

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**VERSATA SOFTWARE INC., et al.,**

**Plaintiffs,**

**v.**

**SAP AMERICA, INC. and SAP AG,**

**Defendants.**

**2:07-CV-153 CE**

**DEFENDANTS' NOTICE OF APPEAL**

Defendants SAP America, Inc. and SAP AG (collectively, "SAP") hereby appeal to the United States Court of Appeals for the Federal Circuit from the Court's September 9, 2011 entry of Final Judgment (Dkt. No. 576), and the Court's September 26, 2011 entry of its Original and Amended Permanent Injunctions (Dkt. No. 573 and 586), and all orders, objections, opinions, and findings underlying the same, including but not limited to the following:

1. Order transferring case to Judge T. John Ward (Dkt. No. 34);
2. Order adopting Memorandum Opinion and Order regarding Claim Construction (Dkt. No. 102);
3. Order denying SAP's Motion for Clarification (Dkt. No. 150);
4. Claim Construction Order (Dkt. No. 203);
5. Order disposing of various discovery motions, including granting Versata's Motion for Leave to Serve Third Party Subpoenas (Dkt. No. 241);
6. Order denying Versata's Motion to Compel and precluding SAP from relying on certain non-infringement theories (Dkt. No. 270);

7. Order granting in part and denying in part the Parties' Motions *in Limine* (Dkt. No. 272);
8. Order carrying SAP's Motion *in Limine* to Limit the Testimony of Christopher Bakewell (Dkt. No. 281);
9. Order overruling and sustaining the Parties' Evidentiary Objections (Dkt. No. 282);
10. Order carrying and denying SAP's Motions for Summary Judgment (Dkt. No. 283);
11. Jury Verdict (Dkt. No. 318);
12. Order denying SAP's Motion for Judgment as a Matter of Law for Invalidity (Dkt. No. 388);
13. Order granting in part and denying in part SAP's Motions for Judgment as a Matter of Law (Dkt. No. 409);
14. Order denying SAP's Affirmative Defense and Counterclaim of Inequitable Conduct (Dkt. No. 410);
15. Order granting in part and denying in part SAP's Motions for Judgment as a Matter of Law, Remittitur, or New Trial (Dkt. No. 412);
16. Order denying SAP's request for final and/or Rule 54(b) judgment and allowing Plaintiff to pursue a lost profit theory (Dkt. No. 425);
17. Order carrying in part and denying in part SAP's Motion to Exclude the Expert Testimony of Neeraj Gupta, Christopher Bakewell, and Roy Weinstein, granting Versata's Motion to Exclude Opinions of SAP's Experts Dr. M. Ray Mercer and Michael

J. Wagner, and granting Versata's Motion to Strike Portions of the Expert Report of Stephen L. Becker and Michael J. Wagner (Dkt. No. 499);

18. Order granting in part and denying in part the Parties' Motions *in Limine* (Dkt. No. 500)

19. Memorandum Opinion and Orders denying-in-part SAP's Motion to Exclude the Expert Testimony of Neeraj Gupta, Christopher Bakewell, and Roy Weinstein, specifically as related to lost profits (Dkt. Nos. 506 and 570);

20. Jury Verdict (Dkt. No. 515);

21. Memorandum Opinion and Order denying SAP's Motion for Judgment as a Matter of Law on Issues Relating to Damages or in the alternative for New Trial or Remittitur (Dkt. No. 571);

22. Memorandum Opinion and Order granting Plaintiff's Motions for Permanent Injunction (Dkt. No. 572);

23. Memorandum Opinion and Order denying-in-part SAP's Motion for Judgment as a Matter of Law on Issues Relating to No Pre-Suit Damages and New Trial pursuant to § 287(a) (Dkt. No. 574);

24. Memorandum Opinion and Order denying SAP's Motion for Judgment as a Matter of Law and New Trial Regarding Liability Issues (Dkt. No. 575); and

25. All other orders, opinions, findings and/or conclusions of this Court adverse to SAP, including without limitation all adverse decisions during the first and second trials in this matter.

Payment of the required fee of \$455, representing the \$450 fee for docketing a case on appeal specified in 28 U.S.C. § 1913, and the \$5 fee for filing a notice of appeal specified in 28 U.S.C. § 1917, is provided with this Notice of Appeal.

Dated: October 11, 2011

Respectfully submitted,

FISH & RICHARDSON P.C.

By: /s/ Thomas M. Melsheimer

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Counsel for Defendants  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on October 11, 2011, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

*/s/ Michael A. Bittner*

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Michael A. Bittner