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

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

24 Plaintiffs,

25 v.

26 SAP AG, *et al.*,

27 Defendants.

No. 07-CV-01658 PJH (EDL)

**[PROPOSED] ORDER GRANTING
 DEFENDANTS' ADMINISTRATIVE
 MOTION TO PERMIT DEFENDANTS
 TO FILE UNDER SEAL PLAINTIFFS'
 DOCUMENTS IN SUPPORT OF
 DEFENDANTS' DAUBERT MOTIONS
 AND OPPOSITIONS TO PLAINTIFFS'
 MOTIONS *IN LIMINE***

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

[PROPOSED] ORDER GRANTING DEFENDANTS' ADMINISTRATIVE MOTION TO SEAL

1 Pending before this Court is the Administrative Motion to Seal Plaintiffs’
2 Documents in Support of Defendants’ *Daubert* Motions and Oppositions to Plaintiffs’ Motions
3 *in Limine* (“Defendants’ Motion to Seal”) (Dkt. No. 796) filed by SAP AG, SAP America, Inc.,
4 and TomorrowNow, Inc. (collectively, “Defendants”). Through Defendants’ Motion to Seal and
5 Plaintiffs’ Response in Support of Defendants’ Motion to Seal (Dkt. No. 808), the Parties request
6 an Order sealing: (1) portions of Defendants’ Motion to Exclude Expert Testimony of Paul K.
7 Meyer at 10:9-12; (2) portions of Exhibits 1, 3 and 20 to the Declaration of Elaine Wallace in
8 Support of Defendants’ Motion to Exclude Expert Testimony of Paul K. Meyer (“Wallace
9 Declaration”); (3) Exhibits 5 and 6 to the Wallace Declaration in full; and, (4) portions of
10 Exhibits 13, 21, 22 and 23 to the Declaration of Tharan Gregory Lanier in Support of
11 Defendants’ Oppositions to Plaintiffs’ Motions *in Limine* (“Lanier Declaration”).

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

20 In compliance with this Court’s Standing Order Involving Sealed or Confidential
21 Documents, Rule 26(c) and Civil Local Rule 79-5, Oracle filed the Declaration of Jennifer Gloss
22 (the “Gloss Declaration”) in support of Defendants’ Motion to Seal on August 26, 2010.
23 Through the Gloss Declaration, Oracle provides evidence of good cause sufficient for this Court
24 to permit filing portions of the requested documents under seal. The Gloss Declaration
25 establishes both that Oracle has considered and treated the information contained in the
26 documents as confidential, commercially sensitive and proprietary, and that public disclosure of
27 such information would create a risk of significant competitive injury and particularized harm
28 and prejudice to Oracle. The Gloss Declaration also establishes that the request for sealing has

1 been narrowly tailored.

2 Having considered Defendants' Motion to Seal, Plaintiffs' Response in Support,
3 and the Gloss Declaration in Support, and GOOD CAUSE having been shown:

4 IT IS HEREBY ORDERED THAT Defendants' Motion to Seal is GRANTED.

5 The Clerk of the Court shall file under seal the unredacted versions of:

- 6 • Page 10, lines 9-12 of Defendants' Motion to Exclude Expert Testimony of
7 Paul K. Meyer;
- 8 • Paragraphs 232 and 342 of Exhibit 1 to the Wallace Declaration;
- 9 • Page 366, line 21 through page 367, line 10 of Exhibit 3 to the Wallace
10 Declaration;
- 11 • Exhibit 5 to the Wallace Declaration in full;
- 12 • Exhibit 6 to the Wallace Declaration in full;
- 13 • Pages 1 and 2 of Exhibit 20 to the Wallace Declaration;
- 14 • The page of Exhibit 13 to the Lanier Declaration with the bates-number
15 ORCL00079745;
- 16 • The pages of Exhibit 21 to the Lanier Declaration with the with the bates-
17 numbers ORCL00131370 and ORCL00131373;
- 18 • The page of Exhibit 22 to the Lanier Declaration with the bates-number
19 ORCL00126452; and
- 20 • The pages of Exhibit 23 to the Lanier Declaration with the bates-numbers
21 ORCL00160328-29 and ORCL00160331-32.

22 **IT IS SO ORDERED.**

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24 Dated: _____, 2010

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Honorable Phyllis J. Hamilton
United States District Court Judge

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