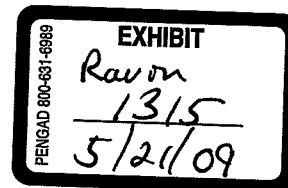


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Warning: extract() [function.extract]: First argument should be an array in /home/servers/www.eweek.com/www/includes/templating.php on line 34

Database

Analysts: Ellison Playing Hard Ball with Intellectual Property

By: Lisa Vaas
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Analysts say competitors rushing to offer third-party support in the wake of the Oracle-PeopleSoft merger, should take seriously Larry Ellison's not-so-veiled threats that Oracle will protect its newly acquired intellectual property rights from infringement. Following SAP AGs pouncing on TomorrowNow Inc., a third-party maintenance provider for PeopleSoft applications, Oracle Corp. CEO Larry Ellison warned that such providers should "be careful" of intellectual property infringement. Analysts said the warning was serious.

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SAP announced the purchase of PeopleSoft third-party support provider TomorrowNow last week with in-your-face timing: The announcement came a day after Oracles splashy, day-long launch of the newly combined Oracle-PeopleSoft. At the same time, SAP announced a migration program, named Safe Harbor, aimed at letting users maintain current PeopleSoft and J.D. Edwards & Co. applications while migrating to MySAP ERP.

Ellison delivered the warning during Oracle Analyst Day Wednesday in New York, in which Oracle forecast aggressive growth for the coming fiscal year.

The Redwood Shores, Calif., database giant forecast pro forma earnings per share growth of 24 percent in fiscal year 2005—a figure far exceeding the 15 percent annually compounded share growth that President Jeff Henley had presented to Oracles board of directors when he laid out a five-year plan for Oracle, assuming no acquisitions, a little over a year ago.



Oracle intends to raise fees for former PeopleSoft customers. Click here to read more.

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Analysts weighed in on Ellisons warning to SAP. "[It was] a sort of a warning, a shot over the bow in terms of third-party support: what we see as the potential market opening up for third-party maintenance, for companies who feel theyre paying too much," said Paul Hamerman, an analyst for Forrester Research Inc. "Ellison sought to intimidate vendors who want to get into third-party maintenance business, because of the potential issues around the use of source code."

Katherine Jones, an analyst at Aberdeen Group, noted that options for third-party support are springing up in the wake of the acquisition, with the market being flooded with support professionals from J.D. Edwards, for example.

"People who are very skilled in support for JDE are entering the market with a value proposition that's different from other skills that are out there," she said. "That represents alternatives and choices for the installed customer base [that Oracle acquired]."

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Customers">

Conexus Partners is one such third-party support company. Conexus launched on Tuesday with a value proposition designed to soothe the fears of JDE customers who don't know what their future with Oracle holds.

The third-party maintenance company opened up shop in Denver, former home base of JDE, manned with the executive team who ran JDE support globally. It offers indefinite support of JDE products, as well as for other enterprise application software and platforms, at a fraction of the price of maintenance and support from Oracle.

Colin Balmforth—executive vice president of operations and the former JDE executive responsible for international support services—was under a noncompete clause after leaving PeopleSoft in October 2003. He spent a year providing management consulting and services to non-JDE customers, but he said he kept getting calls from JDE customers who were disillusioned with PeopleSoft's investment in JDE products.

When Oracle acquired PeopleSoft, it was the last straw. Balmforth set up shop with another JDE executive after their noncompete clauses expired last year, and now they're looking to offer alternatives in the ERP space.

"After our noncompetes expired last year, we worked with a consortium of companies to develop a proposition: to bring them into a safe harbor and provide lower TCO and maintenance solution, and to provide them a choice of software ERP vendors in the future," he said.

Balmforth said it's not necessary to tamper with intellectual property rights in order to service a JDE customer. "Any of us would honor any IP rights," he said.

But Ellison's threat is real, analysts say.

Part of TomorrowNow's business model, which the company promised before being acquired by SAP and which they continue to promise now, is to include upgrades for bug fixes and regulatory enhancements. In order to provide such services, they'll need access to source code—and that's where it gets "a little tricky," according to Joshua Greenbaum, a principal at Enterprise Applications Consulting, in Berkeley, Calif.

"You can do that, and certainly SAP has that capability, but as soon as you're messing around with source code, things get a little funny," he said. "Before the acquisition, the TomorrowNow guys said that, technically, because they're working as independent contractors and lack a formal relationship with PeopleSoft or JDE, they said they can go in and make these fixes on behalf of the customer, who has the right to do these modifications. They said their lawyers checked it out and it's in the license agreement and it's above-board."

"These kinds of enhancements have been done historically a long, long time," Greenbaum said. "But Ellison was right in saying you have to do that very, very carefully so you don't infringe on intellectual property rights. The moment you do, you're in the sights of the army of lawyers that Oracle is able to deploy."



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