

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

**ST. CLAIR INTELLECTUAL PROPERTY  
CONSULTANTS, INC.,**

*Plaintiff,*

v.

**HEWLETT-PACKARD COMPANY,**

*Defendant.*

Civil Action No. 10-425-JJF-LPS

**JURY TRIAL DEMANDED**

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff St. Clair Intellectual Property Consultants, Inc. (“St. Clair”), for its First Amended Complaint against Defendant Hewlett-Packard Company, (“Defendant”), states and alleges as follows:

**THE PARTIES**

1. Plaintiff St. Clair Intellectual Property Consultants, Inc. (“St. Clair”) is a Michigan corporation having its principal place of business at 16845 Kercheval Avenue, Suite No. Two, Grosse Pointe, Michigan 48230.

2. Defendant is a Delaware corporation with its principal place of business at 3000 Hanover Street, Palo Alto, California 94304.

### **JURISDICTION AND VENUE**

3. This is an action for patent infringement under the patent laws of the United States, Title 35, United States Code, specifically §§ 271 and 281-285. This Court has subject matter jurisdiction under Title 28 United States Code §§ 1331 and 1338(a).

4. Personal jurisdiction over Defendant comports with the United States Constitution and 10 Del. C. § 3104 of the Delaware Code because Defendant has committed and continues to commit and has contributed and continues to contribute to acts of patent infringement in this district as alleged in this Complaint.

5. Venue is properly within the district under Title 28 United States Code §§ 1391(b) and (c) and 1400(b).

### **BACKGROUND**

6. St. Clair owns all of the rights and interests in United States Patent Nos. 5,613,130 (the “‘130 Patent”); 5,630,163 (the “‘163 Patent”); 5,710,929 (the “‘929 Patent”); 5,758,175 (the “‘175 Patent”); 5,892,959 (the “‘959 Patent”); 5,961,617 (the “‘617 Patent”); and 6,079,025 (the “‘025 Patent”) (collectively, the “Patents in Suit”).

7. The ‘130 Patent entitled “Card Voltage Switching And Protection” was duly and legally issued by the United States Patent and Trademark Office on March 18, 1997, after full and fair examination. A copy of the ‘130 Patent is attached hereto as Exhibit A.

8. The ‘163 Patent entitled “Computer Having A Single Bus Supporting Multiple Bus Architectures Operating With Different Bus Parameters” was duly and legally issued by the United States Patent and Trademark Office on May 13, 1997, after full and fair examination. A copy of the ‘163 Patent is attached hereto as Exhibit B.

9. The '929 Patent entitled "Multi-State Power Management For Computer Systems" was duly and legally issued by the United States Patent and Trademark Office on January 20, 1998, after full and fair examination. A copy of the '929 Patent is attached hereto as Exhibit C.

10. The '175 Patent entitled "Multi-Mode Power Switching For Computer Systems" was duly and legally issued by the United States Patent and Trademark Office on May 26, 1998, after full and fair examination. A copy of the '175 Patent is attached hereto as Exhibit D.

11. The '959 Patent entitled "Computer Activity Monitor Providing Idle Thread And Other Event Sensitive Clock And Power Control" was duly and legally issued by the United States Patent and Trademark Office on April 6, 1999, after full and fair examination. A copy of the '959 Patent is attached hereto as Exhibit E.

12. The '617 Patent entitled "System And Technique For Reducing Power Consumed By A Data Transfer Operations During Periods Of Update Inactivity" was duly and legally issued by the United States Patent and Trademark Office on October 5, 1999, after full and fair examination. A copy of the '617 Patent is attached hereto as Exhibit F.

13. The '025 Patent entitled "System And Method Of Computer Operating Mode Control For Power Consumption Reduction" was duly and legally issued by the United States Patent and Trademark Office on June 20, 2000, after full and fair examination. A copy of the '025 Patent is attached hereto as Exhibit G.

14. Defendant sells and distributes, including, upon information and belief, sales and distribution within the District of Delaware, personal computers including but not limited to products sold under the names Envy, G series, Mini, Pavilion, Presario, All-in-One, and TouchSmart.

15. Defendant, upon information and belief, had knowledge of the '929, '175, '959, and '025 patents before this Complaint was originally filed through Defendant's involvement in the development of the Advanced Configuration and Power Interface (ACPI) specification, as a result of the following facts:

- a. Before September 2, 2004, Defendant participated in several revisions of the ACPI specification relating to power management, including Revisions 3.0, 3.0b, and 4.0; and
- b. Upon information and belief, the '929, '175, '959, and '025 patents were uncovered and disclosed to those participating in the development of the ACPI specification, including Defendant.

16. Defendant, upon information and belief, had knowledge of the '929, '175, '959, and '025 patents before this Complaint was originally filed through Defendant's acquisition of Compaq Computer Corp., as a result of the following facts:

- a. Before April 13, 2001, Compaq participated in several revisions of the Advanced Configuration and Power Interface (ACPI) specification relating to power management, including Revisions 2.0, 2.0a, 2.0b, and 2.0c;
- b. Upon information and belief, the '929, '175, '959, and '025 patents were uncovered and disclosed to those participating in the development of the ACPI specification, including Compaq;
- c. In 2001, Defendant engaged in a merger/acquisition of Compaq Computer Corp, and acquired Compaq in 2002;

- d. Upon information and belief, Defendant engaged in substantial due diligence research regarding Compaq's intellectual property, both before and after the acquisition;
  - e. Defendant acquired knowledge of the '929, '175, '959, and '025 patents as a result of Defendant's due diligence review of Compaq's intellectual property files, including files detailing Compaq's involvement in the development of the ACPI specification; and
  - f. Defendant ultimately acquired Compaq and all of the knowledge that Compaq had with respect to the '929, '175, '959 and '025 patents.
17. Defendant, upon information and belief, had knowledge of the '130, '163, '929, '175, '959, '617, and '025 patents before this Complaint was originally filed through Defendant's involvement with entities that search for, buy, sell, broker, and/or license patents:
- a. Defendant regularly communicates with, is a member/shareholder/partial owner of, and hires entities to search for, buy, sell, broker sales, and/or license patents that may relate to Defendant's products;
  - b. Defendant actively participates in and communicates with such entities, as well as various patent aggregation entities, including but not limited to RPX, Allied Security Trust (AST); Intellectual Ventures (IV); Drakes Bay Company; Ocean Tomo; Transpacific IP; Technology, Patents and Licensing Inc. (TPL); InterDigital Communications Corp. (IDCC); Acacia; Quantum Intellectual Property Services (QUIPS); and yet2.com Inc.;

- c. Such entities are in the business of searching for, analyzing, purchasing, licensing, and/or selling patents and patent portfolios, and regularly find and disclose patents, such as the Patents in Suit, to companies such as Defendant;
  - d. AST has openly searched for patents involving power management technology;
  - e. Defendant was a member of at least Allied Security Trust (AST) and RPX;
  - f. St. Clair, directly and/or through JMP Securities, discussed selling and/or licensing the '130, '163, '929, '175, '959, '617, and '025 patents to several entities that search for, buy, sell, broker, and/or license patents, including RPX, Intellectual Ventures (IV); Drakes Bay Company; Ocean Tomo; Transpacific IP; Technology, Patents and Licensing Inc. (TPL); InterDigital Communications Corp. (IDCC); Acacia; Quantum Intellectual Property Services (QUIPS); and yet2.com Inc.; and
  - g. Upon information and belief, one or more of such entities disclosed the '130, '163, '929, '175, '959, '617, and '025 patents to Defendant.
18. Defendant, upon information and belief, had knowledge of the '130, '163, '929, '175, '959, '617, and '025 patents before this Complaint was originally filed through Defendant's involvement as a defendant in other litigation with St. Clair, including St. Clair v. Samsung et al., No. 04-1436-JJF (D. Del. filed Nov. 9, 2004), as a result of the following facts:
- a. Defendant, upon information and belief, conducted due diligence with respect to patents assigned to St. Clair after the lawsuit was filed in 2004;
  - b. Defendant, upon information and belief, obtained discovery and knowledge of efforts made by JMP Securities to sell/license the '130, '163, '929, '175, '959, '617, and '025 patents; and

- c. Defendant, upon information and belief, obtained knowledge of the '130, '163, '929, '175, '959, '617, and '025 patents in connection with various settlement negotiations with St. Clair.

19. Defendant, upon information and belief, had knowledge of the '929, '175, '959, and '025 patents before this Complaint was originally filed through Defendant's involvement as a party to previous patent litigation concerning power management for computers, including but not limited to:

- a. IP Holdings v. Compaq et al, No. 1:01-cv-00082-GMS (D. Del. filed Feb. 13, 2001);
- b. Hewlett-Packard Company v. Gateway Inc., No. 3:04-cv-00613-B-LSP (S.D. Cal. Filed Mar. 24, 2004);
- c. Optimum Power Solutions v. Apple et al, No. 2:07-cv-00103-CE (E.D. Tex. filed Feb. 24, 2010);
- d. Hewlett-Packard Development Company v. eMachines Inc., No. 4:05-cf-00778 (S.D. Tex. filed Feb. 24, 2005);
- e. Hewlett-Packard Company v. Acer et al, No. 2:07-cv-00103-CE (E.D. Tex. filed Mar. 27, 2007); and
- f. Saxon Innovations, LLC v. Apple, Inc., et al, No. 6:08-cv-00265-JDL (E.D. Tex. filed Jun. 26, 2008);

wherein, upon information and belief, such patents would have been uncovered as prior art to the patents asserted in those cases.

20. Defendant, upon information and belief, had knowledge of the '130, '163, '929, '175, '959, '617, and '025 patents before this Complaint was originally filed through

Defendant's patent prosecution activities, including but not limited to the following patents:

U.S. Patent No. 6,691,236;	U.S. Patent No. 7,073,078;
U.S. Patent No. 7,062,663;	U.S. Patent No. 5,909,584;
U.S. Patent No. 7,302,698;	U.S. Patent No. 6,304,824;
U.S. Patent No. 5,721,935;	U.S. Patent No. 5,974,501;
U.S. Patent No. 6,961,859;	U.S. Patent No. 6,246,386;
U.S. Patent No. 5,666,539;	U.S. Patent No. 6,664,969;
U.S. Patent No. 6,678,831;	U.S. Patent No. 7,403,204;
U.S. Patent No. 7,076,671;	U.S. Patent No. 7,518,614; and
U.S. Patent No. 7,392,099;	European Patent Application No.
U.S. Patent No. 5,721,935;	1351117;
U.S. Patent No. 6,678,831;	

wherein one or more of the Patents in Suit were cited to Defendant as prior art, or cited by Defendant as prior art.

21. Defendant, upon information and belief, had knowledge of the '130, '163, '929, '175, '959, '617, and '025 patents before this Complaint was originally filed through Defendant's involvement in other litigation with St. Clair, including but not limited to St. Clair v. Acer, Inc. et al, No. 09-CV-354-JJF (consolidated) (D. Del. filed May 15, 2009). For example, upon information and belief, the Patents in Suit were disclosed to Defendant in connection with a subpoena served on Defendant on April 22, 2010.

## **COUNT I**

### **INFRINGEMENT OF THE '130 PATENT**

22. Plaintiff incorporates each of the preceding paragraphs 1 - 21 as if fully set forth herein.

23. Defendant has infringed and continues to infringe the '130 Patent literally, or under the doctrine of equivalents, by importing into the United States, and/or making, using, selling, or offering for sale in the United States, including the District of Delaware, products



embodying the patented inventions claimed in the '130 Patent without authority, including but not limited to the products identified in preceding paragraph 14.

24. Defendant, upon information and belief, had knowledge of the '130 Patent before this Complaint was originally filed for at least the reasons discussed in preceding paragraphs 15 – 21.

25. Defendant has had knowledge of the '130 Patent since the original Complaint was filed.

26. Upon information and belief, Defendant has willfully engaged in its infringing conduct.

27. The infringement by Defendant of the '130 Patent has injured St. Clair and will cause St. Clair added irreparable injury and damage in the future unless Defendant is enjoined from infringing the '130 Patent.

## **COUNT II**

### **INFRINGEMENT OF THE '163 PATENT**

28. Plaintiff incorporates each of the preceding paragraphs 1 - 27 as if fully set forth herein.

29. Defendant has infringed and continues to infringe the '163 Patent literally, or under the doctrine of equivalents, by importing into the United States, and/or making, using, selling, or offering for sale in the United States, including the District of Delaware, products embodying the patented inventions claimed in the '163 Patent without authority, including but not limited to the products identified in preceding paragraph 14.

30. Defendant, upon information and belief, had knowledge of the '163 Patent before this Complaint was originally filed for at least the reasons discussed in preceding paragraphs 15 – 21.

31. Defendant has had knowledge of the '163 Patent since the original Complaint was filed.

32. Upon information and belief, Defendant has willfully engaged in its infringing conduct.

33. The infringement by Defendant of the '163 Patent has injured St. Clair and will cause St. Clair added irreparable injury and damage in the future unless Defendant is enjoined from infringing the '163 Patent.

### **COUNT III**

#### **INFRINGEMENT OF THE '929 PATENT**

34. Plaintiff incorporates each of the preceding paragraphs 1 - 33 as if fully set forth herein.

35. Defendant has infringed and continues to infringe the '929 Patent literally, or under the doctrine of equivalents, by importing into the United States, and/or making, using, selling, or offering for sale in the United States, including the District of Delaware, products embodying the patented inventions claimed in the '929 Patent without authority, including but not limited to the products identified in preceding paragraph 14.

36. Defendant, upon information and belief, had knowledge of the '929 Patent before this Complaint was originally filed for at least the reasons discussed in preceding paragraphs 15 – 21.

37. Defendant has had knowledge of the '929 Patent since the original Complaint was filed.

38. Upon information and belief, Defendant has willfully engaged in its infringing conduct.

39. The infringement by Defendant of the '929 Patent has injured St. Clair and will cause St. Clair added irreparable injury and damage in the future unless Defendant is enjoined from infringing the '929 Patent.

**COUNT IV**

**INFRINGEMENT OF THE '175 PATENT**

40. Plaintiff incorporates each of the preceding paragraphs 1 - 39 as if fully set forth herein.

41. Defendant has infringed the '175 Patent literally, or under the doctrine of equivalents, by importing into the United States, and/or making, using, selling, or offering for sale in the United States, including the District of Delaware, products embodying the patented inventions claimed in the '175 Patent without authority, including but not limited to the products identified in preceding paragraph 14.

42. Defendant, upon information and belief, had knowledge of the '175 Patent before this Complaint was originally filed for at least the reasons discussed in preceding paragraphs 15 – 21.

43. Defendant has had knowledge of the '175 Patent since the original Complaint was filed.

44. Upon information and belief, Defendant has willfully engaged in its infringing conduct.

45. The infringement by Defendant of the '175 Patent has injured St. Clair.

**COUNT V**

**INFRINGEMENT OF THE '959 PATENT**

46. Plaintiff incorporates each of the preceding paragraphs 1 - 45 as if fully set forth herein.

47. Defendant has infringed and continues to infringe the '959 Patent literally, or under the doctrine of equivalents, by importing into the United States, and/or making, using,

selling, or offering for sale in the United States, including the District of Delaware, products embodying the patented inventions claimed in the '959 Patent without authority, including but not limited to the products identified in preceding paragraph 14.

48. Defendant, upon information and belief, had knowledge of the '959 Patent before this Complaint was originally filed for at least the reasons discussed in preceding paragraphs 15 – 21.

49. Defendant has had knowledge of the '959 Patent since the original Complaint was filed.

50. Upon information and belief, Defendant has willfully engaged in its infringing conduct.

51. The infringement by Defendant of the '959 Patent has injured St. Clair.

#### **COUNT VI**

#### **INFRINGEMENT OF THE '617 PATENT**

52. Plaintiff incorporates each of the preceding paragraphs 1 - 51 as if fully set forth herein.

53. Defendant has infringed and continues to infringe the '617 Patent literally, or under the doctrine of equivalents, by importing into the United States, and/or making, using, selling, or offering for sale in the United States, including the District of Delaware, products embodying the patented inventions claimed in the '617 Patent without authority, including but not limited to the products identified in preceding paragraph 14.

54. Defendant, upon information and belief, had knowledge of the '617 Patent before this Complaint was originally filed for at least the reasons discussed in preceding paragraphs 15 – 21.

55. Defendant has had knowledge of the '617 Patent since the original Complaint was filed.

56. Upon information and belief, Defendant has willfully engaged in its infringing conduct.

57. The infringement by Defendant of the '617 Patent has injured St. Clair and will cause St. Clair added irreparable injury and damage in the future unless Defendant is enjoined from infringing the '617 Patent.

## **COUNT VII**

### **INFRINGEMENT OF THE '025 PATENT**

58. Plaintiff incorporates each of the preceding paragraphs 1 – 57 as if fully set forth herein.

59. Defendant has infringed the '025 Patent literally, or under the doctrine of equivalents, by importing into the United States, and/or making, using, selling, or offering for sale in the United States, including the District of Delaware, products embodying the patented inventions claimed in the '025 Patent without authority, including but not limited to the products identified in preceding paragraph 14.

60. Defendant, upon information and belief, had knowledge of the '025 Patent before this Complaint was originally filed for at least the reasons discussed in preceding paragraphs 15 – 21.

61. Defendant has had knowledge of the '025 Patent since the original Complaint was filed.

62. Upon information and belief, Defendant has willfully engaged in its infringing conduct.

63. The infringement by Defendant of the '025 Patent has injured St. Clair.

**DEMANDS FOR RELIEF**

WHEREFORE, St. Clair respectfully requests that judgment be entered in its favor and against Defendant as follows:

- a. That Defendant has infringed the '130, '163, '929, '175, '959, '617, and '025 patents;
- b. That Defendant's infringement of the '130, '163, '929, '175, '959, '617, and '025 patents has been willful;
- c. That Defendant and its respective agents, servants, officers, directors, employees, and all persons acting in concert with them, directly or indirectly, be temporarily and permanently enjoined from infringement, inducing others to infringe, or contributing to the infringement of the '130, '163, '929, '175, '959, '617, and '025 patents;
- d. That Defendant be ordered to account for and pay to St. Clair the damages to which St. Clair is entitled as a consequence of the infringement of the '130, '163, '929, '175, '959, '617, and '025 patents, together with pre-judgment interest and costs;
- e. That a post-judgment equitable accounting of damages be ordered for the period of infringement of the '130, '163, '929, '175, '959, '617, and '025 patents;
- f. That all other damages permitted by Title 35 United States Code § 284, including increased damages up to three times the amount of compensatory damages found be awarded;
- g. That St. Clair be awarded its costs and attorneys' fees; and
- h. That St. Clair be awarded such other and further relief as the Court may deem just and equitable.

July 27, 2010

OF COUNSEL:

R. Terrance Rader  
Charles W. Bradley  
RADER, FISHMAN & GRAUER, PLLC  
39533 Woodward Avenue, Suite 140  
Bloomfield Hills, MI 48304  
(248) 594-0600

BAYARD, P.A.

/s/ Richard D. Kirk (rk0922)  
Richard D. Kirk (rk0922)  
Stephen B. Brauerman (sb4952)  
222 Delaware Avenue, Suite 900  
P.O. Box 25130  
Wilmington, DE 19899-5130  
rkirk@bayardlaw.com  
sbrauerman@bayardlaw.com  
(302) 655-5000

*Counsel for Plaintiff St. Clair Intellectual  
Property Consultants, Inc.*