

Update: Oracle Refuses Significant Damages Reduction, Still Dazzled By Potential Billion-Dollar Verdict

February 9, 2012 by [Joshua S. Jarvis](#)



When last we looked in on the dispute between [Oracle](#) and [SAP](#) after SAP's acquisition of TomorrowNow revealed some unfortunate baggage in the form of extensive copyright infringement, Oracle was flush with a \$1.3 billion federal jury award, [with SAP vowing to reduce the verdict by any means necessary](#).

After the initial jury award, SAP argued to [Judge Phyllis Hamilton](#) that [the verdict should be reduced](#) to between \$28 million and \$408.7 million, or that in the alternative a new trial should be ordered to assess damages based on proper damages calculations, maintaining that it was improper for a copyright infringement award to be grounded in "actual damages" based on *potential* licenses (and fictional negotiations for same) of the copyrighted works at issue. Oracle, [in its own "conditional" motion for a new trial](#), maintained that the damages verdict was proper and supported by the evidence. Judge Hamilton [agreed](#) in September 2011 that the \$1.3 billion award was contrary to the weight of the evidence, and "grossly exceeded the actual harm to Oracle in the form of lost customers," and remitted the verdict to a (comparatively) mere \$272 million.

On Monday, Oracle [rejected the reduced award](#), electing instead for a new trial, explaining that "accepting the remittitur would force Oracle to risk waiving its right to appeal the Court's decision on the motions for judgment as a matter of law and for a new trial." Perhaps more importantly, because Oracle's objective is "to obtain clarification of the law and, if it is right about what the law is and what the evidence supports in this case, vindicate the verdict of the jury," accepting the remittitur would be contrary to Oracle's interests.

Time will tell if Oracle will be able to secure a final verdict a bit closer to the initial \$1.3 billion jackpot.

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