

Oracle rejects \$272M SAP award, demands new trial

February 7 2012, By MICHAEL LIEDTKE , AP Technology Writer

Business software maker Oracle Corp. has turned down \$272 million in court-ordered damages from SAP AG in hopes of leaving a much bigger dent in its rival's pocketbook and reputation during a second trial over allegations of corporate theft.

The decision to extend the 5-year-old legal brawl had been expected since September. That's when a federal judge lowered a \$1.3 billion verdict awarded to Oracle by a jury that sat through a three-week trial filled with evidence depicting Germany's SAP as a high-tech bandit. U.S. District Judge Phyllis Hamilton lopped more than \$1 billion from the jury's award after concluding it was "grossly excessive."

Oracle demanded the new trial in a Monday court filing.

In doing so, Oracle will try to prove the jury got it right the first time while getting another chance to sully SAP.

"We are disappointed that Oracle has passed up yet another opportunity to resolve this case," SAP spokesman James Dever said Tuesday. "We will work to bring this case to a fair and reasonable end."

Oracle, which is based in Redwood Shores, Calif., declined to comment.

The case revolves around SAP's \$10 million acquisition of a small software services firm TomorrowNow that had promised to help corporate customers and government agencies maintain the applications

that they had purchased from Oracle.

After SAP took over TomorrowNow in 2005, Oracle uncovered evidence that TomorrowNow was breaking into Oracle's computers to steal instruction manuals and other technical information about copyrighted software.

SAP acknowledged much of the misconduct before the first trial began in 2010, but argued it shouldn't be penalized severely because it didn't gain that much from the stolen data. SAP estimated it picked up about \$40 million in revenue from the skullduggery, prompting it to set aside \$160 million for the damages that it thought it might have to pay.

Signaling it wanted much more money, Oracle seized on the first trial as a bully pulpit for protecting software copyrights. Oracle also sought to implicate some of SAP's top executives. It unsuccessfully tried to subpoena SAP's former top sales executive, Leo Apotheker, to testify about his knowledge about TomorrowNow's shady tactics. By that time, Apotheker had started an 11-month stint as CEO of Hewlett-Packard Co., giving Oracle a chance to use the first trial as a platform for tainting another rival.

Oracle is dueling with Hewlett-Packard in another legal battle in a California state court. That case, revolving around Oracle's decision to stop making software for HP systems that rely on a line of Intel Corp. microprocessors, is scheduled to go to trial in April.

Oracle shares fell 7 cents to \$28.93 in afternoon trading Tuesday.

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