

News

## HP Wins Ruling Against Oracle Over Itanium Server Support

Oracle Corp. (ORCL) is contractually obligated to continue developing software for Hewlett-Packard Co. (HPQ)'s Itanium-based servers, a California judge ruled.

Oracle fell more than 1 percent to \$29.80 in early Nasdaq GS stock market trading in New York. Hewlett-Packard rose 42 cents, or 2.4 percent, to \$18.08 at 10 a.m. on the New York Stock Exchange.

Both sides have 15 days to file objections to the decision, Superior Court Judge James Kleinberg in San Jose said. Oracle said in a statement that it will appeal. If yesterday's ruling stands, the suit will advance to a jury trial in which Hewlett-Packard may seek \$500 million in damages for breach of contract.

The judge agreed with Hewlett-Packard that Oracle made a commitment to support servers that run on Intel Corp. (INTC)'s Itanium chips in an agreement the companies reached over Mark Hurd's transition from chief executive officer of Hewlett-Packard to co-president of Oracle.

"The settlement and release agreement entered into by HP, Oracle and Hurd on Sept. 20, 2010, requires Oracle to continue to offer its product suite on HP's Itanium-based server platforms and does not confer on Oracle the discretion to decide whether to do so or not," Kleinberg wrote.

The judge ordered the companies back into court Aug. 22 to prepare for the second phase of the case, adding that he expects them to "meet and confer productively" beforehand.

### \$500 MILLION

Before the trial, Hewlett-Packard said it was seeking about \$500 million in damages, ac-

ording to a person familiar with the matter who didn't want to be identified because the damages request is confidential.

Without the order requiring Oracle to continue developing the software, Hewlett-Packard estimated it should be awarded more than \$4 billion in damages, based on an extrapolation to 2020 that accounts for projected losses, the person said.

Sales of Hewlett-Packard's so-called business critical systems that use Itanium chips plummeted 23 percent to \$421 million in the fiscal second quarter that ended in April. The company also garners services revenue from the systems that it doesn't break out.

Dave Donatelli, the company's executive vice president in charge of data center products, said in a recent interview the Itanium hardware decline was all attributable to Oracle's decision to stop developing software for the platform. Hewlett-Packard last November said it's developing new systems that will offer Itanium customers a technical path to moving their applications to new systems it's developing.

### 2011 ANNOUNCEMENT

Oracle's March 2011 announcement that it decided to stop software development for the Itanium chip came after the company "became convinced that Itanium was approaching its end of life and we explained our rationale to customers," an Oracle spokeswoman, Deborah Hellinger, said in an e-statement.

Oracle, based in Redwood City, California, denied Hewlett-Packard's claims, arguing that it never agreed to forfeit control over what software it can develop and what price it can charge.

Hewlett-Packard's claims in the case "turns the concept of Silicon Valley 'partnerships' upside down," Hellinger said in the statement. "We plan to appeal the court's ruling while fully litigating our cross-claims that HP misled both its partners and customers."

Oracle said in its cross-complaint against Hewlett-Packard that Intel "really wanted to kill" the Itanium chip, which Oracle said was on "life support."

### 'CAMPAIGN OF SECRECY'

Oracle accuses Hewlett-Packard of engaging in a "campaign of secrecy and deception" and "payoff" to Intel to induce it to continue making the chips, according to an Oracle court filing. Those claims may be aired at the trial's second phase.

Hewlett-Packard called yesterday's ruling "a tremendous win for HP and its customers."

"We expect Oracle to comply with its contractual obligation as ordered by the court," Hewlett-Packard said in an e-mailed statement.

The Hewlett-Packard Co. v. Oracle Corp., 11-cv-203163, California Superior Court, Santa Clara County (San Jose).

By Joel Rosenblatt