

## **Oracle Says Rival Stole Its Software**

*Steve Lohr*

Oracle sued its rival SAP yesterday, accusing the big German software maker of intruding into its computer systems to carry out "corporate theft on a grand scale."

The companies are fierce competitors in the lucrative market for the business software that corporations use to manage their finances, human resources, sales and customer relations.

SAP is the industry leader. But Oracle, the leading maker of computer database software, has moved quickly to become No. 2 in the business-applications market, mainly through an acquisition spree, spending about \$20 billion in the last three years to buy two dozen companies.

The Oracle suit states that SAP repeatedly stole copyrighted software and other confidential information in a campaign to undermine Oracle and grab corporate customers that came to Oracle as part of its two largest business software acquisitions: PeopleSoft, for \$10.3 billion in early 2005, and Siebel, for \$5.85 billion, a purchase completed in 2006.

According to the suit, workers at an SAP subsidiary in Texas logged into an Oracle customer-support Web site, posing as current or recent Oracle customers like Merck, Honeywell, Bear Stearns, Abbott Laboratories, Smithfield Foods, the Texas Association of School Boards, and many others.

Then, from September 2006 to January 2007, SAP proceeded to make more than 10,000 illicit downloads of Oracle software and technical support documents, the suit states.

Both Oracle and SAP have aggressive campaigns to try to persuade corporations to switch to their products, offering big price discounts and technical assistance.

Oracle's suit contended that stolen software and expertise were in SAP's Safe Passage program, which sought to lure former PeopleSoft and Siebel users. "This theft," the suit states, "appears to be an essential — and illegal — part of SAP's competitive strategy against Oracle."

A spokesman for SAP said the company received the complaint just yesterday afternoon and would have no comment until its lawyers studied the details.

An Oracle spokesman said his company would not elaborate beyond its 43-page suit, filed in Federal District Court in San Francisco.

The suit says the losses to Oracle cannot be established "without an accounting of the income and gross profits the defendants have obtained through their wrongful and unlawful conduct." It seeks an injunction against use of any software or confidential information gained through intrusions, as well as unspecified punitive damages.

In its Safe Passage program, SAP offered continuing support for PeopleSoft products at 50 percent less than Oracle's price for annual software maintenance, even though SAP did not have access to PeopleSoft intellectual property or engineers, the Oracle suit noted. Later, after Oracle purchased Siebel, a leader in sales automation software, SAP made the same offer to Siebel users.

SAP, the suit stated, "purported to add full support for an entirely different product line — Siebel — with a wave of its hand."

"The economics, and the logic, simply did not add up."

"Oracle has now solved this puzzle," the suit added. "To stave off the mounting competitive threat from Oracle, SAP unlawfully accessed and copied Oracle's Software and Support Materials."

The illegal downloads, according to Oracle, were conducted from computers at an SAP subsidiary in Bryan, Tex. SAP bought the unit, called Tomorrow Now, in January 2005, just as Oracle's acquisition of PeopleSoft was closing.

Tomorrow Now, renamed SAP TN after the purchase, was founded by a pair of former PeopleSoft managers. Its business was to offer cut-rate maintenance and support fees for business software, by focusing only on support instead of investing in research and development for future versions of the business applications software.

In the suit, Oracle described in detail a few cases of suspected theft. In one case, Honeywell, a former Oracle customer that switched to SAP TN, had averaged just over 20 downloads a month from Oracle's customer support Web site before switching. In less than two weeks last January, soon after the switch, a user employing Honeywell's log-in identification code downloaded more than 7,000 software programs and support documents from the Oracle site, the suit stated.

In its investigation, Oracle traced the computer downloading the files to an Internet protocol address at SAP TN and, later, to an SAP TN employee, Wade Walden, whom the suit described as "a former PeopleSoft employee now employed by SAP."

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