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7 *Attorneys for Plaintiff and Counter-*
8 *Defendant Memjet Technology Limited and*
9 *Third-Party Defendants Memjet Holdings Ltd.,*
10 *Memjet US Services Inc., and Memjet Ltd.*

11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 MEMJET TECHNOLOGY LIMITED,

14 Plaintiff,

15 vs.

16 HEWLETT-PACKARD COMPANY,

17 Defendant.

18 HEWLETT-PACKARD COMPANY,

19 Counter-Claimant,

20 vs.

21 MEMJET TECHNOLOGY LIMITED,

22 Counter-Defendant.

23 HEWLETT-PACKARD COMPANY,

24 Third-Party Plaintiff,

25 vs.

26 MEMJET LTD., MEMJET US
SERVICES INC., and MEMJET
HOLDINGS LTD.

27 Third-Party Defendants.
28

Case No. 3:15-cv-01769-BEN-BLM

**PLAINTIFF AND COUNTER-
DEFENDANT MEMJET
TECHNOLOGY LIMITED AND
THIRD-PARTY DEFENDANTS
MEMJET LTD., MEMJET US
SERVICES INC., AND MEMJET
HOLDINGS LTD.'S JOINT
PATENT LOCAL RULE 4.1
PRELIMINARY RESPONSIVE
CLAIM CONSTRUCTIONS AND
PRELIMINARY IDENTIFICATION
OF EXTRINSIC EVIDENCE**

1 Pursuant to the Court's December 1, 2015 Case Management Conference
2 Order Regulating Discovery and Other Pretrial Proceedings (ECF No. 42), Plaintiff
3 and Counter-Defendant Memjet Technology Limited and Third-Party Defendants
4 Memjet Ltd., Memjet US Services Inc., and Memjet Holdings Ltd. (collectively
5 "Memjet"), by and through their undersigned counsel, hereby provide to Hewlett-
6 Packard Company (now "HP Inc.") ("HP") their Patent Local Rule 4.1 Preliminary
7 Responsive Claim Constructions and Preliminary Identification of Extrinsic
8 Evidence. Memjet's positions are contained in this responsive disclosure as well as
9 in their Preliminary Proposed Claim Constructions and Preliminary Identification of
10 Extrinsic Evidence, which is hereby incorporated by reference in its entirety.

11 These proposed disclosures are provided for the purpose of guiding the
12 parties' meet and confer process, permitting the parties to identify terms for which
13 the parties are capable of reaching an agreement on proposed constructions, and
14 clarifying the issues in the cases. Consistent with this purpose, Memjet reserves the
15 right to amend, supplement, revise, and otherwise finalize its constructions or
16 identification of extrinsic evidence, as contemplated by the Patent Local Rules and
17 applicable agreement between the parties. Memjet reserves the right to rely on
18 evidence cited regarding the construction of one claim term as evidence to support
19 the construction of any other claim term. Memjet provides specific citations to
20 extrinsic material, but those citations are exemplary and Memjet reserves the right
21 to rely upon the entirety of the identified extrinsic material. Memjet reserves the right
22 to rely on any extrinsic evidence identified by HP in its Preliminary Claim
23 Constructions and Preliminary Responsive Claim Constructions and the right to add
24 additional extrinsic evidence to rebut any evidence raised by HP in its concurrent
25 exchange. Finally, by offering a proposed construction for the following claim
26 terms, Memjet is not conceding that the claim terms satisfy the various requirements
27 of 35 U.S.C. § 112, and Memjet reserves the right to contest the validity of the
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1 asserted claims and patents on the basis of lack of written description, lack of
2 enablement, and/or indefiniteness.

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PATENTS-IN-SUIT

Memjet Technology Ltd.’s Asserted Patents	U.S. Patent No. 6,575,549 (the “549 patent”) U.S. Patent No. 6,880,914 (the “914 patent”) U.S. Patent No. 7,156,492 (the “492 patent”) U.S. Patent No. 7,325,986 (the “986 patent”) U.S. Patent No. 8,662,636 (the “636 patent”) U.S. Patent No. 8,678,550 (the “550 patent”) U.S. Patent No. 8,696,096 (the “096 patent”) U.S. Patent No. 9,056,475 (the “475 patent”)
HP’s Asserted Patents	U.S. Patent No. 6,250,738 (the “738 patent”) U.S. Patent No. 6,322,206 (the “206 patent”) U.S. Patent No. 6,679,596 (the “596 patent”) U.S. Patent No. 6,789,878 (the “878 patent”) U.S. Patent No. 6,491,377 (the “377 patent”) U.S. Patent No. 7,399,069 (the “069 patent”) U.S. Patent No. 7,726,786 (the “786 patent”)

MEMJET TECHNOLOGY LIMITED’S ASSERTED PATENTS

U.S. Patent No. 6,575,549 (the “549 patent”)

Claim Term	HP’s Proposed Construction and Extrinsic Evidence	Memjet’s Proposed Construction	Memjet’s Extrinsic Evidence
Preamble of Claim 1	Limiting	Not limiting	
“correctly” (claims 1, 11)	Indefinite <i>Extrinsic Evidence</i> Expert testimony that the claim limitation, when read in light of the intrinsic evidence, fails to inform, with reasonable certainty, those skilled in the art about the scope of the invention.	No construction needed as preamble is not a claim limitation. Alternatively: Plain and ordinary meaning	Memjet may use expert testimony to support its construction of this term and to explain its meaning to one of ordinary skill in the art at the time of the invention.
“location or locations” (claims 1, 5, 6, 8, 10)	“the two dimensional coordinates of the position or positions on the page where a dot of ink failed to print correctly” <i>Extrinsic Evidence</i> Prosecution history of EP1303410. Expert testimony as to how one of ordinary skill in the art would understand the claim term in view of the intrinsic and	Plain and ordinary meaning	Memjet may use expert testimony to support its construction of this term and to explain its meaning to one of ordinary skill in the art at the time of the invention.

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