

1 SEYFARTH SHAW LLP  
Camille A. Olson (State Bar No. 111919)  
2 Robert B. Milligan (State Bar No. 217348)  
2029 Century Park East, Suite 3500  
3 Los Angeles, California 90067  
Telephone: (310) 277-7200  
4 Facsimile: (310) 201-5219

5 Michael D. Wexler (*pro hac vice* to be filed)  
131 South Dearborn Street, Suite 2400  
6 Chicago, Illinois 60603  
Telephone: (312) 460-5000  
7 Facsimile: (312) 460-7000

8 Law Offices of Allen Ruby  
Allen Ruby (State Bar No. 47109)  
9 125 S. Market St #1001  
San Jose, California 95113  
10 Telephone: (408) 998-8500  
Facsimile: (408) 998-8503

11 GIBSON DUNN & CRUTCHER  
12 Robert E. Cooper (State Bar No. 35888)  
Samuel G. Liversidge (State Bar No. 180578)  
13 333 South Grand Avenue  
Los Angeles, California 90071  
14 Telephone: (213) 229-7179  
Facsimile: (213) 229-6179

15 Attorneys for Plaintiff  
16 HEWLETT-PACKARD COMPANY

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

18 **COUNTY OF SANTA CLARA**

19 HEWLETT-PACKARD COMPANY,

20 Plaintiff,

21 v.

22 MARK V. HURD, an individual, and DOES 1-  
25, inclusive,

23 Defendants.  
24  
25  
26  
27  
28

) Case No. 110 CV 181699

) **CIVIL COMPLAINT FOR BREACH OF  
) CONTRACT AND THREATENED  
) MISAPPROPRIATION OF TRADE  
) SECRETS**

) **DEMAND FOR INJUNCTIVE RELIEF  
) AND JURY TRIAL**

) **{APPLICATION FOR INJUNCTIVE  
) RELIEF TO BE FILED FORTHWITH}**

ENDORSED

2010 SEP -7 A 9:29

David H. Yarnall, Clerk of the Superior Court  
County of Santa Clara, California  
By \_\_\_\_\_ Deputy Clerk

1 Plaintiff Hewlett-Packard Company ("HP") for its Civil Complaint against Defendants  
2 Mark V. Hurd ("Hurd"), and Does 1 through 25 (collectively, the "Defendants"), states as  
3 follows:

4 **INTRODUCTION**

5 1. Despite being paid millions of dollars in cash, stock and stock options in  
6 exchange for Hurd's agreements to protect HP's trade secrets and confidential information  
7 during his employment and following his departure from his positions at HP as Chairman of the  
8 Board, Chief Executive Officer, and President, HP is informed and believes and thereon alleges  
9 that Hurd has put HP's most valuable trade secrets and confidential information in peril. Hurd  
10 accepted positions with Oracle Corporation ("Oracle"), a competitor of HP, yesterday as its  
11 President and as a member of its Board of Directors. In his new positions, Hurd will be in a  
12 situation in which he cannot perform his duties for Oracle without necessarily using and  
13 disclosing HP's trade secrets and confidential information to others. For example, one  
14 technology reporter from Computerworld wrote today "the fact that Oracle is also hiring  
15 someone who knows HP's strategy and markets -- and its enterprise customers -- is also a big  
16 plus." An independent analyst quoted in the article stated that Hurd will know "which Sun  
17 accounts were being most heavily mined and which HP accounts are the most vulnerable in the  
18 large enterprise space - that could be very valuable."

19  
20 2. Accordingly, HP seeks immediate injunctive relief to protect its trade secrets and  
21 confidential information from Hurd's threatened misappropriation pursuant to Civil Code section  
22 3426.2(a) and to require Hurd to honor his legally binding trade secret protection agreements  
23 with HP.

24 **NATURE OF ACTION**

25 3. This is an action for breach of contract and threatened misappropriation of trade  
26 secrets. HP seeks injunctive relief and other damages.

1           4.     HP is informed and believes and thereon alleges that Hurd, the former Chairman  
2 of the Board, Chief Executive Officer, and President of HP, is violating and will continue to  
3 violate his legal obligations and express contractual obligations owed to HP to affirmatively  
4 maintain the confidentiality of HP's trade secrets and confidential information. In exchange for  
5 these obligations, Hurd was paid monies, stock and stock options worth millions of dollars  
6 during and after his employment with HP. Specifically, in violation of his continuing obligations  
7 to HP, on September 6, 2010, it was publicly announced that Hurd accepted a position as  
8 President and Board member of HP's competitor Oracle. In that position he will necessarily  
9 disclose and utilize HP's trade secrets and confidential information.  
10

11  
12           5.     HP seeks an order requiring Hurd to provide HP with written notification and  
13 further information concerning Hurd's new position with Oracle pursuant to his trade secret  
14 protection agreements with HP. Hurd's failure to provide such notice before it was publicly  
15 announced by Oracle, gives rise to a reasonable inference that he is violating his trade secret  
16 protection agreements with HP. HP also seeks to enjoin Hurd from holding a position with a  
17 competitor in which he will serve in a capacity that will make it impossible for him to avoid  
18 utilizing or disclosing HP's trade secrets and confidential information pursuant to Civil Code  
19 section 3426.2(a).  
20

21                           **PARTIES, JURISDICTION AND VENUE**

22           6.     Hurd began his employment with HP on or about April 2005. Upon joining HP,  
23 and at numerous points throughout his employment with HP, Hurd received stock options,  
24 restricted stock and monies worth millions of dollars in exchange for his agreements that he  
25 would not misuse HP's trade secret or confidential information. Hurd's employment with HP  
26 ended on or about August 6, 2010.  
27  
28

1           7.       Hurd worked for HP in its Palo Alto, California office, resides in California, and  
2 has conducted and is conducting business in this venue.

3           8.       Plaintiff, HP, is a Delaware corporation with its principal place of business and  
4 world headquarters in Palo Alto, California.

5           9.       HP employs numerous employees in Santa Clara County, California and conducts  
6 business in Santa Clara County, worth millions of dollars each year which is at risk due to  
7 Hurd's actions.

8           10.      HP is unaware of the true names and capacities of the Defendants named herein as  
9 DOES 1 through 25 and therefore sues such Defendants by such fictitious names pursuant to  
10 California Code of Civil Procedure section 474. HP will seek leave of Court to amend this  
11 Complaint to set forth the true names and capacities of those fictitiously named Defendants when  
12 they are ascertained.

13           11.      HP is informed and believes and thereon alleges that each of the Does is in some  
14 way and/or manner responsible for the acts and occurrences hereon alleged, whether such acts  
15 and such occurrences were committed intentionally, recklessly, or otherwise, and that each Doe  
16 is liable to HP for the damages suffered by it.

17           12.      HP is informed and believes and on that basis alleges that each Defendant is now,  
18 and at all relevant times was, the agent, employee, or servant of each of the other Defendants,  
19 and in doing the things alleged herein, was acting within the course and scope of such  
20 employment, agency, servitude or related relationship.

21           13.      Venue is proper in Santa Clara County because HP resides within Santa Clara,  
22 Hurd worked for HP in Santa Clara County, and the Defendants' wrongful actions took place  
23 within the county.

1 **BACKGROUND**

2 14. HP is a technology company founded in 1939 that operates in more than 170  
3 countries around the world. As the world's largest technology company, HP brings together a  
4 portfolio that spans printing, personal computing, software, services and IT infrastructure to  
5 solve customer problems. No other company offers as complete a technology product portfolio  
6 as HP. HP provides infrastructure and business offerings that span from handheld devices to  
7 some of the world's most powerful supercomputer installations. HP offers consumers a wide  
8 range of products and services from digital photography to digital entertainment and from  
9 computing to home printing. This comprehensive portfolio helps HP match the right products,  
10 services and solutions to its customers' specific needs.  
11

12  
13 15. HP's three business groups drive industry leadership in core technology areas: 1)  
14 The Personal Systems Group: business and consumer PCs, mobile computing devices and  
15 workstations; 2) The Imaging and Printing Group: inkjet, LaserJet and commercial printing,  
16 printing supplies; and 3) Enterprise Business: business services and products, including for  
17 example, storage and servers, enterprise services and software.  
18

19 16. HP's software and hardware offerings compete directly with some offerings from  
20 the most competitive companies in the world, including Oracle.  
21

22 17. HP is a leader in technology and customer support and service through the use of  
23 a well trained staff, the use of technology and the establishment of strong customer relationships.

24 18. HP has invested substantial monies to create proprietary designs, solutions,  
25 initiatives and equipment to insure that HP can provide cutting edge technologies and services to  
26 its customers.  
27  
28

1           19.     HP also spends extensive time and substantial monies identifying and maintaining  
2 key customer relationships, designing customer initiatives, determining strategic mergers and  
3 acquisitions, allotting resources for new technologies and initiatives, and creating annual  
4 business plans.

5  
6           20.     HP's key management personnel, headed up by Hurd, participate extensively in  
7 the design and implementation of annual business plans. Hurd was responsible for the creation  
8 of HP's strategic plans, including its FY 2010 and FY 2011 business plans. He was responsible  
9 for creating a plan to compete against HP's competitors, including Oracle. By working at Oracle,  
10 he cannot help but utilize and disclose HP's trade secrets and confidential information, including  
11 the trade secrets and confidential information contained in the FY 2010 and FY 2011 business  
12 plans.

13  
14           21.     HP has purchased through acquisitions and on its own developed and maintained  
15 valuable relationships and substantial goodwill with its customers.

16  
17           22.     In order to grow its business and better serve its customers, HP has acquired other  
18 entities and technology throughout the world to best provide products and services that meets its  
19 clients' needs and from which HP can derive economic gain.

20           23.     HP's business information, customer relationships and goodwill are of paramount  
21 significance to its business reputation and its success.

22  
23                   **EVENTS GIVING RISE TO THIS ACTION**

24           24.     Hurd joined HP on or about April 2005.

25           25.     Upon joining HP, Hurd was provided access to HP's trade secrets and  
26 confidential information, subject to non-disclosure restrictions.  
27  
28

1           26.     During his employment with HP, Hurd executed several non-disclosure  
2 agreements with HP in which he agreed not to disclose confidential information of HP. Further,  
3 Hurd took mandatory annual online Standards of Business Conduct training, which includes the  
4 obligation to protect HP's confidential information and trade secrets.  
5

6           27.     Hurd executed HP's Agreement Regarding Confidential Information and  
7 Proprietary Developments (the "Trade Secret Protection Agreements"). Most recently, he signed  
8 such agreements on February 6, 2008, February 26, 2009, and February 12, 2010, respectively.  
9 True and correct copies of the agreements are attached as Exhibits A, B, and C.  
10

11           28.     Hurd agreed to keep HP's trade secrets and confidential information protected and  
12 confidential both during and after his employment with HP, pursuant to Section 2 of the Trade  
13 Secret Protection Agreements:  
14

15           2.     **Confidential Information.** This Agreement concerns trade secrets, confidential business  
16 and technical information, and know-how not generally known to the public (hereinafter  
17 "Confidential Information") which is acquired or produced by me in connection with my  
18 employment by HP. Confidential Information may include, without limitation, information on  
19 HP organizations, staffing, finance, structure, information of employee performance,  
20 compensation of others, research and development, manufacturing and marketing, files, keys,  
21 certificates, passwords and other computer information, as well as information that HP receives  
22 from others under an obligation of confidentiality. I agree:

23           (a)     to use such information only in the performance of HP duties;  
24           (b)     to hold such information in confidence and trust; and  
25           (c)     to use all reasonable precautions to assure that such information is not disclosed  
26 to unauthorized persons or used in an unauthorized manner, both during and after my  
27 employment with HP.

28           I further agree that any organizational information or staffing information learned by me  
in connection with my employment by HP is the Confidential Information of HP, and I agree that  
I will not share such information with any recruiters or any other employers, either during or  
subsequent to my employment with HP; further, I agree that I will not use or permit use of such  
as a means to recruit or solicit other HP employees away from HP (either for myself or for  
others).

          29.     Under the Trade Secret Protection Agreements, Hurd also agreed to return all HP  
property upon the termination of his employment.

6.     **HP Property.** I will not remove any HP property from HP premises without HP's  
permission. Upon termination of my employment with HP, I will return all HP property to HP  
unless HP's written permission to keep it is obtained.

1           30.     Hurd also agreed to certain Protective Covenants in the Trade Secret Protection  
2 Agreements to protect HP's trade secrets:

3  
4       7.     **Protective Covenants.** I acknowledge that a simple agreement not to disclose or use  
5 HP's Confidential Information or Proprietary Developments after my employment by HP ends  
6 would be inadequate, standing alone, to protect HP's legitimate business interests because some  
7 activities by a former employee who had held a position like mine would, by their nature,  
8 compromise such Confidential Information and Proprietary Developments as well as the  
9 goodwill and customer relationships that HP will pay me to develop for the company during my  
10 employment by HP. I recognize that activities that violate HP's rights in this regard, whether or  
11 not intentional, are often undetectable by HP until it is too late to obtain any effective remedy,  
12 and that such activities will cause irreparable injury to HP. To prevent this kind of irreparable  
13 harm, I agree that for a period of twelve months following the termination of my employment  
14 with HP, I will abide by the following Protective Covenants:

15           (a)   **No Conflicting Business Activities.** I will not provide services to a Competitor  
16 in any role or position (as an employee, consultant, or otherwise) that would involve  
17 Conflicting Business Activities in the Restricted Geographic Area (but while I remain a  
18 resident of California and subject to the laws of California, the restriction in this clause  
19 (paragraph 7, subpart (a)) will apply only to Conflicting Business Activities in the  
20 Restricted Geographic Area that result in unauthorized use or disclosure of HP's  
21 Confidential Information);

22           (b)   **No Solicitation of Customers.** I will not (in person or through assistance to  
23 others) knowingly participate in soliciting or communicating with any customer of HP in  
24 pursuit of a Competing Line of Business if I either had business-related contact with that  
25 customer or received Confidential Information about that customer in the last two years  
26 of my employment at HP (but while I remain a resident of California and subject to the  
27 laws of California, the restriction in this clause (paragraph 7, subpart (b)) will apply only  
28 to solicitations or communications made with the unauthorized assistance of HP's  
Confidential Information);

          (c)   **No Solicitation of HP Employees.** I will not (in person or through assistance to  
others) knowingly participate in soliciting or communicating with an HP Employee for  
the purpose of persuading or helping the HP Employee to end or reduce his or her  
employment relationship with HP if I either worked with that HP Employee or received  
Confidential Information about that HP Employee in the last two years of my  
employment with HP; and

          (d)   **No Solicitation of HP Suppliers.** I will not (in person or through assistance to  
others) knowingly participate in soliciting or communicating with an HP Supplier for the  
purpose of persuading or helping the HP Supplier to end or modify to HP's detriment an  
existing business relationship with HP if I either worked with that HP Supplier or  
received Confidential Information about that HP Supplier in the last two years of my  
employment with HP.

          31.     To further protect HP's trade secrets, the Trade Secret Protection Agreements  
require Hurd to notify HP of his post-employment activities. Specifically Hurd is required to



1 notify HP of his employment with a competitor and provide HP with information concerning his  
2 new position to assess whether such a position would likely lead to a violation of the agreement:

3  
4 9. **Notice of Post-Employment Activities.** If I accept a position with a Competitor  
5 at any time within twelve months following termination of my employment with HP, I will  
6 promptly give written notice to the senior Human Resources manager for the HP business sector  
7 in which I worked, with a copy to HP's General Counsel, and will provide HP with the  
8 information it needs about my new position to determine whether such position would likely lead  
9 to a violation of this Agreement (except that I need not provide any information that would  
10 include the Competitor's trade secrets).

11  
12 32. Lastly, Hurd agreed that HP would be entitled to immediate injunctive relief for  
13 any violations of the Trade Secret Protection Agreements:

14  
15 10. **Relief; Extension.** I understand that if I violate this Agreement (particularly the  
16 Protective Covenants), HP will be entitled to injunctive relief by temporary restraining order,  
17 temporary injunction, and/or permanent injunction and any other legal and equitable relief  
18 allowed by law. Injunctive relief will not exclude other remedies that might apply. If I am found  
19 to have violated any restrictions in the Protective Covenants, then the time period for such  
20 restrictions will be extended by one day for each day that I am found to have violated them, up to  
21 a maximum extension equal to the time period originally prescribed for the restrictions.

22  
23 33. Hurd also executed a separation agreement on August 6, 2010, in which he  
24 reaffirmed his obligations to HP and extended certain specified obligations under the Trade  
25 Secret Protection Agreements.

26  
27 34. As the Chairman of the Board, Chief Executive Officer, and President for HP,  
28 Hurd was provided access to HP's most valuable trade secrets and confidential information. In  
particular, Hurd attended board meetings, operation meetings, technology meetings, strategic  
planning meetings and customer meetings.

35. As a result of assuming this high level position within HP, Hurd had access to and  
had direct reports from each of HP's business units, including the Enterprise Business unit,  
which includes, storage and servers, enterprise services and software. Additionally, as the  
Chairman of the Board, Hurd attended high level meetings at HP and was privy to the most  
sensitive of HP trade secret and confidential information. Hurd helped determine high-level HP

1 strategy, worked extensively on company acquisitions, and was quite familiar with confidential  
2 personnel matters.

3  
4 36. Hurd was placed in such a high level position with access to all of HP's most  
5 important trade secrets and confidential information regarding research and development,  
6 marketing, strategy, customer contacts, target acquisitions, merger opportunities, allocation of  
7 resources, pricing, margins, profitability, customer initiatives, leadership and talent initiatives  
8 and other confidential information. As indicated above, Hurd was responsible for preparing  
9 HP's strategic plans, including its FY 2010 and FY 2011 business plans.

10  
11 37. Additionally, Hurd was provided with trade secrets and confidential information  
12 concerning competitors. On March 18, 2010, Hurd was presented, along with the other members  
13 of the HP Board of Directors, with a highly confidential competitive internal analysis of Oracle.

14  
15 38. Hurd's separation date from HP was August 6, 2010. Hurd entered into a  
16 Separation and Release Agreement with HP by which he was paid millions of dollars and  
17 reaffirmed his post-employment obligations, including his trade secret protection obligations,  
18 owed to HP. A true and correct copy of the Separation and Release Agreement is attached as  
19 Exhibit D.

20  
21 39. On Labor Day, September 6, 2010, it was publicly announced and carried in the  
22 press that Hurd was being named the new President of Oracle, a competitor of HP, and as a  
23 member of the Board of Directors of Oracle. No effort was made by Hurd to provide advance  
24 notice to HP before the announcement was made public.

25  
26 40. Oracle's Chief Executive Officer was quoted in the press as saying: "Mark did a  
27 brilliant job at HP and I expect he'll do even better at Oracle." He was also quoted as saying  
28 that: "There is no executive in the IT world with more relevant experience than Mark."

1           41. In Oracle's press release, Hurd is quoted as saying: "I believe Oracle's strategy of  
2 combining software with hardware will enable Oracle to beat IBM in both enterprise servers and  
3 storage." He went on to say: "Exadata is just the beginning. We have some exciting new  
4 systems we are going to announce later this month at Oracle OpenWorld. I'm excited to be a part  
5 of the most innovative technology team in the IT industry." Attached hereto as Exhibit E is a  
6 true and correct copy of Oracle's press release.  
7

8           42. As Hurd well knows, IBM and HP are competitors of Oracle in the enterprise  
9 servers and storage business. Hurd's clear effort to avoid mentioning HP is telling in light of  
10 Oracle's own SEC filings identifying HP as a competitor. What Hurd and everyone else also  
11 knows is that the Exadata server mentioned in his quote is a direct competitive product to HP's  
12 Proliant Server.  
13

14           43. The information identified above is but one example of the many ways in which  
15 HP and Oracle directly compete and in where Hurd's "relevant experience" includes HP trade  
16 secret and confidential information.  
17

18           44. In a recent SEC filing (10-K, July 1, 2010), Oracle stated, in pertinent part:  
19 We face intense competition in all aspects of our business. The nature of the IT industry creates a  
20 competitive landscape that is constantly evolving as firms emerge, expand or are acquired, as  
21 technology evolves and as customer demands and competitive pressures otherwise change.  
22 Our customers are demanding less complexity and lower total cost in the implementation,  
23 sourcing, integration and ongoing maintenance of their enterprise software and hardware systems,  
24 which has led increasingly to our product offerings being viewed as a "stack" of software and  
25 hardware designed to work together in a standards-compliant environment—from "Applications  
26 to Disk." Our enterprise software and hardware offerings compete directly with some offerings  
27 from the most competitive companies in the world, including Microsoft Corporation (Microsoft),  
28 IBM Corporation (IBM), Hewlett Packard Company (HP), SAP AG, and Intel, as well as many  
others.

          45. Hurd's position as a President and a member of the Board of Directors for Oracle  
puts HP's trade secrets and confidential information in jeopardy. He will be responsible, in

1 whole or part, for the direction of the company. As a competitor of HP, he will necessarily call  
2 upon HP's trade secrets and confidential information in performing his job duties for Oracle.

3  
4 46. Hurd will be violating his legal obligations to HP and his trade protection  
5 agreements by working as Oracle's President and as a member of the Board of Directors. He  
6 cannot perform his job at Oracle without disclosing or utilizing HP's trade secrets and  
7 confidential information. As discussed more fully herein, HP's trade secrets include product  
8 planning, strategic business planning, resource allocation, products under development,  
9 technology, confidential competitive intelligence, customer initiatives, customer relationship  
10 strengths and weaknesses, pricing, margins, acquisition targets, and business growth strengths  
11 and weaknesses.

12  
13 47. HP's trade secret information is not generally known in the industry and is  
14 valuable because HP derives economic value from the information not being publicly available.

15  
16 48. HP's trade secret business and customer information is of great value to HP and  
17 such information would give any competitor who improperly acquired such information an  
18 unfair competitive advantage by: not expending the time and resources to develop the trade  
19 secret information as HP has done, quickly developing products and technologies to unfairly  
20 compete with HP in order to diminish HP's head start, and even alerting a competitor as to  
21 initiatives that should not be pursued, as well as other improper advantages.

22  
23 49. HP protects its trade secret business and customer information by requiring  
24 employees to keep confidential business and customer information, by password protecting  
25 computers, by limiting access to information, by requiring employees to sign confidentiality  
26 agreements, and by requiring employees to take mandatory annual online Standards of Business  
27  
28

1 Conduct training, which includes the obligation to protect HP's confidential information and  
2 trade secrets.

3  
4 50. HP's customer relationships and goodwill are of paramount importance to HP in  
5 that many of HP's customers have been customers of HP for quite some time. Moreover, in a  
6 number of instances, HP's customers entrust HP with confidential information and require HP to  
7 enter into confidentiality agreements as well.

8  
9 51. While employed by HP, Hurd had contact with customers, vendors, and trade  
10 secrets and confidential information. He was privy to the pricing, margins, customer initiatives,  
11 allocation of resources, product development, multi-year product, business and talent planning,  
12 and strategies being utilized by HP and which would give Hurd and Oracle an unfair advantage  
13 in soliciting customers, utilizing vendors and developing products.

14  
15 52. Hurd's actions are a serious threat to HP's business, are in violation of contractual  
16 obligations and applicable law and unjustly enrich Hurd.

17  
18 53. HP has no adequate remedy at law to fully protect it. If Hurd's actions go  
19 unchecked, he will necessarily diminish the value of HP's trade secret and confidential  
20 information, diminish its goodwill, negatively impact customer relationships, give Oracle a  
21 strategic advantage as to where to allocate or not allocate resources and exploit the knowledge of  
22 HP's strengths and weaknesses.

23 **FIRST CAUSE OF ACTION**

24 **[Breach of Contract Against Hurd]**

25  
26 54. HP hereby repeats, realleges and incorporates by reference the allegations which  
27 are contained in paragraphs 1 through 53.

1           55.     Hurd's Trade Secret Protection Agreements and Separation and Release  
2 Agreement are valid and enforceable contracts. The confidentiality covenants and other  
3 provisions contained in the agreements are reasonably necessary to protect legitimate protectable  
4 interests in trade secrets, confidential information, customer relationships, work force and  
5 goodwill.  
6

7           56.     HP has fully performed all of its obligations under the agreements.

8           57.     Hurd is breaching or threatens to breach the agreements in at least one of the  
9 following ways by:  
10

11               A.     failing to provide HP with sufficient notification of Hurd's new employer  
12                      and sufficient information concerning Hurd's new position pursuant to  
                    Section 9 of the Trade Secret Protection Agreements; and/or

13               B.     accepting a position that will make it impossible for him to avoid  
14                      disclosing or utilizing HP's trade secrets or confidential information in  
                    violation of Sections 2 and 7 of the Trade Secret Protection Agreements.  
15

16           58.     As a result of any one of these breaches of his agreements, HP has been injured  
17 and faces irreparable injury. HP is threatened with losing customers, technology, its competitive  
18 advantage, its trade secrets and goodwill in amounts which may be impossible to determine,  
19 unless Hurd is enjoined and restrained by order of this Court.  
20

## 21                               **SECOND CAUSE OF ACTION**

### 22                   **[Threatened Misappropriation of Trade Secrets Against Hurd and Does 1 through 25]**

23           59.     HP hereby repeats and realleges and incorporates by reference the allegations  
24 which are contained in paragraphs 1 through 58.  
25

26           60.     At all relevant times, HP was in possession of confidential and trade secret  
27 information as defined by *California Civil Code* Section 3426.1(d). The proprietary business  
28 and customer information of HP constitutes trade secrets because HP derives independent

1 economic value from that information, such information is not generally known nor readily  
2 ascertainable by proper means by other persons who can obtain economic value from its  
3 disclosure or use, and because the information is the subject of reasonable efforts to maintain its  
4 secrecy. HP's confidential and proprietary trade secret information described herein is not and  
5 was not generally known to Plaintiffs' competitors in the industry.  
6

7         61. HP is informed and believes and therefore alleges that Defendants have actually  
8 misappropriated and/or threaten to misappropriate HP's trade secrets without HP's consent in  
9 violation of California's Uniform Trade Secrets Act, California Civil Code § 3426 et seq. Hurd  
10 cannot serve as President and a member of the Board of Directors for Oracle without utilizing  
11 and disclosing HP's trade secrets and confidential information. Hurd cannot separate out HP's  
12 trade secrets and confidential information in performing his daily duties at Oracle. As such  
13 injunctive relief, pursuant to Civil Code section 3426.2(a) is appropriate.  
14

15         62. Hurd has accepted employment at Oracle and will serve functions at Oracle  
16 similar to his previous roles at HP and thus, cannot avoid disclosing and utilizing HP's trade  
17 secrets and confidential information.  
18

19         63. As a product of his employment with HP, Hurd had access to HP's most valuable  
20 trade secrets and confidential information as described herein. Hurd continues to have  
21 knowledge of that information, notwithstanding the fact that he is working for a competitor.  
22

23         64. HP is informed and believes and thereon alleges that Hurd has the intent to  
24 disclose HP's trade secrets and confidential information to others, including his new employer,  
25 in violation of the CUTSA and his trade secret protection agreements with HP.  
26

27         65. As a proximate result of Defendants' threatened misappropriation of HP's trade  
28 secrets and confidential information, HP has suffered, and will continue to suffer, damages in an

1 amount to be proven at the time of trial, but which are substantial and in excess of the minimum  
2 jurisdictional amount of this court.

3  
4 66. Defendants have been unjustly enriched and HP is entitled to all recoverable  
5 damages in an amount to be proven at the time of trial, but which are in excess of the minimum  
6 jurisdictional amount of this Court.

7  
8 67. As a further proximate result of Defendants' wrongful conduct and threatened  
9 misappropriation, HP has been injured, irreparably and otherwise, and is threatened with  
10 additional and on-going injuries. Because HP's remedy at law is inadequate, HP seeks  
11 temporary, preliminary and permanent injunctive relief. HP is threatened with losing customers,  
12 technology, its competitive advantage, its trade secrets and goodwill in amounts which may be  
13 impossible to determine, unless Defendants are enjoined and restrained by order of this Court, as  
14 alleged above.

15  
16 68. Defendants will be unjustly enriched by the threatened misappropriation of HP's  
17 trade secrets and confidential information, and, unless restrained, will continue to threaten to use,  
18 actually use, divulge, threaten to disclose, acquire and/or otherwise misappropriate HP's trade  
19 secrets and confidential information.

20  
21 69. Upon information and belief, Defendants' threatened misappropriation has been  
22 willful and malicious in light of Hurd's repeated execution of contracts prohibiting his current  
23 conduct and his deliberate violation of the contractual obligations. Therefore, Plaintiffs are  
24 entitled to an award of punitive or treble damages and attorneys' fees pursuant to *California*  
25 *Civil Code* Sections 3426.3(c) and 3426.4.



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

A. HP seeks an order requiring Hurd to provide HP with sufficient notification of Hurd's new employer and provide further information concerning Hurd's new position with Oracle pursuant to his trade secret protection agreements with HP;

1. from holding a position with a competitor in which he will utilize or disclose HP's trade secrets and confidential information;
2. directly or indirectly disclosing or utilizing HP's trade secrets and confidential information; and
3. appointing a special master to review, on a regular basis, Defendants' compliance with the requested injunctive relief and requiring Defendants, and each of them, to provide a monthly verified statement of compliance that Defendants, and each of them, have not used or disclosed any of HP's trade secrets and confidential information.

D. That HP be awarded exemplary damages as provided for by statute for willful and malicious conduct;

F. For an accounting from Defendants of their misuses of HP's information and property and other unlawful acts;

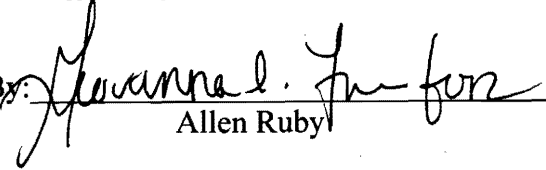
1 G. For a constructive trust for the benefit of HP to be imposed upon all funds, assets,  
2 revenues and profits Defendants have or will derive from their unlawful acts and their threatened  
3 misappropriation of HP's information and property; and

4 H. That HP be awarded such other and further relief as the Court deems equitable  
5 and just.  
6

7 Dated: September 7, 2010

Respectfully submitted,

*Law Offices of Allen Ruby*

8  
9  
10 By:   
11 Allen Ruby

12 Attorneys for Plaintiff  
13 HEWLETT-PACKARD COMPANY

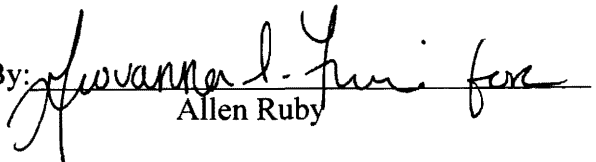
**DEMAND FOR JURY TRIAL**

14 Plaintiff Hewlett-Packard Company hereby demands a trial by jury in the above-  
15 captioned matter on all matters so triable.  
16

17 Dated: September 7, 2010

Respectfully submitted,

*Law Offices of Allen Ruby*

18  
19  
20 By:   
21 Allen Ruby

22 Attorneys for Plaintiff  
23 HEWLETT-PACKARD COMPANY  
24  
25  
26  
27  
28

**EXHIBIT A**

20138924

**Agreement Regarding Confidential Information and Proprietary Developments  
With Protective Covenants Relating to Post-Employment Activity  
For Incumbent Employee Working in California**

Name (Type or Print):

Mark V. Hord

1. **Consideration and Relationship to Employment.** As a condition of my continued employment with Hewlett-Packard Company or one of its affiliates or subsidiaries (collectively, "HP"), and in consideration my eligibility for a grant of Performance-based Restricted Units under the Hewlett-Packard Company 2004 Stock Incentive Plan, I knowingly agree to restrictions provided for below that will apply during and after my employment by HP. I understand, however, that nothing relating to this Agreement will be interpreted as a contract or commitment whereby HP is deemed to promise continuing employment for a specified duration.

2. **Confidential Information.** This Agreement concerns trade secrets, confidential business and technical information, and know-how not generally known to the public (hereinafter "Confidential Information") which is acquired or produced by me in connection with my employment by HP. Confidential Information may include, without limitation, information on HP organizations, staffing, finance, structure, information of employee performance, compensation of others, research and development, manufacturing and marketing, files, keys, certificates, passwords and other computer information, as well as information that HP receives from others under an obligation of confidentiality. I agree:

- a. to use such information only in the performance of HP duties;
- b. to hold such information in confidence and trust; and
- c. to use all reasonable precautions to assure that such information is not disclosed to unauthorized persons or used in an unauthorized manner, both during and after my employment with HP.

I further agree that any organizational information or staffing information learned by me in connection with my employment by HP is the Confidential Information of HP, and I agree that I will not share such information with any recruiters or any other employers, either during or subsequent to my employment with HP; further, I agree that I will not use or permit use of such as a means to recruit or solicit other HP employees away from HP (either for myself or for others).

3. **Proprietary Developments.** This Agreement also concerns inventions and discoveries (whether or not patentable), designs, works of authorship, mask works, improvements, data, processes, computer programs and software (hereinafter called "Proprietary Developments") that are conceived or made by me alone or with others while I am employed by HP and that relate to the research and development or the business of HP, or that result from work performed by me for HP, or that are developed, in whole or in part, using HP's equipment, supplies, facilities or trade secrets information. Such Proprietary Developments are the sole property of HP, and I hereby assign and transfer all rights in such Proprietary Developments to HP. I also agree that any works of authorship created by me shall be deemed to be "works made for hire." I further agree for all Proprietary Developments:

- a. to disclose them promptly to HP;
- b. to sign any assignment document to formally perfect and confirm my assignment of title to HP;
- c. to assign any right of recovery for past damages to HP; and
- d. to execute any other documents deemed necessary by HP to obtain, record and perfect patent, copyright, mask works and/or trade secret protection in all countries, in HP's name and at HP's expense.

I understand that HP may delegate these rights. I agree that, if requested, my disclosure, assignment, execution and cooperation duties will be provided to the entity designated by HP.

In compliance with prevailing provisions of relevant state statutes,\* this Agreement does not apply to an invention for which no equipment, supplies, facility or trade secret information of the employer was used and which was developed entirely on the employee's own time, unless (a) the invention relates (i) to the business of the employer or (ii) to the employer's actual or demonstrably anticipated research or development, or (b) the invention results from any work performed by the employee for the employer.

4. **Respect for Rights of Former Employers.** I agree to honor any valid disclosure or use restrictions on information or intellectual property known to me and received from any former employers or any other parties prior to my employment by HP. I agree that without prior written consent of such former employers or other parties, I will not knowingly use any such information in connection with my HP work or work product, and I will not bring onto the premises of HP any such information in whatever tangible or readable form.

5. **Work Product.** The product of all work performed by me during and within the scope of my HP employment including, without limitation, any files, presentations, reports, documents, drawings, computer programs, devices and models, will be the sole property of HP. I understand that HP has the sole right to use, sell, license, publish or otherwise disseminate or transfer rights in such work product.

6. **HP Property.** I will not remove any HP property from HP premises without HP's permission. Upon termination of my employment with HP, I will return all HP property to HP unless HP's written permission to keep it is obtained.

7. **Protective Covenants.** I acknowledge that a simple agreement not to disclose or use HP's Confidential Information or Proprietary Developments after my employment by HP ends would be inadequate, standing alone, to protect HP's legitimate business interests because some activities by a former employee who had held a position like mine would, by their nature, compromise such Confidential Information and Proprietary Developments as well as the goodwill and customer relationships that HP will pay me to develop for the company during my employment by HP. I recognize that activities that violate HP's rights in this regard, whether or not intentional, are often undetectable by HP until it is too late to obtain any effective remedy, and that such activities will cause irreparable injury to HP. To prevent this kind of irreparable harm, I agree that for a period of twelve months following the termination of my employment with HP, I will abide by the following Protective Covenants:

(a) **No Conflicting Business Activities.** I will not provide services to a Competitor in any role or position (as an employee, consultant, or otherwise) that would involve Conflicting Business Activities (but while I remain a resident of California and subject to the laws of California, the restriction in this clause (paragraph 7, subpart (a)) will apply only to Conflicting Business Activities that result in unauthorized use or disclosure of HP's Confidential Information);

(b) **No Solicitation of Customers.** I will not (in person or through assistance to others) knowingly participate in soliciting or communicating with any customer of HP in pursuit of a Competing Line of Business if I either had business-related contact with that customer or received Confidential Information about that customer in the last two years of my employment at HP (but while I remain a resident of California and subject to the laws of California, the restriction in this clause (paragraph 7, subpart (b)) will apply only to solicitations or communications made with the unauthorized assistance of HP's Confidential Information);

(c) **No Solicitation of HP Employees.** I will not (in person or through assistance to others) knowingly participate in soliciting or communicating with an HP Employee for the purpose of persuading or helping the HP Employee to end or reduce his or her employment relationship with HP if I either worked with that HP Employee or received Confidential Information about that HP Employee in the last two years of my employment with HP; and

(d) **No Solicitation of HP Suppliers.** I will not (in person or through assistance to others) knowingly participate in soliciting or communicating with an HP Supplier for the purpose of persuading or helping the HP Supplier to end or modify to HP's detriment an existing business relationship with HP if I either worked with that HP Supplier or received Confidential Information about that HP Supplier in the last two years of my employment with HP.

As used here, "**Competitor**" means an individual, corporation, other business entity or separately operated business unit of an entity that engages in a Competing Line of Business. "**Competing Line of Business**" means a business that involves a product or service offered by anyone other than HP that would replace or compete with any product or service offered or to be offered by HP with which I had material involvement while employed by HP (unless HP and its subsidiaries are no longer engaged in or planning to engage in that line of business). "**Conflicting Business Activities**" means job duties or other business-related activities in the United States or in any other country where the HP business units in which I work do business, or management or supervision of such job duties or business-related activities, if such job duties or business-related activities are the same as or similar to the job duties or business-related activities in which I participate or as to which I receive Confidential Information in the last two years of my employment with HP. "**HP Employee**" means an individual employed by or retained as a consultant to HP or its subsidiaries. "**HP Supplier**" means an individual, corporation, other business entity or separately operated business unit of an entity that regularly provides goods or services to HP or its subsidiaries, including without limitation any OEM, ODM or subcontractor.

8. **Enforcement.** I make these agreements to avoid any future dispute between myself and HP regarding specific restrictions on my post-employment conduct that will be reasonable, necessary and enforceable to protect HP's Confidential Information and Proprietary Developments and other legitimate business interests. The Protective Covenants are ancillary to the other terms of this Agreement and my employment relationship with HP. This Agreement

benefits both me and HP because, among other things, it provides finality and predictability for both me and the company regarding enforceable boundaries on my future conduct. Accordingly, I agree that this Agreement and the restrictions in it should be enforced under common law rules favoring the enforcement of such agreements. For these reasons, I agree that I will not pursue any legal action to set aside or avoid application of the Protective Covenants.

9. **Notice of Post-Employment Activities.** If I accept a position with a Competitor at any time within twelve months following termination of my employment with HP, I will promptly give written notice to the senior Human Resources manager for the HP business sector in which I worked, with a copy to HP's General Counsel, and will provide HP with the information it needs about my new position to determine whether such position would likely lead to a violation of this Agreement (except that I need not provide any information that would include the Competitor's trade secrets).

10. **Relief; Extension.** I understand that if I violate this Agreement (particularly the Protective Covenants), HP will be entitled to injunctive relief by temporary restraining order, temporary injunction, and/or permanent injunction and any other legal and equitable relief allowed by law. Injunctive relief will not exclude other remedies that might apply. If I am found to have violated any restrictions in the Protective Covenants, then the time period for such restrictions will be extended by one day for each day that I am found to have violated them, up to a maximum extension equal to the time period originally prescribed for the restrictions.

11. **Severability; Authority for Revision.** The provisions of this Agreement will be separately construed. If any provision contained in this Agreement is determined to be void, illegal or unenforceable, in whole or in part, then the other provisions contained herein will remain in full force and effect as if the provision so determined had not been contained herein. If the restrictions provided in this Agreement are deemed unenforceable as written, the parties expressly authorize the court to revise, delete, or add to such restrictions to the extent necessary to enforce the intent of the parties and to provide HP's goodwill, Confidential Information, Proprietary Developments and other business interests with effective protection. The title and paragraph headings in this Agreement are provided for convenience of reference only, and shall not be considered in determining its meaning, intent or applicability. This Agreement will inure to the benefit of the parties' heirs, successors and assigns.

12. **Governing Law.** This Agreement will be governed by the laws of the state in which I reside at the time of its enforcement.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

2-6-08

\*Including: California Labor Code Section 2870; Delaware Code Title 19 Section 805; Illinois 765ILCS1060/1-3, "Employees Patent Act"; Kansas Statutes Section 44-130; Minnesota Statutes 13A Section 181.78; North Carolina General Statutes Article 10A, Chapter 66, Commerce and Business, Section 66-57.1; Utah Code Sections 34-39-1 through 34-39-3, "Employment Inventions Act"; Washington Rev. Code, Title 49 RCW: Labor Regulations, Chapter 49.44.140.

ARCIPD IE-CA 013008

**EXHIBIT B**



## **HP Agreement Regarding Confidential Information and Proprietary Developments**

Name of Employee: Mark Hurd (20138924)

1. **Consideration and Relationship to Employment.** As a condition of my continued employment with Hewlett-Packard Company or one of its subsidiaries or affiliates (collectively, "HP"), in return for HP's agreement that I will be provided certain confidential and proprietary information, training, and/or customer contacts to assist me in my duties in such employment, and in consideration of my eligibility for a grant of Performance-based Restricted Units under the Hewlett-Packard Company 2004 Stock Incentive Plan, I knowingly agree to restrictions provided for below that will apply during and after my employment by HP. I understand, however, that nothing relating to this Agreement will be interpreted as a contract or commitment whereby HP is deemed to promise continuing employment for a specified duration. My acceptance of this Agreement may be indicated either by a manual signature or by my completion of a computer-based process that duly confirms my agreement to such terms

2. **Confidential Information.** This Agreement concerns trade secrets, confidential business and technical information, and know-how not generally known to the public (hereinafter "Confidential Information") which is acquired or produced by me in connection with my employment by HP. Confidential Information may include, without limitation, information on HP organizations, staffing, finance, structure, information of employee performance, compensation of others, research and development, manufacturing and marketing, files, keys, certificates, passwords and other computer information, as well as information that HP receives from others under an obligation of confidentiality. I agree:

- (a) to use such information only in the performance of HP duties;
- (b) to hold such information in confidence and trust; and
- (c) to use all reasonable precautions to assure that such information is not disclosed to unauthorized persons or used in an unauthorized manner, both during and after my employment with HP.

I further agree that any organizational information or staffing information learned by me in connection with my employment by HP is the Confidential Information of HP, and I agree that I will not share such information with any recruiters or any other employers, either during or subsequent to my employment with HP; further, I agree that I will not use or permit use of such as a means to recruit or solicit other HP employees away from HP (either for myself or for others).

3. **Proprietary Developments.** This Agreement also concerns inventions and discoveries (whether or not patentable), designs, works of authorship, mask works, improvements, data, processes, computer programs and software (hereinafter called "Proprietary Developments") that are conceived or made by me alone or with others while I am employed by HP and that relate to the research and development or the business of HP, or that result from work performed by me for HP, or that are developed, in whole or in part, using HP's equipment, supplies, facilities or trade secrets information. Such Proprietary Developments are the sole property of HP, and I hereby assign and transfer all rights in such Proprietary Developments to HP. I also agree that any works of authorship created by me shall be deemed to be "works made for hire." I further agree for all Proprietary Developments:

- (a) to disclose them promptly to HP;
- (b) to sign any assignment document to formally perfect and confirm my assignment of title to HP;
- (c) to assign any right of recovery for past damages to HP; and
- (d) to execute any other documents deemed necessary by HP to obtain, record and perfect patent, copyright, mask works and/or trade secret protection in all countries, in HP's name and at HP's expense.

I understand that HP may delegate these rights. I agree that, if requested, my disclosure, assignment, execution and cooperation duties will be provided to the entity designated by HP.

In compliance with prevailing provisions of relevant state statutes,\* this Agreement does not apply to an invention for which no equipment, supplies, facility or trade secret information of the employer was used and which was developed entirely on the employee's own time, unless (a) the invention relates (i) to the business of the employer or (ii) to the employer's actual or demonstrably anticipated research or development, or (b) the invention results from any work performed by the employee for the employer.

4. **Respect for Rights of Former Employers.** I agree to honor any valid disclosure or use restrictions on information or intellectual property known to me and received from any former employers or any other parties prior to my employment by HP. I agree that without prior written consent of such former employers or other parties, I will not knowingly use any such information in connection with my HP work or work product, and I will not bring onto the premises of HP any such information in whatever tangible or readable form.

5. **Work Product.** The product of all work performed by me during and within the scope of my HP employment including, without limitation, any files, presentations, reports, documents, drawings, computer programs, devices and models, will be the sole property of HP. I understand that HP has the sole right to use, sell, license, publish or otherwise disseminate or transfer rights in such work product.

6. **HP Property.** I will not remove any HP property from HP premises without HP's permission. Upon termination of my employment with HP, I will return all HP property to HP unless HP's written permission to keep it is obtained.

7. **Protective Covenants.** I acknowledge that a simple agreement not to disclose or use HP's Confidential Information or Proprietary Developments after my employment by HP ends would be inadequate, standing alone, to protect HP's legitimate business interests because some activities by a former employee who had held a position like mine would, by their nature, compromise such Confidential Information and Proprietary Developments as well as the goodwill and customer relationships that HP will pay me to develop for the company during my employment by HP. I recognize that activities that violate HP's rights in this regard, whether or not intentional, are often undetectable by HP until it is too late to obtain any effective remedy, and that such activities will cause irreparable injury to HP. To prevent this kind of irreparable harm, I agree that for a period of twelve months following the termination of my employment with HP, I will abide by the following Protective Covenants:

- (a) **No Conflicting Business Activities.** I will not provide services to a Competitor in any role or position (as an employee, consultant, or otherwise) that would involve Conflicting Business Activities in the Restricted Geographic Area (but while I remain a resident of California and subject to the laws of California, the restriction in this clause (paragraph 7, subpart (a)) will apply only to Conflicting Business Activities in the Restricted Geographic Area that result in unauthorized use or disclosure of HP's Confidential Information);
- (b) **No Solicitation of Customers.** I will not (in person or through assistance to others) knowingly participate in soliciting or communicating with any customer of HP in pursuit of a Competing Line of Business if I either had business-related contact with that customer or received Confidential Information about that customer in the last two years of my employment at HP (but while I remain a resident of California and subject to the laws of California, the restriction in this clause (paragraph 7, subpart (b)) will apply only to solicitations or communications made with the unauthorized assistance of HP's Confidential Information);
- (c) **No Solicitation of HP Employees.** I will not (in person or through assistance to others) knowingly participate in soliciting or communicating with an HP Employee for the purpose of persuading or helping the HP Employee to end or reduce his or her employment relationship with HP if I either worked with that HP Employee or received Confidential Information about that HP Employee in the last two years of my employment with HP; and
- (d) **No Solicitation of HP Suppliers.** I will not (in person or through assistance to others) knowingly participate in soliciting or communicating with an HP Supplier for the purpose of persuading or helping the HP Supplier to end or modify to HP's detriment an existing business relationship with HP if I either worked with that HP Supplier or received Confidential Information about that HP Supplier in the last two years of my employment with HP.

As used here, "**Competitor**" means an individual, corporation, other business entity or separately operated business unit of an entity that engages in a Competing Line of Business. "**Competing Line of Business**" means a business that involves a product or service offered by anyone other than HP that would replace or compete with any product or service offered or to be offered by HP with which I had material involvement while employed by HP (unless HP and its subsidiaries are no longer engaged in or planning to engage in that line of business). "**Conflicting Business Activities**" means job duties or other business-related activities in the United States or in any other country where the HP business units in which I work do business, or management or supervision of such job duties or business-related activities, if such job duties or business-related activities are the same as or similar to the job duties or business-related activities in which I participate or as to which I receive Confidential Information in the last two years of my employment with HP. "**Restricted Geographic Area**" means the states, provinces or other geographic subdivisions in which I either performed substantial services for HP or managed the work of others for HP in the last two years of my employment with HP. "**HP Employee**" means an individual employed by or retained as a consultant to HP or its subsidiaries. "**HP Supplier**" means an individual, corporation, other business entity or separately operated business unit of an entity that regularly provides goods or services to HP or its subsidiaries, including without limitation any OEM, ODM or subcontractor.

8. **Enforcement.** I make these agreements to avoid any future dispute between myself and HP regarding specific restrictions on my post-employment conduct that will be reasonable, necessary and enforceable to protect HP's Confidential Information and Proprietary Developments and other legitimate business interests. The Protective Covenants are ancillary to the other terms of this Agreement and my employment relationship with HP. This Agreement benefits both me and HP because, among other things, it provides finality and predictability for both me and the company regarding enforceable boundaries on my future conduct. Accordingly, I agree that this Agreement and the restrictions in it should be enforced under common law rules favoring the enforcement of such agreements. For these reasons, I agree that I will not pursue any legal action to set aside or avoid application of the Protective Covenants.

9. **Notice of Post-Employment Activities.** If I accept a position with a Competitor at any time within twelve months following termination of my employment with HP, I will promptly give written notice to the senior Human Resources manager for the HP business sector in which I worked, with a copy to HP's General Counsel, and will provide HP with the information it needs about my new position to determine whether such position would likely lead to a violation of this Agreement (except that I need not provide any information that would include the Competitor's trade secrets).

10. **Relief; Extension.** I understand that if I violate this Agreement (particularly the Protective Covenants), HP will be entitled to injunctive relief by temporary restraining order, temporary injunction, and/or permanent injunction and any other legal and equitable relief allowed by law. Injunctive relief will not exclude other remedies that might apply. If I am found to have violated any restrictions in the Protective Covenants, then the time period for such restrictions will be extended by one day for each day that I am found to have violated them, up to a maximum extension equal to the time period originally prescribed for the restrictions.

11. **Severability; Authority for Revision; Governing Law.** The provisions of this Agreement will be separately construed. If any provision contained in this Agreement is determined to be void, illegal or unenforceable, in whole or in part, then the other provisions contained herein will remain in full force and effect as if the provision so determined had not been contained herein. If the restrictions provided in this Agreement are deemed unenforceable as written, the parties expressly authorize the court to revise, delete, or add to such restrictions to the extent necessary to enforce the intent of the parties and to provide HP's goodwill, Confidential Information, Proprietary Developments and other business interests with effective protection. In the event the restrictions provided in this Agreement are deemed unenforceable and cannot be reformed to make them enforceable, then any prior agreements that I have made with HP relating to confidential information or proprietary developments shall not be deemed to have been superseded or otherwise affected by this Agreement, but instead shall remain in effect. The title and paragraph headings in this Agreement are provided for convenience of reference only, and shall not be considered in determining its meaning, intent or applicability. This Agreement will inure to the benefit of the parties' heirs, successors and assigns. This Agreement will be governed by the laws of the state in which I reside at the time of its enforcement.

12. **Acceptance by HP.** A counterpart of this Agreement has been manually executed on behalf of HP by a duly authorized officer of Hewlett-Packard Company to indicate HP's acceptance of the terms hereof and HP's covenant to perform its obligations hereunder (including, without limitation, HP's agreement that I will be provided certain confidential and proprietary information, training, and/or customer contacts to assist me in my duties). Such acceptance on behalf of HP is conditioned upon my reciprocal agreement to such terms. I acknowledge the

sufficiency of HP's acceptance of the terms hereof to establish the mutual rights and responsibilities defined herein.

**FOR HP**

Signature: /s/ Marcela Perez de Alonso (Executive Vice President, Human Resources)

Date: January 16, 2009

**FOR EMPLOYEE**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\*Including: California Labor Code Section 2870; Delaware Code Title 19 Section 805; Illinois 765ILCS1060/1-3, "Employees Patent Act"; Kansas Statutes Section 44-130; Minnesota Statutes 13A Section 181.78; North Carolina General Statutes Article 10A, Chapter 66, Commerce and Business, Section 66-57.1; Utah Code Sections 34-39-1 through 34-39-3, "Employment Inventions Act"; Washington Rev. Code, Title 49 RCW: Labor Regulations, Chapter 49.44.140.

ARCIPD IE-California120108hmrev120108

**EXHIBIT C**

## **HP Agreement Regarding Confidential Information and Proprietary Developments**

Mark Hurd, HP Chairman of the Board, Chief Executive Officer and President

1. **Consideration and Relationship to Employment.** As a condition of my continued employment with Hewlett-Packard Company or one of its subsidiaries or affiliates (collectively, "HP" or the "Company"), in return for HP's agreement that I will be provided certain confidential and proprietary information, training, and/or customer contacts to assist me in my duties in such employment, and in consideration of my eligibility for a grant of Performance-based Restricted Units under the Hewlett-Packard Company 2004 Stock Incentive Plan, I knowingly agree to restrictions provided for below that will apply during and after my employment by HP. I understand, however, that nothing relating to this Agreement will be interpreted as a contract or commitment whereby HP is deemed to promise continuing employment for a specified duration. My acceptance of this Agreement may be indicated either by a manual signature or by my completion of a computer-based process that duly confirms my agreement to such terms.

2. **Confidential Information.** This Agreement concerns trade secrets, confidential business and technical information, and know-how not generally known to the public (hereinafter "Confidential Information") which is acquired or produced by me in connection with my employment by HP. Confidential Information may include, without limitation, information on HP organizations, staffing, finance, structure, information of employee performance, compensation of others, research and development, manufacturing and marketing, files, keys, certificates, passwords and other computer information, as well as information that HP receives from others under an obligation of confidentiality. I agree:

- (a) to use such information only in the performance of HP duties;
- (b) to hold such information in confidence and trust; and
- (c) to use all reasonable precautions to assure that such information is not disclosed to unauthorized persons or used in an unauthorized manner, both during and after my employment with HP.

I further agree that any organizational information or staffing information learned by me in connection with my employment by HP is the Confidential Information of HP, and I agree that I will not share such information with any recruiters or any other employers, either during or subsequent to my employment with HP; further, I agree that I will not use or permit use of such as a means to recruit or solicit other HP employees away from HP (either for myself or for others).

3. **Proprietary Developments.** This Agreement also concerns inventions and discoveries (whether or not patentable), designs, works of authorship, mask works, improvements, data, processes, computer programs and software (hereinafter called "Proprietary Developments") that are conceived or made by me alone or with others while I am employed by HP and that relate to the research and development or the business of HP, or that result from work performed by me for HP, or that are developed, in whole or in part, using HP's equipment, supplies, facilities or trade secrets information. Such Proprietary Developments are the sole property of HP, and I hereby assign and transfer all rights in such Proprietary Developments to HP. I also agree that any works of authorship created by me shall be deemed to be "works made for hire." I further agree for all Proprietary Developments:

- (a) to disclose them promptly to HP;
- (b) to sign any assignment document to formally perfect and confirm my assignment of title to HP;
- (c) to assign any right of recovery for past damages to HP; and
- (d) to execute any other documents deemed necessary by HP to obtain, record and perfect patent, copyright, mask works and/or trade secret protection in all countries, in HP's name and at HP's expense.

I understand that HP may assign and/or delegate these rights. I agree that, if requested, my disclosure, assignment, execution and cooperation duties will be provided to the entity designated by HP.

In compliance with prevailing provisions of relevant state statutes,\* this Agreement does not apply to an invention for which no equipment, supplies, facility or trade secret information of the employer was used and which was developed entirely on the employee's own time, unless (a) the invention relates (i) to the business of the employer or (ii) to the employer's actual or demonstrably anticipated research or development, or (b) the invention results from any work performed by the employee for the employer.

4. **Respect for Rights of Former Employers.** I agree to honor any valid disclosure or use restrictions on information or intellectual property known to me and received from any former employers or any other parties prior to my employment by HP. I agree that without prior written consent of such former employers or other parties, I will not knowingly use any such information in connection with my HP work or work product, and I will not bring onto the premises of HP any such information in whatever tangible or readable form.

5. **Work Product.** The product of all work performed by me during and within the scope of my HP employment including, without limitation, any files, presentations, reports, documents, drawings, computer programs, devices and models, will be the sole property of HP. I understand that HP has the sole right to use, sell, license, publish or otherwise disseminate or transfer rights in such work product.

6. **HP Property.** I will not remove any HP property from HP premises without HP's permission. Upon termination of my employment with HP, I will return all HP property to HP unless HP's written permission to keep it is obtained.

7. **Protective Covenants.** I acknowledge that a simple agreement not to disclose or use HP's Confidential Information or Proprietary Developments after my employment by HP ends would be inadequate, standing alone, to protect HP's legitimate business interests because some activities by a former employee who had held a position like mine would, by their nature, compromise such Confidential Information and Proprietary Developments as well as the goodwill and customer relationships that HP will pay me to develop for the company during my employment by HP. I recognize that activities that violate HP's rights in this regard, whether or not intentional, are often undetectable by HP until it is too late to obtain any effective remedy, and that such activities will cause irreparable injury to HP. To prevent this kind of irreparable harm, I agree that for a period of twelve months following the termination of my employment with HP, I will abide by the following Protective Covenants:



(a) **No Conflicting Business Activities.** I will not provide services to a Competitor in any role or position (as an employee, consultant, or otherwise) that would involve Conflicting Business Activities (but while I remain a resident of California and subject to the laws of California, the restriction in this clause (paragraph 7, subpart (a)) will apply only to Conflicting Business Activities that result in unauthorized use or disclosure of HP's Confidential Information); however, in the event my employment with HP terminates as a result of a Workforce Restructuring program or similar reduction in force, the restriction in this clause (paragraph 7, subpart (a)) will not apply;

(b) **No Solicitation of Customers.** I will not (in person or through assistance to others) knowingly participate in soliciting or communicating with any customer of HP in pursuit of a Competing Line of Business if I either had business-related contact with that customer or received Confidential Information about that customer in the last two years of my employment at HP (but while I remain a resident of California and subject to the laws of California, the restriction in this clause (paragraph 7, subpart (b)) will apply only to solicitations or communications made with the unauthorized assistance of HP's Confidential Information);

(c) **No Solicitation of HP Employees.** I will not (in person or through assistance to others) knowingly participate in soliciting or communicating with an HP Employee for the purpose of persuading or helping the HP Employee to end or reduce his or her employment relationship with HP if I either worked with that HP Employee or received Confidential Information about that HP Employee in the last two years of my employment with HP; and

(d) **No Solicitation of HP Suppliers.** I will not (in person or through assistance to others) knowingly participate in soliciting or communicating with an HP Supplier for the purpose of persuading or helping the HP Supplier to end or modify to HP's detriment an existing business relationship with HP if I either worked with that HP Supplier or received Confidential Information about that HP Supplier in the last two years of my employment with HP.

As used here, "**Competitor**" means an individual, corporation, other business entity or separately operated business unit of an entity that engages in a Competing Line of Business. "**Competing Line of Business**" means a business that involves a product or service offered by anyone other than HP that would replace or compete with any product or service offered or to be offered by HP with which I had material involvement while employed by HP (unless HP and its subsidiaries are no longer engaged in or planning to engage in that line of business). "**Conflicting Business Activities**" means job duties or other business-related activities in the United States or in any other country where the HP business units in which I work do business, or management or supervision of such job duties or business-related activities, if such job duties or business-related activities are the same as or similar to the job duties or business-related activities in which I participate or as to which I receive Confidential Information in the last two years of my employment with HP. I acknowledge that given the nature of my role as an executive level employee, my duties involve my having access to Confidential Information relevant to a national or larger geographic area such that Conflicting Business Activities is appropriately a nationwide or larger restriction. "**HP Employee**" means an individual employed by or retained as a consultant to HP or its subsidiaries. "**HP Supplier**" means an individual, corporation, other business entity or separately operated business unit of an entity that

regularly provides goods or services to HP or its subsidiaries, including without limitation any OEM, ODM or subcontractor.

8. **Enforcement.** I make these agreements to avoid any future dispute between myself and HP regarding specific restrictions on my post-employment conduct that will be reasonable, necessary and enforceable to protect HP's Confidential Information and Proprietary Developments and other legitimate business interests. The Protective Covenants are ancillary to the other terms of this Agreement and my employment relationship with HP. This Agreement benefits both me and HP because, among other things, it provides finality and predictability for both me and the Company regarding enforceable boundaries on my future conduct. Accordingly, I agree that this Agreement and the restrictions in it should be enforced under common law rules favoring the enforcement of such agreements. For these reasons, I agree that I will not pursue any legal action to set aside or avoid application of the Protective Covenants.

9. **Notice of Post-Employment Activities.** If I accept a position with a Competitor at any time within twelve months following termination of my employment with HP, I will promptly give written notice to the senior Human Resources manager for the HP business sector in which I worked, with a copy to HP's General Counsel, and will provide HP with the information it needs about my new position to determine whether such position would likely lead to a violation of this Agreement (except that I need not provide any information that would include the Competitor's trade secrets).

10. **Relief; Extension.** I understand that if I violate this Agreement (particularly the Protective Covenants), HP will be entitled to injunctive relief by temporary restraining order, temporary injunction, and/or permanent injunction and any other legal and equitable relief allowed by law. Injunctive relief will not exclude other remedies that might apply. If I am found to have violated any restrictions in the Protective Covenants, then the time period for such restrictions will be extended by one day for each day that I am found to have violated them, up to a maximum extension equal to the time period originally prescribed for the restrictions.

11. **Severability; Authority for Revision; Governing Law.** The provisions of this Agreement will be separately construed. If any provision contained in this Agreement is determined to be void, illegal or unenforceable, in whole or in part, then the other provisions contained herein will remain in full force and effect as if the provision so determined had not been contained herein. If the restrictions provided in this Agreement are deemed unenforceable as written, the parties expressly authorize the court to revise, delete, or add to such restrictions to the extent necessary to enforce the intent of the parties and to provide HP's goodwill, Confidential Information, Proprietary Developments and other business interests with effective protection. In the event the restrictions provided in this Agreement are deemed unenforceable and cannot be reformed to make them enforceable, then any prior agreements that I have made with HP relating to confidential information or proprietary developments shall not be deemed to have been superseded or otherwise affected by this Agreement, but instead shall remain in effect. The title and paragraph headings in this Agreement are provided for convenience of reference only, and shall not be considered in determining its meaning, intent or applicability. This Agreement will inure to the benefit of the parties' heirs, successors and assigns. This Agreement will be governed by the laws of the state in which I reside at the time of its enforcement.

12. **Acceptance by HP.** A counterpart of this Agreement has been manually executed on behalf of HP by a duly authorized officer of Hewlett-Packard Company to indicate HP's acceptance of the terms hereof and HP's covenant to perform its obligations hereunder (including, without limitation, HP's agreement that I will be provided certain confidential and proprietary

information, training, and/or customer contacts to assist me in my duties). Such acceptance on behalf of HP is conditioned upon my reciprocal agreement to such terms. I acknowledge the sufficiency of HP's acceptance of the terms hereof to establish the mutual rights and responsibilities defined herein.

**FOR HP**

Signature: /s/ Marcela Perez de Alonso (Executive Vice President, Human Resources)

Date: December 15, 2009

**FOR EMPLOYEE**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\*Including: California Labor Code Section 2870; Delaware Code Title 19 Section 805; Illinois 765ILCS1060/1-3, "Employees Patent Act"; Kansas Statutes Section 44-130; Minnesota Statutes 13A Section 181.78; North Carolina General Statutes Article 10A, Chapter 66, Commerce and Business, Section 66-57.1; Utah Code Sections 34-39-1 through 34-39-3, "Employment Inventions Act"; Washington Rev. Code, Title 49 RCW: Labor Regulations, Chapter 49.44.140.

ARCIPD-CA120809sigjmr



**EXHIBIT D**

## SEPARATION AGREEMENT AND RELEASE

This Separation Agreement and Release ("Separation Agreement") is entered into by and between Mark V. Hurd ("Executive" or "you") and Hewlett-Packard Company (the "Company"), and confirms the agreement that has been reached with you in connection with your separation from the Company.

1. Termination of Employment. You agree that your separation shall be effective as of August 6, 2010 (the "Separation Date") and as of such date you shall cease to be employed by the Company and each and every subsidiary or affiliate of the Company in any capacity. As of the Separation Date you shall also resign as a member of the Board of Directors of the Company (as well as of the Board of Directors of any of the Company's subsidiaries). You further agree to execute promptly upon request by the Company any additional documents necessary to effectuate the provisions of this paragraph 1.

2. Separation Pay and Benefits. In consideration of your execution of this Separation Agreement and your compliance with its terms and conditions, the Company agrees to pay or provide you (subject to the terms and conditions set forth in this Separation Agreement) with the benefits described in this paragraph 2, which exceed any payment and benefits to which you are otherwise entitled.

a. Within thirty (30) days following the Separation Date, the Company shall pay you an aggregate of \$12,224,693 (the "Separation Amount"), less applicable withholdings, in full satisfaction of the Company's obligations under the Severance Plan for Executive Officers of Hewlett-Packard Company (the "Severance Plan").

b. If you timely elect continued group medical and dental coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") the Company will either pay directly or reimburse you for the COBRA premium payments for you and your eligible dependents under the Company's group medical and dental plans for the period of eighteen (18) months following the Separation Date.

c. Each of your outstanding options to acquire Company common stock that is vested and exercisable as of the Separation Date may be exercised by you during the Company's next open trading window, tentatively scheduled to commence August 23, 2010 and end September 7, 2010, in accordance with the terms thereof and the terms of the Hewlett-Packard Company 2004 Stock Incentive Plan. Any such option that you fail to exercise prior to the close of business on the last day of the Company's next open trading window, tentatively scheduled to be September 7, 2010, will expire and

be forfeited at such time without consideration. Each of your outstanding options to acquire Company common stock that are unvested as of the Separation Date shall expire and be forfeited on the Separation Date without consideration.

d. The performance-based restricted stock units granted to you on January 17, 2008 shall become eligible to vest and be settled in shares of Company common stock as described on Exhibit A hereto.

e. The time-based restricted stock units granted to you on December 11, 2009 shall be settled in shares of Company common stock on December 11, 2010 with respect to that number of shares of Company common stock having an aggregate value on December 11, 2010 (determined based on the per share closing trading price for Company common stock on December 11, 2010) equal to the product of 15,853 multiplied by the lesser of (i) the per share closing trading price of Company common stock on the Separation Date or (ii) the per share closing trading price of Company common stock on December 11, 2010, rounded to the nearest whole share of Company common stock, subject to applicable withholdings. Except with respect to those restricted stock units that become eligible to vest and be settled as provided in paragraph 2.d. and this paragraph 2.e., each other outstanding restricted stock unit held by you as of the Separation Date, whether eligible to vest based on service or the attainment of performance goals, shall expire and be forfeited on the Separation Date without consideration.

3. Accrued Benefits. Whether or not you choose to sign this Separation Agreement or exercise your revocation right referenced in Section 10.d hereof, you will be entitled to receive (i) unpaid base salary accrued up to the Separation Date, (ii) any accrued but unused vacation days, and (iii) unreimbursed business expenses (in accordance with usual Company policies and practice), to the extent not theretofore paid, and (iv) vested amounts payable to you under the Company's 401(k) plan and other retirement and deferred compensation plans in accordance with the terms of such plans and applicable law, in each event subject to applicable withholdings. You will also be entitled to any rights to contribution, advancement of expenses, defense or indemnification you may have under the Company's Articles of Incorporation, Bylaws, any separate indemnification agreement, as applicable, or as provided under applicable law. Other than as set forth in this Agreement, after the Separation Date, you shall not receive any base salary, annual bonus, long term incentive award, welfare, retirement, perquisite, fringe benefit, or other benefit plan coverage or coverage under any other practice, policy or program as may be in effect from time to time, applying to senior officers or other employees of the Company; provided, however, that the foregoing shall not provide for any right to indemnification or advancement for any expenses or liabilities incurred by you, including, but not limited to any attorney's fees, amounts paid in settlement and any related costs, arising out of or resulting from any litigation matters settled or otherwise resolved by you prior to the date hereof without the Company's consent.

4. No Other Payments or Benefits. You acknowledge and agree that, other

than the payments and benefits expressly set forth in this Agreement, you have received all compensation to which you are entitled from the Company, and you are not entitled to any other payments or benefits from the Company.

5. Continuing Obligations. You acknowledge and affirm your continuing obligations under the HP Agreement Regarding Confidential Information and Proprietary Developments you signed on February 6, 2008, February 26, 2009 and February 12, 2010, (the "Confidentiality Agreements"); provided, however, that you hereby agree that Section 7 of the Confidentiality Agreement (Protective Covenants) shall apply for the period of twenty-four (24) months commencing on the Separation Date and; provided, further, that you agree that Section 2 of the Confidentiality Agreement (Confidential Information) shall apply at all times following the Separation Date.

6. Nondisparagement. You agree that you will not, with intent to damage, disparage or encourage or induce others to disparage any of the Company, its subsidiaries and affiliates, together with all of their respective past and present directors and officers and each of their successors and assigns (collectively, the "Company Entities and Persons"). Nothing in this Separation Agreement is intended to or shall prevent you from providing, or limiting testimony in response to a valid subpoena, court order, regulatory request or other judicial, administrative or legal process or otherwise as required by law. You agree that you will notify the Company in writing as promptly as practicable after receiving any request for testimony or information in response to a subpoena, court order, regulatory request or other judicial, administrative or legal process or otherwise as required by law, regarding the anticipated testimony or information to be provided and at least ten (10) days prior to providing such testimony or information (or, if such notice is not possible under the circumstances, with as much prior notice as is possible).

7. Cooperation. Prior to and after the Separation Date, you agree that you will reasonably cooperate with the Company, its subsidiaries and affiliates, at any level, and any of their officers, directors, shareholders, or employees: (A) concerning requests for information about the business of the Company or its subsidiaries or affiliates or your involvement and participation therein, (B) in connection with any investigation or review by the Company or any federal, state or local regulatory, quasi-regulatory or self-governing authority (including, without limitation, the Securities and Exchange Commission) as any such investigation or review relates to events or occurrences that transpired while you were employed by the Company and (C) with respect to transition and succession matters. Your cooperation shall include, but not be limited to (taking into account your personal and professional obligations, including those to any new employer or entity to which you provide services), being available to meet and speak with officers or employees of the Company and/or the Company's counsel at reasonable times and locations, executing accurate and truthful documents and taking such other actions as may reasonably be requested by the Company and/or the Company's counsel to effectuate the foregoing. You shall be entitled to reimbursement, upon receipt by the Company of suitable documentation, for reasonable and necessary travel and other expenses which you may incur at the specific request of the Company and as approved by



the Company in advance and in accordance with its policies and procedures established from time to time.

8. Company Property. On or prior to the Separation Date, you shall return to the Company all Company property in your possession or use, including, without limitation, all automobiles, fax machines, printers, cell phones, credit cards, building-access cards and keys, other electronic equipment, and any records, software or other data from your personal computers or laptops which are not themselves Company property, however stored, relating to the Company's confidential information.

9. Taxes. The parties acknowledge and agree that: the form and timing of the Separation Amount and the other payments and benefits to be provided pursuant to this Agreement are intended to be exempt from or to comply with one or more exceptions to the requirements of Section 409A of the Internal Revenue Code of 1986, as amended, and applicable Treasury Regulations thereunder ("Section 409A"), including the requirement for a six-month suspension on payments to "specified employees" as defined in Section 409A that are not otherwise permitted to be paid within the six-month suspension period. The parties further acknowledge and agree that for purposes of Section 409A you do not have discretion with respect to the timing of the payment of any amounts provided under this Separation Agreement. Notwithstanding any provision of this Agreement to the contrary, the Company, its affiliates, subsidiaries, successors, and each of their respective officers, directors, employees and representatives, neither represent nor warrant the tax treatment under any federal, state, local, or foreign laws or regulations thereunder (individually and collectively referred to as the "Tax Laws") of any payment or benefits contemplated by this Separation Agreement including, but not limited to, when and to what extent such payments or benefits may be subject to tax, penalties and interest under the Tax Laws.

10. Release.

a. You agree that, in consideration of this Separation Agreement, you hereby waive, release and forever discharge any and all claims and rights which you ever had, now have or may have against the Company and any of its subsidiaries or affiliated companies, and their respective successors and assigns, current and former officers, agents, directors, representatives and employees, various benefits committees, and their respective successors and assigns, heirs, executors and personal and legal representatives, based on any act, event or omission occurring before you execute this Separation Agreement arising out of, during or relating to your employment or services with the Company or the termination of such employment or services, except as provided below. This waiver and release includes, but is not limited to, any claims which could be asserted now or in the future, under: common law, including, but not limited to, breach of express or implied duties, wrongful termination, defamation, or violation of public policy; any policies, practices, or procedures of the Company; any federal or state statutes or regulations including, but not limited to, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et seq.*, the Civil Rights Act of 1866 and 1871, the Americans With Disabilities Act, 42 U.S.C. §12101 *et seq.*, the Employee Retirement

Income Security Act ("ERISA"), 29 U.S.C. §1001 *et seq.* (excluding those rights relating exclusively to employee pension benefits as governed by ERISA), the Family and Medical Leave Act, 29 U.S.C. §2601 *et seq.*, the California Family Rights Act, as amended, the California Fair Employment and Housing Act, as amended, California Labor Code Section 1400 *et seq.*, any contract of employment, express or implied; any provision of any other law, common or statutory, of the United States, California or any applicable state. Notwithstanding the foregoing, nothing contained in this paragraph 10.a. shall (i) subject to paragraphs 10.c and 10.d and the ADEA Release at Exhibit B, impair any rights or potential claims that you may have under the federal Age Discrimination in Employment Act of 1967 (the "ADEA"); (ii) waive, release or otherwise discharge any claim or cause of action that cannot legally be waived, including, but not limited to, any claim for unpaid wages, workers' compensation benefits, unemployment benefits and any claims under section 2802 of the California Labor Code; (iii) be construed to prohibit you from bringing appropriate proceedings to enforce this Separation Agreement; (iv) subject to the limitations set forth in Section 3 herein, affect any rights of defense or indemnification, or to be held harmless, or any coverage under directors and officers liability insurance or any other insurance or rights or claims of contribution or advancement of expenses that you have; or (v) affect any rights as a shareholder of the Company that you have.

b. For the purpose of implementing a full and complete release, you understand and agree that this Separation Agreement is intended to waive and release all claims, if any, which you may have and which you may not now know or suspect to exist in your favor against the Company and any of its subsidiaries or affiliated companies, and their respective successors and assigns, current and former officers, agents, directors, representatives and employees, various benefits committees, and their respective successors and assigns, heirs, executors and personal and legal representatives and this Separation Agreement extinguishes those claims. Accordingly, you expressly waive all rights afforded by Section 1542 of the Civil Code of the State of California ("Section 1542") and any similar statute or regulation in any other applicable jurisdiction. Section 1542 states as follows:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

c. By signing this Separation Agreement, you represent that you have not and will not in the future commence any action or proceeding arising out of the matters released hereby, and that you will not seek or be entitled to any award of legal or equitable relief in any such action or proceeding that may be commenced on your behalf. This Separation Agreement shall not prevent you from filing a charge with the Equal Employment Opportunity Commission (or similar state or local agency) or participating

in any investigation conducted by the Equal Employment Opportunity Commission (or similar state or local agency); provided, however, you acknowledge and agree that any claims for personal relief in connection with such a charge or investigation (such as reinstatement or monetary damages) would be and hereby are barred. The Company has advised you to consult with an attorney of your choosing prior to signing this Separation Agreement. You represent that you understand and agree that you have the right and have been given the opportunity to review this Separation Agreement and the ADEA Release (defined below), with an attorney. You further represent that you understand and agree that the Company is under no obligation to offer this Separation Agreement, and that you are under no obligation to consent to this waiver and release of claims.

d. In accordance with the ADEA release contained in Exhibit B hereto (the "ADEA Release"), you shall have twenty-one (21) days from the date of this Agreement to consider the ADEA Release and, once you have signed the ADEA Release, you shall have seven (7) additional days from the date of execution to revoke your consent to the ADEA Release. Any such revocation shall be made in writing so as to be received by the Company prior to the eighth (8<sup>th</sup>) day following your execution of the ADEA Release. If no such revocation occurs, the ADEA Release shall become effective on the eighth (8<sup>th</sup>) day following your execution, no earlier than the Separation Date, of the ADEA Release (the "Effective Date").

11. Enforcement. If any provision of this Separation Agreement is held by a court of competent jurisdiction to be illegal, void or unenforceable, such provision shall have no effect; however, the remaining provisions shall be enforced to the maximum extent possible. Further, if a court should determine that any portion of this Separation Agreement is overbroad or unreasonable, such provision shall be given effect to the maximum extent possible by narrowing or enforcing in part that aspect of the provision found overbroad or unreasonable. In addition, you agree that your willful and knowing failure to return Company property that relates to the maintenance of security of the Company Entities and Persons shall entitle the Company to injunctive and other equitable relief.

12. No Admission. This Separation Agreement is not intended, and shall not be construed, as an admission that either you or the Company Entities and Persons have violated any federal, state or local law (statutory or decisional), ordinance or regulation, breached any contract or committed any wrong whatsoever.

13. Successors. This Separation Agreement is binding upon, and shall inure to the benefit of, the parties and their respective heirs, executors, administrators, successors and assigns.

14. Choice of Law. This Separation Agreement shall be construed and enforced in accordance with the laws of the State of California without regard to the principles of conflicts of law.

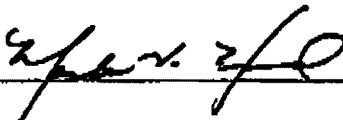
15. Entire Agreement. You acknowledge that this Separation Agreement constitutes the complete understanding between the Company and you regarding its subject matter and supersedes any and all agreements, understandings, and discussions, whether written or oral, between you and any of the Company Entities and Persons, including your prior employment agreement dated March 29, 2005; provided, however, that notwithstanding the foregoing, the Confidentiality Agreements shall remain in full force and effect in accordance with their terms as modified by this Separation Agreement. No other promises or agreements shall be binding on the Company unless in writing and signed by both the Company and you after the date of this Separation Agreement.

16. Effective Date. You may accept this Separation Agreement by signing it and returning it to the Company's General Counsel at Hewlett-Packard Company, 3000 Hanover Street, Palo Alto, CA 94304. The effective date of this Separation Agreement shall be the date it is signed by both parties, provided that the provisions of paragraph 2 shall not become effective until the Effective Date, as defined in paragraph 10.d. In the event you do not accept this Separation Agreement (including the ADEA Release) as set forth in this paragraph 16, this Separation Agreement, including but not limited to the obligation of the Company hereunder to provide the payments and other benefits described herein, shall be deemed automatically null and void.

17. Headings. The headings used herein are for the convenience of reference only, do not constitute part of this Separation Agreement and shall not be deemed to limit or otherwise affect any of the provisions of this Separation Agreement.

18. Counterparts. This Agreement may be executed in one or more counterparts, including emailed or telecopied facsimiles, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Separation Agreement  
as of the date set forth below.

Signature:   
Mark V. Hurd

Date: 8-06-10

By: \_\_\_\_\_

Date: \_\_\_\_\_

Catherine A. Lesjak

Title: Interim Chief Executive Officer

## EXHIBIT A

On the date that performance-based restricted stock units granted on January 17, 2008 relating to the 2008-2010 fiscal year performance period are settled for employees of the Company generally, you will be entitled to receive a number of shares of Company Common Stock equal to the sum of (i) your Banked PRUs and (ii) the product of (x) your Ongoing PRUs and (y) 0.75, subject to applicable withholdings.

The defined terms on this Exhibit A shall have the following meanings:

**2008 Performance-Based Stock Unit Award** – Your award of performance-based restricted stock units representing hypothetical shares of Company common stock granted to you pursuant to the Award Agreement.

**Award Agreement** – The Stock Notification and Award Agreement, outlining the terms of your grant of performance-based restricted stock units on January 17, 2008.

**Banked PRUs** – The portion of your 2008 Performance-Based Stock Unit Award treated as a Conditional PRU Award (as defined in your Award Agreement) relating to cash flow milestones achieved for the Company's 2008 and 2009 fiscal years, multiplied by the Total Shareholder Return Multiplier.

**Ongoing PRUs** – The portion of the 2008 Performance-Based Stock Unit Award (other than the Banked PRUs) that would have become a Conditional PRU Award had you remained employed with the Company through October 31, 2010, based on actual Company performance through such date, multiplied by the lesser of (i) the Total Shareholder Return Multiplier and (ii) what the Total Shareholder Return Multiplier would have been if the per share price of Company common stock on October 31, 2010 was the per share closing trading price of Company common stock on the Separation Date.

**Total Shareholder Return Multiplier** – The total shareholder return multiplier applicable to the 2008 Performance-Based Stock Unit Award, calculated in accordance with the terms of the Award Agreement.

## EXHIBIT B

WAIVER OF RIGHTS UNDER THE  
AGE DISCRIMINATION AND EMPLOYMENT ACT

1. Mark V. Hurd ("Executive" or "you") knowingly and voluntarily, on behalf of yourself and your agents, attorneys, successors, assigns, heirs and executors, releases and forever discharges Hewlett-Packard Company (the "Company") and all of their subsidiaries and affiliates, together with all of their respective past and present directors, managers, officers, shareholders, partners, employees, agents, attorneys and servants, representatives, administrators and fiduciaries (except that in the case of agents, representatives, administrators, attorneys and fiduciaries, only to the extent in any way related to his or her employment with, or the business affairs of the Company) and each of their predecessors, successors and assigns (collectively, the "Releasees") from any and all claims, charges, complaints, promises, agreements, controversies, liens, demands, causes of action, obligations, suits, disputes, judgments, debts, bonds, bills, covenants, contracts, variances, trespasses, executions, damages and liabilities of any nature whatsoever relating in any way to your rights under the Age Discrimination in Employment Act of 1967, as amended (the "ADEA"), whether known or unknown, suspected or unsuspected, which you or your executors, administrators, successors or assigns ever had, now have, or may hereafter claim to have against the Releasees in law or equity, arising on or before the date this ADEA Release (as defined below) is executed by you, and whether or not previously asserted before any state or federal court or before any state or federal agency or governmental entity (the "ADEA Release"). This ADEA Release includes, without limitation, any rights or claims relating in any way to your employment relationship with the Company or any of the Releasees, or the termination thereof, arising under the ADEA, including compensatory damages, punitive damages, attorney's fees, costs, expenses, and any other type of damage or relief. You represent that you have not commenced or joined in any claim, charge, action or proceeding whatsoever against the Company or any of the Releasees arising out of or relating any of the matters set forth in this ADEA Release. You further agree that you shall not be entitled to any personal recovery in any claim, charge, action or proceeding whatsoever against the Company or any of the Releasees for any of the matters set forth in this ADEA Release.

2. The Company has advised you to consult with an attorney of your choosing prior to signing this ADEA Release. You represent that you understand and agree that you have the right and have been given the opportunity to review this ADEA Release with an attorney. You further represent that you understand and agree that the Company is under no obligation to offer you this ADEA Release, and that you are under no obligation to consent to the ADEA Release, and that you have entered into this ADEA Release freely and voluntarily.

3. You shall have twenty-one (21) days to consider this ADEA Release, and once you have signed this ADEA Release, you shall have seven (7) additional days from the date of execution to revoke your consent to this ADEA Release. Any such revocation shall be made in writing so as to be received by the Company's General Counsel prior to the eighth (8<sup>th</sup>) day following your execution of this ADEA Release. If no such revocation occurs, this ADEA Release shall become effective on the eighth (8<sup>th</sup>) day following your execution of this ADEA Release (the "Effective Date"). In the event that you revoke your consent, this ADEA Release shall be null and void.

IN WITNESS WHEREOF, the Executive has executed this ADEA Release as of the date set forth below.

  
\_\_\_\_\_  
Mark V. Hurd

8-06-10  
Date



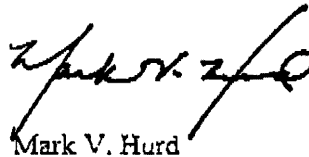
August 6, 2010

To the Hewlett-Packard Company Board of Directors:

In connection with the termination of my employment with Hewlett-Packard Company, I hereby resign as Chairman of the Board, Chief Executive Officer and President and as a member of the Board of Directors of Hewlett-Packard Company, effective immediately. I also hereby resign as a director or officer of each and every subsidiary or affiliate of Hewlett-Packard Company, as applicable.

I hereby confirm to the Hewlett-Packard Company Board of Directors that my resignation as a member of the Board of Directors is voluntary and not the result of any disagreement on any matter relating to Hewlett-Packard Company's operations, policies or practices.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark V. Hurd", is written over a horizontal line.

Mark V. Hurd

**EXHIBIT E**



(Sign In / Register for a free Oracle Web account)

Worldwide

Oracle Websites

secure search

Oracle.com

[Home](#)[Technologies](#)[Products and Services](#)[Industries](#)[Support](#)[Store](#)[Partners](#)[Communities](#)[About](#)[Press Room](#)[Press Release](#)[Board of Directors](#)[Executives](#)[Spokespeople](#)[Media Kits](#)[Public Relations Contacts](#)[EMEA Media Center](#)[APAC Media Center](#)[Japan Media Center](#)

## Oracle Press Release

### Oracle Hires Mark Hurd as President

#### Hurd Joins Oracle's Board of Directors

REDWOOD SHORES, Calif. - September 6, 2010

Oracle (NASDAQ: ORCL) today announced that Mark V. Hurd has joined Oracle as President and has been named to Oracle's Board of Directors. Mr. Hurd will report to Oracle CEO Larry Ellison.

"Mark did a brilliant job at HP and I expect he'll do even better at Oracle," said Oracle CEO Larry Ellison. "There is no executive in the IT world with more relevant experience than Mark. Oracle's future is engineering complete and integrated hardware and software systems for the enterprise. Mark pioneered the integration of hardware with software when Teradata was a part of NCR."

"Mark is an outstanding executive and a proven winner," said Oracle President Safra Catz. "I look forward to working with him for years to come. As Oracle continues to grow we need people experienced in operating a \$100 billion business."

"I believe Oracle's strategy of combining software with hardware will enable Oracle to beat IBM in both enterprise servers and storage," said Mark Hurd. "Exadata is just the beginning. We have some exciting new systems we are going to announce later this month at Oracle OpenWorld. I'm excited to be a part of the most innovative technology team in the IT industry."

#### Cautionary Statement Regarding Forward-Looking Statements

Statements in this press release relating to Oracle's future plans, expectations, beliefs, intentions and prospects are "forward-looking statements" and are subject to material risks and uncertainties. When used in this press release, the words "will", "future", "expect", "look forward to", similar expressions and any other statements that are not historical facts are intended to identify those assertions as forward-looking statements. Any such statement may be influenced by a variety of factors, many of which are beyond the control of Oracle, that could cause actual outcomes and results to be materially different from those projected, described, expressed or implied in this press release due to a number of risks and uncertainties. Accordingly, no assurances can be given that any of the events anticipated by the forward-looking statements will transpire or occur. A detailed discussion of these factors and other risks that affect our business is contained in our SEC filings, including our most recent reports on Form 10-K and Form 10-Q, particularly under the heading "Risk Factors." Copies of these filings are available online from the SEC or by contacting Oracle Corporation's Investor Relations Department at (650) 506-4073 or by clicking on SEC Filings on Oracle's Investor Relations website at <http://www.oracle.com/investor>. All information set forth in this press release is current as of September 6, 2010. Oracle undertakes no duty to update any statement in light of new information or future events.

#### About Oracle

Oracle (NASDAQ: ORCL) is the world's most complete, open and integrated business software and hardware systems company.

#### Trademarks

Oracle and Java are registered trademarks of Oracle and/or its affiliates. Other names may be trademarks of their respective owners.

#### Contact:

Deborah Hellinger

Oracle Corporate Communications

1.212.508.7935

[Deborah.hellinger@oracle.com](mailto:Deborah.hellinger@oracle.com)

Oracle 1-800-633-0738

[Oracle Media Relations](#)

[Global contacts](#)

[Expand All](#) | [Close All](#)

RSS

[Subscribe](#)

[Find out more about RSS](#)

[Newsletters](#)

[BOOKMARK](#)

[E-mail this page](#)

[Printer View](#)