

Jury orders SAP to pay Oracle 1.3 billion dollars

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The logo of German professional software giant SAP. A US jury has ordered the firm to pay US rival Oracle 1.3 billion dollars in damages in a record-setting copyright infringement award.

A US jury has ordered German business software giant SAP to pay US rival Oracle 1.3 billion dollars in damages in a record-setting copyright infringement award.

"We're ecstatic," said Geoffrey Howard, a partner with the Bingham McCutchen law firm, a member of the Oracle trial team. "The jury recognized the value of the intellectual property stolen by SAP."

Oracle attorneys called the copyright damages award the highest ever and hailed the verdict as a resounding warning that stealing intellectual property from technology companies will not be tolerated.

SAP subsidiary TomorrowNow recovered and copied massive amounts of Oracle software and confidential data by posing as clients, according to court documents.

A customized software tool dubbed "Titan" was allegedly used to plunder Oracle's website of patches, updates, fixes and other programs crafted for Oracle's paying customers.

SAP admitted to the copyright infringement in legal "stipulations" that cleared the way for a jury trial regarding how much should be paid to Oracle in damages.

"SAP wanted to take responsibility," Oracle attorney David Boies said after the jury revealed its decision. "They now have the opportunity to do that and move on."

During closing arguments in the case being held in a federal court here, SAP attorney Robert Mittelstaedt conceded the copyright infringement by SAP and focused on minimizing any damage award.

"I'm not proud of this and SAP is not proud of this," Mittelstaedt said.

SAP will study its legal options before deciding whether to appeal the verdict or petition the judge to reduce the amount, a company spokesman told AFP in the courtroom.

SAP was interested in putting the unflattering case behind it, he added.

"We are, of course, disappointed by this verdict and will pursue all available options, including post-trial motions and appeal if necessary," head of SAP Americas media relations Jim Dever said in an emailed statement.

"This will unfortunately be a prolonged process and we continue to hope that the matter can be resolved appropriately without more years of litigation."

SAP could negotiate with Oracle to agree on a reduced settlement payout in exchange for not appealing the verdict.

Jurors interviewed after the verdict said that deliberations focused on how much SAP might have had to pay if it began licensing Oracle's copyrighted technology in 2005 instead of swiping it.

Award amounts discussed by the jury ranged from 519 million dollars to three billion dollars, according to the jury foreman, who declined to give his name.

"You have something and someone takes it and uses it, they've got to pay," said juror Joe Bangay, a 57-year-old auto body worker.

Jurors were convinced that top SAP executives were aware of what was taking place "every step of the way," according to the foreman.

He doubted that testimony by former SAP chief executive Leo Apotheker would have changed the outcome of deliberations.

Apotheker avoided efforts by Oracle's trial team to serve him a subpoena that would have compelled him to testify at trial.

Apotheker was recently hired by US computer giant Hewlett-Packard (HP) to replace Mark Hurd as chief executive, but HP refused to help track the former SAP boss down for the trial.

Apotheker was on the SAP board that unanimously approved a deal to buy US technology firm TomorrowNow, which copied massive amounts

of Oracle software and confidential data by posing as clients.

No matter what amount SAP winds up paying Oracle, the case threatens to cost the German firm its reputation as a trusted vendor of business software.

"This will cost SAP moving forward," said analyst Rebecca Wettemann of Nucleus Research. "Oracle is going to be asking whether you want to buy from an innovator or someone who is stealing others' innovations."

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