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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,
 v.
 21 SAP AG, *et al.*,
 22 Defendants.
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CASE NO. 07-CV-01658 PJH (EDL)

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

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 Exhibit 3 to the Declaration of Holly A. House filed in Support of
7 Oracle’s Opposition to Defendants’ Motion for Partial Summary Judgment (“House
8 Declaration”). Exhibit 3 contains non-public, commercially sensitive, private and confidential
9 information, the disclosure of which would create a risk of significant competitive injury and
10 particularized harm and prejudice to Oracle.

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

14 4. Oracle has protected Exhibit 3 from public disclosure through the Stipulated
15 Protective Order (“Protective Order”) by designating the document “Highly Confidential
16 Information — Attorneys’ Eyes Only.”

17 5. Oracle has continued to protect and treat the information in the specific portions
18 of Exhibit 3 identified in paragraph 6 below as confidential information.

19 6. Exhibit 3 to the House Declaration contains pages from the February 23, 2010
20 Expert Report of Paul K. Meyer, Plaintiffs’ expert on damages. For the following reasons,
21 paragraphs 146-148, page 265 Table 16, and a portion of paragraph 232 to this exhibit contain
22 non-public, commercially sensitive and confidential information, the disclosure of which would
23 create a risk of significant competitive injury and particularized harm and prejudice to Oracle.

24 a. The report contains financial information and calculations which
25 reference and rely on proprietary financial information from Oracle,
26 including revenue, pricing, and cost information.

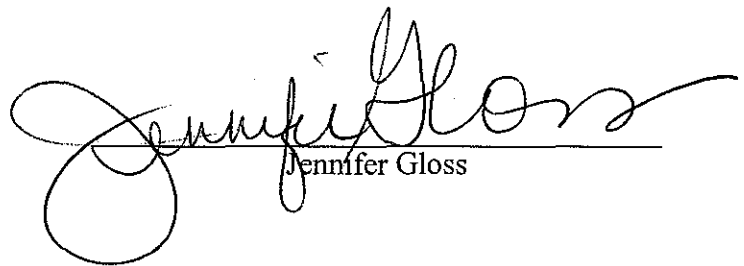
27 b. The report also contains proprietary and non-public details regarding
28 certain subsets of Oracle research and development expenses, the

1 disclosure of which might mislead investors, competitors, partners, and
2 other interested parties about Oracle's investments. Disclosure might also
3 give these investors, competitors, partners and interested parties an unfair
4 and possibly inaccurate view into Oracle's product roadmap. Disclosure
5 of this information would grant Oracle competitors, partners, and other
6 interested parties insight into the cost and personnel required for market
7 entry.

8 7. Further, pleadings filed in this case have, from time to time, been discussed in the
9 print media and internet news stories. As such, disclosure of this information poses a risk of
10 unfairly prejudicing the jury pool. This risk is especially present because only excerpts from the
11 report are being filed without accompanying supporting sections, which would explain the basis
12 for the conclusions presented.

13 I declare under penalty of perjury that the foregoing is true and correct. Executed
14 in Redwood Shores, California, on March 31, 2010.

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Jennifer Gloss