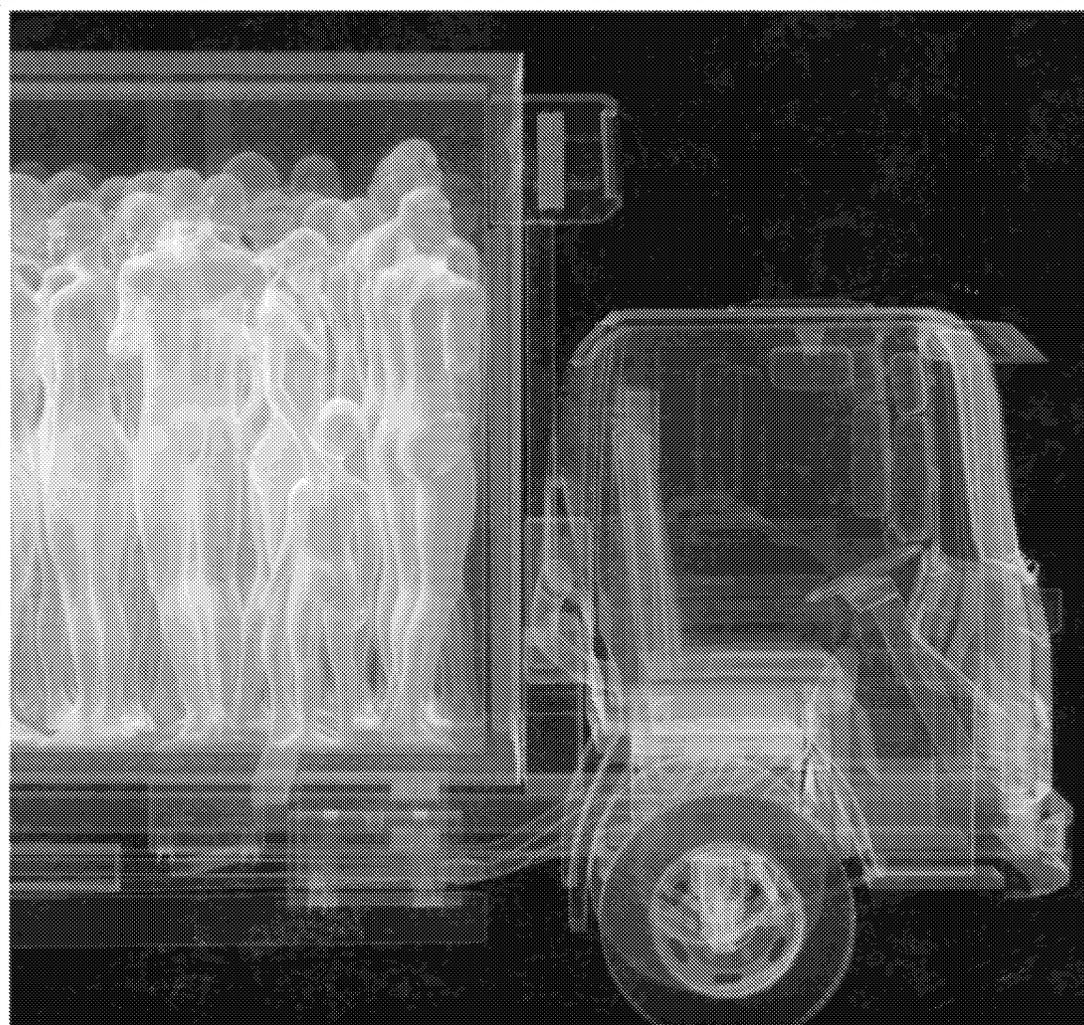


Exhibit A

DER SPIEGEL

Issue 37/September 5, 2015
Germany EUR 4.60



MERCILESS

The deadly business of the trafficking mafia

Among the rivals:
**The letter exchange
between Strauss and Augstein**

White collar thriller:
**Is SAP being blackmailed
by its former auditor?**

Basketball:
**Dirk Nowitzki – The
German American**

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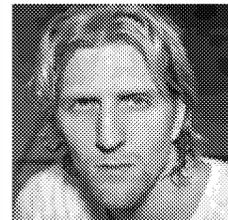
Matteo Renzi

He came as a modernizer who wanted to change Italy. Now he is facing political upheaval, because the rebels in his own party are opposed to his constitutional reform. Page 80.



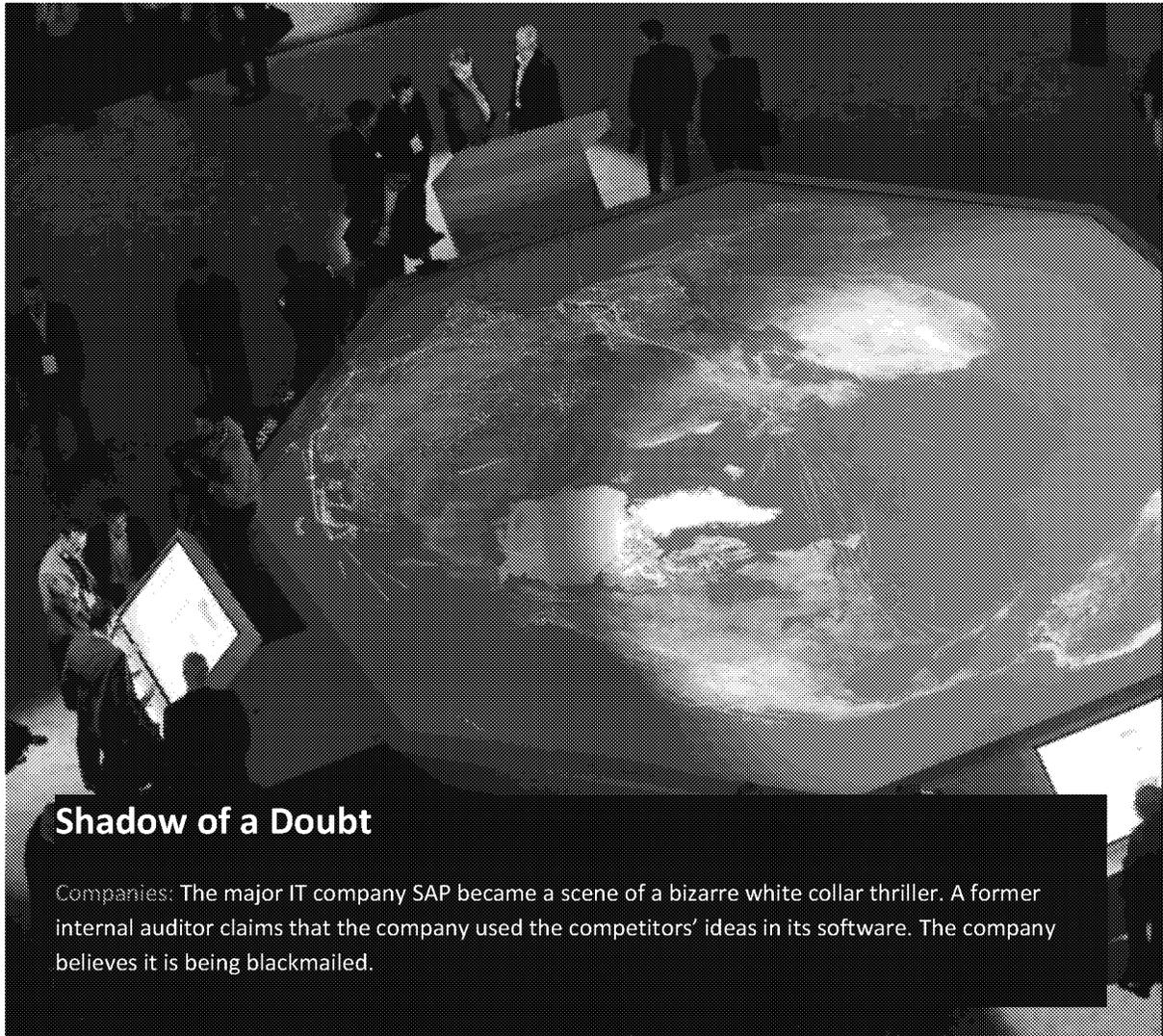
Jenny Erpenbeck

Literature as service to the society: In her novel "Go, went, gone", the author from Berlin deals with the topic of refugee suffering and describes how our country treats it. Page 126



Dirk Nowitzki

For years, he has been one of the NBA stars. Now the quiet Frank plays at the European basketball championship for Germany. The author Thomas Pletzinger accompanied Nowitzki and wrote homage to the idol. Page 96



Shadow of a Doubt

Companies: The major IT company SAP became a scene of a bizarre white collar thriller. A former internal auditor claims that the company used the competitors' ideas in its software. The company believes it is being blackmailed.

The man who came to work at SAP four years ago could be a hero - the one who came to uncover injustices.

He could also be the opposite - an anti-hero, a show-off, who thinks too much of himself and his suspicions, and is less interested in uncovering than in his personal profit. He could be someone who uses his suspicion, at least indirectly, to get a couple of extra millions for himself, and is then logically fired by the company.

It is difficult to say what the truth is. It is like a thriller you have only read up to the middle. You think the case is perfectly clear, and a couple of pages later everything turns out to be exactly the opposite.

There is a lot at stake. SAP is the only German IT company that plays an important role in global competition, the third largest software company in the world, and by far the most important one in Europe. In 2014, SAP made a profit of 3.3 billion euros. The global

reputation of the company is based on software custom-made for the companies.

The raw material of this industry, its gold and oil, are the programs, algorithms and source code. It is a non-transparent world, but wealth and power of the global digital company depend on these lines written in the computer language. They depend on the fact that the software is actually based on the inventive spirit of its own developers. And that is precisely what Sebastian Miller¹ casts doubt on.

The man who could be a hero is in his forties and is a lawyer with a Ph.D. degree. On May 1, 2011, Miller becomes an SAP employee. He gets an office in Walldorf, a company computer from Lenovo and a company car from Mercedes. His annual salary is 90,000 euros. He starts working with sensitive

matters. As a Senior Auditor, he now shares responsibility for internal company audits.

Miller isn't new here. He previously worked for other large, well-known companies. His previous jobs dealt with risk management and mediation procedures. He could produce a resume that SAP found convincing. He is an expert - a man for difficult cases.

This is the kind of person SAP urgently needs. For years, the software company has been dealing with a number of copyright claims; the issue was about more than a billion dollars in damage compensation claims. To avoid things like that in the future, the management decided to hire specialists in intellectual property for their internal audit department. That is how Miller came to SAP.

Picture: Andrew Matheson / SAP

¹ The name has been changed by the publisher.



At the beginning, there are no reasons to suspect that his new job will develop into a difficult case. Nobody in the company has an inkling that this personnel decision will be bitterly regretted a couple of years later, and that the attorney, who is supposed to be finding out and removing possible risks, will himself become an issue for Walldorf.

The beginning of the work is unremarkable. Miller makes suggestions on minimization of patent risks, which find positive response in the company. He sometimes contacts the management directly, and is even praised.

[picture; caption: **SAP conference Sapphire Now in Orlando.** Disadvantaged in the intellectual property matters]

Later on, he digs in deeper and researches the development history of the main SAP products. The conclusions that he draws sound dangerous for the company. He supposedly comes across a number of circumstances that show that the software company stepped over the line.

The internal auditor claims that SAP has, in particular, illegally used the intellectual property of companies such as Oracle, IBM, RIM (BlackBerry) and Teradata. The responsible employees have supposedly circumvented the regulations. "SAP and its customers, investors, employees and competitors were deceived and misled", writes Miller in January 2014, and sends this screaming e-mail to the entire supervisory board of SAP.

Even with respect of the current exemplary product of the company, the database technology Hana, Miller claims to have found things. He interviews developers and employees. Ultimately, he even claims that the illegal actions were taking place with the knowledge of the managing employees. The auditor claims that skimming off of knowhow of competitors is "an established business model" in Walldorf.

The accusations that Miller produces are severe, but is there any proof? According to SAP, the auditor has not, despite multiple requests, produced to his employer sufficient proof of his accusations. Instead, during that time Miller writes some e-mails. He writes to the SAP management, to the then acting board spokesman Bill McDermott, to the supervisory board, which he urgently warns and urges to do something "promptly". Spiegel and the ARD magazine Fakt were able to assess these e-mails, as well as numerous further internal documents and court materials, in the course of their joint research. They create a picture of a somehow disturbed relationship between the software company and its employee. Finally, they break up. On February 3, 2014, SAP brings a criminal action against

Wirtschaft

Miller, and a full week later the company fires him.

During these three years, the man who could be a hero has not only formulated his accusations. He has also apparently tried, or caused someone to try, to get some money out of this story.

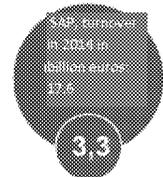
At some point, Miller's father, a New York attorney, himself a specialist in copyright and intellectual property matters, starts playing an increasing role in the conflict between Miller and SAP. He represents his son against SAP and suggests, following a whole bunch of mutual accusations, that the conflict should be settled. He demands that SAP resolve the "issues" presented by its internal auditor and be prepared for a "financial settlement". It should be "over 25 million euros".

This seems to be the turning point of the thriller at which the hero makes himself vulnerable, and it is no longer clear who in this story should be trusted.

The accusations would not simply vanish into thin air if the auditor were an altruist who came to help. But how much proof is there to these suspicions? SAP said to Spiegel and Fakt: "We have checked the facts diligently and have found no evidence that SAP has infringed on intellectual property."

What makes the case so dangerous for the Walldorf dwellers is the unusual situation where a former employee of the internal audit department brings these accusations - someone who thoroughly interviewed the developers that worked on the most important products that come from Walldorf, as part of his task.

Picture: Bloomberg / Getty Images



profits in billion euros

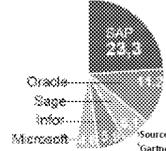
active users
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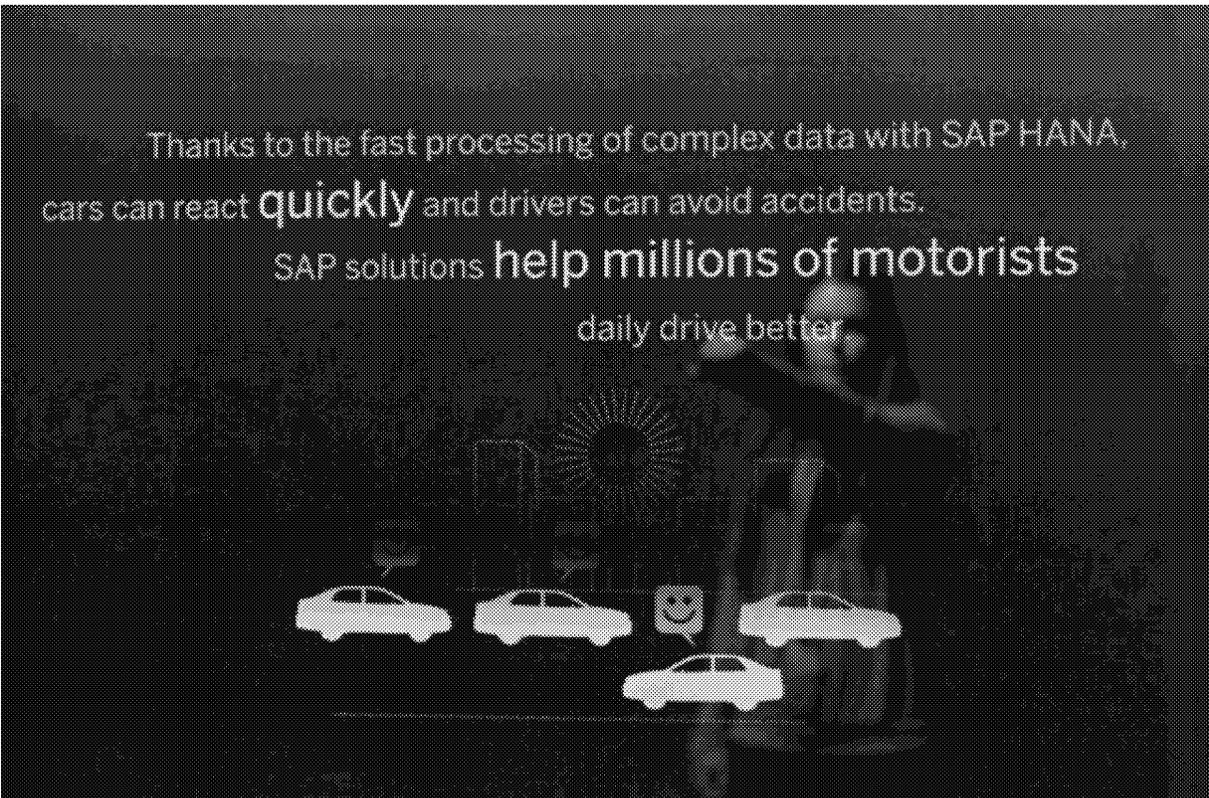
SAP Hana customers in Q2 2015

7200

Employees
815400

Providers of enterprise software, market share 2014, in percent





Advertisement of the Hana database traffic application: Plattner's baby and passion

SAP is also disadvantaged with respect to the intellectual property theft matters, since the topic marred the reputation of the northern Baden company already last year. In 2007, the main competitor Oracle filed a claim stating that an SAP subsidiary in the US illegally downloaded a vast amount of software from Oracle computers. In 2010, the jury ordered SAP to pay a record damage compensation of 1.3 billion dollars. The company appealed the decision. It was first in November 2014 that the court reduced the amount that Walldorf must pay to Oracle to about 360 million dollars. Only a few months before that, SAP had dealt with a second claim, in which the US software company Versata accused its German competitor of infringing on its patents. The case was settled; the underlying decision provided for a damage compensation of some 390 million dollars.

This is what makes SAP so uneasy, especially when Miller adds the possible damages for all the alleged new problems he lists and also quantifies them in his e-mails to various SAP managers. He presents them an eye-watering amount of more than 35 billion dollars for court fees, compensation payments to the companies that bore losses and a possible value reduction of the company.

It is not only the German courts that are trying to find out the truth, but also, according to SAP, the US Department of Labor to which the former employee complained against his termination. Miller's attorney also threatened to bring the

matter to the attention of other US authorities, such as the financial markets regulator SEC.

But what has actually happened?

During his first year at SAP, Miller works, among other things, on optimization of patent acquisition. He submits a suggestion for a better approach by SAP as a "final audit memorandum" to the SAP management, including the then acting dual leadership of the company, Jim Hagemann Snabe and Bill McDermott, who currently holds that office alone. Immediately after that, Miller goes on an extended vacation.

What happens during this time, apparently, starts causing serious alienation. One member of the SAP management insists, according to the internal documents, on making changes in Miller's draft. That SAP manager writes in his e-mail of July 30 to Miller - who is still on vacation - that he agrees with the findings of the report, but would like to add further facts. When the department responds that Miller would only return in September, he states that the topic is the "highest priority" for the management. After that, it is apparently Miller's department head and later on the company management that make changes to the report.

The auditor does not agree with this in the least. In his e-mail to the supervisory board, Miller will later accuse his department head and the participating management that they "illegitimately changed" his audit report and obstructed his further research.

When he comes back from vacation, he first works on a further, particularly controversial audit assignment. It concerns the development history of the most important product then offered by SAP, i.e. SAP Hana, the in-house database technology, which the company only describes as absolute perfection. It is supposed to be "probably the fastest database in the world", as the SAP founder Hasso Plattner once said. More than 7,200 companies in the world were using it recently.

In the recent years, when talking about their new successful product, SAP employees used to tell a nice foundation story. It involves Professor Hasso Plattner, who developed the idea with some master's students, and thus created the basis of the new SAP. In those days, the precursor's name was SanssouciDB, because the research was performed at Hasso Plattner Institute in Potsdam, and DB stands for database.

Till these days, the employees treat the new technology as Plattner's baby and passion. For many in the company, Hana stands for "Hasso's new architecture".

Miller goes deep into Hana's creation story, and he pays particular attention to the "bridge project" between SAP and its competitor Teradata. The question is whether agreements with Teradata might have been violated during this cooperation, and intellectual property might have been appropriated, especially since the SAP employees from the bridge project went on to develop Hana.

In October 2012, Miller conducts detailed interviews on this topic with the SAP developers who had worked with the Teradata people on fast and frictionless transfer of data between SAP databases and their Teradata counterparts. From these conversations, he derives a large portion of his accusations.

However, Miller has never produced his audit report on Hana for SAP. In December 2012, after about a year and a half with the company, he announces that he is sick, apparently, with the diagnosis of migraines. He no longer works in his Walldorf office.

In February 2013, the Board Chairman Hagemann Snabe gets a phone call. The caller is Miller's father, an attorney from New York. According to the criminal complaint submitted by SAP, the US attorney informs Hagemann Snabe that his client considers himself a victim of an internal SAP scheming. Miller's supervisor had allegedly demanded that he remove facts from four audit reports or present them as less important.

Melissa Lea is the person responsible for good and compliant management practices at SAP. She has been with the company for more than a decade, worked for some time in Walldorf and also met Sebastian Miller personally. After this conversation with the attorney, Hagemann Snabe gives her the task to conduct an internal inquiry.

Already in February 2013, Lea travels to New York. In a conversation that takes many hours, Miller's attorney describes that his client discovered violations, irregularities and allegedly illegal actions during his work as an auditor of the internal auditing department. There is a whole list. Lea's notes of the meeting are extensive.

According to the criminal complaint submitted by SAP, Miller's attorney mentions not only the patent audit report, which was allegedly changed contrary to the rules. An audit report was supposedly created under Miller's name, which the latter had never written, and in other cases the violations he had discovered were allegedly not included in the final reports.

Miller's suspicions don't end there. In order to protect Hana, SAP supposedly used protected data from Teradata, Oracle and IBM. This has supposedly taken place partially at Hasso Plattner Institute – allegedly, as a cover-up. Miller also supposedly discovered irregularities while working on a report on creation of the SAP software Gateway. In this case, it is claimed that protected data from IBM and RIM (BlackBerry) were used. This is the suspicion that SAP contests in its statement that the matter was carefully examined, and no proofs that SAP infringed on intellectual property have been found.



SAP executives Plattner and McDermott: "No proofs"

As the attorney further told Lea, Miller believes that he was not only kept on the sidelines, but that his department head, assisted by other employees, also tried to manipulate his computer and mobile phone. After the meeting in New York, Lea informs the management and initiates a compliance investigation. Miller's colleagues are interviewed, and the Hana developers he had previously interviewed are interviewed again. According to the SAP complaint, the investigation goes on till May 2013. In the view of the company, there is no evidence

supporting the accusations of their in-house auditor.

In summer Lea writes to the attorney that, in order to proceed with the investigation, the participation of the auditor himself is required, whenever his health permits, according to his sick note. Otherwise, SAP also suggested subjecting the computer in question to an "independent forensic investigation", but this required Miller's consent. Furthermore, according to Lea, Miller "is welcome to come back and continue working after he gets well".

Miller's attorney replies that such invitation is "utterly insincere". "How should an auditor keep working for a company if he discovered deceit and theft by managing employees of this company?" However, he says, his client is willing to work on a settlement. Apparently, the company is totally willing to consider this option, and Lea asks him to provide a written offer.

This "offer" arrives within hours, and exceeds all expectations. First, the attorney demands an "excellent recommendation" for his client for the time he spent at SAP. Both sides must agree not to disparage each other. Then he gets to the questionable "financial settlement" that should "exceed 25 million euros". Miller's father and attorney seems to realize that this is an enormous, and even dangerous, demand; at any rate, he adds in square brackets an explanation that this is less than one percent of the possible damage amount for SAP and would cover the "detriments" to the future career of his client.

Notwithstanding these demands, the suggested settlement still required that SAP also resolve the demonstrated issues.

The answer of the compliance officer Lea is professional, but very firm. She does not yet use the word blackmail, but gives her assessment of the events: SAP is "very concerned about the ethical and legal implications of these demands". The company "would, perhaps, be willing to offer an appropriate severance package for (the auditor – ed.), but the demand of 25 million euros is absolutely inadequate".

PHOTO: VALÉRIE SAUNIERES / WISE / PICTURE ALLIANCE / DPA

WIRTSCHAFT

However, the parties do not stop communicating with each other. The company again demands that the auditor put in writing his "vague" and orally presented accusations and, most importantly, the proofs, as well as provide his company computer for an investigation. On this laptop, as Miller repeatedly points out, there are materials and proof from his audits.

SAP hires an employment law firm, which negotiates with Miller's attorney separately regarding his employment status. According to the criminal complaint filed by SAP, he makes a rather dubious suggestion on this matter as well: a severance pay of 650,000 dollars payable to a trust account on the Cayman Islands. Later on, he supposedly suggests that SAP should offer his client, instead of a lump sum payment, a ten year contract that cannot be terminated.

By the end of 2013, the parties seem to be edging towards a solution. The company and the attorney are specifically negotiating a meeting with their own employee to which he is also supposed to bring his company computer in order for it to be investigated. The attorney wishes to bring in for this purpose his own IT specialist from the US. However, the planned meeting at the beginning of December does not take place, as the parties cannot agree on practical issues. In particular, according to the criminal complaint, Miller's father sent SAP a cost estimate for nearly 100,000 dollars.

Once this meeting falls through, the situation escalates. SAP demands the Lenovo laptop and the Mercedes back and produces an ultimatum. Sebastian Miller brings his accusation to the legal department and the workers' council. In January 2014, the auditor puts his accusations together in an e-mail to the board, and also copies Hasso Plattner on it. About two weeks later, he sends another detailed fire-alarm-e-mail with the subject line "Action required" to the entire supervisory board.

Apparently, at this point the company decides to pull the switch. In the name of the SAP management, the firm Baker & McKenzie files a criminal complaint against the auditor and his attorney. The company says it feels that it is being blackmailed by the vague accusations, money demands and the threats to involve the US authorities. Just several days later, on February 12, 2014, SAP issues Miller



alarm-e-mails to the supervisory board

extraordinary termination following almost three years of employment.

Since then the case has been pending before courts and at least one US authority, i.e. the Department of Labor. Miller submitted a claim against his termination to the employment court and demanded compensation. The company, in its turn, demands in a separate action the company computer and car back.

The employment issues have been largely resolved in the meantime. The first instance court confirmed the termination, and the Miller's side withdrew the appeal it first submitted. This should be the end of this SAP career. The case about the company property is going to the second instance.

With its criminal complaint, SAP proceeded at least against Miller's father, who produced in his capacity of an attorney the money demands and threatened to involve the US authorities. In May of this year, a penalty order was issued against the US attorney for blackmail. According to it, he must pay 27,000 euros and receive a sentence of one year on parole. The decision has not yet become valid.

No proceedings are pending against Miller, because it is apparently impossible to prove that he knew about the demands of his attorney.

Since his father and attorney does not accept the penalty order, the case is going to be heard in a bench trial. This is the scenario that all participants would rather avoid, including the company.

Apparently, there are no heroes in Miller's case. In its complaint against the in-house auditor, the company states, at any rate, that their own internal investigation of the procedures demonstrated that his reports showed the adjustments that were by all means necessary. The company claims to have implemented them.

Spiegel and Fakt contacted SAP, its former employee and his American and German attorneys with extensive questions regarding the procedures. Miller and his US attorney refer to the Germany counsel who does not wish to comment.

SAP says that the company has "faith in the German and American legal systems" and "believes that the accusations should be cleared in court, not in the media". The company says it is listed and is subject to the respective regulations, and will not discuss personnel matters that are not yet public. "As a company, we are very interested in thorough discovering and clearing irregularities of any kind. Therefore, we encourage each employee to actively participate in this process. Transparency and clear, coherent compliance rules are part of our corporate culture."

As a matter of fact, SAP may soon be confronted with some more urgent questions in this matter, because there are people out there who are particularly interested to know what Sebastian Miller found out. For example, the Teradata circles say they are "in the process of thorough investigation of this matter".

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Jörg Schmitt
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Picture: Reto Klar



May 31, 2019

Certification

Park IP Translations

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