

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

NETWORK-1 TECHNOLOGIES, INC.,

Plaintiff,

v.

Civil Action No. 6:11-cv-492

HEWLETT-PACKARD COMPANY AND
HEWLETT PACKARD ENTERPRISE
COMPANY

Defendant.

DEFENDANTS' NOTICE OF APPEAL

Notice is hereby given that Defendants, Hewlett-Packard Company¹ and Hewlett Packard Enterprise, hereby appeal to the United States Court of Appeals for the Federal Circuit from the August 29, 2018 Order entering Final Judgment (D.I. 153 in Civ. No. 13-072), and from any and all orders and rulings adverse to Defendants in whole or in part. Because the Federal Circuit has already consolidated the Civil Action Nos. 6:13-cv-072-RWS and 6:11-cv-492-KNM-RWS ppfor purposes of appeal as Appeal No. 18-2338 and because there are common and related issues intertwined between both actions, Defendants file the same Notice of Appeal in both district court dockets.

Defendants challenge on appeal all rulings, decisions, orders, judgments, findings and/or conclusions entered in this lawsuit concerning the validity and enforceability of the patent-in-suit (and all subsidiary rulings relating to the foregoing), including but not limited to:

¹ On November 1, 2015, pursuant to a separation agreement, Hewlett-Packard Company changed its name to HP Inc. and spun-off Hewlett Packard Enterprise as a separate, publicly traded company. On appeal, counsel for Defendants will seek to correct the appeal caption as necessary.

- Memorandum Opinion and Order Granting Network-1's Motion for Judgment as a Matter of Law and Motion for New Trial on Validity (D.I. 151 in Civ. No. 13-072);
- Memorandum Opinion and Order concluding that Defendants failed to prove the defense of inequitable conduct (D.I. 151 in Civ. No. 13-072);
- Report and Recommendation Regarding Network-1's Motion for Partial Summary Judgment of Estoppel (D.I. 978 in Civ. No. 11-492);
- Order Adopting Report and Recommendation that Network-1's Motion for Partial Summary Judgment of Estoppel should be granted (D.I. 1068 in Civ. No. 11-492);
- Report and Recommendation Regarding Defendants' Motion For Summary Judgment of Invalidity Under 35 U.S.C. § 305 (D.I. 693 in Civ. No. 11-492);
- Order Adopting Report and Recommendation that except for claim 23 of the asserted patent, the remaining challenged claims are not invalid under 35 U.S.C. § 305 (D.I. 860 in Civ. No. 11-492); and
- Any and all findings, rulings, holdings, or conclusions underlying or relating to the above-listed opinions and orders.

Defendants also challenge on appeal certain oral evidentiary rulings as reflected in the trial transcript (both trial before the jury and the inequitable conduct bench trial).

Dated: September 13, 2018

Respectfully submitted,

/s/ Natalie A. Bennett

Natalie A. Bennett
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004-2541
Telephone: (202) 739-5559
Facsimile: (202) 739-3001
Email: natalie.bennett@morganlewis.com

Hersh H. Mehta
Morgan, Lewis & Bockius LLP
77 West Wacker Drive, Fifth Floor
Chicago, IL 60601
Telephone: (312) 324-1000
Facsimile: (312) 324-1001
hersh.mehta@morganlewis.com

Jennifer H. Doan
Texas Bar No. 08809050
Joshua R. Thane
Texas Bar No. 24060713
Kyle R. Akin
Texas Bar No. 24105422
HALTOM & DOAN
6500 Summerhill Road, Suite 100
Texarkana, TX 75503
Telephone: (903) 255-1000
Facsimile: (903) 255-0800
Email: jdoan@haltomdoan.com
Email: jthane@haltomdoan.com
Email: kakin@haltomdoan.com

Mark E. Ferguson
Mark S. Ouweleen
Faye E. Paul
Bartlit Beck Herman Palenchar & Scott LLP
54 W. Hubbard Street, Ste. 300
Chicago, IL 60654
Telephone: (312) 494-4400
Facsimile: (312) 494-4440
Email: mark.ferguson@bbhps.com
Email: mark.ouweleen@bbhps.com
Email: faye.paul@bbhps.com

**ATTORNEYS FOR DEFENDANTS
HEWLETT-PACKARD COMPANY AND
HEWLETT PACKARD ENTERPRISE
COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically on this thirteenth day of September, 2018. As of this date, all counsel of record have consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system.

/s/ Natalie A. Bennett
Natalie A. Bennett