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11 Attorneys for Plaintiff
HEWLETT-PACKARD COMPANY

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION
15

16 HEWLETT-PACKARD COMPANY, a
Delaware corporation,

17 Plaintiff,

18 v.

19 PAPST LICENSING GMBH & CO. KG, a
20 German company,

21 Defendant.

Case No.

**COMPLAINT FOR DECLARATORY
JUDGMENT**

DEMAND FOR JURY TRIAL

22
23 Plaintiff Hewlett-Packard Company (“HP”) hereby alleges as follows for this complaint
24 against Papst Licensing GmbH & Co. KG (“Papst” or “Defendant”):

25 **THE PARTIES**

26 1. Plaintiff HP is a corporation organized under the laws of Delaware, with its
27 headquarters at 3000 Hanover Street, Palo Alto, California.
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1 11. Collectively, the '746 patent and the '144 patent will be referred to as the “patents-
2 in-suit.”

3 12. On March 31, 2008, HP filed a Complaint for Declaratory Judgment in this district
4 against Papst seeking a declaration that HP does not infringe U.S. Patent Nos. 6,470,399 (the
5 “399 patent”) and 6,895,449 (the “449 patent”). *Hewlett-Packard Co. v. Papst Licensing GmbH*
6 & *Co. KG*, No. 5:08-cv-01732, Dkt. No. 1 (N.D. Cal. Mar. 31, 2008).

7 13. The patents-in-suit are in the same family as the '399 and '499 patents.

8 14. The *Hewlett-Packard Co. v. Papst Licensing* matter was subsequently transferred
9 to United States District Court for the District of District of Columbia for coordinated or
10 consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See In Re Papst Licensing*
11 *Digital Camera Litig. – MDL 1800*, No. 1:07-mc-00493, Dkt. No. 87 (D.D.C. May 8, 2008).

12 15. In the Joint proposed Scheduling Order filed on May 1, 2015 in the *In Re Papst*
13 *Licensing* matter, Papst stated that:

Papst respectfully submits that it will seek to amend the complaint
to include infringement claims based on United States Patent Nos.
8,504,746 and 8,966,144. These patents issued on August 6, 2013,
and February 24, 2015, respectively.

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17 No. 1:07-mc-00493, Dkt. No. No. 585 at 1.

18 16. HP does not infringe any claims of the patents-in-suit.

19 **FIRST CAUSE OF ACTION**

20 **(Declaratory Judgment of Non-Infringement of the '746 Patent)**

21 17. HP hereby incorporates by reference its allegations contained in paragraphs 1
22 through 16 of this Complaint as though fully set forth herein.

23 18. Papst has alleged that HP infringes one or more claims of the '746 patent.

24 19. HP asserts that it does not infringe or contributes to any infringement of any claim
25 of the '746 patent either literally or under the doctrine of equivalents. HP further asserts that it
26 has not and does not induce any infringement of any claim of the '746 patent.

27 20. Therefore, there exists a substantial controversy between HP and Papst, the parties
28 having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a

1 declaratory judgment that HP have not infringed any claim of the '746 patent.

2 21. An actual and justiciable controversy exists regarding the alleged infringement of
3 the '746 patent by HP. HP accordingly requests a judicial determination of its rights, duties, and
4 obligations with regarding to the '746 patent.

5 22. A judicial declaration is necessary and appropriate so that HP may ascertain its
6 rights regarding the '746 patent.

7 **SECOND CAUSE OF ACTION**

8 **(Declaratory Judgment of Non-Infringement of the '144 Patent)**

9 23. HP hereby incorporates by reference its allegations contained in paragraphs 1
10 through 16 of this Complaint as though fully set forth herein.

11 24. Papst has alleged that HP infringes one or more claims of the '144 patent.

12 25. HP asserts that it does not infringe or contributes to any infringement of any valid
13 and enforceable claim of the '144 patent either literally or under the doctrine of equivalents. HP
14 further asserts that it has not and does not induce any infringement of any claim of the '144
15 patent.

16 26. Therefore, there exists a substantial controversy between HP and Papst, the parties
17 having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a
18 declaratory judgment that HP have not infringed and do not infringe any claims of the '144
19 patent.

20 27. An actual and justiciable controversy exists regarding the alleged infringement of
21 the '144 patent by HP. HP accordingly requests a judicial determination of its rights, duties, and
22 obligations with regarding to the '144 patent.

23 28. A judicial declaration is necessary and appropriate so that HP may ascertain its
24 rights regarding the '144 patent.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, HP prays for a declaratory judgment against Defendant as follows:

27 A. A declaration that HP's technology is not covered by any claim of the '746 patent
28 and that HP does not infringe any claim of the '746 patent;

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1 B. A declaration that HP's technology is not covered by any claim of the '144 patent
2 and that HP does not infringe any claim of the '144 patent;

3 C. A declaration that HP's case against Defendant is an exceptional case within the
4 meaning of 35 U.S.C. § 285;

5 D. An award of costs and attorneys' fees to HP; and

6 E. Such other and further relief as the Court deems just and reasonable.
7

8 Dated: May 8, 2015

FENWICK & WEST LLP

9
10 By: s/ Charlene M. Morrow

Charlene M. Morrow

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12 Attorneys for Plaintiff
Hewlett-Packard Company

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DEMAND FOR JURY TRIAL

Plaintiff HP hereby demands a trial by jury of all issues so triable.

Dated: May 8, 2015

FENWICK & WEST LLP

By: s/ Charlene M. Morrow
Charlene M. Morrow

Attorneys for Plaintiff
Hewlett-Packard Company

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