

Compuware, IBM settle out of court

BY JEWEL GOPWANI

FREE PRESS BUSINESS WRITER

March 23, 2005

A \$400-million settlement that resolves high-stakes litigation between International Business Machines Corp. and Compuware Corp. could be the beginning of a new relationship between two fierce rivals in the software industry.

But technology and financial experts say the settlement -- in which IBM will pay Compuware for software licenses and services -- won't do much more than add to Compuware's bottom line.

For three years, Compuware has claimed that IBM stole its trade secrets to develop competing software and then tried to price Compuware out of the market.

The settlement will not affect Armonk, N.Y.-based IBM's prices. The two companies will still compete -- though it seems they will do so more amicably now that the trial is over.

"In some ways this has been very beneficial to Compuware's business," Compuware Chairman and Chief Executive Officer Peter Karmanos Jr. said during a conference call with journalists and analysts Tuesday.

"It has helped us focus now more than ever before on delivering value to our customers and ensuring customers can see and understand that value."

Compuware and IBM have been slugging it out for a few years in the marketplace and for the last five weeks in U.S. District Court in Detroit.

The case has been watched closely in Detroit because Compuware Corp., which employs about 4,000 people in its new downtown building, has been an anchor in Detroit's revitalization. In its 2004 fiscal year, which ended in March, it generated \$1.26 billion in revenue.

RELATED CONTENT

- [Jurors: Compuware presented a solid case](#)

SETTLEMENT TERMS

Compuware Corp. and IBM Corp. have settled their case in federal court. Here are the highlights:

- IBM will purchase \$140 million of Compuware software and another \$260 million in Compuware services over a 4-year period.
- IBM will start sharing information again with Compuware about its

IBM, which posted \$96.5 billion in revenue last year, employs more than 1,700 people in Michigan.

At issue in the case was software that manages data and diagnoses glitches in IBM mainframes -- powerful computers government agencies and large corporations use to handle high volumes of data and transactions. Compuware has sold its products File-AID and Abend-AID for decades. IBM started marketing its products, called File Manager and Fault Analyzer, in 2000.

Throughout the case, IBM denied Compuware's claims, saying it never used trade secrets to make its products and that it only developed products because Compuware charged too much for its versions, which ultimately threatened IBM's mainframe business.

The two sides had been negotiating for months. But those talks became more serious late last week. On Monday, during a court recess one side thought it had reached an agreement in the morning. The deal was off by late afternoon. It was on again by midnight. And this time it stuck.

"I think we always had a settlement and just in putting it on paper, scribing it, we ran into some little blips and bumps along the way. But eventually we all worked through it," said Thomas Costello Jr., Compuware general counsel.

Under the settlement, Compuware will sell \$400 million in software licenses and services to IBM for the next four years. The deal also allows both companies to share licenses for their patents for mainframe software and resolves two other related cases between the two companies.

A task force that the two companies will form should determine other details, such as whether IBM can resell its Compuware licenses to customers.

While Compuware talked about its new contract, IBM's comments instead focused on pricing.

"The key to the settlement is that IBM can distribute our software products in question at the prices we choose, which will benefit our customers," said IBM spokesman Tim Breuer.

IBM attorney Evan Chesler noted that Compuware didn't get the damages and injunction it sought in this case.

"It's a business agreement between two companies," Chesler said Tuesday.

Costello said that is what Compuware wanted.

"If either party had taken the verdict ... I'm sure the relationship would have been soured," Costello said. "We both agreed to turn it around and make something of it."

mainframe computers. That information will help Compuware when it makes new versions of its software for IBM mainframes.

- The two sides will sign a cross-licensing agreement for mainframe patents. That means neither Compuware nor IBM can sue the other for patent infringement.

Standard & Poor's equity analyst Zaineb Bokhari agreed that the deal sounds more like a business transaction than a legal settlement.

"The deal won't change the market for mainframe software. I think the competitive environment stays the way it is," she said. That means Compuware and IBM likely will still battle on price.

During the trial, Compuware Chief Operating Officer Tommi White said the company had to discount its products by as much as 80 percent.

Both White on the stand and Karmanos on Tuesday said the company had been fighting competition from IBM by creating an office dedicated to customer value and installing return-on-investment calculators in its software.

Customers should benefit from the settlement, said Dan Scholler, vice president of technology research services at Meta Group, a Stamford, Conn.-based tech research firm.

"Neither Compuware nor IBM is going to be put in the awkward position of having to raise prices," he said.

This agreement should help IBM and Compuware build a better relationship. It's a relationship Karmanos said he expects will grow.

"I'm committed to ensuring that IBM gets every penny worth of the value from the products and services they purchased," Karmanos said Tuesday.

The outcome also will reduce the company's legal expenses by \$20-\$40 million this year, Karmanos said.

Compuware shareholders traded 9 million shares of the company's stock Tuesday. That's more than three times the 2.6 million shares that usually change hands daily.

Compuware's stock price rose 4.6 percent to \$7.29 at the end of trading on Tuesday. IBM closed at \$89.50, down from \$89.61.

Contact **JEWEL GOPWANI** at 313-223-4550 or gopwani@freepress.com.

Copyright © 2005 Detroit Free Press Inc.