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## **BEA Awaits Sweeter Deal**

<http://www.thestreet.com/s/bea-awaits-sweeter-deal/newsanalysis/techsoftware/10384458.html>

By Ivy Lessner

SAN FRANCISCO -- Oracle (ORCL) tried to pull off a shotgun wedding by disclosing Friday that it had made an acquisition offer to BEA Systems (BEAS) .

But Oracle's apparent hope that investors would rush BEA to the altar has yet to materialize.

Shares in middleware developer BEA, which has been revisiting its earnings reports from the past several years, have been stalled this year by the company's limbo status. And as BEA prepared to wrap up financial restatements, Oracle jump-started what still may become a bidding war, trying to force BEA's hand while the stock still looked cheap.

Once BEA's filings are up to date, investors will have a clearer picture of its earnings outlook. They would likely have bid up the stock even without an initial offer from Oracle.

That BEA continues to trade above \$18 suggests that the market views Oracle's offer of \$17 a share as too little, too early. Oracle has a history of raising its initial offer prices when it encounters resistance from its target, as it did in the acquisition of PeopleSoft.

BEA was miffed by Oracle's early disclosure of initial negotiations. Late Friday, BEA sent a letter to Oracle President Charles Phillips clarifying what it called Oracle's misstatements. "We did not agree to your proposal that the process result in a definitive agreement by Monday," wrote William Klein, vice president of business planning and development for BEA.

But he also said that the company is not ruling out a friendly merger.

"We will not engage in any process that would be open-ended or harmful to our shareholders' interest," Klein stated.

While Carl Icahn, a major investor in BEA, had urged the board to find a buyer, he took the software vendor's view that Oracle's offer is too low. In a call to Jim Cramer at CNBC

on Friday, Icahn suggested Hewlett-Packard (HPQ) , IBM (IBM) and other companies would also be interested.

RBC Capital Markets analyst Thomas Curlin likewise said in a note Monday that he believes HP will enter the fray and has the ability to pay \$9.5 billion in cash, or \$25 a share.

"We believe HP has the greatest strategic need of any of the large suite vendors," Curlin wrote, adding that a lack of other merger candidates to BEA's software suite will drive HP's sense of urgency. He raised his price target on BEA to \$22. BEA is an investment banking client of RBC.

BEA was recently off 45 cents, or 2.4%, to \$18.37 midday. Oracle was down 23 cents, or 1%, to \$22.21.

Deutsche Bank reiterated its buy rating on BEA and raised its price target to \$21 from \$15.

At least two other sell-side analysts lowered ratings on Monday. Citigroup analyst Brent Thill raised his price target to \$20, but discounted the likelihood that IBM, SAP, Sun Microsystems (JAVA) or EMC (EMC) would enter a bidding war. "HPQ has publicly stated they are not interested, although a deal would make strategic sense," Thill wrote. Citigroup makes a market in BEA.

Bear Stearns analyst John DiFucci also lowered his rating to hold and said he does not expect Oracle to raise its price by much, "if at all."

Oracle's pursuit of BEA is an attempt to gain market share in middleware -- software that links different applications -- as well as strengthen its middleware portfolio. But IDC analyst Michael Fauscette says he was surprised to discover that acquiring BEA would also give Oracle the edge in another software category. "It's an interesting move because in the application server market that makes [Oracle] No. 1."

IBM currently holds the lead in application server software, with 26% of the market. Oracle and BEA combined would have 38%, Fauscette says.

Synergy potential is stronger with Oracle than its potential rivals, Fauscette said. "The verticals that BEA is strongest in ... map almost exactly to the verticals that Oracle's application business is strong in," such as financial services, manufacturing, retail, utilities, healthcare and government services, he says.

Moreover, software offerings from the two companies in verticals tend to be complementary rather than overlapping. "It looks like they could bundle [applications and middleware] and take a larger part of the pocket share of each," Fauscette says.

**In its bid for "world domination," Oracle will likely acquire some small software vendors as it builds out its products for industry verticals, says Sheila Ennis, a principal with investment bank McNamee Lawrence. As companies add mobile access to their business software, securing the applications becomes a bigger issue. "We'll see more build-out of mobile in the Oracle offerings," including security functions, Ennis predicted.**

**With BEA in play and Business Objects (BOBJ) merging with SAP (BOBJ), the biggest, most likely acquisition targets in software are effectively spoken for, she added. "But there's another layer of small companies about to become big companies," Ennis added.**

BEA began its pre-earnings "quiet period" Monday.