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ADC TECHNOLOGY, INC.

14
15 **IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

16 ADC TECHNOLOGY, INC.,

17 Plaintiff,

18 v.

19 PALM, INC., and
HEWLETT-PACKARD COMPANY,

20 Defendants.

Case No. 11cv-02136 - EMC

**FIRST AMENDED COMPLAINT AND
DEMAND FOR JURY TRIAL**

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1 Plaintiff ADC Technology Inc., for its complaint against defendants Palm, Inc.
2 (hereinafter “Palm”) and Hewlett-Packard Company (hereinafter “HP”), alleges as follows:

3 **NATURE OF THE SUIT**

4 1. This is a claim for patent infringement arising under the patent laws of the United
5 States, Title 35 of the United States Code.

6 **PARTIES**

7 2. ADC Technology Inc. (“ADC”) is a corporation organized under the laws of
8 Japan with a principal place of business in Nagoya, Japan. Among other things, ADC develops
9 technology and sells products used in wireless communication.

10 3. ADC is the owner of a series of patents on inventions made by Toshiharu Enmei
11 for ADC, in the field of mobile communication devices.

12 4. ADC owns all right, title, and interest in, and has standing to sue for, the
13 infringement of the following United States Patents that are titled “Portable Communicator”:

- 14 • No. 6,985,136 issued January 10, 2006 (“the ‘136 Patent”);
15 • No. 7,057,605 issued June 6, 2006 (“the ‘605 Patent”); and
16 • No. 7,567,361 issued July 28, 2009 (“the ‘361 Patent”).

17 5. Palm has infringed one or more of the ADC patents by making, selling, offering
18 to sell, and/or importing mobile communication devices in the United States, including sales in
19 California and this judicial district.

20 6. Palm, Inc. (“Palm”) is a Delaware corporation with an office at 950 West Maude
21 Avenue, Sunnyvale, California 94085. Palm is in the business of designing, importing and
22 selling mobile communication devices in the United States.

23 7. Hewlett-Packard Company (“HP”) is a Delaware corporation with its
24 headquarters located at 3000 Hanover Street, Palo Alto, California 94304.

1 8. In July, 2010, HP acquired Palm. Palm is now part of HP's Personal Systems
2 Group business segment.

3 9. HP has infringed one or more of the ADC patents by making, selling, offering to
4 sell, and/or importing mobile communication devices in the United States, including sales in
5 California and this judicial district.

6 **JURISDICTION AND VENUE**

7 10. This cause of action was originally filed in the United States District Court for the
8 Northern District of Illinois on June 24, 2010.

9 11. Case number 1:10-cv-3940 was assigned to Honorable Judge William J. Hibbler.

10 12. On September 1, 2010 Defendant Palm filed a Motion to Transfer the case to the
11 Northern District of California.

12 13. On April 11, 2011, Judge Hibbler granted Palm's Motion to Transfer this action
13 to the Northern District of California.

14 14. On May 3, 2011, this Court designated this case to have case number CV 11-
15 02136 EMC.

16 15. This Court has exclusive jurisdiction over the subject matter of this case for patent
17 infringement under 28 U.S.C. § 1338(a).

18 16. This Court has personal jurisdiction over Palm because it conducts business in
19 California, and because Palm has committed acts of patent infringement in California and this
20 judicial district, such as the marketing and sale of mobile communication devices accused of
21 infringement in this case to customers in California.

22 17. Palm has placed its infringing products in the stream of commerce with
23 knowledge and intent that the products would be distributed and sold, directly or through others
24 in a distribution chain, to customers in California and this judicial district.

1 18. This Court has jurisdiction over HP because it conducts business in California,
2 and because HP has committed acts of patent infringement in California and this judicial district,
3 such as the marketing and sale of mobile communication devices accused of infringement in this
4 case to customers in California.

5 19. HP has placed its infringing products in the stream of commerce with knowledge
6 and intent that the products would be distributed and sold, directly or through others in a
7 distribution chain, to customers in California and this judicial district.

8 20. Venue is proper in this judicial district under 28 U.S.C. §§ 1400(b) and 1391.
9 Both Palm and HP reside in this district because they are subject to personal jurisdiction here.
10 Both Palm and HP have committed acts of infringement in this district, and a substantial part of
11 the infringing acts have occurred here.

12 **PATENT INFRINGEMENT**

13 21. Palm has infringed at least one claim of each of the '136, '605, and '361 patents,
14 at least by making, using, selling, importing and offering to sell mobile communication devices,
15 including but not limited to Palm-brand phones designated by the names Treo 800W, Treo 755P,
16 Treo 750, Pixi, Pixi Plus, Pre, Pre Plus, and Veer.

17 22. Palm's infringement has injured ADC, and ADC is entitled to recover damages
18 adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

19 23. ADC's injury will continue unless and until this Court enters an injunction against
20 further infringement by Palm.

21 24. HP has infringed at least one claim of the '136, '605, and '361 patents, at least by
22 making, using, selling, importing and offering to sell mobile communications devices, including,
23 but not limited to HP-brand phones designated by the name iPAQ Glisten. Also, since July,
24 2010 HP has infringed at least one claim of each of the '136, '605 and '361 patents at least by

1 making, using, selling, importing, and offering to sell mobile communication devices including,
2 but not limited to the Pre, Pre 2, Pre 3, Pre Plus, Pixi, Pixi Plus and Veer brand phones under
3 HPs Palm Global Business Unit.

4 25. HP's infringement has injured ADC, and ADC is entitled to recover damages
5 adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

6 26. ADC's injury will continue unless and until this Court enters an injunction against
7 further infringement by HP.

8 27. With respect to Palm and Palm phones now sold under HPs Palm Global Business
9 Unit, ADC has complied with any applicable provisions of 35 U.S.C. § 287.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff ADC Technology Inc. respectfully requests that this Court enter
12 judgment against Defendants Palm, Inc., and Hewlett-Packard Company, and against their
13 subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and
14 all persons in active concert or participation with them, granting the following relief:

15 A. The entry of judgment in favor of ADC Technology Inc. on the claim of
16 infringement for each of the '136, '605, and '361 patents;

17 B. An award of damages adequate to compensate ADC Technology Inc. for the
18 infringement that has occurred (together with prejudgment interest from the date the
19 infringement began), but in no event less than a reasonable royalty as permitted by 35 U.S.C. §
20 284;

21 C. A permanent injunction against further infringement of the '136, '605, and '361
22 patents;

23 D. A finding that this case is exceptional and an award to ADC Technology Inc. of
24 all relief provided by 35 U.S.C. § 285; and

1 E. Such other and further relief that ADC Technology Inc. is entitled to under law,
2 and any additional relief that this Court or a jury may deem just and proper.

3 **JURY DEMAND**

4 ADC Technology Inc. demands a trial by jury on all issues presented in this complaint.

5 Respectfully Submitted,

6 /s/Richard B. Megley, Jr.

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23 ADC TECHNOLOGY, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 29, 2011 the foregoing

FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

was filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to the following counsel of record.

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I certify that all parties in this case are represented by counsel who are CM/ECF participants.

/s/ Richard B. Megley, Jr. _____

ATTORNEYS FOR ADC TECHNOLOGY, INC.