

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

Attorneys for Plaintiffs  
 Oracle USA, Inc., Oracle International Corporation,  
 Oracle EMEA Limited, and Siebel Systems, Inc.

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

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

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' CROSS-MOTION  
 FOR PARTIAL SUMMARY  
 JUDGMENT AND OPPOSITION TO  
 ORACLE'S 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 the following documents and testimony filed in support of  
7 Defendants’ Cross Motion and Opposition to Oracle’s Motion for Partial Summary Judgment  
8 (“Cross-Motion and Opposition”): (1) Exhibit 14 to the Declaration of Tharan Gregory Lanier in  
9 Support of Defendants’ Cross Motion and Opposition (“Lanier Declaration”); (2) Exhibit 19 to  
10 the Lanier Declaration; (3) Exhibit 20 to the Lanier Declaration; and (4) Portions of Defendants’  
11 Cross Motion and Opposition as described below. Each of these documents contains non-public,  
12 commercially sensitive, private and confidential information, the disclosure of which would  
13 create a risk of significant competitive injury and particularized harm and prejudice to Oracle.

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

17 4. Oracle has protected the materials described in Paragraph 2 above from public  
18 disclosure through the Stipulated Protective Order (“Protective Order”) by designating the  
19 testimony as “Highly Confidential Information — Attorneys’ Eyes Only” and/or “Confidential  
20 Information” and has continued to protect this material from public disclosure since its  
21 designation.

22 ***Exhibit 14 to the Lanier Declaration - Testimony from Deposition of Richard Allison***

23 5. Exhibit 14 to the Lanier Declaration contains testimony from Richard Allison,  
24 Oracle’s Senior Vice-President of Global Practices and Risk Management. A portion of Exhibit  
25 14, at page 41:11-24, discusses highly sensitive internal Oracle information pertaining to  
26 customer negotiations and licensing strategy. The disclosure of this information would grant  
27 Oracle’s competitors, potential competitors, and customers, non-public and commercially  
28 sensitive information about Oracle’s licensing practices, which customers could use to their

1 advantage in negotiations with Oracle and which competitors could use in competing with  
2 Oracle. Such disclosure would create a risk of significant competitive injury and particularized  
3 harm and prejudice to Oracle.

4 ***Exhibits 19 & 20 to the Lanier Declaration - Testimony from Deposition of Uwe Koehler***

5 6. Exhibits 19 and 20 to the Lanier Declaration contain testimony from the  
6 deposition of Dr. Uwe Koehler on December 4, 2008 and December 5, 2008. Dr. Koehler is  
7 Senior Director of Oracle's Global Information Security Organization ("GIS"). This group is  
8 responsible for the detection, investigation and prevention of threats to Oracle systems and theft  
9 of its intellectual property.

10 7. Pages 11:24-12:1 of Dr. Koehler's December 4, 2008 deposition testimony  
11 (attached as part of Exhibit 19 to the Lanier Declaration) and pages 42:7-43:3 and 46:13-47:22 of  
12 Uwe Koehler's December 5, 2008 deposition testimony (attached as part of Exhibit 20 to the  
13 Lanier Declaration), contain testimony regarding security concerns and mechanisms, logs and  
14 methods of investigation employed by GIS, and are treated as highly-sensitive information by  
15 Oracle. The disclosure of this information would grant competitors, hackers, thieves and other  
16 would-be saboteurs insight into Oracle's internal security operations, providing them with  
17 information which could be used to target Oracle's systems and IP and avoid detection. Such  
18 disclosure would create a risk of significant competitive injury and particularized harm and  
19 prejudice to Oracle. Oracle also submitted pages 42:7-43:3 and 46:13-47:22 of Dr. Koehler's  
20 December 5, 2008 deposition testimony under seal in support of its Motion for Partial Summary  
21 Judgment, filed March 3, 2010.

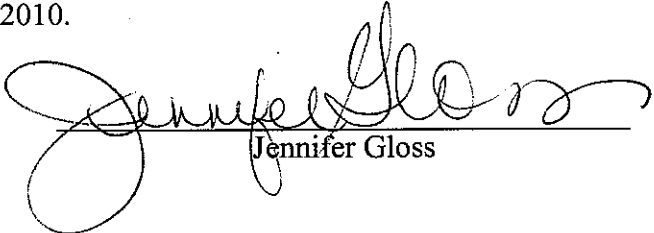
22 ***Portions of Defendants' Motion for Partial Summary Judgment***

23 8. Portions of Defendants' Cross Motion and Opposition, specifically pages 16:12-  
24 14 and 17:2-4, contain quotes or other descriptions from documents identified in Paragraphs 5-7  
25 above. Consistent with Paragraphs 5-7 above, the disclosure of such confidential information  
26 would create a risk of significant competitive injury and particularized harm and prejudice to  
27 Oracle.

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I declare under penalty of perjury that the foregoing is true and correct. Executed  
in Redwood Shores, California, on April 5, 2010.



Jennifer Gloss