

At trial, Hewlett-Packard accuses Oracle of breaking contract

June 5 2012, By Steve Johnson

An attorney for Hewlett-Packard Co. on Monday accused Oracle Corp. of breaking a contractual promise to keep making new server software. The move, he said at a trial over the dispute, left HP stunned because the two technology giants had such a long and mutually beneficial partnership.

"[HP](#) was shocked," said lawyer Jeffrey Thomas during his opening argument in Santa Clara County (Calif.) Superior Court. With Oracle's action, he added, the companies' relationship "came to a screeching halt."

But Oracle attorney Dan Wall countered that his company never agreed to continue making software for the HP server. Despite the two firm's close business dealings in years past, Wall said, "these partnerships are volatile" and Oracle determined that it was no longer in its best interest to develop new products for the server.

The trial centers on a settlement the two firms negotiated after Oracle hired [Mark Hurd](#) as co-president in 2010, a month after he resigned as HP's CEO. Fearing Hurd might give proprietary information to Oracle, HP filed suit. The two companies worked out the settlement but now disagree on what it meant.

HP contends the document required Oracle to continue making new versions of software for HP's Itanium servers, so named because they use Itanium [microprocessors](#) from Santa Clara, Calif., chipmaker [Intel](#)

[Corp.](#) But Oracle says the deal was merely a general pledge of mutual cooperation. The issue came to a head in March, when Oracle announced it would stop updating its software for the Itanium system, prompting HP to file another suit that's the basis for the trial.

Oracle, which has countersued, contends HP has misrepresented the settlement's intent and that Oracle was justified in no longer providing new software for the servers because it believed Intel plans to discontinue the processor.

A source familiar with the matter said Palo Alto, Calif.-based HP claims it has lost about a half-billion dollars in server sales because of Oracle's announcement and could lose up to \$4 billion by 2020. That's a tiny portion of HP's annual revenue. But analysts say the product generates a high profit margin, which is why HP is eager to maintain the business. And while HP sells other servers, some experts say it wouldn't be easy for customers using an Itanium server to switch to another type.

Part of the companies' bickering has been attributed to their growing competition in recent years. Where HP once primarily sold computer hardware and Oracle mostly sold software, HP now also touts its software and Oracle has gotten heavily into the hardware business through its 2010 purchase of Sun Microsystems.

The dispute also has been aggravated by bitter feelings.

Oracle CEO Larry Ellison was angry when his friend Hurd was prompted to resign from HP after being accused of an inappropriate relationship with a contractor - allegations HP later said it couldn't substantiate. In addition, Oracle maintains it wouldn't have agreed to the settlement had it known HP would name Leo Apotheker as Hurd's replacement and former Oracle President Ray Lane as chairman.

Apotheker, who has since been succeeded at HP by Meg Whitman, is a former CEO of Oracle's software rival SAP, which Ellison previously has accused in court of trying to misappropriate Oracle's [software](#). And in a court filing last year, Oracle alleged that Lane, who left [Oracle](#) in 2000, "had a well-documented animosity" toward Ellison.

Among the executives who may be called to testify in the trial are Ellison, Hurd and Intel CEO Paul Otellini.

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