

Apotheker a no-show in Oracle-SAP trial

November 19 2010, By JORDAN ROBERTSON , AP Technology
Writer

(AP) -- An industrial espionage trial between Oracle Corp. and SAP AG, two of the world's biggest business software makers, didn't feature after all the testimony of one of its most anticipated witnesses.

The evidence part of the three-week trial wrapped up Friday without an in-person appearance by the new CEO of Hewlett-Packard Co., Leo Apotheker, and without Oracle playing a videotaped deposition he gave.

The cat-and-mouse game of Oracle trying to force Apotheker to testify, and HP refusing to allow it, has captivated technology watchers and overshadowed Apotheker's start as head of the world's biggest technology company by revenue.

Oracle wanted Apotheker to testify because he was previously SAP's CEO.

But HP refused Oracle's subpoena and accused Oracle of harassing Apotheker.

Oracle hired investigators to track down Apotheker, but since he started the HP job Nov. 1, he wasn't spotted close enough to the federal courthouse in Oakland, where the case is being tried, for Oracle to serve him with the subpoena. The subpoena only applies within 100 miles of the courthouse, which includes HP's headquarters in Palo Alto.

HP has refused to disclose Apotheker's whereabouts.

Oracle is demanding billions of dollars in damages from SAP for software and customer support documents that SAP has admitted to stealing. SAP claims it owes only \$40 million. Closing arguments are expected next week.

HP got roped into the mess when it hired Apotheker to replace HP's former CEO, Mark Hurd, who was ousted after a sexual-harassment investigation.

Oracle insists that Apotheker oversaw the scheme at SAP. An Oracle lawyer, David Boies, said after Friday's hearing that Apotheker's videotaped deposition wasn't shown because it was taken two years ago, before [SAP](#) admitted to the theft. HP has said Apotheker had limited knowledge about the matter.

Oracle has already reaped a public relations bonanza from Apotheker's absence. The company is using it as another way to attack HP as the companies' longtime friendship has turned frosty over Oracle's entry into the HP stronghold of selling computer servers. Earlier, Oracle CEO Larry Ellison blasted HP for firing Hurd and promptly hired him to serve as an Oracle co-president.

HP is scheduled to report quarterly earnings Monday. Investors are awaiting commentary from Apotheker about his strategy for the company. HP is the world's biggest maker of personal computers and printers and is now a major player in technology services and computer networking as well.

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