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 21 HEWLETT-PACKARD COMPANY

22 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 23 COUNTY OF SANTA CLARA

24 HEWLETT-PACKARD COMPANY,  
 25 Plaintiff,  
 26 v.  
 27 ADRIAN M. JONES, an individual, and DOES  
 28 1-25, inclusive,  
 Defendants.

1428  
**FILED**  
 APR 06 2011  
 DAVID H. YAMASAKI  
 Chief Executive Officer/Clerk  
 Superior Court of Santa Clara County  
 BY: L. Kontorovsky DEPUTY  
 \$395.-  
 R# 36778

Case No. **111CV198103**

- CIVIL COMPLAINT FOR:**
- (1) MISAPPROPRIATION OF TRADE SECRETS (ACTUAL AND THREATENED) (CAL. CIV. CODE § 3426 ET SEQ.)
  - (2) BREACH OF CONTRACT
  - (3) CONVERSION
  - (4) FRAUD
  - (5) BREACH OF DUTY OF LOYALTY

**DEMAND FOR INJUNCTIVE RELIEF AND JURY TRIAL**

ORIGINAL

1 Hewlett-Packard Company ("HP") for its Civil Complaint against Adrian M. Jones  
2 ("Jones"), and DOES 1 through 25 (collectively, the "Defendants"), states as follows:

3 **NATURE OF THE ACTION**

4 1. This action arises out of Defendant Jones' unauthorized removal and  
5 misappropriation of HP's proprietary, confidential, and trade secret information in connection  
6 with his resignation from HP to join Oracle Corporation ("Oracle"), one of HP's direct  
7 competitors. Defendant Jones was HP's Senior Vice President of the ESSN (Enterprise Servers,  
8 Storage and Network) business unit in the APJ (Asia-Pacific-Japan) region until February 16,  
9 2011, when he resigned to work at Oracle in a similar capacity. Jones' resignation came at the  
10 conclusion of HP's internal investigation of him for misuse of corporate assets and violations of  
11 HP's Standards of Business Conduct and Conflicts of Interest Policy). HP's investigation found:  
12 (i) Jones failed to disclose a conflict of interest related to a close personal relationship with one  
13 of his subordinates (the "HP Subordinate"); (ii) Jones improperly influenced employment  
14 decisions relating to the HP Subordinate, including the orchestration of a salary increase of  
15 approximately 97%; and (iii) Jones submitted several thousands of dollars in personal expenses  
16 incurred in visiting the HP Subordinate that had no legitimate business purpose. Based upon the  
17 findings of HP's investigation, Jones would have been terminated. However, before HP had the  
18 opportunity to terminate Jones, Jones resigned on February 16, 2011.

19 2. On February 11, 2011, just days before Jones resigned from HP, he utilized  
20 backup software to copy hundreds of files and thousands of e-mails from his HP computer to a  
21 portable USB storage device, including files containing HP's highly confidential, proprietary,  
22 and/or trade secret information that Jones could utilize in his new position with a direct  
23 competitor. Specifically, Jones copied files containing HP's confidential, proprietary, and trade  
24 secret information involving:

- 25
- 26 • customer satisfaction with specific HP products and services, customer  
27 initiatives, allocation of resources, HP employee performance, product  
28 development, and multi-year product, business plans, financial plans, and  
strategies being utilized by HP;

- lists and charts of HP's ESSN and other customers in the Asia, Pacific, and Japan ("APJ") region;
- information regarding HP's rate structure, sales volumes, margins, discounts and marketing strategies and efforts, strengths and weaknesses; and
- strategic plans regarding new and existing products, services, and markets in the APJ region and elsewhere.

3. Jones resigned on February 16, 2011. On February 17, 2011, Jones returned to HP his employee badge, a computer security key, the Company lap top computer that he used, his Company Blackberry, and his Company credit card. Jones did not return to HP the portable USB storage device that he used to copy hundreds of files and thousands of emails that contained HP's confidential proprietary, and trade secret information including information containing HP's work product that Jones created, developed, and/or used while an HP employee.

4. On or about March 14, 2011, Jones notified HP that he had accepted a position with Oracle Corporation ("Oracle"), one of HP's direct competitors in the enterprise server and storage sector, as Senior Vice President, Hardware Sales Asia. In Jones' new position with Oracle (as well as in his former position with HP) Jones' responsibilities include hardware sales in the Asia/Pacific region.

5. Without immediate injunctive relief requiring Jones to identify and return the HP information wrongfully in his possession, and enjoining Jones and those acting in concert with him from further accessing or using the information, HP will suffer irreparable harm. Conversely, Jones will suffer no harm as he has no lawful right to possess HP's confidential, proprietary, and trade secret information and he has previously agreed, in writing, that HP is entitled to immediate injunctive relief to reclaim this information. Jones' agreements with HP, detailed below, expressly provide that any violation thereof will entitle HP to "injunctive relief by temporary restraining order, temporary injunction, and/or permanent injunction and any other legal and equitable relief allowed by law."

6. HP brings this action to protect its trade secrets and confidential information and to seek redress from the harm that Jones' wrongful conduct has caused and will cause HP. HP seeks an injunction and appropriate order to, as more fully described in the prayer below: (a)

1 enjoin Jones from directly or indirectly disclosing or utilizing HP's confidential, proprietary,  
2 and/or trade secret information; (b) require Jones to return HP property and files; and (c) require  
3 Jones to account for the whereabouts of HP's files.

#### 4 THE PARTIES

5 7. HP is a Delaware corporation with its principal place of business and world  
6 headquarters in Palo Alto, California. HP employs over 5,000 employees in Santa Clara County,  
7 California, and conducts millions of dollars of business here, which is at risk due to Jones'  
8 unlawful actions.

9 8. Jones worked for HP in its Palo Alto, California office and elsewhere. HP is  
10 informed and believes Jones resides in San Juan Capistrano, California. In his new position,  
11 Jones is based out of Redwood Shores, California.

12 9. The true names and capacities, whether individual, corporate, agent,  
13 representative, or otherwise, of Defendants named herein as Does 1 through 25, inclusive, are  
14 unknown to HP at this time, who therefore sues said Defendants by such fictitious names. HP  
15 will seek leave of Court to amend this Complaint to allege their true names and capacities once  
16 the same have been ascertained. HP is informed and believes, and based upon such information  
17 and belief alleges, that each of the fictitiously named Defendants is responsible in some manner,  
18 way, or form, and to some extent for acts, events, and occurrences hereinafter alleged. Wherever  
19 appearing in this Complaint, each and every reference to "Defendants" is intended and shall be a  
20 reference to all Defendants in this action, and each of them, including but not limited to all  
21 fictitiously named Defendants.

22 10. HP is informed and believes, and based upon such information and belief alleges,  
23 that at all times relevant to this action, each of the Defendants named herein was doing business  
24 as ("dba") and/or was the agent, principal, servant, representative, employer, employee, joint-  
25 venturer, partner (of any kind), parent, subsidiary, affiliate and/or alter ego of each and every  
26 other Defendant and, in doing the things hereinafter alleged, was acting within the course and/or  
27 scope of such authority as the dba, agent, principal, servant, representative, employer, employee,  
28

1 joint-venturer, partner (of any kind), parent, subsidiary, affiliate, and/or alter ego with the  
2 permission and consent of the remaining Defendants.

### 3 JURISDICTION AND VENUE

4 11. This Court has jurisdiction over all causes of action asserted in this Complaint  
5 pursuant to the California Constitution, Article VI, section 10, and California Code of Civil  
6 Procedure section 410.10, by virtue of the fact that this is a civil action where the matter in  
7 controversy, exclusive of interest, exceeds \$25,000, and because jurisdiction over this case is not  
8 given by statute to other trial courts.

9 12. Venue is proper in this Court because the agreements and contracts at issue were  
10 negotiated, entered and/or executed in the City of Palo Alto, in the County of Santa Clara, and  
11 the performance of obligations arising from the parties' relationship occurred in the County of  
12 Santa Clara. Venue is also proper in Santa Clara County because HP resides within the County  
13 of Santa Clara, Jones worked for HP in Santa Clara County, and certain wrongful actions took  
14 place or HP was harmed within the county.

### 15 FACTUAL ALLEGATIONS

#### 16 HP's Business, Trade Secrets, and Confidential Information

17 13. HP is a technology company founded in 1939 that operates in more than 170  
18 countries around the world. As the world's largest technology company, HP brings together a  
19 portfolio that includes printing, personal computing, software, services and IT infrastructure to  
20 solve customer problems. No other company offers as complete a technology product portfolio  
21 as HP. HP provides infrastructure and business offerings that span from handheld devices to  
22 some of the world's most powerful supercomputer installations. HP offers consumers a wide  
23 range of products and services from digital photography to digital entertainment and from  
24 computing to home printing. This comprehensive portfolio helps HP match the right products,  
25 services and solutions to its customers' specific needs.

26 14. HP's three business groups drive industry leadership in core technology areas: 1)  
27 The Personal Systems Group: business and consumer PCs, mobile computing devices and  
28 workstations; 2) The Imaging and Printing Group: Inkjet, LaserJet and commercial printing, and

1 printing supplies; and 3) Enterprise Business: business services and products, including for  
2 example, storage and servers, enterprise services and software ("EBU").

3 15. The worldwide EBU alone generates annual revenues of approximately \$54  
4 billion. In 2010, HP's total revenues in the APJ region amounted to approximately 18% of HP's  
5 total fiscal year 2010 revenues.

6 16. HP's software and hardware offerings compete directly with some offerings from  
7 the most competitive companies in the world, including Oracle.

8 17. HP is a leader in technology and customer support and service through the use of  
9 a well trained staff, the use of technology, and the establishment of strong customer  
10 relationships.

11 18. HP has invested substantial money to create proprietary designs, solutions,  
12 initiatives and equipment to ensure that HP can provide cutting edge technologicis and services to  
13 its customers.

14 19. HP also spends extensive time and substantial money identifying and maintaining  
15 key customer relationships, designing customer initiatives, determining strategic mergers and  
16 acquisitions, allocating resources for new technologies and initiatives, and creating annual  
17 business plans.

18 20. HP's key management personnel, including Jones, participate extensively in the  
19 design and implementation of annual business plans. Jones was privy to HP's strategic plans,  
20 including its fiscal year 2010 and 2011 business plans. He was involved in creating such plans to  
21 compete against HP's competitors, including Oracle.

22 21. HP has developed and maintained valuable relationships and substantial goodwill  
23 with its customers.

24 22. In order to grow its business and better serve its customers, HP has acquired other  
25 entities and technology throughout the world to best provide products and services that meet its  
26 clients' needs and from which HP can derive economic gain.

27

28

1           23.    HP's business information, including its confidential, proprietary, and trade secret  
2 information, customer relationships and goodwill, are of paramount significance to its business  
3 reputation and its success.

4           24.    HP's trade secrets include product planning, strategic business planning, resource  
5 allocation, products under development, technology, confidential competitive intelligence,  
6 customer initiatives, customer relationship strengths and weaknesses, pricing, margins,  
7 acquisition targets, and business growth strengths and weaknesses.

8           25.    HP's trade secret information is not generally known in the industry and is  
9 valuable because HP derives economic value from the information not being publicly available.

10          26.    HP's trade secret business and customer information is of great value to HP and  
11 such information would give any competitor who improperly acquired such information an  
12 unfair competitive advantage by: not expending the time and resources to develop the trade  
13 secret information as HP has done, quickly developing strategies, marketing plans, products and  
14 technologies to unfairly compete with HP in order to diminish HP's head start, even alerting a  
15 competitor as to initiatives that should not be pursued, and other improper advantages.

16          27.    HP protects its trade secret business and customer information by, among other  
17 safeguards: requiring employees to keep confidential business and customer information,  
18 password protecting computers, limiting access to information, requiring employees to sign  
19 confidentiality agreements, and requiring employees to take mandatory annual online Standards  
20 of Business Conduct training (which includes the obligation to protect HP's trade secret  
21 information).

22          28.    HP's customer relationships and goodwill are of paramount importance to HP in  
23 that many of HP's customers have been customers of HP for many years. Moreover, in a  
24 number of instances, HP's customers entrust HP with confidential information and require HP to  
25 enter into confidentiality agreements regarding that information as well.

1                    **Jones' Employment with HP and His Agreement To Protect HP's Proprietary,**  
2                    **Confidential and Trade Secret Information**

3                    29.        Jones accepted HP's offer of employment in or about March 2007 as a Vice  
4                    President in Cupertino, California.

5                    30.        Upon joining HP, and at numerous points throughout his employment with HP,  
6                    Jones received stock options, restricted stock, and other compensation worth many thousands of  
7                    dollars in exchange for his agreements that he would not misuse HP's proprietary, confidential,  
8                    and/or trade secret information.

9                    31.        Under his agreements with HP, Jones agreed, *inter alia*, to restrict the use of HP's  
10                    proprietary, confidential, and trade secret information in the performance of HP duties, to hold  
11                    such information in confidence, and to use reasonable measures to avoid unauthorized use or  
12                    disclosure of such information. Jones also agreed that his work product would be HP's sole  
13                    property. Jones also agreed to return all of HP's property when his employment with HP ended.

14                    32.        Upon joining HP, Jones was provided access to HP's proprietary, confidential and  
15                    trade secret information, subject to HP's non-disclosure restrictions.

16                    33.        During his employment with HP, Jones executed several non-disclosure  
17                    agreements with HP in which he agreed not to disclose HP's proprietary, confidential or trade  
18                    secret information.

19                    34.        Jones executed HP's Agreement Regarding Confidential Information and  
20                    Proprietary Developments (the "Trade Secret Protection Agreement"). Most recently, he signed  
21                    such Trade Secret Protection Agreements on January 26, 2009 and February 3, 2010. True and  
22                    correct copies of the agreements are attached as Exhibits 1 and 2.

23                    35.        Jones agreed to keep HP's proprietary, confidential and trade secret information  
24                    protected and confidential both during and after his employment with HP, pursuant to Section 2  
25                    of the Trade Secret Protection Agreements, which states:

26                    2.        **Confidential Information.** This Agreement concerns trade secrets,  
27                    confidential business and technical information, and know-how not generally known to  
28                    the public (hereinafter "Confidential Information") which is acquired or produced by me  
                     in connection with my employment by HP. Confidential Information may include,  
                     without limitation, information on HP organizations, staffing, finance, structure,



1 information of employee performance, compensation of others, research and  
2 development, manufacturing and marketing, files, keys, certificates, passwords and other  
3 computer information, as well as information that HP receives from others under an  
4 obligation of confidentiality. I agree:

- 5 (a) to use such information only in the performance of HP duties;  
6 (b) to hold such information in confidence and trust; and  
7 (c) to use all reasonable precautions to assure that such information is not  
8 disclosed to unauthorized persons or used in an unauthorized manner, both  
9 during and after my employment with HP.

10 I further agree that any organizational information or staffing information learned  
11 by me in connection with my employment by HP is the Confidential Information of HP,  
12 and I agree that I will not share such information with any recruiters or any other  
13 employers, either during or subsequent to my employment with HP; further, I agree that I  
14 will not use or permit use of such as a means to recruit or solicit other HP employees  
15 away from HP (either for myself or for others).

16 36. Under the Trade Secret Protection Agreements, Jones also agreed that any  
17 proprietary developments that were conceived or made by him while employed by HP were the  
18 sole property of HP:

19 3. **Proprietary Developments.** This Agreement also concerns inventions  
20 and discoveries (whether or not patentable), designs, works of authorship, mask works,  
21 improvements, data, processes, computer programs and software (hereinafter called  
22 "Proprietary Developments") that are conceived or made by me alone or with others  
23 while I am employed by HP and that relate to the research and development or the  
24 business of HP, or that result from work performed by me for HP, or that are developed,  
25 in whole or in part, using HP's equipment, supplies, facilities or trade secrets  
26 information. Such Proprietary Developments are the sole property of HP, and I hereby  
27 assign and transfer all rights in such Proprietary Developments to HP . . .

28 37. Under the Trade Secret Protection Agreements, Jones also agreed that all of his  
work product would be the sole property of HP, and that HP had the sole right to use and  
disseminate this work product:

5. **Work Product.** The product of all work performed by me during and  
within the scope of my HP employment including, without limitation, any files,  
presentations, reports, documents, drawings, computer programs, devices and models,  
will be the sole property of HP. I understand that HP has the sole right to use, sell,  
license, publish or otherwise disseminate or transfer rights in such work product.

38. Under the Trade Secret Protection Agreements, Jones also agreed to return all HP  
property (including HP's work product that Jones developed and/or used while an HP employee)  
upon the termination of his employment:

1           6.     **HP Property.** I will not remove any HP property from HP premises  
2     without HP's permission. Upon termination of my employment with HP, I will return all  
3     HP property to HP unless HP's written permission to keep it is obtained.

4           39.     Jones also agreed to certain Protective Covenants in the Trade Secret Protection  
5     Agreements to protect HP's Confidential Information. Specifically, he agreed to a series of  
6     Protective Covenants, contained in Section 7 of the Trade Secret Protection Agreements,  
7     expressly acknowledging that "a simple agreement not to disclose or use HP's Confidential  
8     Information or Proprietary Developments after my employment by HP ends would be  
9     inadequate, standing alone, to protect HP's legitimate business interests because some activities  
10    by a former employee who had held a position like mine would, by their nature, compromise  
11    such Confidential Information and Proprietary Developments as well as the goodwill and  
12    customer relationships that HP will pay me to develop for the company during my employment  
13    by HP." These covenants include restrictions on (a) conflicting business activities; (b)  
14    solicitation of customers; (c) solicitations of HP employees; and (d) solicitation of HP suppliers,  
15    all in recognition of the detailed proprietary, confidential and/or trade secret information known  
16    to Jones:

17           7.     **Protective Covenants.** I acknowledge that a simple agreement not to  
18    disclose or use HP's Confidential Information or Proprietary Developments after my  
19    employment by HP ends would be inadequate, standing alone, to protect HP's legitimate  
20    business interests because some activities by a former employee who had held a position  
21    like mine would, by their nature, compromise such Confidential Information and  
22    Proprietary Developments as well as the goodwill and customer relationships that HP will  
23    pay me to develop for the company during my employment by HP. I recognize that  
24    activities that violate HP's rights in this regard, whether or not intentional, are often  
25    undetected by HP until it is too late to obtain any effective remedy, and that such  
26    activities will cause irreparable injury to HP. To prevent this kind of irreparable harm, I  
27    agree that for a period of twelve months following the termination of my employment  
28    with HP, I will abide by the following Protective Covenants:

(a)     **No Conflicting Business Activities.** I will not provide services to a  
Competitor in any role or position (as an employee, consultant, or otherwise) that would  
involve Conflicting Business Activities in the Restricted Geographic Area (but while I  
remain a resident of California and subject to the laws of California, the restriction in this  
clause (paragraph 7, subpart (a)) will apply only to Conflicting Business Activities in the  
Restricted Geographic Area that result in unauthorized use or disclosure of HP's  
Confidential Information);

(b)     **No Solicitation of Customers.** I will not (in person or through assistance  
to others) knowingly participate in soliciting or communicating with any customer of HP  
in pursuit of a Competing Line of Business if I either had business-related contact with  
that customer or received Confidential Information about that customer in the last two

1 years of my employment at HP (but while I remain a resident of California and subject to  
2 the laws of California, the restriction in this clause (paragraph 7, subpart (b)) will apply  
3 only to solicitations or communications made with the unauthorized assistance of HP's  
4 Confidential Information);

5 (c) **No Solicitation of HP Employees.** I will not (in person or through  
6 assistance to others) knowingly participate in soliciting or communicating with an HP  
7 Employee for the purpose of persuading or helping the HP Employee to end or reduce his  
8 or her employment relationship with HP if I either worked with that HP Employee or  
9 received Confidential Information about that HP Employee in the last two years of my  
10 employment with HP; and

11 (d) **No Solicitation of HP Suppliers.** I will not (in person or through  
12 assistance to others) knowingly participate in soliciting or communicating with an HP  
13 Supplier for the purpose of persuading or helping the HP Supplier to end or modify to  
14 HP's detriment an existing business relationship with HP if I either worked with that HP  
15 Supplier or received Confidential Information about that HP Supplier in the last two  
16 years of my employment with HP.

17 40. To further protect HP's Confidential Information, the Trade Secret Protection  
18 Agreements required Jones to notify HP of his post-employment activities. Pursuant to Section  
19 9, Jones agreed to notify HP of his employment with a competitor promptly and provide HP with  
20 sufficient information concerning his new position to allow HP to assess whether such a position  
21 would likely lead to a violation of the Agreement:

22 9. **Notice of Post-Employment Activities.** If I accept a position with a  
23 Competitor at any time within twelve months following termination of my employment  
24 with HP, I will promptly give written notice to the senior Human Resources manager for  
25 the HP business sector in which I worked, with a copy to HP's General Counsel, and will  
26 provide HP with the information it needs about my new position to determine whether  
27 such position would likely lead to a violation of this Agreement (except that I need not  
28 provide any information that would include the Competitor's trade secrets).

41. Jones further agreed that HP would be entitled to immediate injunctive relief for  
any violations of the Trade Secret Protection Agreements:

10. **Relief; Extension.** I understand that if I violate this Agreement  
(particularly the Protective Covenants), HP will be entitled to injunctive relief by  
temporary restraining order, temporary injunction, and/or permanent injunction and any  
other legal and equitable relief allowed by law. Injunctive relief will not exclude other  
remedies that might apply. If I am found to have violated any restrictions in the  
Protective Covenants, then the time period for such restrictions will be extended by one  
day for each day that I am found to have violated them, up to a maximum extension equal  
to the time period originally prescribed for the restrictions.

42. As an HP employee, Jones also accepted HP's Standards of Business Conduct  
("SBC") and HP's Conflicts of Interest Policy. Among other things, the SBC accepted by Jones

1 provides that HP employees must avoid conflicts of interest, maintain accurate business records,  
2 and cooperate with investigations. Similarly, HP's Conflicts of Interest Policy, agreed to by  
3 Jones, provides that HP employees must avoid situations where there may be a conflict of  
4 interest, to disclose if they have a close personal relationship with any direct or indirect report,  
5 and that an employee cannot be directly or indirectly involved in employment-related decisions  
6 related to anyone with whom the employee has a close personal relationship. True and correct  
7 copies of the SBC and Conflicts of Interest Policy are attached as Exhibits 3 and 4.

8 43. From March 2007 to the end of 2009, Jones was the Vice President in HP's  
9 Solutions Partners Organization, Americas ("SPOA"), which is sometimes referred to as HP's  
10 "Channel" division. In that role, he was responsible for overseeing HPA's SPOA operations,  
11 which involved partnering with thousands of resellers and distributors across the country and  
12 elsewhere to market and sell HP's products and services to customers of every size and shape.

13 44. Beginning in November 2009, Jones became HP's Senior Vice President and  
14 General Manager of HP's ESSN for the APJ region. His duties in that role included overseeing  
15 all of HP's ESSN sales in Asia and Australia, including the Pacific Islands and Archipelagos  
16 west of the International Date Line. Jones was also responsible for creating and implementing  
17 HP's ESSN strategic sales plans for that region.

18 45. As the Senior Vice President of the ESSN business unit, Jones had access to HP's  
19 most valuable proprietary, confidential and/or trade secret information. He attended operation  
20 meetings, technology meetings, strategic planning meetings, and customer meetings.

21 46. As a result of his high level position within HP, Jones had access to Confidential  
22 Information relating to HP's Enterprise, Storage, Servers and Networking business unit. He  
23 attended high level meetings at HP and was privy to the most sensitive of HP proprietary,  
24 confidential and/or trade secret information. Jones helped determine high-level HP strategy with  
25 respect to HP's ESSN for the APJ region, and had access to Confidential Information regarding  
26 personnel matters.

27 47. Jones' high level position gave him access to HP's proprietary, confidential and  
28 trade secret information regarding research and development, marketing, strategy, customer

1 contacts, allocation of resources, pricing, margins, profitability, customer initiatives, leadership  
2 and talent initiatives, and other confidential information.

3 48. Without revealing their exact nature and thus their secrecy, the proprietary,  
4 confidential and/or trade secret information known by Jones includes, *inter alia*:

- 5 A. Customer initiatives, allocation of resources, product development, multi-  
6 year product, business and talent planning, and strategies being utilized by  
7 HP;
- 8 B. Confidential lists, charts, diagrams, and other compilations of HP's ESSN  
9 and other customers in the APJ region containing information regarding  
10 customer spend and satisfaction;
- 11 C. Confidential APJ per-customer information regarding contacts, revenue,  
12 margin, pricing, preferences, initiatives, allocation of resources, product  
13 development, multi-year planning, purchasing histories, strategies, and  
14 other information;
- 15 D. Confidential information regarding HP's APJ resellers and distributors,  
16 including contacts, sales volumes, margins, commissions, sales and  
17 marketing strategies and efforts, strengths and weaknesses; and
- 18 E. Confidential strategic plans regarding HP's financial plans, new and  
19 existing products, services, staffing, and markets in the APJ region and  
20 elsewhere, including HP's growth plans in the region, strengths and  
21 weaknesses, opportunities, and trends.

22 49. Jones also had access to HP's proprietary, confidential and trade secret  
23 information concerning HP's strategies regarding its competitors.

24 50. On or about November 1, 2009, Jones accepted a Long Term Temporary  
25 International Assignment Program ("LTTIAP") to relocate with his wife and children to Tokyo,  
26 Japan for 36 months. As part of the LTTIAP, Jones was promoted to Senior Vice President of  
27 Sales for HP's Enterprise Servers, Storage and Networking for HP Asia Pacific and Japan.  
28

51. On or about July 12, 2010, Jones accepted the terms and conditions of HP's LTTIAP as summarized in a document entitled "Hewlett Packard Company Long Term Temporary International Assignment Summary of Terms and Conditions" ("Summary Terms and Conditions"). The Summary Terms and Conditions explicitly incorporated the terms of HP's LTTIAP. True and correct copies of the Summary Terms and Conditions and the LTTIAP are attached as Exhibits 5 and 6.

52. In reliance on Jones' agreement to be bound by the SBC and Conflicts of Interest Policy, and the terms and conditions of the Summary Terms and Conditions and the LTTIAP, HP incurred substantial expense to accommodate Jones's relocation to Tokyo, including but not limited to: (1) storage of Jones' household goods in the United States; (2) lease of a vehicle for Jones in Japan; (3) lease of housing for Jones in Japan; (4) housing insurance for Jones in Japan; (5) furniture rental for Jones in Japan; (6) tuition for Jones' three children in Japan; and (7) school bus expenses for Jones' three children in Japan.

**HP's Investigation Uncovers Evidence of Inaccurate Expense Reports and an Undisclosed Conflict of Interest**

53. In or around October 2010, HP learned that Jones was having an undisclosed close personal relationship with a HP Subordinate, who worked in Sydney, Australia. HP learned that Jones frequently travelled to Australia to visit the HP Subordinate for the sole purpose of furthering his close personal relationship with her, and was submitting inaccurate expense reports characterizing his personal trips as business expenses although they served no legitimate business purpose.

54. HP also learned that Jones, in violation of HP's Conflicts of Interest Policy, had orchestrated a salary raise of approximately 97% for the HP Subordinate without disclosing his close personal relationship with her. These issues raised serious concerns regarding Jones' breach of HP's SBC and Conflicts of Interest Policy.

55. Upon learning of these allegations, HP began an internal investigation into Jones' actions with respect to the HP Subordinate.

1           56.     In mid-December 2010, HP formally advised Jones of the investigation and  
2 reminded him of his duty to refrain from communicating with anyone about the matter. Despite  
3 his obligation to cooperate with the investigation pursuant to the SBC, Jones refused to comply  
4 and continued to interfere with the investigation by discussing the matter with the HP  
5 Subordinate, as well as other HP employees, and by providing false, misleading and evasive  
6 responses to HP's inquiries.

7           57.     During the investigation, HP learned that Jones and the HP Subordinate first met  
8 when Jones visited Sydney, Australia in December 2009. In early 2010, he began the close  
9 personal relationship with the HP Subordinate. Thereafter, Jones traveled to Sydney  
10 approximately every four to six weeks to further this close personal relationship.

11           58.     Despite knowing that HP's Conflicts of Interest Policy required him to disclose  
12 his close personal relationship with the HP Subordinate, Jones deliberately concealed his close  
13 personal relationship from HP.

14           59.     After Jones began his secret relationship with the HP Subordinate, he orchestrated  
15 a scheme to give her a substantial raise and a promotion. As part of his scheme, Jones told his  
16 manager that the HP Subordinate was one of his top sales reps, had received a significant job  
17 offer from an HP competitor, and that it was necessary to increase her salary to prevent her from  
18 leaving HP. Jones secured support to raise the HP Subordinate's salary approximately 97%.  
19 Throughout this entire scheme, Jones concealed his close personal relationship.

20           60.     When confronted with HP's overwhelming evidence during the investigation,  
21 Jones admitted that he had never previously been involved in salary negotiations for any  
22 employees outside his direct reports. He also admitted that he knew that he should have  
23 disclosed his close personal relationship with the HP Subordinate, and that he had a conflict of  
24 interest because of his relationship. Further, despite HP's requests, Jones and his subordinate  
25 refused to produce any evidence of her alleged employment offer from an HP competitor.

26           61.     HP's investigation also confirmed that Jones submitted numerous false expense  
27 reports claiming several thousands of dollars in travel expenses to Australia to further his close  
28 personal relationship with the HP Subordinate.

1           62. Jones also submitted numerous false expense reports claiming reimbursement for  
2 personal meals, including meals with the HP Subordinate. He falsely represented on expense  
3 reports submitted to HP that he dined with persons who were not in attendance. In many cases,  
4 Jones dined with the HP Subordinate, but falsely represented to HP that he dined with others in  
5 order to get his personal non-business expenses reimbursed.

6           63. When confronted with evidence of his inaccurate meal expenses, Jones blamed  
7 his personal assistant for submitting the expenses, claiming that he did not review the expense  
8 reports before they were submitted. Jones also claimed that the inaccuracies were merely the  
9 result of his assistant having to submit the expense reports before she received his actual receipts  
10 and that she simply guessed who the attendees were based on Jones' calendar. However, for the  
11 meals in Sydney for which Jones fraudulently submitted meal expenses, his calendar was blank  
12 and could not have suggested the fraudulent attendees. Ultimately, Jones admitted that many of  
13 the people he had identified as attendees on expense reports submitted to HP were in fact never  
14 present.

15           64. On March 11, 2011, HP demanded that Jones reimburse HP for the more than  
16 \$13,025 in personal expenses fraudulently submitted as business expenses, and an additional  
17 \$146,374 for HP's costs associated with his abrupt resignation while on international assignment  
18 in Japan. Jones has refused to reimburse HP for these amounts.

19           **Jones Copies HP's Confidential Information and Then Abruptly Resigns**

20           65. In the face of overwhelming evidence of his misconduct, fraud and breaches of  
21 the SBC and Conflicts of Interest Policy, Jones abruptly resigned from HP on February 16, 2011.

22           66. On February 17, 2011, following his resignation, Jones met with Bradley Jose,  
23 HP's Director of Human Resources for the ESSN business unit of the APJ region. During this  
24 meeting, Jones returned to HP his employee badge, a computer security key, the Company lap  
25 top computer that he used, his Company Blackberry, and his Company credit card. He did not  
26 return to HP the portable USB storage device that he used to copy hundreds of files and  
27 thousands of emails that contained HP's confidential proprietary, and trade secret information,  
28 including but not limited to Confidential Information.



1           67.     On February 18, 2011, Jones again spoke with Jose. Jose reminded Jones of his  
2 post-employment obligations with respect to HP's proprietary, confidential and/or trade secret  
3 information. During this discussion, Jones failed to notify HP that he had installed third party  
4 backup software on his HP computer. He also failed to notify HP that he had used the backup  
5 software to create a complete backup of the files on his HP computer on a portable USB storage  
6 device on or about February 11, 2011, just days before his resignation. Jones also failed to  
7 disclose or return the portable USB storage device that he used to create the backup of the files  
8 on the hard drive of his HP computer. On February 18, 2011 Jose provided Jones with a copy of  
9 HP's Post Employment Restrictions related to Confidential Information, as well as a copy of the  
10 Trade Secret Protection Agreements Jones had signed in 2009.

11           68.     Following Jones' resignation, a forensic investigation revealed that Jones had  
12 installed third party backup software on his HP computer and had used this software just days  
13 before his resignation to save backup copies of all of the files on the hard drive of his HP  
14 computer to a portable USB storage device, including files with proprietary, confidential and/or  
15 trade secret information. Specifically, in November 2010, Jones installed third party backup  
16 software that he purchased from Memeo on his HP computer without authorization. The Memeo  
17 software allowed Jones to backup all of the files on his HP computer to a portable USB storage  
18 device not associated with HP's computer system.

19           69.     Using Memeo, Jones created a backup in November 2010. He executed another  
20 backup of his HP computer on February 11, 2011, just days before he resigned from HP, using a  
21 portable USB storage device. In running the February 11 backup, Jones copied 908 files from  
22 his HP computer. These files were saved to a portable USB storage device and contained  
23 hundreds of separate documents of varying types (e.g., PowerPoint presentations, Excel  
24 spreadsheets) and thousands of e-mails.

25           70.     Jones failed to return to HP the portable USB storage device that he used to make  
26 backup copies of the hard drive of his HP computer on February 11, 2011. The information  
27 taken by Jones includes proprietary, confidential and/or trade secret information described in  
28 paragraphs 46-49 herein.

**Jones is Employed By A Direct Competitor In A Similar Position**

71. On March 14, 2011, Jones notified HP that he had accepted the position of Senior Vice President, Hardware Sales Asia with Oracle America, a direct competitor to HP.

72. Oracle is a business software and hardware systems company, and a direct competitor of HP in the enterprise servers and storage business. HP and Oracle both provide enterprise software and hardware systems that compete head-to-head in the United States and across the world in the highly competitive enterprise server and storage space market.

73. Following Oracle's \$7.4 billion acquisition of Sun Microsystems in January 2010, Oracle entered the market for hardware systems and now offers a wide range of directly competitive server systems and storage products. HP and Oracle are thus now direct competitors in the enterprise business space, and Oracle's enterprise software and hardware offerings compete on a customer by customer basis with HP's enterprise offerings.

74. In a July 2010 SEC filing, Oracle stated, in pertinent part:

We face intense competition in all aspects of our business. The nature of the IT industry creates a competitive landscape that is constantly evolving as firms emerge, expand or are acquired, as technology evolves and as customer demands and competitive pressures otherwise change. Our customers are demanding less complexity and lower total cost in the implementation, sourcing, integration and ongoing maintenance of their *enterprise software and hardware systems*, which has led increasingly to our product offerings being viewed as a "stack" of software and hardware designed to work together in a standards-compliant environment—from "Applications to Disk." *Our enterprise software and hardware offerings compete directly with* some offerings from the most competitive companies in the world, including Microsoft Corporation (Microsoft), IBM Corporation (IBM), *Hewlett Packard Company (HP)*, SAP AG, and Intel, as well as many others. (Emphasis added).

75. Enterprise servers and storage have been and remain a key component of HP's business, and were a focus of Jones' duties and responsibilities while employed as the Senior Vice President of ESSN for the APJ region at HP. One of Jones' main objectives while at HP was to create HP's strategic plan to compete against its competitors with regards to sales of enterprise storage and servers.

76. Jones' actions are a serious threat to HP's business, are in violation of contractual obligations and applicable law, and unjustly enrich Jones. Injunctive relief is necessary to remedy the harm.

1 77. HP has no adequate remedy at law to fully protect it. The value of HP's trade  
2 secret and Confidential Information will be severely diminished if Jones is not required to  
3 account for and return the trade secret and Confidential Information that he took.

4 **FIRST CAUSE OF ACTION**

5 **(Misappropriation of Trade Secrets Against Jones and DOES 1-25)**

6 78. HP hereby incorporates by reference and realleges each of the allegations  
7 contained in the foregoing paragraphs 1 through 77, inclusive, as though fully set forth in this  
8 cause of action.

9 79. At all relevant times, HP was in possession of trade secret information as defined  
10 by California's Uniform Trade Secrets Act ("CUTSA"), Civil Code section 3426.1(d). As  
11 described above, Jones was provided access to such trade secrets in his position as HP's Senior  
12 Vice President of the ESSN business unit for the APJ region. The proprietary business and  
13 customer information of HP that Jones had access to was provided access to constitutes trade  
14 secrets because HP, as described herein, derives independent economic value from that  
15 information, such information is not generally known nor readily ascertainable by proper means  
16 by other persons who can obtain economic value from its disclosure or use, and because the  
17 information is the subject of reasonable efforts to maintain its secrecy. HP's trade secret  
18 information described herein is not and was not generally known to HP's competitors in the  
19 industry.

20 80. HP is informed and believes and therefore alleges that Jones has actually  
21 misappropriated and continues to threaten to misappropriate HP's trade secrets in violation of  
22 CUTSA.

23 81. As a result of his high-level position with HP, Jones had access to HP's most  
24 valuable trade secrets as described herein. Jones continues to have knowledge of that  
25 information, notwithstanding the fact that he is working for a competitor. Jones continues to  
26 possess HP's trade secrets held in his memory and more importantly in an electronic format on  
27 the storage device to which he downloaded hundreds of files and thousands of e-mails. HP  
28

1 alleges upon information and belief that they are contained in his memory or in physical or  
2 electronic form.

3 82. Jones intends to improperly use or disclose HP's trade secrets to others in  
4 violation of the CUTSA and his Trade Secret Protection Agreements with HP.

5 83. Jones has and will continue to wrongfully use HP's trade secrets unless enjoined.  
6 Despite HP's demand, Jones has failed to return a portable USB storage device which he used to  
7 copy confidential HP documents and files. Jones also failed to disclose to HP that he had  
8 installed software that allowed him to backup all of the files on his HP computer to a portable  
9 USB storage device, and that he had in fact saved all of the files on his HP computer to a  
10 portable USB storage device just days before his resignation.

11 84. Jones, by his fraudulent and deceitful conduct to date, has demonstrated that he  
12 cannot be counted on to avoid disclosing and utilizing HP's trade secrets.

13 85. As a proximate result of Jones' misappropriation and threatened misappropriation  
14 of HP's trade secrets, HP has suffered, and will continue to suffer, irreparable harm, as well as,  
15 damages in an amount to be proven at the time of trial, but which are substantial and in excess of  
16 the minimum jurisdictional amount of this court.

17 86. Because HP's remedy at law is inadequate, HP seeks temporary, preliminary and  
18 permanent injunctive relief. HP is threatened with losing customers, technology, its competitive  
19 advantage, its trade secrets and goodwill in amounts which may be impossible to determine,  
20 unless Jones is enjoined and restrained by order of this Court, as alleged above.

21 87. Jones' actual and threatened misappropriation has been willful and malicious in  
22 light of Jones' repeated execution of contracts prohibiting his current conduct and his deliberate  
23 violation of the contractual obligations. Therefore, HP is entitled to an award of punitive or  
24 treble damages and attorneys' fees pursuant to Civil Code sections 3426.3(c) and 3426.4.

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**SECOND CAUSE OF ACTION**

**(Breach of Written Contract Against Jones)**

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2  
3       88.    HP hereby incorporates by reference and realleges each of the allegations  
4 contained in the foregoing paragraphs 1 through 87, inclusive, as though fully set forth in this  
5 cause of action.

6       89.    Jones' Trade Secret Protection Agreements are valid and enforceable contracts.  
7 The confidentiality covenants and other provisions contained in the agreements are reasonably  
8 necessary to protect legitimate protectable interests in trade secrets, confidential information,  
9 customer relationships, work force and goodwill.

10       90.    HP has fully performed all of its obligations under the agreements.

11       91.    Jones is breaching and threatens to continue to breach the agreements by:

- 12           A.    failing to return HP property in violation of Section 6 of the Trade Secret  
13                    Protection Agreements;  
14           B.    breaching his obligations in Section 2 and Section 7 of the Trade Secret  
15                    Protection Agreements; and/or  
16           C.    utilizing HP's confidential and/or trade secret information to benefit HP's  
17                    competitor, Oracle.

18       92.    As a result of any one of these breaches of his agreements, HP has been injured  
19 and faces irreparable injury. HP is threatened with losing customers, technology, its competitive  
20 advantage, its trade secrets and goodwill in amounts which may be impossible to determine,  
21 unless Jones is enjoined and restrained by order of this Court.

**THIRD CAUSE OF ACTION**

**(Conversion Against Jones and DOES 1-25)**

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23  
24       93.    HP hereby incorporates by reference and realleges each of the allegations  
25 contained in the foregoing paragraphs 1 through \_\_\_\_, inclusive, as though fully set forth in this  
26 cause of action.

27       94.    Based on conduct wholly independent of the existence, knowledge,  
28 misappropriation and usage of HP's trade secrets, Jones removed and retained non-trade secret

1 but still proprietary and confidential information and property belonging to HP, without  
2 permission or authorization, for his personal economic advantage and, on information and belief,  
3 to use for the benefit of a competitor to unfairly compete with HP.

4 95. As a proximate result of Jones' removal and retention of non-trade secret but still  
5 proprietary and confidential information and property, Jones has caused HP to suffer damages in  
6 an amount to be proven at trial.

7 96. Each of the acts of conversion was done willfully and maliciously, with the  
8 deliberate intent to injury HP's business, thereby entitling HP to exemplary damages and/or  
9 attorneys' fees to be proven at trial.

#### 10 FOURTH CAUSE OF ACTION

#### 11 (Fraud Against Jones and DOES 1-25)

12 97. HP hereby incorporates by reference and realleges each of the allegations  
13 contained in the foregoing paragraphs 1 through 77, inclusive, as though fully set forth in this  
14 cause of action.

15 98. HP is informed and believes, and based upon such information and belief alleges,  
16 that when Jones submitted fraudulent documentation to support his expense reports, he  
17 represented that the expenses were lawful business expenses although they were personal in  
18 nature and related to his close personal relationship with the HP Subordinate. Jones knew these  
19 representations to be false and made the representations with the intent to deceive, defraud, and  
20 induce HP to act in reliance on the representations in the manner herein alleged, and to reimburse  
21 Jones for the fraudulent expenses.

22 99. HP, at the time these representations were made, and at the time HP took the  
23 actions herein alleged, was ignorant of the falsity of the representations made by Jones and  
24 believed them to be true. In reliance on these representations of material fact, HP did not  
25 discover that Jones' personal expenses were fraudulently submitted as legitimate business  
26 expenses. Had HP known the actual facts, it would not have reimbursed Jones for his fraudulent  
27 expenses.

28

1           100. HP's reliance on Jones' representations was reasonable and justified because  
2 Jones was a long-time employee of HP, and HP had no reason to believe, suspect or discover that  
3 Jones would commit fraud, make intentional misrepresentations, and/or breach his duty of trust  
4 and care to HP.

5           101. HP is also informed and believes, and based upon such information and belief  
6 alleges, that when Jones claimed that the HP Subordinate was one of his top sales reps, had  
7 received a significant job offer from an HP competitor, and that her salary had to be increased to  
8 keep her from leaving HP, Jones represented that these facts were true although they were false.  
9 Jones knew these representations to be false and made the representations with the intent to  
10 deceive, defraud, and induce HP to act in reliance on the representations in the manner herein  
11 alleged, and to raise his subordinate's salary approximately 97%.

12           102. HP, at the time these representations were made, and at the time HP took the  
13 actions herein alleged and reimbursed Jones, was ignorant of the falsity of the representations  
14 made by Jones and believed them to be true. Had HP known the actual facts, it would not have  
15 raised the HP Subordinate's salary approximately 97%.

16           103. HP's reliance on Jones' representations was reasonable and justified because  
17 Jones was a long-time employee of HP, and HP had no reason to believe, suspect or discover that  
18 Jones would commit fraud against HP, make intentional misrepresentations to HP, and/or breach  
19 his duty of trust and care to HP.

20           104. As a direct and proximate result of Jones' fraudulent conduct, HP has been  
21 damaged in an amount subject to proof at the time of trial, but which HP alleges is more than  
22 \$13,025, plus amounts paid to the HP Subordinate in reliance on Jones' misrepresentations.

23           105. Jones' acts alleged above were willful, wanton, malicious, oppressive, and  
24 undertaken with conscious disregard for the rights of HP and with intent to defraud HP, and  
25 justify the award of exemplary and punitive damages.

#### 26           FIFTH CAUSE OF ACTION

#### 27           (Breach of Duty of Loyalty Against Jones and DOES 1-25)

28           106. HP hereby incorporates by reference and realleges each of the allegations

1 contained in the foregoing paragraphs 1 through 77, inclusive, as though fully set forth in this  
2 cause of action.

3 107. Pursuant to California Labor Code sections 2854 and 2859, as an employee of  
4 HP, Jones owed a duty of care, diligence, skill and loyalty to HP.

5 108. Jones breached his duty to HP as a result of the acts alleged herein, including but  
6 not limited to: (1) failing to disclose his close personal relationship with the HP Subordinate; (2)  
7 submitting false expense reports characterizing his personal trips to Australia, as well as personal  
8 meals, as business expenses although they served no legitimate business purpose; (3)  
9 orchestrating an unjustified substantial salary increase for the HP Subordinate; (4) failing to  
10 cooperate in HP's investigation of these events; and (5) refusing to repay HP for the no less than  
11 \$146,374 in expenses incurred by HP related to Jones' resignation of his international post in  
12 Japan.

13 109. As a direct and proximate result of Jones' breach of his duty to HP, HP has been  
14 damaged in an amount to be proven at the time of trial, but in excess of the minimum  
15 jurisdictional amount of this Court.

16 110. Jones' acts alleged above were willful, wanton, malicious, oppressive, and  
17 undertaken with intent to defraud HP, and justify the award of exemplary and punitive damages.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, HP prays that the Court enter an Order:

20 A. Temporarily, preliminarily and permanently enjoining Jones and all persons or  
21 entities acting in concert or participation with Jones from directly or indirectly:

- 22 • obtaining, accessing, using, retaining, utilizing or disclosing HP's confidential,  
23 proprietary, or trade secret information;
- 24 • accessing, retrieving, copying, transmitting, or disseminating any and all hard  
25 copies or electronic data containing HP trade secrets and/or confidential  
26 information and/or any other HP data, documents or property;

27

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1           • deleting, destroying, shredding, altering, erasing or otherwise modifying or  
2           causing or permitting anyone else to delete, destroy, shred, alter, erase or  
3           otherwise modify any evidence relating to this action;

4           B.     Requiring the immediate disclosure and return to HP of all misappropriated  
5           materials, including all media and electronic storage devices and virtual repositories, including  
6           but not limited to any Memco accounts, portable USB storage devices utilized by Jones, and  
7           Western Digital hard drives utilized by Jones;

8           C.     Requiring the production of all electronic devices operated by Jones for  
9           inspection to verify the use, access, disclosure, printing, copying, and return of HP property,  
10          including but not limited to all Western Digital hard drives utilized by Jones; and the production  
11          of all passwords and links for all online storage areas utilized by Jones, including but not limited  
12          to Memco accounts, for inspection;

13          D.     That HP be awarded compensatory damages it has suffered, in an amount to be  
14          proven at trial;

15          E.     That HP be awarded punitive and/or exemplary damages for all claims for which  
16          such damages are authorized;

17          F.     That HP be awarded attorneys' fees and the costs of this action as permitted by  
18          statute;

19          G.     That Jones be ordered to disgorge all improper benefits, profits, and/or gains;

20          H.     For an accounting of the misuses of HP's information and property and other  
21          unlawful acts;

22          I.     For a constructive trust for the benefit of HP to be imposed upon all funds, assets,  
23          revenues and profits derive from the unlawful acts and threatened misappropriation of HP's  
24          information and property;

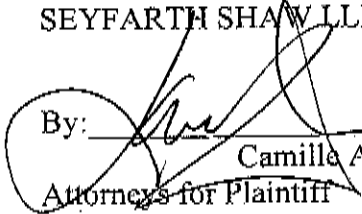
25          J.     For prejudgment and post judgment interest at the maximum legal rate, as  
26          provided by the laws of California, as applicable, as an element of damages which HP has  
27          suffered as a result of the wrongful and illegal acts complained of herein; and  
28

1 K. That HP be awarded such other and further relief as the Court deems equitable  
2 and just.

3 Dated: April 6, 2011

Respectfully submitted,

SEYFARTH SHAW LLP

4  
5  
6 By:  Camille A. Olson

Attorneys for Plaintiff  
HEWLETT-PACKARD COMPANY

7  
8  
9  
10 Dated: April 6, 2011

BERGESON,LLP

11  
12 By:  Daniel J. Bergeson

13  
14 Attorneys for Plaintiff  
15 HEWLETT-PACKARD COMPANY  
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**DEMAND FOR JURY TRIAL**

Plaintiff Hewlett-Packard Company hereby demands a trial by jury in the above-captioned matter on all matters so triable.

Dated: April 6, 2011

Respectfully submitted,

SEYFARTH SHAW LLP

By: 

Camille A. Olson

Attorneys for Plaintiff

HEWLETT-PACKARD COMPANY

Dated: April 6, 2011

BERGESON,LLP

By: 

Daniel J. Bergeson

Attorneys for Plaintiff

HEWLETT-PACKARD COMPANY