

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

PAPST LICENSING GmbH & CO. KG,

Plaintiff,

v.

HEWLETT-PACKARD COMPANY,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Papst Licensing GmbH & Co. KG (“Papst”), for its Complaint against defendant Hewlett-Packard Company (“HP”), hereby alleges as follows:

The Parties

1. Plaintiff Papst is a company organized under the laws of The Federal Republic of Germany with its principal place of business at Bahnhofstrasse 33, 78112, St. Georgen, Germany.

2. HP is a Delaware corporation with its principal place of business at 3000 Hanover Street, Palo Alto, California 94304. HP manufactures and sells a wide range of consumer electronics products, including tablets.

Nature Of The Action

3. This is a civil action for infringement of U.S. Patent No. 8,966,144 (“the ’144 patent”) (attached as Exhibit A) (the “Patent-in-Suit”) under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

Jurisdiction And Venue

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.*

5. This Court has personal jurisdiction over HP because, among other things, HP has committed, aided, abetted, contributed to, and/or participated in the commission of patent infringement in violation of 35 U.S.C. § 271 in this judicial district and elsewhere that led to foreseeable harm and injury to Papst.

6. This Court also has personal jurisdiction over HP because, among other things, HP is a Delaware corporate citizen, and has established minimum contacts within the forum such that the exercise of jurisdiction over HP will not offend traditional notions of fair play and substantial justice. For example, HP has placed products that practice and/or embody the claimed inventions of the Patent-in-Suit into the stream of commerce with the reasonable expectation and/or knowledge that purchasers and users of such products were located within this district. In addition, HP has sold, advertised, marketed, and distributed products in this district that practice the claimed inventions of the Patent-in-Suit. HP derives substantial revenue from the sale of infringing products distributed within the district, and/or expects or should reasonably expect its actions to have consequences within the district, and derives substantial revenue from interstate and international commerce. Additionally, HP has previously availed itself of this Court in previous lawsuits.

7. In addition, HP knowingly, actively induced and continues to knowingly actively induce (or is willfully blind to the) infringement of the Patent-in-Suit within this district by making, using, offering for sale, and selling infringing products, as well as by contracting with

others to use, market, sell, and offer to sell infringing products, all with knowledge of the asserted Patent-in-Suit, and its claims, with knowledge that its customers will use, market, sell, and offer to sell infringing products in this district and elsewhere in the United States, and with the knowledge and specific intent to encourage and facilitate infringing sales and use of the products by others within this district and the United States by creating and disseminating promotional and marketing materials, instructional materials, and product manuals, and technical materials related to the infringing products.

8. Moreover, HP knowingly contributed to the infringement of the Patent-in-Suit by others in this district, and continues to contribute to the infringement of the Patent-in-Suit by others in this district by selling or offering to sell components of infringing products in this district, which components constitute a material part of the inventions of the Patent-in-Suit, knowing of the patent-in-suit and its claims, knowing those components to be especially made or especially adapted for use to infringe the Patent-in-Suit, and knowing that those components are not staple articles or commodities of commerce suitable for substantial non-infringing use.

9. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b), because HP is subject to personal jurisdiction in this district and has committed acts of infringement in this district.

The Patent-In-Suit

10. United States Patent No. 8,966,144 (“the ’144 patent”), titled “Analog Data Generating And Processing Device Having A Multi-Use Automatic Processor,” was duly and lawfully issued by the U.S. Patent and Trademark Office on February 24, 2015. A copy of the ’144 patent is attached hereto as Exhibit B. Papst is the assignee of all rights, title, and interest in

the '144 patent, and it possesses all rights to sue and recover for any current or past infringement of the '144 patent.

11. Papst and HP have been engaged in litigation regarding United States Patent Nos. 6,895,449 and 6,470,399 in the case entitled *Hewlett-Packard Co. v Papst Licensing GmbH & Co. KG*, 5:08-cv-1732 (N.D. Cal.) filed on March 31, 2008 and consolidated in *In re Papst Licensing GmbH & Co. KG Litig.*, Misc. No. 07-493 (D. D.C.) since May 8, 2008.

12. On information and belief, HP has monitored Papst's patent prosecution activities at least since entering litigation with Papst in 2008.

COUNT I

Infringement of U.S. Patent No. 8,966,144

13. Paragraphs 1 through 12 are incorporated by reference as if fully stated herein.

14. The '144 patent is valid and enforceable.

15. HP has infringed, and continue to infringe, one or more claims of the '144 patent under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, products encompassed by those claims, including for example, by making, using, selling, offering for sale, and/or importing into the United States HP tablets that use or are able to be accessed via Mass Storage Device/Mass Storage Class ("MSD"), Media Transfer Protocol ("MTP"), or Picture Transfer Protocol ("PTP"), including without limitation models Pro Slate 12, Pro Slate 8, 10 Tablet, 10 Plus, 8 G2, 7 G2, 7 Plus G2 Tablet, and all other tablet models that use or are able to be accessed via MSD, MTP, or PTP (collectively, "the '144 Infringing Products").

16. HP's customers (e.g., distributors, retailers, and online vendors) directly infringe one or more claims of the '144 patent under 35 U.S.C. § 271(a) by selling, offering to sell, or importing the '144 Infringing Products in the United States. HP has actively induced infringement of, and continue to actively induce infringement of, one or more claims of the '144 patent under 35 U.S.C. § 271(b), either literally and/or under the doctrine of equivalents, by selling, importing, and/or offering for sale the '144 Infringing Products to its customers with the knowledge of the '144 patent and its claims, with knowledge that its customers will sell, offer to sell, and/or import into the United States the '144 Infringing Products, and with knowledge and specific intent to encourage and facilitate those infringing sales of the '144 Infringing Products through distributing the products to retailers, distributors, and online vendors and creating and disseminating promotional and marketing materials, instructional manuals, product manuals and other technical materials related to the '144 Infringing Products.

17. HP has contributed to the infringement of, and continues to contribute to the infringement of, one or more claims of the '144 patent under 35 U.S.C. § 271(c) and/or 271(f), either literally and/or under the doctrine of equivalents, by selling, offering for sale, and/or importing into the United States, the '144 Infringing Products, knowing that those products constitute a material part of the inventions claimed in the '144 patent, knowing that those products are especially made or adapted to infringe the '144 patent, and knowing that those products are not staple articles or commodities of commerce suitable for non-infringing use; rather that the components are used for or in systems that infringe one or more claims of the '144 patent.

18. HP has had knowledge of the '144 patent since at least as early as April 28, 2015, when Papst informed HP and the other defendants in the DC action that the '144 patent had

issued and proposed a scheduling order that would permit all parties to amend their complaints in that action.

19. On information and belief, HP has had knowledge of the '144 patent since it issued on February 24, 2015, as a result of monitoring Papst's prosecution activities.

20. HP has infringed, and continues to infringe, the '144 patent.

21. Papst has been and continues to be damaged by HP's infringement of the '144 patent.

22. HP has willfully infringed, and continues to willfully infringe, the '144 patent despite having knowledge of the '144 patent.

23. HP's conduct in infringing the '144 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

Prayer For Relief

WHEREFORE, Papst prays for judgment as follows:

- A. That HP has directly and/or indirectly infringed the Patent-in-Suit;
- B. That HP has willfully infringed the Patent-in-Suit;
- C. That Papst be awarded all damages adequate to compensate it for HP' infringement of the Patent-in-Suit, including damages pursuant to 35 U.S.C. § 284 and provisional damages pursuant to 35 U.S.C. § 154(d), such damages to be determined by a jury and, if necessary to adequately compensate Papst for the infringement, an accounting, and that such damages be trebled and awarded to Papst with pre-judgment and post-judgment interest;
- D. That this case be declared an exceptional case within the meaning of 35 U.S.C. § 285 and that Papst be awarded the attorney fees, costs, and expenses that it incurs prosecuting this action; and

E. That Papst be awarded such other and further relief as this Court deems just and proper.

Demand For Jury Trial

Plaintiff Papst hereby demands a trial by jury on all issues so triable.

Dated: June 15, 2015

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