

1 BILL LOCKYER,
Attorney General of the State of California
2 TOM GREENE,
Chief Assistant Attorney General
3 ALBERT NORMAN SHELDEN,
Senior Assistant Attorney General
4 CATHERINE Z. YSRAEL, State Bar # 162498
Deputy Attorney General
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 620-6343
Facsimile: (213) 897-4951
7
8 Attorneys for Plaintiff
People of the State of California

ENDORSED

2006 DEC -7 P 1:41

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

D. Wendel

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SANTA CLARA**

12 **106CV-076081**

13 **PEOPLE OF THE STATE OF CALIFORNIA,**

14 Plaintiff,

15 v.

16 **HEWLETT-PACKARD COMPANY, a**
17 Delaware Corporation,

18 Defendant.

CASE NO.:

**COMPLAINT FOR INJUNCTION,
CIVIL PENALTIES AND OTHER
EQUITABLE RELIEF**

19 Plaintiff the People of the State of California ("People" or "Plaintiff"), by and through Bill
20 Lockyer, Attorney General of the State of California, is informed and believes and thereupon
21 alleges as follows:

22 **INTRODUCTION**

23 1. This action is brought against Hewlett-Packard Company, a Delaware corporation
24 (hereinafter "Hewlett-Packard" or "HP"), who, in violation of California Business and
25 Professions Code section 17200, engaged in an unlawful scheme to spy on its own employees
26 and directors, third parties and family members of these individuals (collectively "Victims").

27 2. HP's tactics violate the right to privacy of the Victims, violate several Penal Code
28 sections prohibiting the obtaining of confidential information from telecommunications utilities

COMPLAINT FOR INJUNCTION, CIVIL PENALTIES AND OTHER EQUITABLE RELIEF

1 under false pretenses, and constitute unfair business practices within the meaning of California
2 Business and Professions Code section 17200. Unless enjoined and restrained by an order of the
3 Court, HP will continue to engage in the unlawful acts and conduct set forth in this Complaint.

4 3. HP at all times mentioned herein has transacted business in the County of Santa Clara
5 and elsewhere within the State of California. HP authorized and directed the unlawful
6 investigations at issue from its offices in the State of California, and the violations of law
7 described herein occurred in the County of Santa Clara and elsewhere in the State of California.

8 4. At all relevant times, defendant Hewlett-Packard Company was and is a Delaware
9 corporation, doing business in California, with its principal place of business in Santa Clara
10 County.

11 5. Whenever reference is made in this Complaint to any act or transaction of any
12 corporation, partnership, business or other organization, that allegation shall be deemed to mean
13 that the corporation, partnership, business or other organization did or authorized the acts alleged
14 in this Complaint through its principals, officers, directors, employees, members, agents and
15 representatives while they were acting within the actual or ostensible scope of their authority.

16 6. At all relevant times, HP committed the acts, caused or directed others to
17 commit the acts, ratified the acts, or permitted others to commit the acts alleged in this
18 Complaint.

19 **DEFENDANT'S BUSINESS PRACTICES**

20 7. In 2005, HP launched an investigation ostensibly to determine who among its HP
21 board members had "leaked" information to the media. During the course of this investigation,
22 HP authorized and permitted the use of "pretexting" or "social engineering," by which HP
23 investigators obtained the personal, home and cellular telephone records of current and former
24 HP directors and employees, several journalists, and their families (collectively "Victims"), by
25 posing as the Victims.

26 8. In 2006, after the 2005 investigation failed to reveal the source of the leaks, HP
27 launched a second investigation to determine the source of new leaks to the media that took place
28 in January 2006. (The 2005 and 2006 investigations are hereafter collectively referred to as "the

1 Kona Investigation.”)

2 9. During the Kona Investigation, HP utilized unlawful, unfair and
3 deceptive investigative tactics to obtain confidential personal information about the Victims,
4 including:

- 5 a. using pretexting to obtain the telephone or facsimile records of Hewlett-Packard
6 employees, former or current Hewlett-Packard Board members or their families,
7 and journalists and their family members.
- 8 b. authorizing the use of pretexting to obtain telephone or facsimile telephone call
9 records by duping telecommunications carriers into providing confidential
10 information and/or by creating an online account using confidential information
11 supplied by Hewlett-Packard, including portions of the Victims’ Social Security
12 Numbers.
- 13 c. permitting and authorizing the use and disclosure of Social Security Numbers and
14 confidential personal information to obtain, through pretexting, the telephone call
15 information of employees, current or former Hewlett-Packard Board members and
16 journalists.

17 **FIRST CAUSE OF ACTION**

18 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

19 **(UNFAIR COMPETITION)**

20 10. Plaintiff realleges and incorporates by reference paragraphs 1-9 above, as though
21 they are set forth in full herein.

22 11. Beginning at an exact date unknown to plaintiff, HP engaged in unfair competition as
23 defined in California Business and Professions Code section 17200.

24 12. During the course of the Kona Investigation, HP’s acts and practices of unfair
25 competition include the following:

- 26 a. HP deceptively obtained telecommunications consumer account information by
27 various means, sometimes termed “pretexting” and/or “social engineering,” which
28 includes misrepresenting themselves as the Victim, an agent of the Victim or someone

1 acting on the Victim's behalf in calls to the Victim's telecommunications carrier's
2 customer service representatives or on the telecommunication carrier's websites. HP
3 thus obtained the Victim's private and confidential information, without the consent or
4 authorization of the Victim.

5 b. HP, by means of false pretenses, induced telecommunications companies to
6 provide confidential information regarding the Victims to HP, in violation of
7 California Penal Code section 538.5.

8 c. HP knowingly accessed and without permission used data, computers, computer
9 systems or computer networks in order to devise or execute a scheme to defraud or
10 deceive telecommunications companies to provide HP with confidential personal
11 information about the Victims and/or to wrongfully obtain data regarding the Victims,
12 in violation of California Penal Code section 502(c)(1).

13 d. HP knowingly accessed and without permission took, copied, or made use of data
14 from a computer, computer system, or computer network and/or took or copied
15 supporting documentation, in order to obtain confidential personal information about
16 the Victims, in violation of California Penal Code section 502(c)(2).

17 e. Consumers have an expectation of privacy in their telephone records and other
18 personal information. This expectation of privacy is guaranteed by Article I, Section I
19 of the California Constitution, as well as by California Public Utility Code section
20 2891, which prohibits telecommunications companies from providing residential
21 telephone call records of a consumer without the consumer's consent. HP violated the
22 right to privacy of Victims by obtaining confidential telephone records and other
23 personal information about them without their knowledge or consent.

24 f. HP purchased, offered to purchase or conspired to purchase telephone calling
25 pattern records or lists of the Victims without their written consent and/or through
26 fraud or deceit, attempted to procure or obtain the telephone calling pattern records or
27 lists of the Victims.

28 g. HP used false pretenses to willfully obtain personal identifying information about

1 the Victims and used that information in violation of California Penal Code section
2 530.5.

3 h. HP's investigative tactics during the course of the Kona Investigation, as described
4 in part in paragraphs 1-2 and 7-12 above, constitute unfair competition within the
5 meaning of California Business and Professions Code section 17200.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, plaintiff prays for judgment as follows:

8 1. Pursuant to California Business and Professions Code section 17203, that HP, its
9 successors, agents, representatives, employees, and all persons who act in concert with HP be
10 permanently enjoined from committing any acts of unfair competition, including the violations
11 alleged in the First Cause of Action.

12 2. Pursuant to California Business and Professions Code section 17206, that HP be
13 ordered to pay a civil penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500) for
14 each violation of California Business and Professions Code section 17200 by HP, as proved at
15 trial.

16 3. That Plaintiff recover its costs of suit herein, including costs of investigation.

17 4. For such other and further relief as the Court may deem just and proper.

18 Dated: December 6, 2006

19 Respectfully submitted,

20 BILL LOCKYER,
21 Attorney General of the State of California
22 TOM GREENE,
23 Chief Assistant Attorney General
24 ALBERT NORMAN SHELDEN,
25 Senior Assistant Attorney General
26 CATHERINE Z. YSRAEL,
27 Deputy Attorney General

28 By Catherine Ysrael
CATHERINE Z. YSRAEL
Deputy Attorney General