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

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

24 Plaintiffs,

25 v.

26 SAP AG, *et al.*,

27 Defendants.

CASE NO. 07-CV-01658 PJH (EDL)

**DECLARATION OF JENNIFER GLOSS IN
 SUPPORT OF PLAINTIFFS'
 ADMINISTRATIVE MOTION TO PERMIT
 PLAINTIFFS TO FILE UNDER SEAL
 INFORMATION SUPPORTING PLAINTIFFS'
 MOTIONS *IN LIMINE***

FILED PURSUANT TO DKT. NO. 915

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

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 Plaintiffs’ Motions *in Limine* and Exhibit X to the Declaration of
7 Thomas S. Hixson In Support of Plaintiffs’ Motions *in Limine* (“Exhibit X”). Exhibit X contains
8 non-public, commercially sensitive, private and confidential Oracle and third-party information,
9 the disclosure of which would create a risk of significant competitive injury and particularized
10 harm and prejudice to Oracle.

11 3. Exhibit X contains exemplary excerpts from the final cumulative version of a
12 voluminous and detailed compilation maintained at Oracle called its “At Risk” Report. Even the
13 excerpted “At Risk” Report contains highly sensitive internal Oracle pricing and customer
14 negotiation history and strategy for over a hundred specific customers. Furthermore, the
15 summary charts and figures compile and summarize similarly sensitive information for hundreds
16 of other customers not reflected in the exemplar screenshots. The public disclosure of this
17 information would grant Oracle’s actual and potential competitors and customers access to non-
18 public and commercially sensitive information about Oracle’s support pricing, business
19 vulnerabilities, and practices. Such information could unfairly be used to compete with Oracle
20 or to extract unfair leverage in licensing and support negotiations. Such disclosure would create
21 a risk of significant competitive injury and particularized harm and prejudice to Oracle. Exhibit
22 X also contains information which many of the non-interested third-party customers reflected in
23 the Report might consider confidential, and in an effort to respect their information, Oracle has
24 filed Exhibit X under seal.

25 4. Pages 14:27-15:1 and 15:3-4 of Plaintiffs’ Motions *in Limine* quote from the
26 document identified in paragraph 3 above. Oracle has filed this information under seal in an
27 effort to respect non-interested third parties’ potentially confidential information.

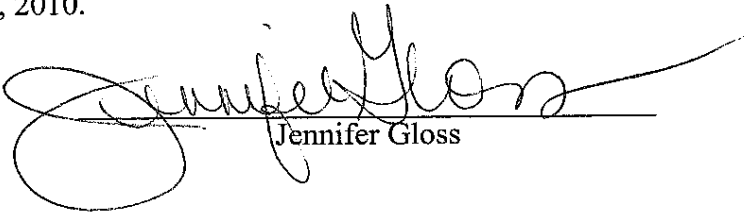
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5. Oracle has protected the materials described in Paragraphs 2-4 above from public disclosure through the Stipulated Protective Order (“Protective Order”) by designating the testimony as “Highly Confidential Information — Attorneys’ Eyes Only” and has continued to protect this material from public disclosure since its designation. Separately from this litigation, Oracle has always treated the “At Risk” Report as highly sensitive information and Oracle’s policy is to not disclose or discuss its substance with third-parties.

6. Oracle has narrowly tailored its request by seeking to seal only this one specific document and two quotes from it in Oracle’s Motions *in Limine*.

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


Jennifer Gloss