

## Directors Cut

# H-P Board Clash Over Leaks Triggers Angry Resignation

Perkins Slams Briefcase, Says,  
'I Quit and I'm Leaving,'  
As Probe Fingers a Friend

## A New Era of Governance

By ALAN MURRAY

A year and a half after Carly Fiorina was pushed out as chairman and chief executive of Hewlett-Packard Co., the aftershocks of that firing continue to shake the computer company's board of directors.

The latest eruption came at a meeting on May 18, when the board reviewed the results of an extensive investigation into press leaks that was undertaken by new board Chairman Patricia Dunn shortly after Ms. Fiorina departed. The report,

**◇ BUSINESS ◇** which relied in part on private telephone records, fingered George Keyworth, a longtime director and former science adviser to President Reagan, as the source of many of the leaks about board deliberations. A boardroom showdown ensued, during which the board voted to ask Mr. Keyworth to resign, and he refused, saying he was elected by the shareholders. Venture capitalist Tom Perkins, a friend of Mr. Keyworth, quit the board on the spot in anger.

In the weeks since that meeting, Mr. Perkins has told business associates of the event, and also provided information to the Securities and Exchange Commission, prompting that agency to launch a probe into the matter. He is particularly concerned that the investigation involved the search of board members' private telephone records, and has questioned the legality of that practice.

In response, the Hewlett-Packard board plans a filing with the SEC today. Among other things, that report will say that Mr. Keyworth will not be nominated for reelection to the board at its annual meeting next March.

While full details of H-P's internal probe remain unclear, it appears to involve a controversial practice known as "pretexting." Under the practice, public

investigators apparently call the phone company, and use personal information to falsely represent themselves as another person, in order to obtain that person's records.

H-P board members say the investigation was done by an outside contractor to the company, retained by another outside contractor.

Those contractors continue to insist they used only legal methods to obtain the phone records. But some H-P board members acknowledge feeling uncomfortable with the methods used.

Viet Dinh, an attorney for Mr. Perkins, said in a statement that Mr. Perkins "resigned because of a disagreement about H-P's governance practices. The company for the past months has refused to disclose the substance of the disagreement, and Mr. Perkins is pursuing all appropriate remedies."

"The situation is regrettable," Ms. Dunn said in a statement. "But the bottom line is that the board has asserted its commitment to upholding the standards of confidentiality that are critical to its functioning. A board can't serve effectively if there isn't complete trust that what gets discussed stays in the



Tom Perkins

# Directors Cut: H-P Board Clash Over Leaks Triggers an Angry Resignation

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The story reflects a new era in the way American corporations are run. A few years ago, most boards of directors were clubby affairs, run by the chief executive, filled with members chosen by the chief executive, and likely to intervene only in times of crisis. Today, as a result of a host of changes that cascaded out of the corporate scandals earlier this decade, boards have become more powerful and more independent than ever. The Hewlett-Packard story shows many of them are still struggling to operate smoothly in this new environment.

Mr. Keyworth couldn't be reached for comment. Ms. Fiorina plans to tell her version of events in a book being published next month. This account is based on interviews with several of the people directly involved.

The confrontation at H-P has its roots in November 2004, when independent members of the board met in executive session, without Ms. Fiorina present, and discussed their concerns over her leadership. At the time, H-P's stock was performing poorly compared with shares of rivals such as Dell Inc. and International Business Machines Corp. Mr. Keyworth, a director since 1986, suggested the board bring back Mr. Perkins, who had left a year earlier because he had reached the board's mandatory retirement age of 72.

Mr. Perkins is a storied figure in Silicon Valley, having helped start one of the first venture-capital firms there, Kleiner Perkins Caufield & Byers. He worked for H-P in the 1960s, and joined the company's board in 2002 after it merged with Compaq Computer, where he had been a director. Once married to romance novelist Danielle Steel, Mr. Perkins recently wrote a racy novel of his own titled "Sex and the Single Zillionaire."

When told of the board's plans to bring back Mr. Perkins, Ms. Fiorina resisted, according to board members. Frequently lauded as the nation's leading female business executive, Ms. Fiorina was known for her marketing skill, but inside H-P she had a reputation for flashes of arrogance. She didn't like the idea of waiving the retirement age, and felt that if Mr. Perkins were to return, the board should wait until its annual meeting the following March. But Mr. Keyworth was particularly insistent, and Mr. Perkins was invited to attend the board's annual strategy session in January 2005, although he wasn't yet a director.

Unknown to Ms. Fiorina, Mr. Perkins also participated in a series of phone calls and email exchanges in December 2004 and January 2005. During the calls, some board members began to articulate their concerns over her management, according to people who participated.

In an interview late last year, Mr. Perkins said he didn't know of the board's con-

cerns about Ms. Fiorina when he was first approached about becoming a director again. In the December 2004 phone calls, however, he quickly learned of the board's unhappiness. "The organization was becoming ever more horizontal, reporting more and more to Carly," he said in the interview. "The board respected Carly. She was Wonder Woman. But still, there are only 24 hours in a day."



Carly Fiorina

On Jan. 10, 2005, three board members—Ms. Dunn, Mr. Keyworth, and longtime H-P executive Richard Hackborn—met with Ms. Fiorina at H-P headquarters and laid out their concerns. They told her directors felt she didn't consult with them fully and were unhappy with the state of the company's business with corporate customers, according to people in the room.

In the discussion that followed, Mr. Keyworth, who headed the board's technology committee, argued Ms. Fiorina should elevate Shane Robison, the company's chief technology officer, to a top management job. She grew particularly irritated at that suggestion. Mr. Robison

wasn't ready for such a position, she argued. Moreover, it was her job, not the board's, to choose management.

Nevertheless, Ms. Fiorina, who was chairman of the board as well as chief executive, agreed to tear up her agenda for the board's strategy retreat later that week, and focus instead on the directors' concerns. The retreat took place at the Park Hyatt in San Francisco. The board and Ms. Fiorina had a candid discussion of their disagreements, according to people present.

## Holding Her Ground

For the most part, Ms. Fiorina held her ground, continuing to resist specific changes recommended by some members of the board, and refusing, in particular, to bow to Mr. Keyworth's desire to elevate Mr. Robison. But she indicated some willingness to bring in new management talent in the future. Afterward, some board members felt "cautiously optimistic," as one put it, that their differences could be resolved. "It was like the Berlin Wall had come down," a director said afterward.

A week later, however, Hewlett-Packard learned that a Wall Street Journal reporter had extensive details of the Park Hyatt discussions and was preparing an article. Ms. Fiorina was furious. She called the board members together on the phone and dressed them down for giving details of the meeting. No one confessed to the leak. A spokesman for The

## Computing Problem

Events in the recent shake-up of Hewlett-Packard's board of directors:

**November 2004:** Director George Keyworth recommends Tom Perkins be invited to return to H-P board.

**February 2005:** H-P board votes to add Mr. Perkins and to dismiss Carly Fiorina as chairman and chief executive. Patricia Dunn becomes nonexecutive chairman.

**March:** H-P announces Mark Hurd as new chief executive.

**January 2006:** CNET News quotes an unnamed source on details of an H-P board strategy meeting.

**May:** H-P board reviews internal investigation of January leak to CNET. Board asks Mr. Keyworth to resign, but he refuses. Mr. Perkins quits.

**Sept. 6:** H-P board plans to file report with SEC on circumstances surrounding Mr. Perkins's resignation.

Wall Street Journal said the newspaper doesn't comment on its sources. A page-one story about the board's discussions appeared in the Journal on Jan. 24, 2005.

The leak, and Ms. Fiorina's reaction to it, widened the gulf between her and her board. Board members also were outraged by the leak, but felt it was a smaller issue than their concerns about the performance of the company, according to two directors. The board held another telephone conference on Jan. 28, with Ms. Fiorina participating from the World Economic Forum in Davos, Switzerland. She continued to express her anger. "Carly sought to make the leaks the No. 1 issue," said one board member, "and the board was seeking to make performance the No. 1 issue."

Board members say the leak, and Ms. Fiorina's reaction to it, didn't cause her demise, but probably accelerated it. Up to that point, many of them were hoping they could work out their differences with her. Afterward, many concluded it had become impossible to work together.

Less than two weeks later, on Feb. 7, the board met in Chicago. After hearing again from Ms. Fiorina, who laid out her views of her job and the board's job, the independent board members met in private and voted to dismiss her. At the same meeting, they also made Mr. Perkins a director.

In the aftermath of Ms. Fiorina's firing, Ms. Dunn was chosen to be nonexecutive chairman of the board—a position she still holds today. Ms. Fiorina's successor, Mark Hurd, previously chief executive of NCR Corp., was given the title of chief executive only.

Ms. Dunn, 53, is vice chairman of Barclays Global Investors in San Francisco, an asset-management unit of Barclays PLC. She had once been chief executive of the unit, but stepped down to fight cancer. She grew up in Las Vegas, where her father was entertainment director at various casinos and her mother had been a showgirl.

In conversations with H-P board members after taking the new job, Ms. Dunn found many of them were still concerned about the leak. Ms. Fiorina had asked prominent Silicon Valley lawyer Larry Sonsini to interview directors, seeking both a confession and a reaffirmation of the board's confidentiality policy. Again, no one confessed. Mr. Perkins acknowledged talking to the reporter but said she already had all the details at the time. Ms. Fiorina herself suspected Mr. Keyworth was the source. But Mr. Sonsini's evidence didn't confirm that.

## Internal Investigation

After Ms. Fiorina left, Ms. Dunn asked the company to carry out a deeper investigation, which began in the spring of 2005 and was overseen internally by the company. The investigation lasted for months and involved the use of outside investigative firms. The investigators began to narrow the list of suspects, but were unable to develop conclusive evidence that any one member of the board was responsible for the leaks. Ms. Dunn said she regularly informed the board of the investigation, but provided few details, at the investigators' request.

In January of this year, the board again held its annual off-site meeting with H-P management, this time at the Esmeralda Resort and Spa, near Palm Springs, Calif. A few days later, CNET News, a technology-news Web site, ran a story with details from the private meeting, quoting a "source with the company." Some of the information provided by the source was mundane: "By the time the lectures were done at 10 p.m., we were pooped and went to bed," the story quotes the source saying. But some got to the core of the company's plans. The source said H-P might buy more software companies and might work more closely with chip maker Advanced Micro Devices Inc. as "a cattle prod of sorts" to H-P's longstanding chip supplier, Intel Corp.

Outside board members have long leaked information to the media, often because they're at odds with the CEO and

want to promote their own views. "The only people who leak more to the press are prosecutors," quips John C. Coffee Jr., a Columbia University law professor. Directors have a fiduciary duty to keep confidential any inside information that would affect the share price, but other leaks wouldn't necessarily violate the rules, says Mr. Coffee.

After the CNET leak, the H-P investigation was revved up again, directors say. Because the information in the CNET story was so specific, investigators were able to narrow the likely sources. Subsequently, the private investigators obtained phone records that showed Mr. Keyworth had spoken with a CNET reporter.

What happened next has become a key part of the current board furor. Before the regularly scheduled board meeting on May 18, Ms. Dunn and Ann Baskins, the company's general counsel, decided to give the report on the investigation to Robert Ryan, head of the board's audit committee and former chief financial officer of Medtronic Inc., directors say. Ms. Dunn and Ms. Baskins concluded the leak was a violation of the company's Standards of Business Conduct, which are overseen by that committee. In doing so they bypassed the Nominating and Governance Committee, then headed by Mr. Perkins, which normally handled matters concerning board operations.

On the day of the board meeting, Mr. Ryan met with Mr. Keyworth for breakfast at H-P's headquarters and reviewed the findings of the investigation. According to a person involved, Mr. Keyworth was shocked at the information in the report, and admitted to having had lunch with the CNET reporter. The report did not point to him as the source for the earlier Wall Street Journal article involving Ms. Fiorina. But it did suggest Mr. Keyworth had been involved in other news stories concerning confidential board affairs.

Knowing Mr. Perkins and Mr. Keyworth were close, Mr. Ryan also pulled Mr. Perkins into a private room before the board meeting and briefed him on the report.

When the board met, Mr. Ryan went over the investigative report in detail. Mr. Keyworth was given a chance to explain himself. He apologized, but didn't say that his conversations with reporters had been improper. He was then asked to leave the room, and the board had a long discussion. A turning point came when Mr. Hurd, the chief executive, was asked by a director how he would handle the matter if it had been an employee who had talked to the reporter. Mr. Hurd replied, "I would have no choice but to fire him," according to a board member.

As it became clear the board was going to ask Mr. Keyworth to leave, Mr. Perkins got angry. Directors say he defended Mr. Keyworth as a valuable and longstanding director, and said a "good man" was being trashed by the process. He also attacked Ms. Dunn, saying, "Patricia, you betrayed me. You and I had an agreement we would handle this offline without disclosing the name of the leaker." (Ms. Dunn says she never had such an agreement. "I always knew it would require advice of counsel. Counsel was explicit the matter needed to go before the full board," she says.)

Finally, Mr. Perkins rose from his seat, slammed his briefcase shut, and said, "I quit and I'm leaving."

After a moment of silence, Mr. Ryan turned to Ann Baskins, the company's general counsel. "Ann, is that a bona fide resignation?" Ms. Baskins said if the board voted to accept the resignation, it would be valid. Mr. Ryan responded: "I so move." His motion was quickly seconded and adopted.

The board then began a discussion of its responsibility to disclose the event. The law requires that when a director resigns, the company has to disclose whether it was the result of a fundamental disagreement.

Mr. Perkins was on his way to Turkey, to oversee the maiden voyage of The Maltese Falcon—his 290-foot clipper, one of the largest sailing yachts in the world. Contacted by Mr. Sonsini about his reasons for leaving the board, Mr. Perkins reportedly said: "Just don't make it for personal reasons. I don't want people to speculate about my health."

Board members say they concluded Mr. Perkins had no disagreement with the company, only with Ms. Dunn. Therefore they decided they had no obligation to file details with the SEC. Instead, the board issued a statement on May 19 that simply said Mr. Perkins had resigned, effective immediately. In the statement, Mr. Hurd thanked Mr. Perkins for his service, and said "he has been instrumental in championing improvements that are leading to a stronger H-P."

Mr. Perkins was concerned with the way his resignation was portrayed by the company, however, and subsequently contacted the SEC with his concerns, according to people familiar with the situation. Mr. Perkins has also been critical of the investigation, which he suggested involved illegal surveillance. Board members acknowledge some discomfort with the methods used by the private investigator who obtained the phone records, but H-P says it was assured by the investigators that the methods were legal.

Mr. Perkins previously had invited members of the board to come to Turkey for the launching of the Maltese Falcon. After the May 18 board meeting, however, he called Ms. Dunn's office and rescinded her invitation, according to one director.

Ms. Dunn's statement called the boardroom conflict "part of the board's progression from one that was more personality driven to one that is process driven and capable of upholding today's highest governance standards. Progression can be painful, we've seen that in changes within HP. But it's necessary and healthy."

—Joann S. Lublin  
contributed to this article.

## Nikkei Technology Seminar in the Silicon Valley

# NET NEXT DECADE

## THE ROLE OF THE US AND JAPAN IN ICT DEVELOPMENT

Nikkei America, Inc. will hold its next Silicon Valley technology seminar — "Net Next Decade: The Role of the US and Japan in ICT Development" — on Friday, October 6, 2006.

The seminar will focus on the rapid advances in information communications technology (ICT) that are enhancing the speed and convenience of business transactions, on the role of China and India as major forces driving this growth, and on the international cooperation essential for standardizing the requisite platforms, network technology, and security management in our efforts to create a global society.

Keynote speaker will be Reed E. Hundt, senior advisor at McKinsey & Company and former chair of the Federal Communications Commission (FCC). It will also feature Sachio Semmoto, chairman of eAccess Company. He and Mr. Hundt will lead a panel discussion to delineate the type of global society likely to emerge over the next 10 years, and to consider the role that the US and Japan must play in developing technologies and setting standards.

**Date:**  
October 6, 2006 (Fri.)  
3:00 P.M. — 7:30 P.M.

**Venue:**  
Sheraton Palo Alto Hotel  
625 El Camino Real, Palo Alto, CA 94301

**Registration:**  
Admission will be FREE.  
Advance registration is required due to limited space. Please register at the website listed below.

### Speakers' Profiles:



**Mr. Reed E. Hundt** Senior Advisor, McKinsey & Company  
Served as Chair of the Federal Communications Commission from 1993 to 1997. Prior to that, he was a partner at the Washington D.C. Office of Raytham & Watkins, an international law firm. Currently he is a senior advisor at McKinsey & Company and sits on the boards of several IT-related companies. A 1974 graduate of Yale University Law School, he is the author of *You Say You Want a Revolution: A Story of Information Age Politics* (Yale University Press, 2000) and *In China's Shadow: The Crisis of American Entrepreneurship* (Yale University Press, 2006).



**Dr. Sachio Semmoto** Chairman & CEO, eAccess  
He graduated from Kyoto University, Japan and received his MS and Ph.D. in Electrical Engineering from University of Florida. He joined Nippon Telephone and Telegraph (currently NTT), and in 1984 co-founded DDI (currently KDDI) where he served as Executive Vice President. In 1999, he founded an IP/Telecom company, eAccess Ltd., and in 2005 launched eMobile Ltd. He is currently Chairman and CEO of both eAccess and eMobile. He also serves as an advisor for a number of venture firms both in Japan and overseas.

**Program:**  
3:00 P.M. Sign-in  
3:30 P.M. Greeting & Opening Message  
3:40 P.M. Keynote Speech  
• **Mr. Reed E. Hundt**  
Senior Advisor, McKinsey & Company  
Former Chair of the Federal Communications Commission (FCC)  
4:40 P.M. Break (10 min.)  
4:50 P.M. Panel Discussion  
• **Mr. Reed E. Hundt**  
• **Dr. Sachio Semmoto**  
Chairman & CEO, eAccess  
• **Mr. Waichi Sekiguchi**  
Editorial Writer,  
Nihon Keizai Shimbun, Inc. (NIKKEI)  
6:00 P.M. Cocktail Reception  
7:30 P.M. Close



Patricia Dunn

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