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

24 ORACLE USA, INC., *et al.*,
 Plaintiffs,
 25 v.
 26 SAP AG, *et al.*,
 27 Defendants.

No. 07-CV-01658 PJH (EDL)

**DECLARATION OF LUCIA MACDONALD IN
 SUPPORT OF PLAINTIFFS' RESPONSE TO
 DEFENDANTS' ADMINISTRATIVE
 MOTION FOR AN ORDER REGARDING
 COUNSELS' EXTRAJUDICIAL
 COMMUNICATIONS**

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

DECLARATION OF LUCIA MACDONALD IN SUPPORT OF PLAINTIFFS' RESPONSE TO DEFENDANTS'
 ADMINISTRATIVE MOTION FOR AN ORDER REGARDING COUNSELS' EXTRAJUDICIAL COMMUNICATIONS

1 I, Lucia MacDonald, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am counsel
3 at Bingham McCutchen LLP, counsel of record for plaintiffs Oracle USA, Inc., Oracle
4 International Corporation, and Siebel Systems, Inc. (collectively "Oracle" or "Plaintiffs") in this
5 action. Except where stated below on information and belief, I have personal knowledge of the
6 facts stated within this Declaration and could testify competently to them if required.

7 2. Attached as **Exhibit A** is a true and correct copy of a final transcript of SAP's
8 July 3, 2007 press conference, entitled "SAP - SAP to Host Teleconference Regarding its
9 Response to Oracle Lawsuit," published by Thomson StreetEvents.

10 3. Attached as **Exhibit B** is a true and correct copy of an October 23, 2010 article
11 authored by Jeanette Borzo of the Dow Jones Business News entitled "UPDATE: SAP Asks For
12 Gag Order In Oracle Case."

13 4. On information and belief, Defendants appear to have leaked to the press the
14 existence, and content, of an October 8, 2010 confidential email between counsel (sent at 11:45
15 p.m. on a Friday night) regarding witness lists.

16 5. Attached as **Exhibit C** is a true and correct copy of an article authored by Joe
17 Nocera, entitled "H.P.'s Blundering Board," N.Y. Times, Sept. 10, 2010, available at
18 <http://www.nytimes.com/2010/09/11/business/11nocera.html>.

19 6. Attached as **Exhibit D** is a true and correct copy of an article authored by Damon
20 Darlin, entitled "H.P. Spied On Writers In Leaks," N.Y. Times, Sept. 8, 2006, available at
21 <http://www.nytimes.com/2006/09/08/technology/08hp.html>.

22 7. Attached as **Exhibit E** is a true and correct copy of an article authored by Damon
23 Darlin, entitled "Journalists Intend to Sue Hewlett-Packard Over Surveillance," N.Y. Times,
24 May 7, 2007, available at
25 <http://www.nytimes.com/2007/05/07/business/media/07hp.html?ref=media>.

26 8. Attached as **Exhibit F** is a true and correct copy of the following excerpt from
27 the 9/30/2010 Pretrial Conference Transcript: p. 69.

28 I declare under penalty of perjury under the laws of the United States that the foregoing

