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	1 2 3	CHARLENE M. MORROW (CSB NO. 136411) cmorrow@fenwick.com FENWICK & WEST LLP Silicon Valley Center 801 California Street						
	4	<ul> <li>Facsimile: (650) 938-5200</li> <li>DAVID D. SCHUMANN (CSB NO. 223936)</li> <li>dschumann@fenwick.com</li> <li>BRYAN A. KOHM (CSB NO. 233276)</li> <li>bkohm@fenwick.com</li> <li>FENWICK &amp; WEST LLP</li> <li>555 California Street, Suite 1200</li> <li>San Francisco, CA 94104</li> <li>Telephone: (415) 875-2300</li> <li>Facsimile: (415) 281-1350</li> <li>Attorneys for Plaintiff</li> <li>HEWLETT-PACKARD COMPANY</li> </ul>						
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Fenwick & West LLP Attorneys at Law Mountain View	13	NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION HEWLETT-PACKARD COMPANY, a Case No. Delaware corporation,						
IWICK & WEST L Attorneys at Law Mountain View	14							
Fenw at b	15							
	16 17							
	18	Plaintiff,	COMPLAINT FOR DECLARATORY JUDGMENT					
	19	V.						
	20	<ul> <li>PAPST LICENSING GMBH &amp; CO. KG, a German company,</li> <li>DEMAND FOR JURY TRIAL</li> </ul>						
	21	Defendant.						
	22							
	23	Plaintiff Hewlett-Packard Company ("HP") hereby alleges as follows for this complaint						
	24	against Papst Licensing GmbH & Co. KG ("Papst" or "Defendant"): <u>THE PARTIES</u>						
	25							
	26	1. Plaintiff HP is a corporation organized under the laws of Delaware, with its						
	27	headquarters at 3000 Hanover Street, Palo Alto, California.						
	28							
			vithout watermarks at <u>docketalarm.com</u> .					

1 2. On information and belief, Papst is a company existing under the laws of The 2 Federal Republic of Germany with a place of business at Bahnofstrasse 33, 78112 St. Georgen, 3 Germany. 4 JURISDICTION AND VENUE This action is based on the patent laws of the United States, Title 35 of the United 5 3. 6 States Code, § 1 et seq., with a specific remedy sought under the Federal Declaratory Judgments 7 Act, 28 U.S.C. §§ 2201 and 2202. An actual, substantial, and continuing justiciable controversy 8 exists between HP and Papst that requires a declaration of rights by this Court. 9 4. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. 10 §§ 1331 and 1338(a). 11 5. The Court has personal jurisdiction over Papst because Papst has established 12 certain minimum contacts with California such that the exercise of personal jurisdiction over 13 Papst would not offend traditional notions of fair play and substantial justice. See Hewlett-14 Packard Co. v. Papst Licensing GmbH & Co. KG, No. 5:08-cv-01732 (N.D. Cal. Mar. 31, 2008). 6. 15 Venue is proper in this court pursuant to 28 U.S.C. § 1391 because Papst is an 16 alien entity and therefore subject to suit in any district. 17 FACTUAL BACKGROUND 7. 18 HP is a leading provider of imaging and printing-related products and services. 19 8. On information and belief, Papst is a patent licensing company that neither makes 20 nor sells any products or services. 21 9. On information and belief, Papst purports to be the owner of U.S. Patent No. 22 8,504,746 (the "'746 patent"). The '746 patent is entitled "Analog Data Generating and 23 Processing Device for Use With a Personal Computer." A copy of the '746 patent is attached as 24 Exhibit A. 25 10. On information and belief, Papst purports to be the owner of U.S. Patent No. 26 8,966,144 (the "144 patent"). The '144 patent is entitled "Analog Data Generating and 27 Processing Device Having a Multi-Use Automatic Processor." A copy of the '144 patent is 28 attached as Exhibit B.

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Fenwick & West LLP attorneys at Law Mountain View	1	11. Collectively, the '746 patent and the '144 patent will be referred to as the "patents-					
	2	in-suit."					
	3	12. On March 31, 2008, HP filed a Complaint for Declaratory Judgment in this district					
	4	against Papst seeking a declaration that HP does not infringe U.S. Patent Nos. 6,470,399 (the					
	5	"399 patent") and 6,895,449 (the "449 patent"). Hewlett-Packard Co. v. Papst Licensing GmbH					
	6	& Co. KG, No. 5:08-cv-01732, Dkt. No. 1 (N.D. Cal. Mar. 31, 2008).					
	7	13. The patents-in-suit are in the same family as the '399 and '499 patents.					
	8	14. The <i>Hewlett-Packard Co. v. Papst Licensing</i> matter was subsequently transferred					
	9	to United States District Court for the District of District of Columbia for coordinated or					
	10	consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. See In Re Papst Licensing					
	11	<i>Digital Camera Litig. – MDL 1800</i> , No. 1:07-mc-00493, Dkt. No. 87 (D.D.C. May 8, 2008).					
	12	15. In the Joint proposed Scheduling Order filed on May 1, 2015 in the <i>In Re Papst</i>					
	13	Licensing matter, Papst stated that:					
	14	Papst respectfully submits that it will seek to amend the complaint to include infringement claims based on United States Patent Nos.					
	15	8,504,746 and 8,966,144. These patents issued on August 6, 2013, and February 24, 2015, respectively.					
	16						
	17	No. 1:07-mc-00493, Dkt. No. No. 585 at 1.					
	18	16. HP does not infringe any claims of the patents-in-suit.					
	19	FIRST CAUSE OF ACTION					
	20	(Declaratory Judgment of Non-Infringement of the '746 Patent)					
	21	17. HP hereby incorporates by reference its allegations contained in paragraphs 1					
	22	through 16 of this Complaint as though fully set forth herein.					
	23	18. Papst has alleged that HP infringes one or more claims of the '746 patent.					
	24	19. HP asserts that it does not infringe or contributes to any infringement of any claim					
	25	of the '746 patent either literally or under the doctrine of equivalents. HP further asserts that it					
	26	has not and does not induce any infringement of any claim of the '746 patent.					
	27	20. Therefore, there exits a substantial controversy between HP and Papst, the parties					
	28	having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a					
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1 declaratory judgment that HP have not infringed any claim of the '746 patent.

2 21. An actual and justiciable controversy exists regarding the alleged infringement of
3 the '746 patent by HP. HP accordingly requests a judicial determination of its rights, duties, and
4 obligations with regarding to the '746 patent.

5 22. A judicial declaration is necessary and appropriate so that HP may ascertain its
6 rights regarding the '746 patent.

## **SECOND CAUSE OF ACTION**

#### (Declaratory Judgment of Non-Infringement of the '144 Patent)

9 23. HP hereby incorporates by reference its allegations contained in paragraphs 1
10 through 16 of this Complaint as though fully set forth herein.

24. Papst has alleged that HP infringes one or more claims of the '144 patent.

25. HP asserts that it does not infringe or contributes to any infringement of any valid and enforceable claim of the '144 patent either literally or under the doctrine of equivalents. HP further asserts that it has not and does not induce any infringement of any claim of the '144 patent.

16 26. Therefore, there exists a substantial controversy between HP and Papst, the parties
17 having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a
18 declaratory judgment that HP have not infringed and do not infringe any claims of the '144
19 patent.

20 27. An actual and justiciable controversy exists regarding the alleged infringement of
21 the '144 patent by HP. HP accordingly requests a judicial determination of its rights, duties, and
22 obligations with regarding to the '144 patent.

23 28. A judicial declaration is necessary and appropriate so that HP may ascertain its
24 rights regarding the '144 patent.

## PRAYER FOR RELIEF

WHEREFORE, HP prays for a declaratory judgment against Defendant as follows:
A. A declaration that HP's technology is not covered by any claim of the '746 patent
and that HP does not infringe any claim of the '746 patent;

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	1	B. A declaration that HP's technology is not covered by any claim of the '1							
	2	and that HP does not infringe any claim of the '144 patent;							
	3	C. A declaration that HP's case against Defendant is an exceptional case within the							
	4	meaning of 35 U.S.C. § 285;							
	5	D. An award of costs and attorneys' fees to HP; and							
	6	E.	E. Such other and further relief as the Court deems just and reasonable.						
	7								
	8	Dated: May	8, 2015		FENWICK &	WEST LLP			
	9								
	10				By: <u>s/ Charlen</u>	e M. Morrow			
	11					lene M. Morrow			
٥.	12				Attorneys for I Hewlett-Packa	Plaintiff rd Company			
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