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

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

24 Plaintiffs,

25 v.

26 SAP AG, *et al.*,

27 Defendants.
 28

Case No. 07-CV-1658 PJH (EDL)

**STIPULATION TO PERMIT
 DEFENDANTS TO FILE UNDER SEAL
 PLAINTIFFS' DOCUMENTS IN
 SUPPORT OF DEFENDANTS'
 OPPOSITION TO PLAINTIFFS'
 MOTION NO. 1 TO EXCLUDE EXPERT
 TESTIMONY OF STEPHEN CLARKE**

1 Pursuant to Local Rules 7-11(a) and 79-5(c), Plaintiffs Oracle USA, Inc., Oracle
2 International Corporation, and Siebel Systems, Inc. (“Plaintiffs”) and Defendants SAP AG, SAP
3 America, Inc., and TomorrowNow, Inc. (“Defendants,” and together with Plaintiffs, the “Parties”)
4 jointly submit this Stipulation to Permit Defendants to File Under Seal Plaintiffs’ Documents in
5 Support of Defendants’ Opposition to Plaintiffs’ Motion No. 1 To Exclude Expert Testimony of
6 Stephen Clarke.

7 WHEREAS, Defendants filed on September 9, 2010 (1) Defendants’ Opposition to
8 Plaintiffs’ Motion No. 1 to Exclude Expert Testimony of Stephen Clarke (“Defendants’
9 Opposition to Plaintiffs’ Motion to Exclude Clarke”) and (2) the Declaration of Stephen K.
10 Clarke in Support of Defendants’ Opposition to Plaintiffs’ Motion No. 1 to Exclude Expert
11 Testimony of Stephen Clarke (“Clarke Decl.”);

12 WHEREAS, at Plaintiffs’ request, Defendants have filed an Administrative Motion to
13 Permit Defendants to File Under Seal Plaintiffs’ Documents in Support of Defendants’
14 Opposition to Plaintiffs’ Motion No. 1 To Exclude Expert Testimony of Stephen Clarke;

15 WHEREAS the requested relief is necessary and narrowly tailored to protect the alleged
16 confidentiality of the material put at issue by Defendants’ Opposition to Plaintiffs’ Motion to
17 Exclude Clarke until such time as the Court makes a final ruling as to confidentiality of the
18 relevant subject matter. Specifically, the following documents and portions of documents contain
19 information designated by Plaintiffs as “Highly Confidential - Attorneys’ Eyes Only” or
20 “Confidential Information” pursuant to the Stipulated Protective Order in this case:

- 21 • Portions of Defendants’ Opposition to Plaintiffs’ Motion to Exclude Clarke: portions
22 of 24:11-23 and 24:27-28; and
- 23 • Paragraphs 17 through 46 of the Clarke Decl.

24 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their
25 respective counsel of record, that Defendants be permitted to move for permission to file under
26 seal (1) portions of Defendants’ Opposition to Plaintiffs’ Motion to Exclude Clarke and (2)
27 paragraphs 17 through 46 of the Clarke Decl., as described above. The Parties further agree that
28 Defendants reserve their rights to challenge the confidentiality of the information filed under seal

1 pursuant to this Stipulation. While the Parties agree that Defendants' concurrently filed
2 Opposition to Plaintiffs' Motion to Exclude Clarke, as well as exhibits filed in support thereof,
3 may be publicly filed, the Parties also agree that the filing shall not be construed as a waiver of
4 any confidentiality designation or other protection with respect to documents, transcripts, or other
5 information referred to in, or that serve as the basis for, the allegations or arguments made in
6 them.

7 **IT IS SO STIPULATED.**

8 DATED: September 9, 2010

JONES DAY

9
10 By: /s/ Tharan Gregory Lanier
11 Tharan Gregory Lanier

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

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

16 DATED: September 9, 2010

BINGHAM McCUTCHEN LLP

17
18 By: /s/ Geoffrey M. Howard
19 Geoffrey M. Howard

20 Attorneys for Plaintiffs
21 ORACLE USA, INC., ORACLE
22 INTERNATIONAL CORPORATION,
ORACLE EMEA LIMITED, and SIEBEL
SYSTEMS, INC.