

Oracle wants SAP to pay billions for looted programs

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Attorneys for business software giant Oracle want a jury to order German rival SAP to pay billions of dollars for looting its software libraries for competitive advantage.

Lawyers for SAP have rejected the notion that the pilfering of programs was worthy of more than 40 million dollars, calling the reasoning for many times that amount "silliness" or "crazy."

Both companies made their pitches to jurors in a high-stakes copyright infringement damages trial playing out in a federal court in the California city of Oakland.

The panel returns on Tuesday for its first full day of deliberations.

Magistrate Phyllis Hamilton ordered jurors not to discuss the case outside the deliberation room or in online locales including Facebook, Twitter, LinkedIn and MySpace.

"I'm not proud of this and SAP is not proud of this," SAP attorney Robert Mittelstaedt said during closing arguments in which he conceded the copyright infringement by SAP and focused on minimizing any damage award.

"SAP is here to pay the damages now."

SAP was there, but its former chief executive Leo 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.

"I think it was too bad," Oracle lawyer David Boies said of Apotheker winning the game of hide-and-seek with process servers.

Apotheker was on the SAP board that unanimously approved a deal to buy US technology firm TomorrowNow, which recovered and copied massive amounts of Oracle software and [confidential data](#) by posing as clients.

TomorrowNow answered directly to the SAP board and was considered a "cornerstone" of the German company's business plan, according to Boies.

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.

Oracle says in court documents that SAP used a customized software tool dubbed "Titan" to plunder Oracle's website of patches, updates, fixes and other programs crafted for Oracle's paying customers.

"What SAP did was beyond the pale," said Bingham McCutchen law firm partner Geoffrey Howard, who is part of the Oracle trial team. "It was massive data scraping by SAP."

Oracle attorneys told AFP outside of court on Monday that the case was about protecting intellectual property key to the value of technology companies.

Boies told jurors that SAP owed Oracle the fair market value of its copyrighted software at the time the program plundering began in early 2005.

He suggested to jurors a range of 1.6 billion dollars to 3 billion dollars. He later declined to pinpoint what he thought damages should tally, only to say "multiples of billions."

"TomorrowNow was gaining traction and was a real threat," Boies told jurors. "The results were very enriching to SAP and very damaging to Oracle."

Mittelstaedt contended that Oracle value estimates were "self-serving" and not in keeping with the realities of the world of licensing copyrighted software.

Mittlestaedt parsed testimony at length in a bid to convince jurors that

fair compensation to Oracle was approximately 40 million dollars.

"We know SAP thought this was incredibly valuable because we have their documents," Boies argued. "We also know they wanted to disrupt [Oracle](#)."

US computer giant Hewlett-Packard named former SAP chief executive Apotheker as its new president and CEO in September.

Apotheker, 57, spent more than 20 years at SAP, one of the world's largest business [software](#) companies.

Apotheker replaced Hurd, who resigned as chief executive of HP after a sexual harassment probe uncovered subterfuge with company expenses.

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