



## SAP Hit With \$345M Verdict In Versata Patent Suit

By **Roxanne Palmer**

Law360, New York (May 13, 2011) -- A federal jury in Texas found Friday that SAP America Inc. infringed three claims of a Versata Software Inc. patent for product pricing software and awarded Versata \$260 million in compensation and \$85 million in royalties.

SAP America, the U.S. subsidiary of German software company SAP AG, and Austin, Texas-based Versata have been fighting since 2007, when Versata filed suit claiming SAP's Business Suite enterprise software infringed five of its patents.

The Texas federal court has narrowed the scope of the case several times since then to one patent, U.S. Patent Number 6,553,350 B2, which describes a "Method and apparatus for pricing products in multilevel product and organizational groups."

In January, U.S. Magistrate Judge Charles Everingham IV set aside a previous \$139 million verdict awarded in August 2009 and ordered a new trial on damages, saying the award was based on inadmissible testimony from Versata damages expert Christopher Bakewell.

"In light of the Federal Circuit's recent decisions on damages, the court is persuaded that it erred when it admitted Mr. Bakewell's testimony and his damages model," Judge Everingham said. "That error affected SAP's substantial rights. The court, therefore, orders a new trial on damages."

In an October 2009 motion for a new trial on damages, SAP argued that Bakewell estimated a royalty based on the entire market value of the defendant's accused products, not accounting for the value of the nonpatented features in the software. It said that Bakewell's testimony urged the jury to award unreasonable damages.

SAP claimed that once that expert testimony was excluded, the evidence at the trial should support a damages award of no more than \$2.03 million.

Attorneys for the parties could not be immediately reached for comment on Friday. The patent-in-suit is U.S. Patent Number 6,553,350 B2.

Versata is represented by McKool Smith PC and **Joseph Y. Ahmad, Demetrios Anaipakos, Steven J. Mitby and Amir H. Alavi** of [Ahmad Zavitsanos & Anaipakos PC](#).

SAP is represented by James R. Batchelder and Lauren N. Robinson of Ropes & Gray LLP, Tom Melsheimer, Benjamin C. Elacqua, John W Thornburgh and Justin M. Barnes of Fish & Richardson PC, Mario Moore of Morgan Lewis & Bockius LLP, Robert M. Parker and Robert C. Bunt of Parker Bunt & Ainsworth PC, Robert William Schroeder III of Patton Tidwell & Schroeder LLP and Susan M. Krumpitsch of WilmerHale.

The case is Versata Software Inc. et al. vs. SAP America Inc. et al., case number 2:07-cv-00153, in the U.S. District Court for the Eastern District of Texas.

--Additional reporting by Carolina Bolado. Editing by Andrew Park.