

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 18, 2009  
SAP AMERICA INC., ET AL \* 8:30 A.M.

6  
7 TRANSCRIPT OF TRIAL  
BEFORE THE HONORABLE CHAD EVERINGHAM  
UNITED STATES MAGISTRATE JUDGE  
8 AND A JURY

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25 (Proceedings recorded by mechanical stenography,

1 adjustments, condition tables, condition records. Those  
2 things aren't very familiar to people who haven't spent  
3 a long time studying pricing.

4 But, actually, it's very similar to the  
5 process of fishing, and so we're going to use an analogy  
6 where the old R/3 does fishing by casting a line and  
7 trying to catch one fish at a time, and then we're going  
8 to introduce a different analogy for the patented  
9 technology.

10 Q. And this is with respect to the problem of too  
11 many accesses?

12 A. Yes, sir. That's what this -- this  
13 illustration focuses on; there are too many accesses.

14 Q. Well, let's turn to your animation, and I'll  
15 let you explain it, if you could, while we watch it.

16 Let's watch the first part.

17 What do you show here, Dr. Nettles?

18 A. Well, this is the customer hierarchy that was  
19 found in the patent, and we've seen this customer  
20 hierarchy a number of times already in this case. And  
21 we'll, I'm sure, see it a large number of times  
22 subsequently.

23 So we thought it would be a good example of a  
24 hierarchy to use as an illustration.

25 Q. Should we go to the next part?

1 A. We should.

2 Q. What are you showing here?

3 A. Well, it's a little bit easier to understand  
4 the fishing analogy if the hierarchy, instead of going  
5 from left to right, goes up and down, and so we rotate  
6 it, and now next we're going to redraw it.

7 Q. Let's go to the next. What do you show here?

8 A. Well, this is the same hierarchy, but it's  
9 been redrawn so it's a little bit easier to read. And  
10 we added to it a number of price adjustments. So we've  
11 been talking about retrieving price adjustments and  
12 applying price adjustments, and we've used the analogy  
13 that the price adjustments are fish.

14 And in the process of searching for a price  
15 adjustment, it's -- the analogy is it's going to be like  
16 trying to catch a fish.

17 Q. So each of these fish is representing a price  
18 adjustment?

19 A. That's correct. And one of the things that's  
20 important to notice is that there's not a price  
21 adjustment on every node of the tree. Some places there  
22 aren't any fish; there aren't any price adjustments.

23 And so you might not be able to catch a fish  
24 in those locations.

25 Q. And by nodes, you mean every spot on the tree?

1 A. Yes, sir. All the different places inside the  
2 tree, in computer science speak, we call them nodes.

3 Q. Should we go to the next part?

4 A. Yes, sir.

5 Q. What are we showing here?

6 A. Well, here we're going to try to calculate a  
7 price for Frank, and so the first thing we're going to  
8 do is we're going to go and look and see if there's a  
9 price adjustment of fish on Frank.

10 Q. Frank is right here (indicates)?

11 A. That's right.

12 And what we see here is that we failed, and  
13 so -- because there's no price adjustment there, and so  
14 we've represented that with a try icon.

15 Q. We didn't find a price adjustment there?

16 A. That's right.

17 Q. Let's go to the next part. Now, what are you  
18 showing?

19 A. Well, the way that these pricing systems work  
20 is if they don't find a price at one level of the  
21 hierarchy, they move up the hierarchy. And so we see  
22 here we've moved up to Texas, because Frank lives in  
23 Texas. And, again, we've tried to catch a fish, but we  
24 haven't succeeded.

25 MR. POLLINGER: Let's go to the next

1 part.

2 Q. (By Mr. Pollinger) What are you showing here;

3 another try?

4 A. Now we're trying with states; again, we fail.

5 Q. And then this next part?

6 A. We tried for the U.S., and we fail.

7 Q. And this next part?

8 A. So now we try for geography, and we actually  
9 get a fish.

10 Q. We got a price adjustment?

11 A. That's right. We got a price adjustment.

12 And so what we've done in this particular example is we

13 try, try, try again, and finally, we've been successful.

14 And then finally --

15 Q. What happens next?

16 A. We stop. Once we've caught a fish, there's no  
17 reason to keep going up the hierarchy and looking for  
18 more fish, because, as we talked about yesterday, we  
19 want the most specific adjustment. And that's going to  
20 be the deepest adjustment in the tree.

21 And in our analogy, it's going to be the  
22 biggest fish. So we want to catch the biggest fish we  
23 can that's along the hierarchical path from where we  
24 started.

25 Q. So the hierarchical path from Frank would have

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