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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

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

Plaintiffs,

v.

SAP AG, *et al.*,

Defendants.

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

**DECLARATION OF ZACHARY J. ALINDER IN
 SUPPORT OF PLAINTIFFS' ADMINISTRATIVE
 MOTION TO FILE UNDER SEAL INFORMATION
 SUPPORTING PLAINTIFFS' DAUBERT MOTIONS,
 OPPOSITIONS TO DEFENDANTS' MOTIONS IN
 LIMINE AND 17 U.S.C. § 410(C) MOTION
 FILED PURSUANT TO DKT. NO. 915**

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

DECLARATION OF ZACHARY J. ALINDER ISO PLAINTIFFS' ADMINISTRATIVE MOTION TO SEAL

1 I, Zachary J. Alinder, declare:

2 1. I am a partner in the law firm of Bingham McCutchen LLP and counsel of record
3 for Plaintiffs Oracle USA, Inc., Oracle International Corporation, Oracle EMEA Limited, and
4 Siebel Systems, Inc. (collectively “Oracle” or “Plaintiffs”) in the above-captioned action. I am a
5 member in good standing of the state bar of California and admitted to practice before this Court.
6 I make this declaration based on personal knowledge and, if called upon to do so, could testify
7 competently thereto.

8 2. Pursuant to Civil Local Rule 79-5 and the stipulated Protective Order entered on
9 June 6, 2007 in this case, I make this Declaration in support of Plaintiffs’ Administrative Motion
10 to File Under Seal Information Supporting Plaintiffs’ *Daubert* Motions, Plaintiffs’ Oppositions
11 to Defendants’ Motions *in Limine*, and Plaintiffs’ 17 U.S.C. § 410(c) Motion (“Administrative
12 Motion”).

13 ***Defendants’ Confidential Information Requested to be Filed Under Seal***

14 3. At the request of SAP AG, SAP America, Inc., and TomorrowNow, Inc.
15 (together, “Defendants”), Oracle’s Administrative Motion asks that the Court order the sealing of
16 the information identified in Paragraph 4 below. The requested relief is necessary and narrowly
17 tailored to protect the alleged confidentiality of the materials put at issue by Plaintiffs’
18 Administrative Motion until such time as Defendants may submit a declaration in accordance
19 with Civil Local Rule 79-5(d), and the Court makes a final ruling as to confidentiality of the
20 relevant subject matter.

21 4. Specifically, Defendants have requested that Oracle seal: Portions of Exhibit A to
22 the Declaration of Holly H. House in Support of Plaintiffs’ Motion No. 1: To Exclude Testimony
23 of Defendants’ Expert Stephen Clarke at pages 51, 126 and 244-247.

24 5. Further, Plaintiffs believe that portions of the Levy Declaration in Support of
25 Plaintiffs’ Motion No. 1: To Exclude Testimony of Defendants’ Expert Stephen Clarke may
26 contain information that Defendants consider confidential. In light of this, Plaintiffs are
27 submitting the Levy Declaration and Exhibits 1-7 thereto under seal so that Defendants may have
28

1 an opportunity to review the Levy Declaration and Exhibits, and file a declaration in support of
2 sealing portions or all of the Levy Declaration, as appropriate.

3 ***Oracle's Confidential Information Requested to be Filed Under Seal***

4 6. Through the Administrative Motion, Plaintiffs also request an order from the
5 Court sealing:

- 6 • portions of Exhibit A to the Declaration of Holly H. House in Support of
7 Plaintiffs' Motion No. 1: To Exclude Testimony of Defendants' Expert
8 Stephen Clarke at pages 146-148, 232 and Table 16;
- 9 • portions of the Levy Declaration in Support of Plaintiffs' Motion No. 1:
10 To Exclude Testimony of Defendants' Expert Stephen Clarke at
11 paragraphs 8-17, 24-25, Figures 1, 2, 4, 5, and 6, and Appendix 2;
- 12 • portions of Exhibit D at 11:2-4 and Exhibits N, P, Q, R and T in full to the
13 Russell Declaration in Support of Plaintiffs' Opposition to Defendants'
14 Motions *in Limine*; and,
- 15 • Exhibits A-D and F-H to the Declaration of John A. Polito in Support of
16 Plaintiffs' 17 U.S.C. § 410(c) Motion.

17 7. Plaintiffs' request for sealing in the Administrative Motion is also supported by
18 the Declaration of Jennifer Gloss in Support of Plaintiffs' Administrative Motion and the
19 Stipulation to Permit Plaintiffs to File Under Seal Information Supporting Plaintiffs' *Daubert*
20 Motions, Oppositions to Defendants' Motions *in Limine*, and 17 U.S.C. § 410(c) Motion, both
21 filed concurrently with this Declaration.

22 I declare under the laws of the United States and the State of California that the
23 foregoing is true and correct and that this Declaration was executed on August 19, 2010, in San
24 Francisco, California.

25 _____ /s/ Zachary J. Alinder

26 Zachary J. Alinder