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10 Attorneys for Plaintiff
11 TALEO CORPORATION

12
13 UNITED STATES DISTRICT COURT
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA
15 (SAN JOSE)

16 TALEO CORPORATION,
17 Plaintiff,

18 v.

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20 KENEXA CORPORATION,
21 KENEXA TECHNOLOGY, INC., and
22 KENEXA BRASSRING, INC.
23 Defendant.

Case No.: 11-cv-2872-PSG
FIRST AMENDED COMPLAINT

DEMAND FOR JURY TRIAL

24 Plaintiff Taleo Corporation (“Taleo”) submits its First Amended Complaint against
25 Kenexa Corporation, Kenexa Technology, Inc., and Kenexa BrassRing, Inc. (collectively, “the
26 Kenexa companies”), as follows:
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NATURE AND BASIS OF ACTION

1. This is a patent infringement action arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, seeking damages and injunctive relief.

THE PARTIES

2. Taleo Corporation is a Delaware corporation having its headquarters at 4140 Dublin Boulevard, Suite 400, Dublin, California 94568.

3. On information and belief, Kenexa Corporation is a Pennsylvania corporation having a place of business at 2121 N. California Blvd., Suite 290, Walnut Creek, CA 94596, and a corporate headquarters at 650 East Swedesford Road, Wayne, Pennsylvania 19087.

4. On information and belief, Kenexa Technology, Inc. is a Pennsylvania corporation, a wholly owned subsidiary of Kenexa Corporation, having a place of business at 650 East Swedesford Road, Wayne, Pennsylvania 19087.

5. On information and belief, Kenexa BrassRing, Inc. is a Delaware corporation, a wholly owned subsidiary of Kenexa Technology, Inc., having a place of business at 650 East Swedesford Road, Wayne, Pennsylvania 19087.

6. On information and belief, Kenexa Corporation transacts business in the United States primarily through its subsidiaries, including Kenexa Brassring, Inc.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over the Kenexa companies because on information and belief, they do business in the state of California, and have other continuous and systematic contacts with the state of California and this District.

9. On information and belief, Kenexa Corporation and/or one of its subsidiaries maintains an office in this District, and Kenexa Technology, Inc. and Kenexa BrassRing, Inc. are registered to do business in the state of California.

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10. The Kenexa companies have purposefully directed their activities, including infringement-related activities, at residents of California and this District, such that it would be fair and in accordance with Due Process for the Court to exercise jurisdiction in this matter.

11. Venue in this District is proper pursuant to 28 U.S.C. §§ 1391 and 1400.

BACKGROUND

12. Taleo is the owner of U.S. Patent Nos. 5,758,324 (Exhibit 1 hereto), 6,564,188 (Exhibit 2 hereto), 6,718,340 (Exhibit 3 hereto), 6,718,345 (Exhibit 4 hereto), and 7,668,886 (Exhibit 5 hereto), each of which is entitled “Resume Storage and Retrieval System,” listing Richard L. Hartman, Mary L. Hartman, and Roy P. Massena as inventors (collectively the Patents-in-Suit).

13. Taleo has owned the Patents-in-Suit while the Kenexa companies have committed acts of infringement, and continues to own the patents.

14. On information and belief, Kenexa 2X BrassRing (also called Kenexa Recruiter BrassRing) is a web-based applicant tracking “software as a service” system that includes requisition creation, processing, and posting, resume searching, sorting, and filing, applicant workflow, interview scheduling and tracking, candidate communications, reporting, and other products and services.

15. On information and belief, the Kenexa companies make, use, sell, and offer for sale in the United States, and/or import into the United States, recruiting products and services including at least the Kenexa 2X BrassRing products and services, without the permission or valid authorization of Taleo.

16. In addition, on information and belief, the Kenexa companies induce others, and each other, to infringe by making, using, selling, and offering for sale in the United States, and/or importing into the United States, products and services including the Kenexa 2X BrassRing.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 5,758,324

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2 17. Taleo incorporates by reference each and every allegation set forth in paragraphs 1
3 to 16 as if fully set forth herein.

4 18. On information and belief, the Kenexa companies infringe U.S. Patent No.
5 5,758,324 (“the ’324 patent”) by, without an effective license from Taleo, making, using, selling,
6 or offering for sale in the United States, and/or importing into the United States products and
7 services covered by the ’324 patent, including at least its Kenexa 2X BrassRing products and
8 services.

9 19. On information and belief, the Kenexa companies further infringe the ’324 patent
10 by inducing others, including each other, to make, use, sell or offer for sale in the United States,
11 and/or import into the United States, products and services covered by the ’324 patent.

12 20. The infringing activities of the Kenexa companies have caused monetary and other
13 competitive harm to Taleo.

14 21. The Kenexa companies will continue to infringe the ’324 patent unless enjoined by
15 this Court.

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17 **COUNT II: INFRINGEMENT OF U.S. PATENT NO. 6,564,188**

18 22. Taleo incorporates by reference each and every allegation set forth in paragraphs 1
19 to 21 as if fully set forth herein.

20 23. On information and belief, the Kenexa companies infringe U.S. Patent No.
21 6,564,188 (“the ’188 patent”) by, without an effective license from Taleo, making, using, selling,
22 or offering for sale in the United States, and/or importing into the United States products and
23 services covered by the ’188 patent, including at least its Kenexa 2X BrassRing products and
24 services.

25 24. On information and belief, the Kenexa companies further infringe the ’188 patent
26 by inducing others, including each other, to make, use, sell or offer for sale in the United States,
27 and/or import into the United States, products and services covered by the ’188 patent.

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1 25. The infringing activities of the Kenexa companies have caused monetary and other
2 competitive harm to Taleo.

3 26. The Kenexa companies will continue to infringe the '188 patent unless enjoined by
4 this Court.

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6 **COUNT III: INFRINGEMENT OF U.S. PATENT NO. 6,718,340**

7 27. Taleo incorporates by reference each and every allegation set forth in paragraphs 1
8 to 26 as if fully set forth herein.

9 28. On information and belief, the Kenexa companies infringe U.S. Patent No.
10 6,718,340 (“the '340 patent”) by, without an effective license from Taleo, making, using, selling,
11 or offering for sale in the United States, and/or importing into the United States products and
12 services covered by the '340 patent patent, including at least its Kenexa 2X BrassRing products
13 and services.

14 29. On information and belief, the Kenexa companies further infringe the '340 patent
15 patent by inducing others, including each other, to make, use, sell or offer for sale in the United
16 States, and/or import into the United States, products and services covered by the '340 patent
17 patent.

18 30. The infringing activities of the Kenexa companies have caused monetary and other
19 competitive harm to Taleo.

20 31. The Kenexa companies will continue to infringe the '340 patent patent unless
21 enjoined by this Court.

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23 **COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 6,718,345**

24 32. Taleo incorporates by reference each and every allegation set forth in paragraphs 1
25 to 31 as if fully set forth herein.

26 33. On information and belief, the Kenexa companies infringe U.S. Patent No.
27 6,718,345 (“the '345 patent”) by, without an effective license from Taleo, making, using, selling,
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1 or offering for sale in the United States, and/or importing into the United States products and
2 services covered by the '345 patent patent, including at least its Kenexa 2X BrassRing products
3 and services.

4 34. On information and belief, the Kenexa companies further infringe the '345 patent
5 patent by inducing others, including each other, to make, use, sell or offer for sale in the United
6 States, and/or import into the United States, products and services covered by the '345 patent
7 patent.

8 35. The infringing activities of the Kenexa companies have caused monetary and other
9 competitive harm to Taleo.

10 36. The Kenexa companies will continue to infringe the '345 patent patent unless
11 enjoined by this Court.

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13 **COUNT V: INFRINGEMENT OF U.S. PATENT NO. 7,668,886**

14 37. Taleo incorporates by reference each and every allegation set forth in paragraphs 1
15 to 36 as if fully set forth herein.

16 38. On information and belief, the Kenexa companies infringe U.S. Patent No.
17 7,668,886 ("the '886 patent") by, without an effective license from Taleo, making, using, selling,
18 or offering for sale in the United States, and/or importing into the United States products and
19 services covered by the '886 patent patent, including at least its Kenexa 2X BrassRing products
20 and services.

21 39. On information and belief, the Kenexa companies further infringe the '886 patent
22 patent by inducing others, including each other, to make, use, sell or offer for sale in the United
23 States, and/or import into the United States, products and services covered by the '886 patent
24 patent.

25 40. The infringing activities of the Kenexa companies have caused monetary and other
26 competitive harm to Taleo.

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41. The Kenexa companies will continue to infringe the '886 patent unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Taleo prays for the following relief:

- A. judgment for Taleo against the Kenexa companies;
- B. damages in an amount to be determined at trial for loss sustained by Taleo;
- C. a preliminary and final injunction against the continuing infringement;
- D. interest and costs; and
- E. such other and further relief as may be deemed just and appropriate.

DEMAND FOR A JURY TRIAL

In accordance with Federal Rule of Civil Procedure 38(b), Taleo hereby demands a trial by jury on all issues so triable.

DATED: 22 June 2011

Respectfully submitted,
NIXON PEABODY LLP

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