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

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

23 Plaintiffs,

24 v.

24 SAP AG, *et al.*,

25 Defendants.

No. 07-CV-01658 PJH (EDL)

**[PROPOSED] ORDER DENYING
 DEFENDANTS' MOTIONS *IN LIMINE***

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[PROPOSED] ORDER DENYING DEFENDANTS' MOTIONS *IN LIMINE*

1 Before the Court are Defendants' Motions *in Limine*. Having reviewed the
2 parties' papers and carefully considered their arguments, evidence and relevant legal authority,
3 the Court hereby rules on Defendants' motions as follows:

4 **I. DEFENDANTS' MOTION *IN LIMINE* NO. 1: INFRINGERS'
5 PROFITS EVIDENCE**

6 Defendants' motion to preclude Oracle from presenting evidence of damages beyond
7 \$408.7 million is DENIED. In addition, as willful infringers, Defendants are precluded from
8 deducting costs from their infringers' revenues as a matter of law.

9 Defendants' motion to exclude Oracle's expert's updated damages opinion to account for
10 the passage of time is DENIED.

11 Finally, Defendants' motion to exclude evidence or argument that Defendants' "List of
12 86" is incomplete is DENIED.

13 **II. DEFENDANTS' MOTION *IN LIMINE* NO. 2: EVIDENCE IN
14 SUPPORT OF ORACLE'S HYPOTHETICAL LICENSE THEORY**

15 Defendants' motion to exclude evidence previously offered solely to support Oracle's
16 hypothetical license theory is DENIED.

17 **III. DEFENDANTS' MOTION *IN LIMINE* NO. 3:
18 TOMORROWNOW'S CRIMINAL CONVICTION**

19 Defendants' motion to exclude evidence and argument regarding TomorrowNow's
20 criminal conviction is DENIED.

21 **IV. DEFENDANTS' MOTION *IN LIMINE* NO. 4: EVIDENCE OF
22 "THEFT" OR "STEALING"**

23 Defendants' motion to exclude any remarks, evidence, or testimony referring to
24 Defendants' actions as "theft" or "stealing" or any variation thereof is DENIED.

25 **IT IS SO ORDERED.**

26 DATED: _____, 2012

27 _____
28 Hon. Phyllis J. Hamilton
United States District Court Judge