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18 TOMORROWNOW, INC.

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

22 ORACLE USA, INC., et al.,  
23 Plaintiffs,  
24 v.  
25 SAP AG, et al.,  
26 Defendants.

Case No. 07-CV-1658 PJH (EDL)

**[PROPOSED] ORDER GRANTING  
DEFENDANTS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

Date: May 5, 2010  
Time: 9:00 a.m.  
Courtroom: 3, 3rd Floor  
Judge: Hon. Phyllis J. Hamilton

1 Having considered Defendants’ Motion for Partial Summary Judgment, the supporting  
2 declarations of Tharan Gregory Lanier and Elaine Wallace, and exhibits attached thereto, which  
3 were filed with the Court on March 3, 2010:

4 IT IS HEREBY ORDERED THAT: Defendants’ motion is GRANTED. Summary  
5 judgment is proper when the pleadings, discovery, and affidavits show that there is “no genuine  
6 issue as to any material fact and that the moving party is entitled to judgment as a matter of law.”  
7 Fed. R. Civ. P. 56(c). Based on the undisputed facts in this case, this Court grants summary  
8 judgment that (1) OEMEA’s claims are wholly extraterritorial and must be dismissed; (2)  
9 Plaintiffs may not recover damages of nonparties, including nonparty related companies; (3) a  
10 “saved development costs” measure of damages is not permitted under any of the asserted claims;  
11 and (4) Plaintiffs may not seek damages for the CDAFA and trespass to chattels claims because  
12 they failed to disclose damages calculations for these claims as required by Fed. R. Civ. P. 26.

13 **IT IS SO ORDERED.**

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15 DATED: \_\_\_\_\_

By: \_\_\_\_\_  
Hon. Phyllis J. Hamilton  
United States District Court Judge

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