State Probes HP's Spying on Directors

Allegations of identity theft follow the firm's disclosure that it dug up data on personal calls.

By James S. Granelli and Joseph Menn, Times Staff Writers
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Stepping into a fight among some powerful Silicon Valley players, California Atty. Gen. Bill Lockyer on Wednesday said he had launched a criminal investigation into whether Hewlett-Packard Co. broke laws by spying on directors to determine who was leaking boardroom information to the media.

Lockyer's announcement followed the company's disclosure earlier in the day that it had deceived telephone companies into releasing data on directors' personal phone calls.

Privacy experts were dismayed that HP resorted, at best, to unethical tactics more commonly associated with shady private investigators.

Lockyer said that his office was investigating allegations of identity theft and hacking into phone company computers — and that the probe "could go all the way up the chain." Lockyer said his office had issued subpoenas, but he would not disclose the names of the targets.

The attorney general said a decision on possible charges was "a very sad duty."

The feud involves former HP Chairwoman Carly Fiorina; her successor, Patricia C. Dunn; and directors George A. Keyworth II and Thomas J. Perkins, a Silicon Valley venture capitalist whose firm backed and brought to prominence dozens of technology giants including Amazon.com Inc., Google Inc. and Palm Inc.

Perkins triggered the investigation after resigning in May. He later protested that his own phone records had been hacked and that the company had failed to follow Securities and Exchange Commission rules that require it to disclose when a director's resignation results from a disagreement over "operations, policies or practices."

The SEC is looking into whether the board properly disclosed Perkins' departure.

Perkins could not be reached for comment. But in his letter to the board, he called his resignation "a very sad duty."

"My history with the Hewlett-Packard Company is long and I have been privileged to count both founders as close friends. I consider HP to be an icon of Silicon Valley, and one of the great companies of the world. It now needs, urgently, to correct its course," his letter stated.

HP said its efforts to stem boardroom leaks were started by Fiorina before she was ousted as chairwoman and chief executive in February 2005.

This year Chairwoman Dunn hired outside investigators to find out who leaked boardroom conversations and strategies, including possible purchases of other companies.

She reportedly was angered that CNet Networks, an online technology news site, had published details of an annual meeting of HP directors and top management. CNet
disclosed that the group discussed the possibility of buying more software companies and working more closely with Advanced Micro Devices Inc. instead of longtime chip supplier Intel Corp.

At a board meeting in May, HP executives confronted Keyworth, who acknowledged that he had leaked some information, and asked him to step down as director. He refused. But after an emotional argument, his friend, Perkins, quit in protest over the board's methods.

HP's filing Wednesday with the SEC revealed that Dunn's investigation used outside contractors to trace the leak. One contractor used "some form of 'pretexting' for phone record information," according to the filing.

Pretexting is a practice by which private investigators, data brokers and others use false identities to gather information about other people's phone calls.

Lawrence T. Babbio Jr., vice chairman and president of phone carrier Verizon Communications Inc., sits on HP's board and thus was probably a pretexting target. Verizon said Babbio would not comment.

In the SEC filing, HP said that at the time of its investigation, its lawyers advised that pretexting "was not generally unlawful." The lawyers wouldn't say, though, that the contractor's actions "complied in all respects with applicable law."

An affidavit for a search warrant sought by Lockyer's office disclosed that Perkins' phone records in January for his home were accessed by an impostor.

The affidavit from Hal Berman, a state Justice Department special agent, said the impostor used Perkins' home phone number and the last four digits of his Social Security number to open an online account for paying bills. The warrant asks Cox Communications Inc. to divulge the name of the Internet customer who used the cable firm's service to create that account.

HP's disclosure, filed with the SEC, angered some privacy advocates but did little damage to the company's stock, which has been trading near its high for the last 12 months. Its stock fell 62 cents on Wednesday to $35.84.

"At this very high level, this is very nasty business," said Neville L. Johnson, a Beverly Hills lawyer who represents a number of victims of investigator Anthony Pellicano's alleged illegal eavesdropping of celebrities.

"What you should do is tell the board members that we want all your phone records, and if you don't turn them over you're off the board," he said.

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