

1 IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF TEXAS
2 MARSHALL DIVISION
3 VERSATA SOFTWARE, INC. * Civil Docket No.
 * 2:07-CV-153
4 VS. * Marshall, Texas
 *
5 * August 17, 2009
6 SAP AMERICA INC., ET AL * 8:30 A.M.

 TRANSCRIPT OF TRIAL
7 BEFORE THE HONORABLE CHAD EVERINGHAM
 UNITED STATES MAGISTRATE JUDGE
8 AND A JURY

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25 (Proceedings recorded by mechanical stenography,

1 Q. That -- that cannot be a good sign.

2 A. No.

3 Q. Okay. So how were you able to find a woman
4 who would be willing to marry you with this kind of
5 lifestyle?

6 A. It took a long time, and as it turns out, she
7 actually worked at Trilogy.

8 Q. Okay. Okay. All right. And when you were
9 traveling around the country, who -- who -- I understand
10 they were big companies, but who within those companies
11 were you talking to?

12 Were these the people who bought the kinds of
13 software you were selling and the kinds of software that
14 SAP sells or somebody different?

15 A. Oh, absolutely.

16 Q. Okay. Shift gears a little bit.

17 As you were in your three-year trek around the
18 country talking to these people, did you notice any
19 problems that they were having, any software problems,
20 that you didn't think were being addressed by the
21 products that were available at the time?

22 A. Yes.

23 Q. And high level, what area was that in?

24 A. The area was pricing.

25 Q. And can you give us a sense for these kinds

1 of -- the kinds of companies you were talking to? What
2 was the pricing problem? In other words, what were
3 their pricing operations like that made this so
4 challenging?

5 A. Well, I mean, the problem at the highest level
6 was just sales reps want to sell, right? And so you
7 have to be able to give the customer a price in order to
8 sell. If you go ask somebody, what's the price, and
9 they can't tell you, it doesn't help.

10 But the -- the nature of technology back then
11 was all these big companies had big centralized computer
12 systems.

13 So when a sales rep was out wining and dining
14 the customer, playing on the golf course, whatever, and
15 the customer would say, what's the price, the sales rep
16 couldn't tell them.

17 They either had to call the home office, or if
18 it was on the weekend, there was nobody to call, they
19 would have to go back, and they might have to wait a
20 couple of days.

21 So when the customer would ask for a price,
22 there's typically a delay. And at the time, laptop --
23 laptops were just coming out. They weren't that
24 powerful, so none of the system -- those central systems
25 at the time would run on a laptop.

1 So that was sort of the key thing that we were
2 trying to do, was what did the customer say; here's the
3 price, because you can't close the deal if you don't
4 know what the price is.

5 Q. Okay. And can you give us an example? Like
6 take a -- take a company like Whirlpool. I mean, do
7 they have a simple pricing structure, one size fits all
8 for all their product lines and all their customers, or
9 is it a more complicated endeavor than that?

10 A. Oh, no. It's far more complicated than that.

11 Q. Can you give us at least a little sense for
12 the complexity you saw in a company like a Whirlpool or
13 some of your other clients?

14 A. Well, someone like Whirlpool, they, obviously,
15 sell many, many products, first of all, but then they
16 sell them through different channels. I mean, you don't
17 necessarily walk into a Whirlpool store to actually go
18 buy Whirlpool. You'll walk into a Sears or something
19 like that.

20 And so at all of these different places, they
21 would have different part numbers, different model
22 numbers, different prices along the way, and actually,
23 even in different parts of the country, depended on how
24 much it cost to ship it.

25 In fact, you know, the same washing machine

1 could be a different price in Florida versus Texas and
2 California.

3 Q. Okay. And did the companies you talked to,
4 did they want the ability to have really complicated,
5 really flexible pricing, or did they -- was that not
6 that big a deal?

7 A. Oh, they didn't just want it; they needed it.
8 It was a reality.

9 Q. And I think you had mentioned the laptops.
10 This is back in the early to mid-1990s?

11 A. Yes.

12 Q. They weren't that powerful?

13 A. Correct.

14 Q. If you -- if you had software on a laptop and
15 you wanted to kind of dial back in to the home office,
16 how did that work back at that time as compared to
17 today?

18 A. Well, I mean, today you have the internet,
19 right? And so you pretty much just walk up to any
20 computer anywhere.

21 But at the time, at best, there were modems
22 and cellular modems that were slow and just didn't --
23 didn't handle it that well.

24 Q. Was the speed of the pricing system back at
25 that time more important or less important in terms of

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