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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

RealPage, Inc.,  
Counter-Claimant,  
v.  
Yardi Systems, Inc.,  
Counter-Defendant.

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Case No. CV 11-00690 ODW (JEMx)  
**ORDER GRANTING IN PART AND DENYING IN PART COUNTER-DEFENDANT’S MOTION DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(6) [40] [Filed 06/16/11]**

**I. INTRODUCTION**

Pending before the Court is Counter-Defendant Yardi Systems, Inc.’s (“Yardi”) Motion to Dismiss Counter-Claimant RealPage, Inc.’s (“RealPage”) First Amended Counterclaim (“FACC”) pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. No. 40.) RealPage filed an Opposition to the instant Motion, to which Yardi filed a Reply. (Dkt. Nos. 44, 51.) Having carefully considered the papers filed in support of and in opposition to the instant Motion, the Court deems the matter appropriate for decision without oral argument. *See* Fed. R. Civ. P. 78; L.R. 7-15. For the following reasons, Yardi’s Motion to Dismiss is **GRANTED in PART** and **DENIED in PART**.

## II. FACTUAL BACKGROUND

1  
2 RealPage and Yardi are competitors in the real property management and  
3 accounting business. (FACC ¶¶ 1, 2.) Perhaps Yardi’s greatest success has been its  
4 popular Voyager software – a computer program used to integrate property management  
5 functions and accounting. (FACC ¶¶ 2, 39.) Voyager can be installed on a computer –  
6 known as the “on-premises” approach – or clients can remotely access their version of  
7 the program stored on Yardi’s servers via the Internet – known as the Application Service  
8 Provider (“ASP”) approach. (*Id.*) RealPage, on the other hand, markets a version of  
9 cloud computing it calls Software-as-a-Service (the “SaaS”), whereby it offers  
10 “vertically-integrated” systems and support designed specifically to address the needs of  
11 multifamily real estate owners and property managers throughout the United States.  
12 (FACC ¶ 3.) The SaaS allows RealPage clients to aggregate applications from multiple  
13 software providers into a single system, which is stored on RealPage’s servers and can  
14 be remotely accessed by the client via the Internet. (FACC ¶ 4.) Both the ASP approach  
15 and SaaS require clients to pay an additional fee for the service. (FACC ¶¶ 2, 4.)  
16 RealPage claims the greatest benefit of the SaaS is that it involves only a single version  
17 of software code accessed by all clients, thus requiring developers of third-party  
18 applications to maintain only one version of their code and causing the cost of ownership  
19 to be reduced. (FACC ¶ 5.) Yardi’s ASP approach requires a different code stream for  
20 each client resulting in higher-end costs. (*Id.*)

21 RealPage alleges that rather than innovate and invest in a superior cloud system,  
22 Yardi sought to impede and sabotage the growth of the SaaS in an effort to stay  
23 competitive with, and not lose business to, RealPage. (FACC ¶ 12.) One way in which  
24 Yardi allegedly sought to impede and sabotage RealPage was by and through Joe Hendrix  
25 (“Hendrix”), an employee of a significant client of both Yardi and RealPage (“Client X”).  
26 (FACC ¶ 30.) While at Client X, Hendrix moved the company’s data center to the SaaS.  
27 (FACC ¶¶ 29, 30.) Recognizing Client X would no longer have need for his services  
28 after its IT department was outsourced to RealPage, Hendrix interviewed for and was  
hired as the Chief Information Officer at RealPage. (FACC ¶ 30.) Per Client X’s request,  
Hendrix was permitted to wind down his responsibilities with Client X while also  
working for RealPage, but he was subject to the provisions of a Mutual Confidentiality  
Agreement. (FACC ¶¶ 30, 31.) This agreement indicated that Hendrix was forbidden to

1 disclose any propriety information regarding RealPage’s business model, strategy, or  
2 current and prospective clients for two year from the date of the contract. (FACC ¶ 31.)

3 RealPage further alleges that, at this same time and with Yardi’s knowledge,  
4 Hendrix was acting as a mole for Yardi. (FACC ¶ 32.) As such, Hendrix provided Yardi  
5 with: (a) RealPage data center and disaster recovery architecture; (b) RealPage  
6 technology used to monitor and improve the operation of third-party applications; (c)  
7 RealPage process methods for change, problem, and release management; (d) detailed  
8 and proprietary descriptions of the SaaS; and (e) the confidential details of RealPage’s  
9 bids for large Yardi clients. (FACC ¶¶ 32, 33.) Furthermore, after participating in sales  
10 calls, strategy discussion, and receiving information regarding RealPage hardware and  
11 software, Hendrix abruptly announced he had accepted a position with Yardi to expand  
12 its Texas operations. (FACC ¶ 32.) Then, within three weeks of Hendrix departure from  
13 RealPage, Yardi began offering a vertically-integrated service called Yardi Cloud  
14 Services, allegedly modeled on the SaaS. (FACC ¶ 34.)

15 RealPage also claims Yardi initiated a campaign to force its Voyager clients,  
16 through threats and intimidation, into anti-competitive exclusionary contracts, the terms  
17 of which allegedly stated that unless clients agreed not to use the SaaS, they would face  
18 termination of their licencing agreements. (FACC ¶ 39.) Moreover, because Voyager  
19 is a critical back-office application without a suitable alternative program, businesses  
20 faced high switching costs if they were to terminate their license agreements with Yardi  
21 and change platforms. (*Id.*) Examples of this misconduct was allegedly manifested in  
22 relation to five RealPage clients (“Clients 1-5,” respectively).

23 Client 1, a large property management firm and user of Voyager, entered into a  
24 Letter Agreement for Interim Services with RealPage (the “Letter Agreement”). (FACC  
25 ¶ 42.) The Letter Agreement indicated, among other things, that Client 1’s affiliate would  
26 continue to support any Yardi applications until RealPage and Client 1 entered into an  
27 additional agreement, called the Cloud Service Agreement, at a later date. (Reply, Exh.  
28 1 at 2, 6.) RealPage alleges that Yardi would not modify its licensing agreement to allow  
Client 1 to use Voyager on the SaaS; rather it “advised Client 1 that it could not continue  
with the Letter Agreement for Interim Services or any future contemplated agreements  
with RealPage.” (*Id.*) Subsequently, Client 1 announced that it could not use the SaaS,  
and RealPage was deprived of over \$100,000 annually. (*Id.*)

1 Client 2, a top ten property management firm and user of Voyager, moved to  
2 RealPage’s SaaS for most of its IT needs, including the hosting of Voyager. (FACC ¶  
3 43.) Although Yardi had initially refused to bid for Client 2’s third party hosting and  
4 outsourcing of related IT services, Hendrix, who had participated in sales calls to Client  
5 2 and acquired substantial confidential information including detailed bid information,  
6 strongly encouraged Yardi to recapture Client 2’s business. (FACC ¶¶ 43, 44.) Yardi  
7 consequently aggressively bid for Client 2’s business.<sup>1</sup> (*Id.*) Additionally, Clients 2-A  
8 and 2-B, both customers of Client 2, were affected by Yardi’s campaign against RealPage  
9 in that Yardi would not allow RealPage to implement Client 2-A’s software interface, nor  
10 would Yardi allow RealPage to support Client 2-B’s upgraded software. (FACC ¶ 46.)

11 Client 3, another multifamily and commercial real estate owner, agreed to move  
12 its data center to the SaaS. (FACC ¶ 47.) During the migration, however, Yardi  
13 allegedly demanded that Client 3 not use the SaaS, nor associate itself with RealPage.  
14 (*Id.*) Subsequently, Client 3 decided not to use the SaaS to host its Voyager software and  
15 RealPage lost the revenue it would have generated managing that application. (*Id.*)

16 RealPage also alleges Yardi repeatedly interfered with RealPage’s subsidiary  
17 consulting company, EverGreen, and EverGreen’s relationships with its existing and  
18 prospective consulting clients. (FACC ¶ 48.) One such instance occurred when  
19 EverGreen was in the process of negotiating a consulting contract with Client 4. (*Id.*)  
20 Negotiations were supposedly interrupted, however, when Yardi told Client 4 that it  
21 would not work with EverGreen, and Client 4 – not wanting to “be a casualty in” a  
22 strained relationship between the two companies – decided not to enter into the consulting  
23 contract. (*Id.*)

24 Finally, RealPage alleges Yardi interfered with Client 5’s ability to transition from  
25 Voyager to RealPage’s SaaS property management software, OneSite. (FACC ¶ 49.)  
26 Yardi allegedly accomplished this by changing its practice of allowing transitioning  
27 clients to maintain read-only access to historical data on Voyager, and supposedly  
28 intending to cut off Client 5’s access in the future. (*Id.*)

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<sup>1</sup> The FACC does not indicate whether Yardi was successful at recapturing Client 2’s business or if Client 2 remained with RealPage.

1 In response to Yardi's January 24, 2011 Complaint, RealPage filed a Counterclaim  
2 on March 28, 2011, followed by the FACC on May 18, 2011. The FACC proceeds on  
3 six claims: (1) misappropriation of trade secrets; (2) violation of Section 1 of the Sherman  
4 Antitrust Act; (3) violation of the California Cartwright Act; (4) intentional interference  
5 with a contract; (5) intentional interference with a prospective economic advantage; and  
6 (6) unfair competition in violation of the California Business and Professions Code  
7 section 17200, also known as the Unfair Competition Law ("UCL"). Subsequently, Yardi  
8 filed the instant Motion to Dismiss on June 16, 2011.

### 9 III. LEGAL STANDARD

10 "To survive a motion to dismiss for failure to state a claim under Rule 12(b)(6), a  
11 complaint generally must satisfy only the minimal notice pleading requirements of Rule  
12 8(a)(2)." *Porter v. Jones*, 319 F.3d 483, 494 (9th Cir. 2003). Rule 8(a)(2) requires "a  
13 short and plain statement of the claim showing that the pleader is entitled to relief." Fed.  
14 R. Civ. P. 8(a)(2). For a complaint to sufficiently state a claim, its "[f]actual allegations  
15 must be enough to raise a right to relief above the speculative level." *Bell Atlantic Corp.*  
16 *v. Twombly*, 550 U.S. 544, 555 (2007). Dismissal under Rule 12(b)(6) can be based on  
17 "the lack of a cognizable legal theory" or "the absence of sufficient facts alleged under  
18 a cognizable legal theory." *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir.  
19 1990). Mere "labels and conclusions" or a "formulaic recitation of the elements of a  
20 cause of action will not do." *Id.* Rather, to overcome a 12(b)(6) motion, "a complaint  
21 must contain sufficient factual matter, accepted as true, to state a claim to relief that is  
22 plausible on its face." *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (internal quotation  
23 marks omitted). "The plausibility standard is not akin to a probability requirement, but  
24 it asks for more than a sheer possibility that a defendant has acted unlawfully. Where a  
25 complaint pleads facts that are merely consistent with a defendant's liability, it stops short  
26 of the line between possibility and plausibility of entitlement of relief." *Id.* (internal  
27 citation and quotation marks omitted).

28 When considering a 12(b)(6) motion, a court is generally limited to considering  
material within the pleadings and must construe "[a]ll factual allegations set forth in the  
complaint . . . as true and . . . in the light most favorable to [the plaintiff]." *See Lee v. City*  
*of L.A.*, 250 F.3d 668, 688 (9th Cir. 2001) (citing *Epstein v. Washington Energy Co.*, 83  
F.3d 1136, 1140 (9th Cir. 1996)). A court is not, however, "required to accept as true

1 allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable  
2 inferences.” *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001).<sup>2</sup>

#### 3 IV. DISCUSSION

4 Yardi argues that five of RealPage’s counterclaims fail to state any claim upon  
5 which relief can be granted.<sup>3</sup> First, Yardi contends RealPage’s antitrust claims under the  
6 Sherman Antitrust Act and the California Cartwright Act fail to: (a) properly allege *per*  
7 *se* tying, (b) define the relevant market affected by Yardi’s alleged conduct, (c) allege  
8 market power, (d) allege harm to competition, and (e) identify any agreement in restraint  
9 of trade. Second, Yardi argues RealPage’s claim for intentional interference with a  
10 contract does not allege an actual breach or disruption of any contract between RealPage  
11 and a third party. Third, Yardi contends that the claims for intentional interference with  
12 a prospective economic advantage and unfair competition fail to the extent they rely on  
13 RealPage’s flawed antitrust and contractual interference claims. The Court addresses  
14 each argument in turn.

#### 15 A. REALPAGE’S ANTITRUST CLAIMS

16 RealPage brings two claims under federal and state antitrust statutes: (1) 15 U.S.C.  
17 § 1 (“ § 1”), or the Sherman Antitrust Act; and (2) the California Cartwright Act – section  
18 16727 of the California Business and Professions Code.<sup>4</sup> While § 1 prohibits “[e]very  
19 contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade  
20 or commerce . . . ,” the Supreme Court has narrowed its definition to only prohibit  
21 unreasonable restraints of trade. *See State Oil Co. v. Khan*, 522 U.S. 3, 10 (1997). In this  
22 case, Yardi challenges RealPage’s antitrust claims on the ground that RealPage fails to

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23 <sup>2</sup> To the extent the Court relies on any documents not attached directly to the FACC, those  
24 documents are mentioned in the FACC and are thereby incorporated by reference. Furthermore, “[a]  
25 trial court may presume that public records are authentic and trustworthy,” *Gilbrook v. City of*  
*Westminster*, 177 F.3d 839, 858 (9th Cir.1999), and, thus, fall within the purview of Federal Rule of  
Evidence 201. *See Lee v. City of L.A.*, 250 F.3d 668, 688 (9th Cir. 2001).

26 <sup>3</sup> Yardi does not bring any argument in the instant Motion against RealPage’s first claim for  
27 misappropriation of trade secrets. In light of the allegations levied against Yardi for willfully and  
maliciously misappropriating RealPage’s trade secrets by means of Hendrix, (see FACC ¶¶ 51-57), and  
because Yardi failed to provide any argument to the contrary, this claim survives the Motion to Dismiss.

28 <sup>4</sup> While the FACC merely states in a head note that RealPage is bringing its third counterclaim  
under the California Cartwright Act, it does not allege any specific section under the Act. (FACC at 28.)  
Therefore, the Court is forced to rely upon RealPage’s Opposition which makes reference to section  
16727. (Opp’n at 5.)

1 allege either a “rule of reason” or a *per se* tying agreement. (Mot. at 6-7; Reply at 2-3,  
2 6, 12.)

3 Both § 1 and section 16727 prohibit illegal tying arrangements. *Blough v. Holland*  
4 *Realty, Inc.*, 574 F.3d 1084, 1088 (9th Cir. 2009); *Nicolosi Distrib., Inc. v. BMW of N.A.*,  
5 No. 10-03256, 2011 WL 1483424, at \*2 (N.D. Cal. Apr. 19, 2011). “A tying arrangement  
6 is ‘an agreement by a party to sell one product but only on the condition that the buyer  
7 also purchase a different (or tied) product, or at least agree that he will not purchase that  
8 product from any other supplier.’” *Image Technical Service, Inc. v. Eastman Kodak Co.*,  
9 903 F.2d 612, 615 (9th Cir. 1990) (quoting *Northern Pac. Ry. Co. V. United States*, 356  
10 U.S. 1, 5-6 (1958)); *Blough*, 574 F.3d at 1088 (a tying arrangement is where a party ties  
11 “two products or services together, whereby ‘the seller conditions the sale of one product  
12 (the tying product) on the buyer’s purchase of a second product (the tied product).’”)  
(quoting *Cascade Health Solution v. PeaceHealth*, 515 F.3d 883, 912 (9th Cir. 2008)).

13 Before the Court attempts to analyze the five different ways Yardi argues RealPage  
14 failed to state an antitrust claim, it must first determine if there is a tying arrangement  
15 such that Yardi’s conduct would be subject the aforementioned antitrust statutes.  
16 RealPage asserts that the tying product, Yardi’s Voyager software, is tied to Yardi’s  
17 “anticompetitive exclusionary agreements,” which preclude Yardi clients from using  
18 Voyager on the SaaS. (FACC ¶ 59.) Based solely upon these criteria, Yardi’s Voyager  
19 program and its exclusionary licensing agreement appear to fall within bounds of an  
20 illegal tying agreement. The Court, however, cannot overlook the full definition of a tied  
21 product. As explained above, for an illegal tying arrangement to exist, the sale of the  
22 Voyager software must be conditioned upon the purchase of cloud computing, or at least  
23 the non-purchase of cloud computing from RealPage. Yet, the facts indicate that Voyager  
24 software does not have to be used with *any* cloud computing services. (FACC ¶¶ 2, 39.)  
25 Indeed, clients can elect to use the on-premise approach whereby they can install the  
26 software on their own computers and manage it themselves. (*Id.*) Thus, because Yardi  
27 does not tie the sale of Voyager with a tied product, *i.e.* the purchase of cloud computing  
28 or the non-purchase of cloud computing from RealPage, the facts as pleaded do not fit the  
definition of a tying arrangement. Therefore RealPage fails to allege that Yardi engaged  
in an illegal tying arrangement. Consequently, RealPage’s antitrust claims against Yardi  
fail and Yardi’s Motion is **GRANTED** as to these claims.

1                   **B. REALPAGE’S CLAIMS FOR INTENTIONAL INTERFERENCE WITH A**  
2                   **CONTRACT AND FOR INTENTIONAL INTERFERENCE WITH A PROSPECTIVE**  
3                   **ECONOMIC ADVANTAGE**

4                   As an initial matter, the only contract at issue in this case is the Letter Agreement  
5 between RealPage and Client 1. Indeed, RealPage does not allege there was a valid  
6 contract between it and Clients 2, 2-A, 2-B, 3, 4, 5, or that such a contract was breached  
7 by Yardi’s actions. RealPage does, however, allege that Yardi interfered with the  
8 prospective economic advantage as to all Clients. The Court first addresses the issues as  
9 they relate to Client 1.

10                   The elements of an action for intentional interference with a contract are ““(1) a  
11 valid contract between plaintiff and a third party; (2) defendant’s knowledge of this  
12 contract; (3) defendant’s intentional acts designed to induce a breach or disruption of the  
13 contractual relationship; (4) actual breach or disruption of the contractual relationship; and  
14 (5) resulting damage.” *Hahn v. Diaz-Barba*, 194 Cal. App. 4th 1177, 1197 (2011)  
15 (quoting *Quelimane Co. v. Stewart Title Guar. Co.*, 19 Cal. 4th 26, 55 (1998)). “A refusal  
16 to deal is one means by which a person may induce another to commit a breach of his  
17 contract with a third person.” Restatement (Second) of Torts § 766 cmt. k (1979). A  
18 claim for intentional interference with a prospective economic advantage is comprised of  
19 the same elements as intentional interference with a contract in that it requires evidence  
20 of an economic relationship with a probability of future economic benefit, but some  
21 additional wrongful conduct other than the alleged interference is required. *J.A. Savage*  
22 *v. Pacific Gas and Elec. Co.*, 21 Cal. App. 4th 434, 448 (Ct. App. 1994); *Korea Supply*  
23 *Co. v. Lockheed Martin Corp.*, 29 Cal. 4th 1134, 1153 (2003).

24                   The Letter Agreement provides that RealPage will not host the Yardi software, but  
25 that an affiliate of Client 1 will provide these hosting services. (Reply, Exh. 1 at 2.) While  
26 the Letter Agreement further states that RealPage will begin to host these services upon  
27 the execution of an additional agreement called the Cloud Service Agreement, the  
28 prospective Cloud Service Agreement never materialized. Thus, although contemplated,  
RealPage and Client 1 never had an actual agreement whereby RealPage would host any  
Yardi applications. Indeed, the contract only provides that Client 1’s affiliate will host  
these services. None of Yardi’s alleged actions interfere with Client 1’s affiliate’s ability  
to host these services. Consequently, RealPage’s claim for intentional interference with



1 a contract fails. Moreover, to the extent that RealPage argues that Yardi’s failure to  
2 modify the licensing agreement constitutes intentional interference with a contract, in light  
3 of the foregoing, this argument also fails. In essence, the prospective Cloud Service  
4 Agreement cannot be said to be an actual contract. Rather, it is a prospective economic  
5 advantage.

6 For Yardi to have interfered with RealPage’s prospective economic advantage as  
7 to Clients 1, 2, 2-A, 2-B, 3, 4, and/or 5, not only must the FACC properly plead the above  
8 mentioned elements for this tort, but RealPage must also “allege an act that is wrongful  
9 independent of the interference itself.” *CRST Van Expedited, Inc. v. Werner Enterprises,*  
10 *Inc.*, 479 F.3d 1099, 1108 (9th Cir. 2007). Here, RealPage alleges Yardi’s conduct was  
11 independently tortious or unlawful because Yardi restrained trade and competition in  
12 violation of the aforementioned antitrust law. (FACC ¶ 79.) Moreover, RealPage also  
13 claims Yardi acted wrongfully when it “used RealPage’s own trade secrets, obtained  
14 unlawfully by Yardi, to unfairly compete against RealPage and to interfere with  
15 RealPage’s client relationships.” (*Id.*)

16 To the extent RealPage bases Yardi’s wrongful conduct upon violation of antitrust  
17 law, the Court has already determined those claim to be improperly pleaded. Therefore,  
18 the Court finds any reliance upon them to be unavailing. To the extent RealPage  
19 claims Yardi used the proprietary information unlawfully provided to it by Hendrix as to  
20 interfere with any prospective economic advantage, it does so only as to Client 2. (FACC  
21 ¶ 43.) No such allegations exist as to Clients 1, 2-A, 2-B, 3, 4, and 5. Therefore, the  
22 Court need only to look at whether Yardi acted wrongfully in its alleged attempt to  
23 interfere with the prospective economic advantage between RealPage and Client 2, and  
24 whether RealPage has properly alleged all the elements of this tort against Yardi as to  
25 Client 2.

26 RealPage claims that its prospective economic relationship with Client 2 was  
27 damaged when, at Hendrix’s encouragement and with Hendrix’s possession of proprietary  
28 information, Yardi began to bid for Client 2’s third-party hosting services. The Court has  
29 already acknowledged that RealPage’s claim for misappropriation of trade secrets has not  
30 been challenged in the context of the instant Motion. Thus, for purposes of the instant  
31 Motion, the Court presumes that the FACC properly asserts Yardi acted wrongfully as to  
32 Client 2. It is also true that RealPage asserts a valid expectation between it and Client 2,

1 and that Yardi was aware of this expectation and intentionally sought to disrupt or  
2 interfere with the relationship. (*See* FACC ¶¶ 43-44, 77-78.) Yet, the FACC falls short  
3 of alleging any actual disruption or breach of the prospective economic relationship  
4 between RealPage and Client 2.

5 RealPage only alleges Yardi attempted to interfere with the prospective economic  
6 relationship between RealPage and Client 2 by using the unlawful proprietary information  
7 to aggressively bid for Client 2’s business. The FACC remains vague and ambiguous as  
8 to whether Yardi’s aggressive bids toward Client 2 had any effect upon the potential  
9 economic relationship or if it caused Client 2 to walk away from a potential contract with  
10 RealPage. Moreover, the FACC does not allege any damages caused to RealPage by  
11 Yardi’s actions towards Client 2. Rather, the FACC implies that Yardi’s attempts to  
12 intimidate Client 2 failed. (*See* FACC ¶ 46). Consequently, RealPage fails to properly  
13 plead the final two elements for intentional interference of a prospective economic  
14 advantage – actual breach and resulting damage. Accordingly, Yardi’s Motion is  
**GRANTED** as to both intentional interference claims.

### 15 C. REALPAGE’S UCL CLAIM

16 UCL section 17200, indicates that a claim may be brought against a party for any  
17 “unlawful, unfair, or fraudulent business act or practice . . . .” “An act is ‘unlawful’ under  
18 section 17200 if it violates an underlying state or federal statute or common law . . . . An  
19 act is ‘unfair’ if the act threatens an incipient violation of an antitrust law, or violates the  
20 policy or spirit of one of those laws because its effects are comparable to or the same as  
21 a violation of the law . . . . A practice is ‘fraudulent’ if members of the public are likely  
22 to be deceived . . . .” *Quintero Family Trust v. OneWest Bank, F.S.B.*, No.  
09-CV-1561-IEG, 2010 WL 392312, at \*12 (S.D. Cal. Jan. 27, 2010).

23 Yardi argues that because RealPage’s other claim fail, the UCL claim fails to the  
24 extent that it relies upon the other claims. RealPage’s claim for misappropriation of trade  
25 secrets, however, has not been challenged. Therefore, it provides a sufficient foundation  
26 for RealPage’s UCL claim against Yardi. Consequently, Yardi’s Motion is **DENIED** as  
27 to this claim.

### 28 V. CONCLUSION

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For of the foregoing reasons, RealPage’s claims against Yardi for misappropriation of trade secrets and violation of the UCL survive Yardi’s Motion to Dismiss. Accordingly, Yardi’s Motion to Dismiss is **DENIED** as to these claims. As to its antitrust and intentional interference claims, however, RealPage fails to properly state a claim upon which relief can be granted. Accordingly, Yardi’s Motion to Dismiss is **GRANTED** as to these claims. If it so chooses, RealPage may amend these claims if it can, in good faith, allege facts to support them. Any amended counterclaim must be filed within thirty (30) days of the date of this Order.

**IT IS SO ORDERED.**

August 11, 2011



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HON. OTIS D. WRIGHT, II  
UNITED STATES DISTRICT JUDGE