

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SOFTWARE AG, and)
SOFTWARE AG, INC.,)
)
Plaintiffs,)
)
v.) Civil Action No. 03-739 (GMS)
)
BEA SYSTEMS, INC.,)
)
)
Defendant.)

ORDER

WHEREAS on February 1, 2005, a teleconference was held in the above-captioned case to discuss various issues raised by the parties in their Joint Agenda Identifying Daubert Issues (D.I. 148);

WHEREAS the court announced at the teleconference that it would defer judgment on SAG's first request, relating to the expert testimony of Sandeep Chatterjee, and BEA's first request, relating to the expert testimony of George T. Liger, until it had an opportunity to further reflect on the matter;

WHEREAS after reviewing the transcript of the teleconference and considering the parties' arguments, the court holds that counsel for SAG conceded that Chatterjee is a qualified expert competent to testify on behalf of BEA regarding infringement (Tr. 7:24-25 (Mr Coston: "I don't disagree with Mr. Jabobs that Dr. Chattered can offer an opinion on infringement"));

WHEREAS the court will deny SAG's first request, but only insofar as it seeks to preclude Chattered from offering expert testimony on the issue of infringement; and

WHEREAS the court requires further submissions from the parties both on the general issue of the appropriate limits of expert testimony regarding infringement, and on the specific issue of how those limits should be applied in relation to the testimony of Chattered and Liger.

IT IS HEREBY ORDERED that:

1. SAG's request that the court preclude Chattered from testifying on the issue of infringement be DENIED; and
2. Each party shall submit an opening letter brief on the above-mentioned issues no more than five (5) pages in length by **Thursday, February 17, 2005**; and
3. Each party shall submit a responsive letter brief on the above-mentioned issues no more than

three (3) pages in length by Thursday, February 24, 2005.

Dated: February 10, 2005

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE