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9 *Pro hac vice application forthcoming

10 Attorneys for Plaintiff
11 HEWLETT-PACKARD COMPANY

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14

15 HEWLETT-PACKARD COMPANY,
16 Plaintiff,
17
18 v.
19 NINESTAR IMAGE TECH LIMITED,
NINESTAR TECHNOLOGY CO., LTD., and
20 APEX MICROELECTRONICS CO., LTD.,
21 Defendants.
22

Case No.

COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

1 Plaintiff Hewlett-Packard Company (“HP”) brings this Complaint for patent infringement
2 and avers as follows:

3 **PARTIES**

4 1. Plaintiff HP is a Delaware corporation with its principal place of business at 3000
5 Hanover Street, Palo Alto, California 94304.

6 2. HP was founded in 1939 in a Palo Alto garage by college friends William Hewlett
7 and David Packard. Today, HP is among the largest and most innovative technology companies
8 in the world. HP now employs more than 320,000 people to serve customers in more than 170
9 countries. In the last decade, HP has invested more than 20 billion dollars in research and
10 development. The U.S. Patent and Trademark Office has awarded HP thousands of patents for its
11 innovations.

12 3. Defendant Ninestar Image Tech Limited (“Ninestar China”) is a company
13 organized and existing under the laws of China, with its principal place of business at No. 3883,
14 Zhuhai Avenue, Xiangzhou District, Zhuhai Guangdong, P.R. China 519060.

15 4. Ninestar China is engaged in the business of manufacturing, selling, offering for
16 sale, and importing into the U.S. printer consumables, including ink cartridges for inkjet printers.

17 5. Defendant Ninestar Technology Co., Ltd. (“Ninestar USA”) is a subsidiary of
18 Ninestar China. Ninestar USA is a New Jersey corporation, with a principal place of business at
19 17950 East Ajax Circle, City of Industry, California 91748.

20 6. Ninestar USA is engaged in the business of manufacturing, selling, offering for
21 sale, and importing into the U.S. printer consumables, including ink cartridges for inkjet printers.

22 7. Defendant Apex Microelectronics Co., Ltd. (“Apex”) is a company organized and
23 existing under the laws of China, with a principal place of business at No.63 North Mingzhu
24 Road, Xiangzhou District, Zhuhai, Guangdong Province, P.R. China 519075.

25 8. Defendant Apex is engaged in the business of, among other things, manufacturing
26 and selling electronic components for ink cartridges for inkjet printers.

1 business in this district, have committed acts of patent infringement in this district, and are subject
2 to personal jurisdiction in this district. In addition, venue is proper because HP's principal place
3 of business is in this district and HP has suffered harm in this district.

4 **INTRADISTRICT ASSIGNMENT**

5 15. This is an intellectual property action that is subject to district-wide assignment
6 pursuant to Local Rule 3-2(c).

7 **FACTUAL BACKGROUND**

8 **HP's Inkjet Printer and Cartridge Business**

9 16. HP, one of the world's leading technology companies, is in the business of
10 manufacturing and selling products that span the areas of printing, personal computing, software
11 services, and IT infrastructure. No other company offers as complete a technology product
12 portfolio as HP.

13 17. HP focuses on simplifying technology experiences for its customers, who range
14 from individual consumers to the world's largest businesses.

15 18. The HP Imaging and Printing Group, one of HP's core business groups, is the
16 recognized industry leader of the digital transformation of printing.

17 19. HP introduced the world's first consumer thermal inkjet printers in 1984.

18 20. Since then, HP has sold millions of inkjet printers and billions of printer cartridges
19 in the United States and throughout the world.

20 21. Taken together, inkjet printers and ink cartridges that are used in the inkjet printers
21 make up an inkjet "printing system."

22 22. HP's inkjet printing systems are popular because of their high print quality and
23 quiet and fast operation, among other benefits.

24 23. Today, HP ships more than 1 million printers per week worldwide, and the
25 International Data Corporation ranks HP as number one in inkjet and laser printer hardware
26 market share.

1 **Defendants' Copycat Cartridge Business Activities**

2 24. Among other activities, Defendants are in the business of manufacturing, selling,
3 and/or importing copycat ink cartridges, or the electronic components contained in such
4 cartridges, for use in HP inkjet printers.

5 25. In general, an ink cartridge for use in an HP inkjet printer contains an electronic
6 storage device.

7 26. Defendant Apex manufactures electronic storage devices for use in ink cartridges
8 for HP printers that use 564, 920, 932/933, 950/951, and/or 970 series ink cartridges and/or
9 substantially similar cartridges.

10 27. Defendants Ninestar China and Ninestar USA manufacture and sell ink cartridges
11 for use in HP inkjet printers that use 564, 920, 932/933, 950/951, and/or 970 series ink cartridges
12 and/or substantially similar cartridges.

13 28. On information and belief, at least some of the ink cartridges manufactured and
14 sold by Defendants Ninestar China and Ninestar USA for use in HP printers that use 564, 920,
15 932/933, 950/951, and/or 970 series ink cartridges, and/or substantially similar cartridges, include
16 in them electronic storage devices that were manufactured and sold by Defendant Apex.

17 **United States Patent No. 6,089,687**

18 29. On July 18, 2000, United States Patent No. 6,089,687 ("the '687 patent"), entitled
19 "Method and Apparatus for Specifying Ink Volume in an Ink Container," was duly and legally
20 issued to HP as assignee. A true and correct copy of the '687 patent is attached hereto as Exhibit
21 A.

22 30. Throughout all relevant time periods including the present, HP was and is the
23 owner by valid assignment of all right, title, and interest in and to the '687 patent.

24 31. All Defendants had actual knowledge of the '687 patent prior to the
25 commencement of this action. HP has previously asserted the '687 patent against Defendant
26 Ninestar USA, which is a subsidiary of Defendant Ninestar China. Defendant Apex has made
27 public statements about the '687 patent.

1 **United States Patent No. 6,264,301**

2 32. On July 24, 2001, United States Patent No. 6,264,301 (“the ‘301 patent”), entitled
3 “Method and Apparatus for Identifying Parameters in a Replaceable Printing Component,” was
4 duly and legally issued to HP as assignee. A true and correct copy of the ‘301 patent is attached
5 hereto as Exhibit B.

6 33. Throughout all relevant time periods including the present, HP was and is the
7 owner by valid assignment of all right, title, and interest in and to the ‘301 patent.

8 34. All Defendants had actual knowledge of the ‘301 patent prior to the
9 commencement of this action. HP has previously asserted the ‘301 patent against Defendant
10 Ninestar USA, which is a subsidiary of Defendant Ninestar China. Defendant Apex has made
11 public statements about the ‘301 patent.

12 **United States Patent No. 6,454,381**

13 35. On September 24, 2002, United States Patent No. 6,454,381 (“the ‘381 patent”),
14 entitled “Method and Apparatus for Providing Ink Container Extraction Characteristics to a
15 Printing System,” was duly and legally issued to HP as assignee. A true and correct copy of the
16 ‘381 patent is attached hereto as Exhibit C.

17 36. Throughout all relevant time periods including the present, HP was and is the
18 owner by valid assignment of all right, title, and interest in and to the ‘381 patent.

19 37. Defendant Apex had actual knowledge of the ‘381 patent at least from the filing of
20 this action.

21 **COUNT I**

22 **Infringement of the ‘687 Patent By All Defendants**

23 38. HP hereby incorporates by reference the allegations set forth in the previous
24 paragraphs as though fully set forth herein.

25 39. Defendant Apex, directly and through its subsidiaries, agents, and/or
26 divisions, has made, used, offered to sell, sold, and/or imported into the United States and
27 this judicial district, and placed into the stream of commerce, electrical storage devices
28 for ink cartridges (such as those made and sold by Defendants Ninestar China and

1 Ninestar USA) for HP printers that use 564, 920, 932/933, 950/951, and 970 series ink
2 cartridges, and/or substantially similar cartridges, which infringe at least one claim of the
3 ‘687 patent, in violation of at least 35 U.S.C. § 271(a) and (c).

4 40. The electrical storage devices made and sold by Defendant Apex for ink
5 cartridges (such as those made and sold by Defendants Ninestar China and Ninestar
6 USA) for HP printers that use 564, 920, 932/933, 950/951, and 970 series ink cartridges,
7 and/or substantially similar cartridges, are especially made or adapted for infringing the
8 ‘687 patent, and have no substantial non-infringing uses.

9 41. Defendant Apex had actual knowledge of the ‘687 patent before the filing
10 of this action, and, upon information and belief, actual knowledge of its infringement
11 thereof, but acted despite an objectively high likelihood that its actions would infringe a
12 valid patent.

13 42. Defendants Ninestar China and Ninestar USA, directly and through their
14 subsidiaries, agents, and/or divisions, have made, used, offered to sell, sold, and/or
15 imported into the United States and this judicial district, and placed into the stream of
16 commerce, ink cartridges containing electrical storage devices (such as those made and
17 sold by Defendant Apex) for use in HP printers that use 564, 920, 932/933, 950/951, and
18 970 series cartridges, and/or substantially similar cartridges, which infringe at least one
19 claim of the ‘687 patent, in violation of at least 35 U.S.C. § 271(a).

20 43. Upon information and belief, Defendants Ninestar China and Ninestar
21 USA had actual knowledge of the ‘687 patent before the filing of this action, but acted
22 despite an objectively high likelihood that their actions would infringe a valid patent.

23 44. By reason of Defendants’ acts of infringement, HP has suffered and continues to
24 suffer damages, including impairment of the value of the ‘687 patent, in an amount to be
25 determined at trial.

26 45. Defendants’ acts of infringement of the ‘687 patent are causing irreparable harm to
27 HP and will continue to cause irreparable harm unless enjoined by this Court.

28

1 970 series cartridges, and/or substantially similar cartridges, which infringe at least one
2 claim of the '301 patent, in violation of at least 35 U.S.C. § 271(a).

3 52. Upon information and belief, at all relevant times, Defendants Ninestar
4 China and Ninestar USA had actual knowledge of the '301 patent before the filing of this
5 action, but acted despite an objectively high likelihood that their actions would infringe a
6 valid patent.

7 53. By reason of Defendants' acts of infringement, HP has suffered and continues to
8 suffer damages, including impairment of the value of the '301 patent, in an amount to be
9 determined at trial.

10 54. Defendants' acts of infringement of the '301 patent are causing irreparable harm to
11 HP and will continue to cause irreparable harm unless enjoined by this Court.

12 55. On information and belief, Defendants' infringement of the '301 patent has been
13 and is willful, intentional, and conscious, which justifies a trebling of damages pursuant to 35
14 U.S.C. § 284.

15 **COUNT III**

16 **Infringement of the '381 Patent By All Defendants**

17 56. HP hereby incorporates by reference the allegations set forth in the previous
18 paragraphs as though fully set forth herein.

19 57. Defendant Apex, directly and through its subsidiaries, agents, and/or divisions,
20 contributed to the infringement of the '381 patent by selling, offering to sell, and/or importing
21 into the United States electrical storage devices for ink cartridges (such as those made and sold by
22 Defendants Ninestar China and Ninestar USA) for HP printers that use 564 and/or 920 series ink
23 cartridges, and/or substantially similar cartridges, in violation of at least 35 U.S.C. § 271(c).

24 58. The electrical storage devices made and sold by Defendant Apex for ink
25 cartridges (such as those made and sold by Defendants Ninestar China and Ninestar
26 USA) for HP printers that use 564 and/or 920 series ink cartridges, and/or substantially
27 similar cartridges, are especially made or adapted for infringing the '381 patent, and have
28 no substantial non-infringing uses.

- 1 C. Award HP damages for patent infringement, pursuant to 35 U.S.C. § 284;
- 2 D. Order, judge, and decree that Defendants’ infringement of the ‘687 patent and the
- 3 ‘301 patent has been deliberate, willful, and wanton, and treble the damages awarded to HP,
- 4 pursuant to 35 U.S.C. § 284;
- 5 E. Order, judge, and decree this case exceptional and award HP attorney’s fees and
- 6 costs, pursuant to 35 U.S.C. § 285; and
- 7 F. Award HP such other and further relief as the Court may deem just and proper.

8 **JURY TRIAL DEMAND**

9 Plaintiff HP hereby demands a trial by jury for each and every issue so permitted by law

10 and statute.

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Dated: October 6, 2014

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

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