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21 UNITED STATES DISTRICT COURT
 22 NORTHERN DISTRICT OF CALIFORNIA
 23 OAKLAND DIVISION

24 ORACLE USA, INC., *et al.*,

25 Plaintiffs,

26 v.

27 SAP AG, *et al.*,

28 Defendants.

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

**PLAINTIFFS' RESPONSE IN
 SUPPORT OF ADMINISTRATIVE
 MOTION TO PERMIT DEFENDANTS
 TO FILE UNDER SEAL PLAINTIFFS'
 DOCUMENT IN SUPPORT OF
 DEFENDANTS' MOTIONS IN LIMINE**

1 **I. INTRODUCTION AND RELIEF REQUESTED**

2 Defendants SAP AG, SAP America, Inc., and TomorrowNow, Inc. (collectively,
3 “Defendants”) filed an Administrative Motion to Seal (D.I. 730) and accompanying Declaration
4 (D.I. 730-1), Stipulation (D.I. 730-2) and Proposed Order (D.I. 730-3) on August 5, 2010.
5 Defendants’ filings moved to seal portions of Exhibit K to the Declaration of Jason McDonell in
6 Support of Defendants’ Motions in Limine (“McDonell Declaration”).

7 Under Civil Local Rules 7-11 and 79-5, and this Court’s Standing Order For
8 Cases Involving Sealed or Confidential Documents, Plaintiffs Oracle USA, Inc., Oracle
9 International Corporation, Oracle EMEA Limited, and Siebel Systems, Inc. (collectively,
10 “Plaintiffs” or “Oracle”) file this Response, and the accompanying Declaration of Jennifer Gloss
11 in Support of Defendants’ Administrative Motion to Seal (“Gloss Declaration” or “Gloss Decl.”),
12 which establishes that good cause exists to support a narrowly tailored order authorizing the
13 sealing of Exhibit K to the McDonell Declaration at 4:14, 4:16, 7:22-7:28, 8:3-8:5, 8:15-8:16 and
14 8:22-8:23.

15 **II. GOOD CAUSE EXISTS TO SUPPORT FILING THE REQUESTED**
16 **INFORMATION UNDER SEAL**

17 Federal Rule of Civil Procedure 26(c) provides broad discretion for a trial court to
18 permit sealing of court documents for, inter alia, the protection of “a trade secret or other
19 confidential . . . commercial information.” Fed. R. Civ. P. 26(c). In particular, when the request
20 for sealing concerns discovery documents attached to a nondispositive motion, a showing of
21 good cause to seal the documents is sufficient to justify protection under Rule 26(c). *Navarro v.*
22 *Eskanos & Adler*, Case No. C-06 02231 WHA(EDL), 2007 U.S. Dist. LEXIS 24864, at *7
23 (March 22, 2007) (citing *Kamakana v. Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)). To
24 make such a showing, the party seeking protection from disclosure under the rule must
25 demonstrate that public disclosure of such information would create a risk of significant
26 competitive injury and particularized harm or prejudice. *See Phillips v. General Motors Corp.*
27 307 F. 3d 1206, 1211 (9th Cir. 2006) (setting forth the standard of good cause on a motion to
28 seal).

