

FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW

1 CHARLENE M. MORROW (CSB NO. 136411)
cmorrow@fenwick.com
2 FENWICK & WEST LLP
Silicon Valley Center
3 801 California Street
Mountain View, CA 94041
4 Telephone: (650) 988-8500
Facsimile: (650) 938-5200
5

6 DAVID D. SCHUMANN (CSB NO. 223936)
dschumann@fenwick.com
7 BRYAN A. KOHM (CSB NO. 233276)
bkohm@fenwick.com
FENWICK & WEST LLP
8 555 California Street, Suite 1200
San Francisco, CA 94104
9 Telephone: (415) 875-2300
Facsimile: (415) 281-1350
10

11 Attorneys for Plaintiff
HEWLETT-PACKARD COMPANY

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION
15

16 HEWLETT-PACKARD COMPANY, a
Delaware corporation,
17
18 Plaintiff,
19
20 v.
PAPST LICENSING GMBH & CO. KG, a
German company,
21
22 Defendant.

Case No.

**COMPLAINT FOR DECLARATORY
JUDGMENT**

DEMAND FOR JURY TRIAL

23 Plaintiff Hewlett-Packard Company (“HP”) hereby alleges as follows for this complaint
24 against Papst Licensing GmbH & Co. KG (“Papst” or “Defendant”):

THE PARTIES

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

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 *Hewlett-Packard Co. v. Papst Licensing* 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 *Digital Camera Litig. – MDL 1800*, 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 *In Re Papst*
13 *Licensing* matter, Papst stated that:

14 Papst respectfully submits that it will seek to amend the complaint
15 to include infringement claims based on United States Patent Nos.
16 8,504,746 and 8,966,144. These patents issued on August 6, 2013,
and February 24, 2015, respectively.

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 exists 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

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.

7 **SECOND CAUSE OF ACTION**

8 **(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.

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

12 25. HP asserts that it does not infringe or contributes to any infringement of any valid
13 and enforceable claim of the '144 patent either literally or under the doctrine of equivalents. HP
14 further asserts that it has not and does not induce any infringement of any claim of the '144
15 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.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, HP prays for a declaratory judgment against Defendant as follows:

27 A. A declaration that HP's technology is not covered by any claim of the '746 patent
28 and that HP does not infringe any claim of the '746 patent;

1 B. A declaration that HP's technology is not covered by any claim of the '144 patent
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. Such other and further relief as the Court deems just and reasonable.
7

8 Dated: May 8, 2015

FENWICK & WEST LLP

9
10 By: s/ Charlene M. Morrow

Charlene M. Morrow

11
12 Attorneys for Plaintiff
13 Hewlett-Packard Company
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.