

1 BINGHAM MCCUTCHEN LLP  
 DONN P. PICKETT (SBN 72257)  
 2 GEOFFREY M. HOWARD (SBN 157468)  
 HOLLY A. HOUSE (SBN 136045)  
 3 ZACHARY J. ALINDER (SBN 215695)  
 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 BOIES, SCHILLER & FLEXNER LLP  
 DAVID BOIES (Admitted *Pro Hac Vice*)  
 10 333 Main Street  
 Armonk, NY 10504  
 11 Telephone: 914.749.8200  
 dboies@bsflp.com  
 12 STEVEN C. HOLTZMAN (SBN 144177)  
 1999 Harrison St., Suite 900  
 13 Oakland, CA 94612  
 Telephone: 510.874.1000  
 14 sholtzman@bsflp.com

15 DORIAN DALEY (SBN 129049)  
 JENNIFER GLOSS (SBN 154227)  
 16 500 Oracle Parkway, M/S 5op7  
 Redwood City, CA 94070  
 17 Telephone: 650.506.4846  
 Facsimile: 650.506.7114  
 18 dorian.daley@oracle.com  
 jennifer.gloss@oracle.com

19 Attorneys for Plaintiffs  
 20 Oracle USA, Inc., *et al.*

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.

Robert A. Mittelstaedt (SBN 060359)  
 Jason McDonell (SBN 115084)  
 Elaine Wallace (SBN 197882)  
 JONES DAY  
 555 California Street, 26<sup>th</sup> Floor  
 San Francisco, CA 94104  
 Telephone: (415) 626-3939  
 Facsimile: (415) 875-5700  
 ramittelstaedt@jonesday.com  
 jmcdonell@jonesday.com  
 ewallace@jonesday.com

Tharan Gregory Lanier (SBN 138784)  
 Jane L. Froyd (SBN 220776)  
 JONES DAY  
 1755 Embarcadero Road  
 Palo Alto, CA 94303  
 Telephone: (650) 739-3939  
 Facsimile: (650) 739-3900  
 tglanier@jonesday.com  
 jfroyd@jonesday.com

Scott W. Cowan (Admitted *Pro Hac Vice*)  
 Joshua L. Fuchs (Admitted *Pro Hac Vice*)  
 JONES DAY  
 717 Texas, Suite 3300  
 Houston, TX 77002  
 Telephone: (832) 239-3939  
 Facsimile: (832) 239-3600  
 swcowan@jonesday.com  
 jlffuchs@jonesday.com

Attorneys for Defendants  
 SAP AG, SAP AMERICA, INC., and  
 TOMORROWNOW, INC.

No. 07-CV-01658 PJH (EDL)

**FURTHER JOINT STATEMENT  
 REGARDING THE PARTIES'  
 PROPOSED RESPECTIVE  
 SANCTIONS MOTIONS**

1 The Parties submit this Joint Statement pursuant to a stipulation reached between them  
2 with the assistance of Judge Spero on September 7, 2010.

3 The Parties hereby withdraw their pending requests for leave to file all of the motions for  
4 sanctions described in the Joint Statement filed with the Court on September 1, 2010 (Dkt. No.  
5 824). Through September 17, 2010, with the assistance of Judge Spero, the Parties agree to  
6 negotiate the late-production issues, starting from the last version of the proposed stipulation  
7 submitted by Defendants on July 30, 2010, as well as the goodwill issues. The Parties agree to  
8 not subsequently file, or attempt to re-file, any of the remaining motions referred to in the  
9 Parties' Joint Statement filed September 1, 2010.

10 Defendants will permit Plaintiffs to depose, or where applicable, continue the deposition  
11 of, up to twelve witnesses, in San Francisco, for up to four hours of record time per witness on  
12 any topic reasonably related to the files produced by Defendants in March, April and June 2010.  
13 Defendants will make good faith efforts to make all witnesses available prior to September 30,  
14 2010.

15 Oracle retains the right to file its late-production motion, and Defendants retain the right  
16 to file their goodwill motion, if permitted by the Court at a later date. The Parties reserve all  
17 rights with respect to such motions.

18 DATED: September 9, 2010

BINGHAM McCUTCHEN LLP

19 By: /s/ Geoffrey M. Howard

20 Geoffrey M. Howard

21 Attorneys for Plaintiffs  
22 ORACLE USA, INC., ORACLE  
23 INTERNATIONAL CORPORATION, and  
24 SIEBEL SYSTEMS, INC.

25 In accordance with General Order No. 45, Rule X, the above signatory attests that  
26 concurrence in the filing of this document has been obtained from the signatory below.

1 DATED: September 9, 2010

JONES DAY

2

By: /s/ Scott W. Cowan  
Scott W. Cowan

3

4

Attorneys for Defendants  
SAP AG, SAP AMERICA, INC., and  
TOMORROWNOW, INC.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28