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HEWLETT-PACKARD DEVELOPMENT COMPANY, L.P.

10
11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 HEWLETT PACKARD ENTERPRISE
14 COMPANY, a Delaware corporation;
15 HEWLETT PACKARD ENTERPRISE
DEVELOPMENT LP, a Delaware
16 corporation; and HEWLETT-PACKARD
DEVELOPMENT COMPANY, L.P., a Texas
17 limited partnership,

18 Plaintiffs,

19 v.

20 ADVANCED DIGITAL SOLUTIONS
21 INTERNATIONAL, INC., a California
corporation, SHAHID SHEIKH, an individual,
22 and FARHAAD SHEIKH, an individual,

23 Defendants.
24
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Case No. 3:20-cv-5447

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

- 1. TRADEMARK INFRINGEMENT, 15 U.S.C. § 1114(1)(a);**
- 2. TRADEMARK COUNTERFEITING, 15 U.S.C. § 1114(1)(b);**
- 3. FEDERAL UNFAIR COMPETITION/FALSE ADVERTISING, 15 U.S.C. § 1125(a);**
- 4. FEDERAL TRADEMARK DILUTION, 15 U.S.C. § 1125(c);**
- 5. MISLEADING AND DECEPTIVE ADVERTISING, CAL. BUS. & PROF. CODE § 17500;**
- 6. UNJUST ENRICHMENT**
- 7. UNFAIR COMPETITION, CAL. BUS. & PROF. CODE § 17200**
- 8. BREACH OF CONTRACT**

DEMAND FOR JURY TRIAL

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1 Plaintiffs Hewlett Packard Enterprise Company (“HPE”), Hewlett Packard Enterprise
2 Development LP (“HPED”), and Hewlett-Packard Development Company, L.P. (“HPDC,” and
3 together with HPE and HPED, “Plaintiffs”) allege against Advanced Digital Solutions
4 International, Inc. (“ADSI”), Shahid Sheikh, and Farhaad Sheikh, as follows:

5 **I. INTRODUCTION**

6 1. As set forth in detail below, Defendants have engaged in a scheme to market and
7 distribute counterfeit HPE products, bearing Plaintiff HPDC’s and HPED’s marks (“Infringing
8 Products”), through transactions on Defendants’ respective online storefronts, and through other
9 distribution channels, thereby directly harming Plaintiffs, Plaintiffs’ brands, and Plaintiffs’
10 established reputation for producing the highest quality networking communications and
11 information technology products and services.

12 2. Plaintiffs’ customers have come to rely on Plaintiffs’ sophisticated networking
13 products to run critical and highly secured networks supporting sensitive infrastructure throughout
14 the world, including throughout the United States. Counterfeit products can cause privacy and
15 security vulnerabilities, data loss, network downtime and substantial business interruption.
16 Plaintiffs seek to hold Defendants accountable for the mass infringement and counterfeiting, and
17 related unfair competition arising from Defendants’ sales of the Infringing Products, and to protect
18 Plaintiffs’ supply chain and distribution infrastructure, and brand.

19 **II. THE PARTIES**

20 3. Prior to April 2019, HPE, a Delaware corporation, maintained its principal place of
21 business at 3000 Hanover Street, Palo Alto, CA 94304. In April 2019, HPE relocated its principal
22 place of business to 6280 America Center Drive, San Jose, CA 95002. At all times mentioned
23 herein, HPE had its principal place of business in the Northern District of California.

24 4. HPED is, and at all times mentioned herein was, a Texas limited partnership with
25 its principal place of business at 11445 Compaq Center Drive West, Houston, Texas 77070.
26 HPED has an exclusive license to use, sub-license, and enforce trademarks that are the subject of
27 this action.

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1 5. HPDC is a Texas limited partnership with its current principal place of business at
2 10300 Energy Drive, Spring, Texas 77389. Prior to January 2019, HPDC had its principal place of
3 business at 11445 Compaq Center Drive West, Houston, Texas 77070. HPDC has an exclusive
4 license to use, sub-license, and enforce trademarks that are the subject of this action.

5 6. On information and belief, Defendant Advanced Digital Solutions International,
6 Inc., is a California corporation with its principal place of business at 4255 Business Center Drive,
7 Fremont, California.

8 7. On information and belief, Defendant Shahid Sheikh is an individual residing at
9 1365 Lawrence Road, Danville, California 94506. On information and belief, Shahid Sheikh
10 owns ADSI with his wife, and was the CEO until January 2019. Following January 1, 2019,
11 Shahid Sheikh remained active with ADSI with the title of President.

12 8. On information and belief, Defendant Farhaad Sheikh (also known as “Freddy”) is
13 an individual residing at 1365 Lawrence Road, Danville, California 94506. On information and
14 belief, Farhaad Sheikh is the Chief Executive Officer of Defendant ADSI since at least January
15 2019. Farhaad is Shahid’s son.

16 9. Plaintiffs are informed and believe, and thereon allege, that Defendants undertook
17 obligations or rights arising out of the subject events and happenings herein referred to, engaged in
18 actions of omissions, either intentional or negligent, regarding the subject events and happenings
19 herein referred to, and/or benefitted unjustly from the efforts, works, and goods of HPE.

20 10. The true names and capacities, whether individual, corporate, associate, or
21 otherwise, of the Defendants named herein as DOES 1 through 10, inclusive, are unknown to
22 Plaintiffs who, therefore, sue said Defendants by such fictitious names. Plaintiffs will amend this
23 Complaint to reflect the true names and capacities of these DOE Defendants when the same shall
24 have been fully and finally ascertained.

25 11. At all times relevant to this action, each Defendant, including those fictitiously
26 named Defendants, was the agent, servant, employee, partner, joint venturer, accomplice,
27 conspirator, alter ego or surety of the other Defendants and was acting within the scope of that
28

1 agency, employment, partnership, venture, or suretyship with the knowledge and consent or
 2 ratification of each of the other Defendants in doing the things alleged in this Complaint.

3 **III. JURISDICTION**

4 12. This is an Action for violations of the Trademark Act of 1946, 15 U.S.C. §§ 1051
 5 *et seq.* (the “Lanham Act”), and related causes of action. This Court has original subject matter
 6 jurisdiction over this Action pursuant to the provision of the Lanham Act, 15 U.S.C. § 1121, as
 7 well as under 28 U.S.C. §§ 1331 and 1338(a) and (b).

8 13. This Court has supplemental subject matter jurisdiction over the pendent state law
 9 claims under 28 U.S.C. § 1367, because these claims are so related to Plaintiffs’ claims under
 10 federal law that they form part of the same case or controversy and derive from a common nucleus
 11 of operative facts.

12 14. This Court has personal jurisdiction over Defendants, who each reside in this
 13 district, have engaged in business activities in this district, misled consumers in this district, and
 14 knowingly and purposefully directed business activities at this district.

15 15. Plaintiffs are informed and believe, and thereon allege, that ADSI is doing business
 16 in the State of California, and/or participated in or undertook obligations or rights arising out of
 17 the subject events and happenings herein referred to, engaged in actions or omissions, either
 18 intentional or negligent, regarding the subject events and happenings referred to, and/or benefited
 19 unjustly from the efforts, work, and goods of HPE.

20 **IV. VENUE AND INTRA-DISTRICT ASSIGNMENT**

21 16. Venue is proper in this district, pursuant to 28 U.S.C. § 1391, because a substantial
 22 part of the property that is the subject of the action is situated in this district. Venue is also proper
 23 because Defendants are each subject to personal jurisdiction in this district.

24 **V. FACTUAL ALLEGATIONS RELEVANT TO PLAINTIFFS, THEIR 25 INTELLECTUAL PROPERTY, AND DEFENDANTS’ UNLAWFUL SCHEME**

26 **A. Plaintiffs’ Business and History**

27 17. Hewlett-Packard Company (“Hewlett-Packard”) was founded in 1939 by engineers
 28 David Packard and Bill Hewlett, who began business by designing and building electronic test

1 equipment from a garage in Palo Alto, California. Hewlett-Packard became an innovator in its
2 field, developing technologies and inventing new products, growing to become one of the world's
3 largest information technology companies. Hewlett-Packard specialized in developing and
4 manufacturing personal computers and printers, as well as enterprise hardware products and
5 services, including support services and enterprise software. In late 2015, Hewlett-Packard split
6 into HP Inc. (specializing in the manufacture of personal computers, printers and printer
7 cartridges) and HPE (specializing in the manufacture of enterprise IT hardware, as well as the
8 creation and distribution of enterprise software and support services).

9 18. Much like Hewlett-Packard, HPE is a multinational enterprise company that
10 delivers industry leading, high-quality information and technology products, consulting, and
11 support services to its large and diverse customer base, including governments, large enterprises,
12 and small to medium-sized businesses. Among other areas, HPE's business includes
13 telecommunications networking hardware products and solutions, small to enterprise level data
14 storage products and solutions, data center configuration and installation products and services, as
15 well as various enterprise and information and technology management software solutions.

16 19. Hewlett-Packard (and now HP Inc.) invested substantial effort and resources to
17 develop and promote public recognition of the "HP"-related marks. These trademarks are owned
18 by HP Hewlett Packard Group LLC ("TM JV"), which has conveyed an exclusive license to use
19 and enforce the HP and HP Logo trademarks to HPDC. In turn, HPDC granted a temporary
20 transitional use license to Hewlett Packard Enterprise Development LP ("HPED"), an HPE
21 subsidiary which holds title to intellectual property for HPE, so that HPE could use the HP and HP
22 Logo trademarks during a phase-out period, until full implementation of the new HPE trademarks.
23 During this phase-out period, the HP Marks on HPE products signify to the public that the
24 products are high quality, genuine, HPE products. The use of the HP Marks by counterfeiters is
25 intended to trade on the famous status and wide-spread recognition of the HP Marks on HPE
26 products, and will likely continue after the phase-out period, to signal falsely that the products are
27 high-quality, genuine, HPE products, when in reality, they are not. HPE and HP Inc. have used the

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