealing of  
15 the specific passages and information that contain the most commercially sensitive, private and  
16 confidential information, as identified below.

17 4. Oracle has protected Exhibits A and B from public disclosure through the  
18 Stipulated Protective Order (“Protective Order”) by designating the document “Highly  
19 Confidential Information — Attorneys’ Eyes Only.”

20 5. Oracle has continued to protect and treat the information in the specific portions  
21 of the documents identified in paragraph 2 above as confidential information.

22 ***Expert Report of Paul K. Meyer***

23 6. Exhibit A to the Lanier Declaration contains pages from the February 23, 2010  
24 Expert Report of Paul K. Meyer, Plaintiffs’ expert on damages. For the following reasons, this  
25 exhibit contains different categories of non-public, commercially sensitive and confidential  
26 information, the disclosure of which would create a risk of significant competitive injury and  
27 particularized harm and prejudice to Oracle.

28 a. It contains financial information and calculations which reference and

1                   rely on proprietary financial information from Oracle, including revenue,  
2                   pricing, and cost information.

3                   b. The report also contains proprietary and non-public details regarding  
4                   certain subsets of Oracle research and development expenses, the  
5                   disclosure of which might mislead investors, competitors, partners, and  
6                   other interested parties about Oracle's investments. Disclosure might also  
7                   give these investors, competitors, partners and interested parties an unfair  
8                   and possibly inaccurate view into Oracle's product roadmap. The report  
9                   also contains excerpts from the Expert Report of Paul Pinto. Disclosure  
10                  of this information would grant Oracle competitors, partners, and other  
11                  interested parties insight into the cost and personnel required for market  
12                  entry.

13                  Further, pleadings filed in this case have, from time to time, been discussed in the print  
14                  media and internet news stories. As such, disclosure of this information poses a risk of unfairly  
15                  prejudicing the jury pool. This risk is especially present because Defendants have filed excerpts  
16                  from the report without filing the accompanying supporting sections, which would explain the  
17                  basis for the conclusions presented.

18                  ***Expert Report of Paul Pinto***

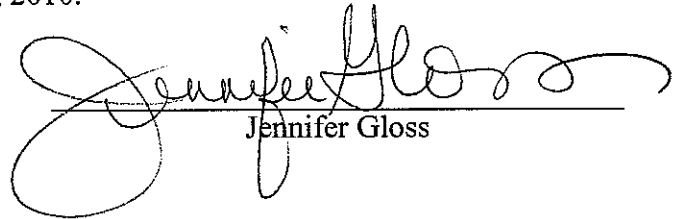
19                  7. Exhibit B to the Lanier Declaration contains pages from the Expert Report of Paul  
20                  Pinto. Exhibit B contains non-public, commercially sensitive and confidential information, the  
21                  disclosure of which would create a risk of significant competitive injury and particularized harm  
22                  and prejudice to Oracle. Specifically, Exhibit B contains Mr. Pinto's estimates regarding a  
23                  specific measure of the costs and personnel necessary for development of Oracle's enterprise  
24                  application software. Disclosure of this document would grant Oracle competitors, partners, and  
25                  other interested parties insight into the cost and personnel required for market entry, creating a  
26                  risk of significant competitive injury and particularized harm to Oracle. In addition, pleadings  
27                  filed in this case have, from time to time, been discussed in the print media and internet news  
28                  stories. As such, disclosure of this information poses a risk of unfairly prejudicing the jury pool.

1 This risk is especially present because Defendants have filed excerpts from the report without  
2 filing the accompanying supporting sections, which would explain the basis for the conclusions  
3 presented.

4 *Portions of Defendants' Motion for Partial Summary Judgment*

5 8. Portions of Defendants' Motion, specifically pages 10:16 and 11:10, contain  
6 quotes or other descriptions from documents identified in Paragraphs 6 and 7 above. The  
7 passages include direct quotation of the confidential deposition testimony, portions of the  
8 confidential license agreement, and technical documents/data described above in Paragraphs 6  
9 and 7. Consistent with Paragraphs 6 and 7 above, the disclosure of such confidential information  
10 would create a risk of significant competitive injury and particularized harm and prejudice to  
11 Oracle.

12 I declare under penalty of perjury that the foregoing is true and correct. Executed  
13 in Redwood Shores, California, on March 10, 2010.

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16 Jennifer Gloss  
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