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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

106CV-076081

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

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

Defendant.

CASE NO.:

**FINAL JUDGMENT AND PERMANENT
INJUNCTION**

Plaintiff, the People of the State of California, appearing through its attorneys, Bill Lockyer, Attorney General of the State of California, by Chief Assistant Attorney General Tom Greene, Senior Assistant Attorney General Albert Norman Shelden, and Deputy Attorney General Catherine Z. Ysrael, and defendant Hewlett-Packard Company, a Delaware corporation (hereinafter, "HP"), appearing through its attorneys Morgan, Lewis & Bockius LLP, by Michael J. Holston and John H. Hemann, and it appearing to the Court that the parties hereto, in the Stipulation for Entry of Final Judgment and Permanent Injunction (hereafter "Stipulation") on file herein, have stipulated and consented to the entry of this Final Judgment and Permanent Injunction without the taking of proof and without trial or adjudication of any fact or law herein,

1 without this Final Judgment and Permanent Injunction constituting evidence of or an admission
2 by HP regarding any issue of law or fact alleged in the Complaint on file herein, and without HP
3 admitting any liability herein in so far as any other litigation regarding allegations of violations,
4 which occurred prior to the entry of this Final Judgment and Permanent Injunction, is concerned,
5 the Court having considered the matter and good cause appearing therefore:

6 **IT IS HEREBY ORDERED THAT:**

- 7 A. This Court has jurisdiction of the parties hereto.
- 8 B. This Court has jurisdiction of the subject matter hereof.
- 9 C. The Final Judgment and Permanent Injunction entered into by the parties has been
10 reviewed by the Court, and it is found to have been entered in good faith and to be in all respects
11 suitable and equitable.
- 12 D. The injunctive provisions of this Final Judgment and Permanent Injunction shall
13 be applicable to defendant HP, as well as its subsidiaries; its successors and the assigns of all or
14 substantially all of the assets of its businesses; and its directors, officers, employees, agents,
15 independent contractors, partners, associates and representatives of each of them.

16 **PERMANENT INJUNCTION**

17 E. Pursuant to California Business and Professions Code section 17203, HP shall be
18 and hereby is permanently enjoined and restrained from directly or indirectly doing any of the
19 following acts or practices in connection with the conduct of investigations:

20 (1) Using false or fraudulent pretenses, representations, personations, or promises
21 to obtain from a public utility any confidential, privileged, or proprietary information,
22 including customer or billing records, in violation of California Penal Code section 538.5.

23 (2) Obtaining and unlawfully using personal identifying information, including
24 social security numbers, in violation of California Penal Code section 530.5.

25 (3) Knowingly accessing and without permission using any data, computer,
26 computer system, or computer network in order to (a) devise or execute any scheme or
27 artifice to defraud, deceive, or extort, or (b) wrongfully obtain property or data, in
28 violation of California Penal Code section 502(c)(1).

1 (4) Knowingly accessing and without permission taking, copying, or making use
2 of any data from a computer, computer system, or computer network, or taking or
3 copying any supporting documentation, whether existing or residing internal or external
4 to a computer, computer system, or computer network, in violation of California Penal
5 Code section 502(c)(2).

6 (5) Violating California Penal Code section 638, effective January 1, 2007, which
7 prohibits the purchasing, offering to purchase or conspiring to purchase any telephone
8 "calling pattern record or list" without the written consent of the subscriber or, through
9 fraud or deceit, attempting to procure or obtain any telephone "calling pattern record or
10 list," as set forth in the statute.

11
12 **HP'S PAST AND FUTURE CORPORATE GOVERNANCE MEASURES TO**
13 **ENSURE COMPLIANCE WITH CALIFORNIA STATE LAW**

14 F. As set forth in the Stipulation, since the time that the Attorney General and HP
15 commenced negotiations to resolve this action, HP has undertaken a number of relevant
16 corporate governance reforms. Certain additional reforms have been requested by the Attorney
17 General. To ensure that employees of HP do not in the future violate the California Penal Code
18 sections identified herein in connection with investigatory activity, pursuant to California
19 Business and Professions Code section 17203, for a period of five (5) years, HP shall implement
20 and, if it already has done so, continue the following measures:

21 (1) HP has appointed to the Board of Directors a new director who is "independent"
22 under Section 303A of the New York Stock Exchange Listed Company Manual. This new
23 independent director ("Independent Director") shall be responsible for reviewing as set forth
24 below and reporting to the Board on HP's compliance with legal and ethical requirements related
25 to the conduct of investigations. The Independent Director will provide advice and guidance to
26 the Chief Ethics and Compliance Officer ("CECO"), whose responsibilities are described below,
27 and will report to the full Board and the Audit Committee of the Board as the Independent
28 Director deems appropriate.

1 (a) The Independent Director shall receive and review copies of any reports
2 created by the CECO and the Compliance Council relating to the conduct of
3 investigations, as well as any reports provided to the Board related to the conduct
4 of investigations.

5 (b) The Independent Director shall review and authorize all investigations related
6 in any way to the Board of Directors or the conduct of individual members of the
7 Board, unless the investigation or conduct relates to the Independent Director, in
8 which case the lead independent director of the Board shall provide such review
9 and authorization.

10 (c) The Independent Director shall review and approve the training program
11 implemented pursuant to paragraph 8 below.

12 (d) The Independent Director shall be authorized to engage independent legal
13 advisors as necessary without obtaining approval from the CEO or General
14 Counsel, subject to review by the Board of Directors.

15 (e) If the Independent Director concludes that HP is violating any California law
16 or this Judgment in conducting any investigations, he or she shall promptly report
17 this conclusion to the California Attorney General.

18 (f) If the Independent Director concludes that, in connection with any
19 investigation, HP is violating any California law or this Judgment, or is in
20 violation of its code of ethics that is applicable to directors, officers and other
21 employees of HP and is known as the "Standards of Business Conduct" (the
22 "SBC"), or that any outside vendor is violating any California law or this
23 Judgment, or is in violation of HP's applicable code of conduct, with respect to
24 the conduct of investigations, he or she shall immediately report this conclusion to
25 the General Counsel, the CECO, the CEO, and Board of Directors.

26 (g) Each of the Independent Director and the CECO, at his request or at the
27 request of the Audit Committee, shall be permitted to meet in private session with
28 the Audit Committee. The Audit Committee's charter shall be amended, as

1 necessary, to ensure that the Independent Director and CECO each has the ability
2 to meet in private session with the Audit Committee.

3 (2) HP has created the position of Chief Ethics and Compliance Officer (“CECO”). HP
4 has employed and shall continue to employ an experienced, senior executive in this position.
5 The CECO will be responsible for the management and supervision of ethics and compliance and
6 will be assigned to HP’s Palo Alto headquarters. The CECO shall report directly to the General
7 Counsel and to the Audit Committee of HP’s Board of Directors. HP shall maintain an
8 anonymous toll-free complaint line, which will be overseen by the CECO.

9 (a) With regard to the CECO’s oversight of HP’s investigative practices, the
10 CECO shall provide reports to the Independent Director. The CECO will be
11 authorized to hire appropriate staff and obtain other appropriate resources to
12 perform his duties, and also will be authorized to engage independent legal
13 advisors as necessary without obtaining approval from the CEO or General
14 Counsel, subject to review by the Independent Director and the board of directors.

15 (b) The CECO shall review HP’s investigative practices (both as performed
16 internally and as conducted by third parties), the SBC, and codes of conduct
17 applicable to outside investigation firms. The CECO shall consult with the
18 Qualified Authority discussed in paragraph F(3) below in order to review the
19 findings and recommendations provided by the Qualified Authority. On or before
20 July 31, 2007, the CECO will report the results of this review and make
21 recommendations for improvements in those practices to the CEO, the
22 Independent Director, and the Board of Directors. HP will provide a copy of such
23 report to the California Attorney General, which shall be exempt from disclosure
24 under the California Public Records Act pursuant to Government Code sections
25 6254(b), 6254(f), and 6254.15. Thereafter, the CECO will provide annual reports,
26 and additional reports as appropriate, to the CEO and Board of Directors
27 regarding HP’s compliance with recommendations for improvements in HP’s
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1 practices with respect to its SBC, applicable codes of conduct and other policies
2 regarding business ethics and privacy protection.

3 (3) HP has employed a qualified authority ("Qualified Authority") who is in the process
4 of performing a comprehensive review of HP's compliance with applicable legal requirements
5 and ethical standards, as these standards apply to HP's policies and practices regarding
6 investigations. The Qualified Authority shall make recommendations for ensuring that any
7 investigations performed by or on behalf of HP are legal, ethical and appropriate. The Qualified
8 Authority shall report his or her findings directly to the CECO, the Independent Director and the
9 Board of Directors. Based on this review, HP will adopt internal processes and controls designed
10 to prevent misconduct in future HP investigations. The Qualified Authority's conclusions and
11 recommendations shall be incorporated into the initial report written by the CECO referenced in
12 paragraph F(2)(b) above.

13 (4) HP shall expand the duties and responsibilities of HP's Chief Privacy Officer to
14 include responsibility for reviewing HP's investigation protocols to ensure they appropriately
15 address matters related to privacy and ethics. Such investigation protocols shall ensure there are
16 adequate approval and oversight policies with respect to investigations conducted either within
17 HP or by its outside vendors.

18 (5) HP shall establish a Compliance Council chaired by the CECO. The members of the
19 Council will include the CECO (chair), the Chief Privacy Officer, the Deputy General Counsel
20 for compliance matters, the head of Internal Audit, and several Ethics and Compliance liaisons
21 (chosen by the CECO from each business segment and function). The Compliance Council will
22 develop, initiate, maintain and revise policies and procedures for the general operation of HP's
23 ethics and compliance programs consistent with applicable laws and regulations. The
24 Compliance Council will provide written semi-annual reports to each of the CEO, the Audit
25 Committee and the Nominating and Governance Committee, and written annual reports to the
26 Board. Additionally, the Council's liaisons shall report to the Compliance Council as needed
27 with respect to the investigatory methods used in investigations within their area of
28 responsibility, including those conducted by outside vendors.

1 (6) The CECO will report any material violation of the codes of conduct applicable to
2 outside investigation firms to the head of the appropriate business segment or function, who, in
3 consultation with the CECO, will take appropriate action. The CECO will also report any
4 material violation of the SBC, with respect to investigations conducted in-house, to the head of
5 the appropriate business segment or function, who, in consultation with the CECO, will take
6 appropriate action. Such action may include adverse employment actions, reallocation of
7 resources, corrective actions or other methods reasonably necessary to remediate the violation. If
8 the head of the appropriate business segment or function does not take appropriate action, the
9 CECO shall report the violation to the CEO and the Independent Director. The CECO will
10 report in writing to the Compliance Council semi-annually on all actions taken, and the
11 Compliance Council shall review the appropriateness of the action taken, including for
12 consistency as compared to other actions taken.

13 (7) In the event of a dispute regarding the appropriateness of any action to be taken by
14 the Independent Director, the CECO, the Qualified Authority, the Chief Privacy Officer, or the
15 Compliance Council pursuant to this Final Judgment and Permanent Injunction, the matter shall
16 be referred by the Independent Director or the CECO to the Audit Committee for resolution.

17 (8) HP shall enhance its current training program as follows:

18 (a) Under the direction of the CECO and the Compliance Council, the existing
19 annual training requirement will be redesigned and updated to ensure that the
20 business ethics component plays a more prominent role.

21 (b) Additional training will be required for those HP employees who are engaged
22 in the conduct of investigations for HP. That training will be designed by the
23 CECO, with input from the Chief Privacy Officer and, as appropriate, independent
24 counsel.

25 (c) The Board and senior management will be given training on potential and
26 actual conflicts of interest that may arise with respect to outside attorneys
27 representing not only HP but also the Board or any of its Committees. The Board
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1 shall be trained regarding the hiring of independent counsel and conduct of
2 investigations.

3 (d) The Chief Privacy Officer will review the training program implemented
4 pursuant to this paragraph to ensure that it appropriately addresses privacy
5 matters.

6 (e) The Independent Director shall approve the training program implemented
7 pursuant to this paragraph 8.

8 (f) In addition to the applicable supplier codes of conduct, all outside
9 investigation firms will be provided written standards of conduct, developed by
10 HP, that pertain specifically to privacy and business ethics concerns regarding
11 investigatory methods used in the course of investigations. HP shall require these
12 outside investigation firms to certify that their employees who work on HP
13 matters have reviewed, understand, and will comply with these written standards
14 of conduct. Compliance with these written standards of conduct, as well as the
15 applicable codes of conduct for outside vendors, shall be a material term of any
16 contract HP enters into with any outside investigation firm.

17 **PRIVACY AND PIRACY FUND**

18 G. In order to dissipate any harm that may have resulted from HP's past practices in
19 conducting investigations, pursuant to California Business and Professions Code section 17203,
20 HP shall pay to the Plaintiff within sixty (60) days of the entry of this Final Judgment and
21 Permanent Injunction the sum of THIRTEEN MILLION FIVE HUNDRED DOLLARS
22 (\$13,500,000), for the creation in the California Attorney General's Office of a Privacy and
23 Piracy Fund (the "Fund"). Such amount is separate and distinct from the amounts set forth in
24 paragraphs H and I hereof. Payment shall be made by check made payable to the "California
25 Attorney General's Office" and shall be delivered to the California Attorney General's Office,
26 300 South Spring Street, Suite 1700, Los Angeles, California 90013, to the attention of Deputy
27 Attorney General Catherine Z. Ysrael. The following conditions govern the disbursement of
28 funds from the Privacy and Piracy Fund:

1 (1) Pursuant to California Business and Professions Code section 17203, the California
2 Attorney General shall create a cy pres fund upon receipt of the \$13.5 million dollars, and these
3 funds shall be used to establish the Privacy and Piracy Fund.

4 (2) The Privacy and Piracy Fund is established to allow the California Attorney
5 General's Office and other authorized prosecutors to have access to additional funds so that they
6 can more effectively combat violations of the public's privacy rights and violations of intellectual
7 property rights. An "authorized prosecutor" refers to any district attorney, any city attorney, and
8 any city and county attorney authorized to prosecute violations of California Business and
9 Professions Code 17200 et seq., as set forth in California Business and Professions Code section
10 17206.

11 (3) Up to \$1,000,000 of the original \$13.5 million dollars in the Fund may be disbursed
12 annually; the principal may be invaded for this purpose.

13 (4) Of the annual disbursement, \$500,000 (or 50% of the amount that can be disbursed if
14 the amount in the Fund is less than \$1,000,000), is automatically allocated to the California
15 Attorney General's Office for use in investigating and prosecuting violations of the public's
16 privacy rights and violations of intellectual property rights. Any amount of the Attorney
17 General's annual allocation not used by the Attorney General's Office in the year of allocation
18 may be carried over for use by the Attorney General's Office in subsequent years. Such carry-
19 over shall have no effect whatsoever on any subsequent year's allocation amount, which shall be
20 made to the Attorney General's Office in the manner set forth above. These funds shall solely
21 and exclusively augment the budget of the Attorney General's Office and in no manner shall
22 supplant or cause any reduction of any portion of the Attorney General's budget.

23 (5) Of the annual disbursement, up to \$500,000 (or up to 50% of the amount that can be
24 disbursed if the amount in the Fund is less than \$1,000,000), may be disbursed to authorized
25 prosecutors for use in investigating and prosecuting violations of the public's privacy rights and
26 violations of intellectual property rights. These funds shall solely and exclusively augment the
27 budget of the authorized prosecutor and in no manner shall supplant or cause any reduction of
28 any portion of the authorized prosecutor's budget. If an authorized prosecutor brings an

1 investigation or action pursuant to a grant from the Fund, the authorized prosecutor must (1)
2 include a provision in any settlement agreement which requires the Fund to be fully reimbursed
3 for the amount of the grant; (2) fully reimburse the Fund from the money or other consideration
4 received as part of the settlement before any such money or other consideration is used for any
5 other purpose; and (3) use its best efforts to reimburse the Fund in full from any monetary
6 recovery ordered by trial and appellate courts and paid by the defendant in the event the People
7 are the prevailing party after trial. Except as otherwise expressly agreed by the three-person
8 committee of the California Attorney General's Office in writing, unused or excess funds must
9 be returned to the Fund within 60 days after the conclusion of the investigation or litigation for
10 which the grant was requested.

11 (6) The California Attorney General's Office will create a three-person committee to
12 evaluate grant applications from authorized prosecutors seeking to utilize funds from the Privacy
13 and Piracy Fund. This three-person committee shall consist of the Senior Assistant of the
14 Consumer Law Section, the Senior Assistant Attorney General of the Special Crimes Unit, and
15 the Chief Assistant Attorney General of the Public Rights Division of the California Attorney
16 General's Office or their designee(s). This committee shall establish criteria for grant
17 applications, will evaluate grant applications and make recommendations regarding which grant
18 applications will be funded and the amounts in which they will be funded. The Attorney General
19 will make the final decision regarding which grant applications will be funded and the amounts
20 in which they will be funded. The Attorney General's decision shall be final.

21 (7) Fourteen (14) months from the date of entry of the Final Judgment, the Attorney
22 General's Office will provide a report to the Court identifying disbursements from the Fund,
23 including the names of the grant recipients and the amounts awarded to each recipient. Every
24 year thereafter, on the anniversary date of the first report, the Attorney General shall submit a
25 report to the Court detailing disbursements from the Fund since the preceding report was filed.

26 **CIVIL PENALTIES**

27 H. Pursuant to Business and Professions Code section 17206, HP will pay to the
28 Plaintiff within sixty (60) days of the entry of this Final Judgment and Permanent Injunction the

1 sum of SIX HUNDRED AND FIFTY THOUSAND DOLLARS (\$650,000). Payment shall be
2 made by check made payable to the "California Attorney General's Office" and shall be
3 delivered to the California Attorney General's Office, 300 South Spring Street, Suite 1700, Los
4 Angeles, California 90013, attention Deputy Attorney General Catherine Z. Ysrael.

5 **COST OF INVESTIGATION AND PROSECUTION**

6 I. HP will pay to the Plaintiff within sixty (60) days of the entry of this Final
7 Judgment and Permanent Injunction the sum of THREE HUNDRED AND FIFTY THOUSAND
8 DOLLARS (\$350,000) as costs of investigation and prosecution of this matter. Payment shall be
9 made by check made payable to the "California Attorney General's Office" and shall be
10 delivered to the California Attorney General's Office, 300 South Spring Street, Suite 1700, Los
11 Angeles, California 90013, attention Deputy Attorney General Catherine Z. Ysrael.

12 **RETENTION OF JURISDICTION**

13 J. Jurisdiction is retained by the Court for the purpose of enabling any party to the
14 Final Judgment and Permanent Injunction to apply to the Court at any time for such further
15 orders and directions as may be necessary or appropriate for the construction or the carrying out
16 of this Final Judgment and Permanent Injunction, for the modification of any of the injunctive
17 provisions hereof, for enforcement of compliance herewith, and for the punishment of violations
18 hereof, if any.

19 K. Conditioned upon HP making full payment as provided under Paragraphs G, H,
20 and I of this Final Judgment and Permanent Injunction, defendant and all of its present and
21 former officers, directors, shareholders, any parents or affiliates, subsidiaries, employees,
22 successors, predecessors and assigns (collectively, the "Released Parties") are discharged from
23 all claims, to the extent permitted by law, related to or arising from the conduct of HP directors,
24 officers, employees, agents, and contractors in connection with the "Kona Investigation" as
25 described in the Complaint filed in this matter that the Attorney General could have brought
26 pursuant to California Business and Professions Code sections 17200, or Penal Code sections
27 502(c)(1)-(2), 530.5, or 538.5. Provided, however, notwithstanding any term of this Judgment or
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1 this paragraph, specifically reserved and excluded from the scope and terms of this paragraph as
2 to any entity or person are any and all of the following:

3 (1) Any criminal liability, save and except that HP shall not be barred or prevented from
4 raising and asserting the defenses of res judicata, collateral estoppel, and double jeopardy to the
5 extent such defenses are applicable to any matter that served as the basis for this litigation;

6 (2) Any personal injury, property damage, indemnification, or contribution claims by the
7 State;

8 (3) Any tax liability;

9 (4) Any obligations created under this Judgment; and

10 (5) Any unlawful conduct not covered by the injunctive terms of this Judgment.


11 L. Nothing in this Final Judgment and Permanent Injunction shall be deemed to
12 permit or authorize any violation of any law or regulation of the State of California or otherwise
13 be construed to relieve Defendant of any on-going duty to comply with such applicable laws,
14 rules and regulations; nor shall anything herein be deemed to constitute permission to engage in
15 any acts or practices prohibited by such laws, rules or regulations.

16 M. The waiver or failure of any party to exercise any rights under this Final Judgment
17 and Permanent Injunction shall not be deemed a waiver of any right or any future rights. If any
18 part of this Final Judgment and Permanent Injunction shall for any reason be found or held
19 invalid or unenforceable by any court of competent jurisdiction, such invalidity or
20 unenforceability shall not affect the remainder of this Final Judgment and Permanent Injunction,
21 which shall survive and be construed as if such invalid or unenforceable part had not been
22 contained herein.

23 N. This Final Judgment and Permanent Injunction shall take effect immediately upon
24 entry thereof, without further notice to HP.

25 O. The clerk is ordered to enter this Final Judgment and Permanent Injunction
26 forthwith.

27 DATED: DEC - 7 2006


JUDGE OF THE SUPERIOR COURT
JACK KOMAR