

Ellison: Oracle has \$4 billion case against SAP

November 8 2010, By JORDAN ROBERTSON , AP Technology Writer

(AP) -- Oracle Corp. CEO Larry Ellison turned up the pressure in an industrial espionage trial Monday by testifying that archenemy SAP AG should have paid \$4 billion for licenses to Oracle software.

SAP and Oracle, two of the world's biggest business-software makers, are fighting over how much SAP should pay to atone for the shady tactics of a now-shuttered software support subsidiary called TomorrowNow.

SAP has already admitted to bad behavior. It acknowledged that TomorrowNow stole customer support documents from Oracle password-protected websites and used them to steal business from Oracle by offering similar services at a cheaper price.

Oracle has said that it is owed billions for the value of the intellectual property that was taken from it. Ellison's \$4 billion estimate concerned the amount of money SAP would have paid for the appropriate licenses to Oracle's software, under certain conditions.

SAP claims TomorrowNow wasn't that effective at stealing customers, and it should only have to pay \$40 million for Oracle accounts it did manage to lure away.

The trial, in its second week in federal court, offers a rare look at the corners big companies might be tempted to cut in the battle for new business.

It is also as much a public relations bonanza for Oracle as it is an attempt to recover damages, since Oracle gets to pillory two rivals at once: SAP and Hewlett-Packard Co.

The conflict with SAP has grown as Oracle has moved beyond its core business of selling database software and into SAP's stronghold of applications that help companies manage payroll, human resources and other tasks.

The beef with HP stems from Oracle's decision to start selling computer servers, an HP mainstay. Also, Ellison has taken HP to task for hiring Leo Apotheker, SAP's former CEO, as HP's new CEO. Apotheker is replacing Ellison's friend and tennis buddy Mark Hurd, who was ousted as HP's CEO over expense-report lapses. Ellison has since hired Hurd to serve as an Oracle co-president.

Apotheker may not wind up testifying live about his role in the TomorrowNow espionage.

Oracle has tried to force him to appear in court but says HP has refused the subpoena. HP accuses Oracle of harassing its new executive and says Oracle had ample time to question Apotheker during an earlier sworn deposition. If Apotheker doesn't appear, Oracle could play the videotaped testimony.

Ellison's testimony injected some celebrity drama into the trial. Although he is known for trash-talking against rivals, his courtroom appearance was devoid of theatrics, and he didn't give any public comments afterward.

Ellison testified that he was deeply worried that his company would bleed customers because of what seemed like SAP's masterstroke of an acquisition of TomorrowNow in 2005. Ellison called the TomorrowNow

deal a "brilliant idea" that posed a "grave risk" to Oracle because of its ability to let SAP steal business, even without the theft of Oracle's documents.

The extent of those fears, and how they squared with the amount of business SAP actually poached, consumed most of his hourlong testimony.

Lawyers from Oracle and SAP questioned Ellison on his initial fears that Oracle could lose as much as 30 percent of the customer contracts it got as part of its \$10.3 billion acquisition of PeopleSoft in 2005.

That deal sparked SAP's interest in TomorrowNow, since TomorrowNow supported PeopleSoft software.

SAP insists that it owes far less than Oracle is demanding because TomorrowNow stole far fewer customers than Oracle thought it would. SAP's lawyers have repeatedly cited SAP's claim that TomorrowNow stole only 358 Oracle customers, out of the thousands that came to [Oracle](#) through the acquisition.

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