



10-03-2001

U.S. Patent & TMOs/TM Mail Rpt. Dt. #40

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Exhibits

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Hewlett-Packard Company	§	Opposition No.: 121,759
	§	
Opposer	§	Trademark Application No. 75/858,178
	§	
v.	§	
	§	
HopOne Internet Corporation	§	Published: <i>U.S. Official Gazette</i>
	§	September 26, 2000
Applicant.	§	TM 94

MOTION TO COMPEL DISCOVERY

Hewlett-Packard Company, Opposer in the above-referenced opposition proceeding, files this Motion to Compel pursuant to Rule 2.120(e) in the Federal Rules of Civil Procedure. The undersigned states that a good faith effort has been made to resolve these matters; however, Applicant has failed to respond to the undersigned's correspondence.

On May 25, 2001, Opposer submitted its First Set of Interrogatories, First Requests for Production of Documents and First Request for Admissions to Applicant. Copies of these pleadings are attached hereto as Exhibit A. On June 11, 2001, Applicant provided "Responses" to the Requests for Production of Documents. A copy of the response is attached hereto as Exhibit B. On that same day, Applicant also responded to Opposer's Request for Admissions and Response to Interrogatories and a copy of the letter response is attached hereto as Exhibit C. Applicant's responses are not in compliance with the Trademark Rules of Practice or the Federal Rules of Civil Procedure. Accordingly, Opposer's counsel wrote to Applicant on June 29, 2001 requesting that appropriate responses be provided and that documents be produced. In particular, Applicant was requested to either admit or deny each Request for Admission in accordance with Rule 36 of the Federal Rules of

TRADEMARK TRIAL AND APPEAL BOARD

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Civil Procedure. Additionally, Applicant was requested to comply with Rule 33 of the Federal Rules of Civil Procedure in its response to Interrogatories. The interrogatory answers were not answered separately and fully in writing under oath. With regard to the Request for Production of Documents, while Applicant referred to specific documents, no documents were produced, nor did Applicant indicate that inspection would be permitted. A copy of the letter to Applicant is attached hereto as Exhibit D.

WHEREFORE, Opposer requests that the Board issue a Order compelling appropriate responses from Applicant pursuant to the Federal Rules of Civil Procedure. In order to allow Opposer to have appropriate responses to its discovery requests, Opposer requests that further action on this opposition be suspended pending this Board's decision on the Motion to Compel. At the current time, Opposer's testimony period is set to open on October 10, 2001.

Date: October 3, 2001

Respectfully submitted,



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ATTORNEYS FOR OPPOSER
HEWLETT-PACKARD COMPANY

CERTIFICATE OF SERVICE

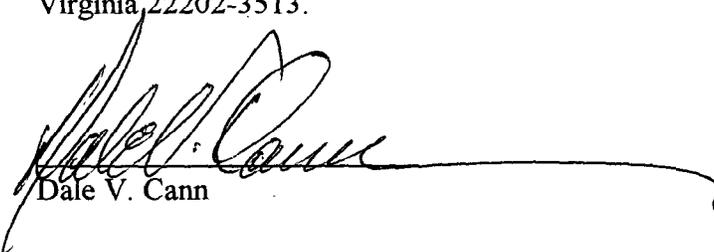
This is to certify that a true and correct copy of the above and foregoing document has been forwarded to counsel of record for HopOne Internet Corporation on this the 3rd day of October, 2001.



Molly Buck Richard

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

"Express Mail" Mailing Label Number **EL 607 895 163 US**, Date of Deposit: **October 3, 2001**. I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Trademarks, TTAB, 2900 Crystal Drive, Arlington, Virginia, 22202-3513.



Dale V. Cann

Contents:

Motion to Compel Discovery and postcard.

TO BE FILED IN:

HEWLETT-PACKARD COMPANY
v. HOPONE INTERNET CORPORATION
Opposition No. 121,759

42099.0101

*** The Commissioner is hereby authorized to charge payment of any further fees associated with any of the foregoing papers submitted herewith, or to credit any overpayment thereof, to Deposit Account No. 19-4547.**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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**HEWLETT-PACKARD COMPANY'S FIRST SET OF INTERROGATORIES TO
APPLICANT**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Procedure and Rule 33 of the Federal Rules of Civil Procedure, Opposer HEWLETT-PACKARD COMPANY serves this First Set of Interrogatories to Applicant HOPONE INTERNET CORPORATION and requests that Applicant answer the following interrogatories separately, fully, in writing, and under oath within 30 days after service.

INSTRUCTIONS AND DEFINITIONS

These Interrogatories shall be deemed to seek answers as of the date hereof but shall be deemed to be continuing so that any additional information relating in any way to these Interrogatories that Applicant acquires or that that becomes known to Applicant up to and including the time of trial shall be furnished to Hewlett-Packard Company immediately after such information is acquired or becomes known.

The following definitions apply to, and are deemed to be incorporated into, each of the Interrogatories herein:

a. "Opposer" means the nominal Opposer, Hewlett-Packard Company, its predecessors in interest or title, parent and subsidiary entities, and any and all related companies (as defined by 15 U.S.C. Section 1127) together with the directors, officers, employees, attorneys, agents, representatives, and other personnel thereof.

b. "Applicant" means HopOne Internet Corporation and any and all related companies (as defined by 15 U.S.C. Section 1127), and all predecessors in interest or title, parent and subsidiary entities, together with the directors, officers, employees, attorneys, agents, representatives, and other personnel thereof.

c. "Applicant's Mark" means the mark HOPONE INTERNET CORP. and Design, shown in application serial number 75/858,178, which is being opposed herein.

d. "Opposer's Marks" mean those Marks identified by the registrations listed in paragraphs 3 thru 27 of the Notice of Opposition. Namely, Opposer's Marks refers to the following trademarks owned by Hewlett-Packard Company: (1) Registration No. 614,803 for the mark HP and Design for "thermistor mounts." This incontestable registration was filed November 12, 1954, and issued October 25, 1955; (2) Registration No. 862,308 for the mark HP & Design for, among other things, "electrical systems, instruments, components and apparatus." This incontestable registration was filed November 30, 1966, and issued December 24, 1968; (3) Registration No. 1,251,648 for the mark HP and Design for, among other things, "newsletter and technical journals, pamphlets, books, catalogs. . . product and system operating and service manuals. . ." This incontestable registration was filed September 13, 1982, and issued September 20, 1983; (4) Registration No. 1,474,656 for the mark HP for "electrocardiograph

sensor adhesive materials, transmission gels, electrolytes, cremes, lotions, pastes, and contact fluids.” This incontestable registration was filed May 26, 1987, and issued February 2, 1988; (5) Registration No. 1,733,457 for the mark HP for “business networking and business management consulting services; rental and leasing services for data processing equipment; consultation services in the field of computer, electronic, signalling, measuring, data processing, analytical, and medical products; custom design of measurement and computation services; rental and leasing services for computer, electric signalling, measuring, analytical and medical equipment; retail mail and telephone order services for data processing, calculating, medical and analytical products.” This incontestable registration was filed December 6, 1990, and issued November 17, 1992; (6) Registration No. 1,735,159 for the mark HP and Design for “business networking and business management consulting services; rental and leasing services for data processing equipment; consultation services in the field of computer, electronic, signalling, measuring, data processing, analytical, and medical products; custom design of measurement and computation services; rental and leasing services for computer, electronic, signalling, measuring, analytical and medical equipment; retail mail and telephone order services for data processing, calculating, medical and analytical products.” This incontestable registration was filed January 10, 1991, and issued November 24, 1992; (7) Registration No. 1,683,247 for the mark HP and Design for “calibration, maintenance, installation and repair of electronic, data processing, medical and analytical equipment.” This incontestable registration was filed April 24, 1991, and issued April 14, 1992; (8) Registration No. 1,775,518 for the mark HP and Design for “seminars and training courses in the fields of science, engineering, computer systems, health care and business; production of video and audio recordings for others.” This incontestable registration was filed August 5, 1991, and issued June 8, 1993; (9) Registration No. 1,840,215 for the mark HP for

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2,069,931 for the mark HP and Design for "laboratory relocation services, namely, moving laboratory furnishings and equipment for others." This registration was filed August 5, 1996, and issued June 10, 1997; (18) Registration No. 2,067,314 for the mark HP for "laboratory relocation services, namely, moving laboratory furnishings and equipment for others." This registration was filed August 5, 1996, and issued June 3, 1997; (19) Registration No. 2,070,017 for the mark HP and Design for "computer disaster recovery planning." This registration was filed September 3, 1996, and issued June 10, 1997; (20) Registration No. 2,070,019 for the mark HP for "computer disaster recovery planning." This registration was filed September 5, 1996, and issued June 10, 1997; (21) Registration No. 2,339,761 for the mark HP WORLD for "Printed matter, namely, newsletters, pamphlets, magazines, brochures, books, catalogs, reprints of articles and application notes, all on the subject of computers and printers; technical bulletins; product and system operating and services manuals." This registration was filed March 23, 1998, and issued April 11, 2000; (22) Registration No. 2,275,713 for the mark HP WORLD for "Exhibitions and trade shows in the field of computers and information technology." This registration was filed March 23, 1998, and issued September 7, 1999; (23) Registration No. 2,404,023 for the mark HP for "Scanners, cameras and copiers." This registration was filed November 5, 1999, and issued November 14, 2000; (24) Registration No. 2,404,024 for the mark HP and Design for "Scanners, cameras and copiers." This registration was filed November 5, 1999, and issued November 14, 2000.

e. "Person" or "persons" means an individual, association, partnership, corporation, firm, organization, or entity.

f. The word "or" means "and/or," and the word "and" means "and/or."

g. "Document" or "documents" means the original and all nonidentical copies of written, printed, typed, and visually or orally reproduced material of any kind, whether or not privileged, that are in the possession, custody, or control of Applicant, including but not limited to contracts, agreements, memoranda, assignments, licenses, minutes of meetings, minute books, books of account, orders, invoices, receipts, statements, computation sheets, notebooks, diaries, reports, photographs, drawings of any kind, tracings, blue prints, microfilm, photostats, sketches, charts, catalogs, brochures, advertising and promotional literature, bulletins, cables, telegrams, letters, notes, instructions, reports, test data, and any other similar materials. As used herein, the term "document" is used in its customary broad sense as described in Rule 34 of the Federal Rules of Civil Procedure.

h. The term "things" includes any tangible object, including but not limited to audio recordings, video recordings, and the like, which may for some reason be construed as something other than documents.

i. "Identify" or "identification" with respect to a person or persons means to state the full name, title, present address if known, or if not, the last known address, the employer or business affiliation of such person(s), and the employment duties, functions, and responsibilities of such person or persons.

j. "Identify" or "identification" with respect to a company means to state the name, place of incorporation if incorporated, the principal place of business, and the identity of the person or persons having knowledge of the matter with respect to which the company was named.

k. "Identify" or "identification" with respect to a document means to state the title or general description of the document, the date of the document's preparation, the dates and

manner of distribution and publication, the name of the person or persons who signed, prepared, or participated in the preparation of such document, the name of the person to whom the document was given or sent, the identity of each person having possession, custody, actual, constructive, or effective control of the document or thing, and the nature and subject matter of the document or thing.

In lieu of such identification, Applicant may simply provide a copy of the document with its answers to these interrogatories and indicate on the document copy the interrogatory or sub-interrogatory to which the document is responsive.

1. "Identify" or identification" with respect to a thing means to state a description of the thing, where the thing is located, and the identity of the person or persons who have possession or control of the thing.

In lieu of such identification, Applicant may simply provide a copy of the document with its answers to these interrogatories and indicate on the document copy the interrogatory or sub-interrogatory to which the document is responsive.

m. "Identify" or "Identification" with respect to an event means to state the date of such event, and the identity of each person present at such event.

n. "Commerce" refers to commerce that is regulable by Congress, including but not limited to interstate commerce.

o. "Including" means "including but not limited to."

p. "Date of first use" refers to the date of first use in the United States unless otherwise stated.

q. "Goods" and "services" mean "goods or services."

r. "On" and "in connection with" mean "on or in connection with."

s. "Relating to" means "relating to, reflecting, supporting, evidencing, discussing, showing, summarizing, analyzing, containing, pertaining to, or concerning in any way, directly or indirectly."

t. "Communication" means any contact or act, the purpose or effect of which is to convey information or knowledge, including but not limited to written contact by letters, memoranda, financial reports, telecopies, telegrams, telexes, or by any documents, and oral contact by such means as face-to-face meetings, telephone conversations, or recorded telephone messages.

u. The singular includes the plural, and the plural includes the singular.

v. "Advertising Materials" means any and all advertising or promotional materials, including but not limited to press releases, public statements, brochures, pamphlets, catalogs, inserts, flyers, point-of-sale materials, direct-mail pieces, phone directories (including Yellow Pages advertisements and listings), letterheads, signage, and newspaper, periodical, radio, and television commercials.

w. "Packaging Materials" means any and all packaging materials, including but not limited to containers, labels, stickers, hang tags, software screen printouts, decals, etc.

INTERROGATORIES

INTERROGATORY NO. 1 Identify the person(s) employed by or associated with Applicant with the most knowledge regarding the following:

- (a) Applicant's adoption of Applicant's Mark;
- (b) Applicant's creation, selection, clearance, and enforcement of Applicant's Mark;
- (c) Applicant's current or intended use of Applicant's Mark;
- (d) Applicant's current or intended marketing, promotional, and advertising activities under Applicant's Mark;
- (e) Applicant's revenue arising from goods and/or services currently offered under Applicant's Mark and Applicant's expected revenue arising from goods and/or services intended to be offered under Applicant's Mark; and
- (f) Actual confusion between Applicant's Mark and Opposer's Marks.

ANSWER

INTERROGATORY NO. 2 Identify all goods and/or services that Applicant sells or intends to sell under Applicant's Mark.

ANSWER

INTERROGATORY NO. 3 Describe the manner and extent of the first actual use of Applicant's Mark, if Applicant's Mark is already in use. If Applicant has not used Applicant's Mark in connection with Applicant's goods and/or services, then describe the manner and extent to which Applicant intends to use Applicant's Mark.

ANSWER

INTERROGATORY NO. 4 As to each good and/or service identified in Interrogatory No. 2, identify each method or medium that Applicant currently uses or intends to use to promote or advertise goods and/or services under Applicant's Mark.

ANSWER

INTERROGATORY NO. 5 If Applicant's Mark has been used or is currently in use in connection with Applicant's goods and/or services, then state Applicant's total advertising and promotional expenditures associated with use of Applicant's Mark from the date of first use to the present.

ANSWER

INTERROGATORY NO. 6 If Applicant's Mark has not been used in connection with Applicant's goods and/or services, then state Applicant's expectations and projections for the initial promotion of Applicant's Mark and annual advertising and promotional expenditures associated with the intended use of Applicant's Mark.

ANSWER

INTERROGATORY NO. 7 State whether Applicant conducted any trademark searches or obtained any trademark search reports with respect to Applicant's Mark prior to the filing date of the Application. If so, then state the date that each such search report was ordered and received, and identify all individuals associated with Applicant who reviewed such report.

ANSWER

INTERROGATORY NO. 8 Describe any further investigation conducted by Applicant or on Applicant's behalf into the current status of any marks discovered in the trademark searches identified in response to Interrogatory No. 7.

ANSWER

INTERROGATORY NO. 9 For each legal opinion given regarding Applicant's freedom to use or register Applicant's Mark, state the date of the opinion, the person who rendered the opinion, whether the opinion was oral or written, and who was informed of the opinion.

ANSWER

INTERROGATORY NO. 10 Identify with particularity all instances of actual confusion of which Applicant is aware arising from Applicant's use of Applicant's Mark, if any, including but not limited to any communication Applicant has participated in that assumes or inquires as to whether Applicant's goods and/or services offered under Applicant's Mark emanate from, are associated with, are certified or sponsored by, or are in any manner connected with Opposer.

ANSWER

INTERROGATORY NO. 11 Identify, by date and list of attendees, each meeting or discussion at which the consideration, acquisition, selection, approval, or adoption of Applicant's Mark by

Applicant was discussed, and identify all documents and communications that refer to or relate in any way to the content or results of such meetings.

ANSWER

INTERROGATORY NO. 12 Identify any communications in which a person has recommended or cautioned against Applicant's acquisition, selection, adoption, or use of Applicant's Mark.

ANSWER

INTERROGATORY NO. 13 State when and the circumstances under which Applicant first became aware of Opposer, Opposer's use of the mark "HP," and Opposer's registration of the mark "HP."

ANSWER

INTERROGATORY NO. 14 Identify any oral or written communications to which Applicant was a party relating to Opposer, Opposer's Mark as used by Opposer, or Opposer's use of the term "HP."

ANSWER

INTERROGATORY NO. 15 Identify each expert whom Applicant intends to call in the testimony phase of this proceeding. With respect to each such witness, state the subject matter

on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

ANSWER

INTERROGATORY NO. 16 List the full names, mailing addresses, and telephone numbers of all witnesses Applicant intends to have testify on its behalf in the testimony phase of this matter. Briefly describe the substance of the testimony of each.

ANSWER

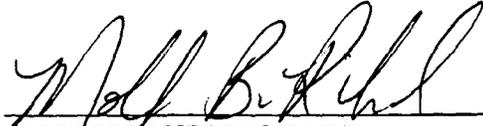
INTERROGATORY NO. 17 If Applicant is relying on and/or intends to introduce into evidence at the trial of this cause any documentary evidence, then list and describe each document and state the name and address of the person(s) with actual or constructive possession of each document.

ANSWER

INTERROGATORY NO. 18 Identify each person who furnished information on which any part of any answer to these interrogatories is based, indicating for each person the information furnished, whether the information is within the personal knowledge of such person, and, if not within such personal knowledge, then the source of the information so furnished.

ANSWER

Respectfully submitted,

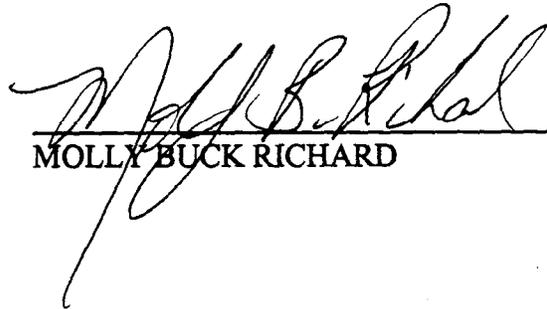


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ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document was forwarded to all counsel of record on this 25th day of May, 2001, in accordance with the Federal Rules of Civil Procedure.



MOLLY BUCK RICHARD

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Pursuant to Rule 2.120 of the Trademark Rules of Practice and Procedure and Rule 34 of the Federal Rules of Civil Procedure, Opposer HEWLETT-PACKARD COMPANY serves this First Request for Production of Documents to Applicant HOPONE INTERNET CORPORATION, and requests that Applicant respond in writing and produce the responsive documents to Hewlett-Packard Company's Attorney within thirty (30) days after service.

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f. The word “or” means “and/or,” and the word “and” means “and/or.”

g. “Document” or “documents” means the original and all nonidentical copies of written, printed, typed, and visually or orally reproduced material of any kind, whether or not privileged, that are in the possession, custody, or control of Applicant, including but not limited to contracts, agreements, memoranda, assignments, licenses, minutes of meetings, minute books, books of account, orders, invoices, receipts, statements, computation sheets, notebooks, diaries, reports,

photographs, drawings of any kind, tracings, blue prints, microfilm, photostats, sketches, charts, catalogs, brochures, advertising and promotional literature, bulletins, cables, telegrams, letters, notes, instructions, reports, test data, and any other similar materials. As used herein, the term "document" is used in its customary broad sense as described in Rule 34 of the Federal Rules of Civil Procedure.

h. The term "things" includes any tangible object, including but not limited to audio recordings, video recordings, and the like, which may for some reason be construed as something other than documents.

i. "Commerce" refers to commerce that is regulable by Congress, including but not limited to interstate commerce.

j. "Including" means "including but not limited to."

k. "Date of first use" refers to the date of first use in the United States unless otherwise stated.

l. "Goods" and "services" mean "goods or services."

m. "On" and "in connection with" mean "on or in connection with."

n. "Relating to" and "referring to" mean "relating to, reflecting, supporting, evidencing, discussing, showing, summarizing, analyzing, containing, pertaining to, or concerning in any way, directly or indirectly."

o. "Communication" means any contact or act, the purpose or effect of which is to convey information or knowledge, including but not limited to written contact by letters, memoranda, financial reports, teletypes, telegrams, telexes, or by any documents, and oral contact by such means as face-to-face meetings, telephone conversations, or recorded telephone messages.

p. The singular includes the plural, and the plural includes the singular.

q. “Advertising Materials” means any and all advertising or promotional materials, including but not limited to press releases, public statements, brochures, pamphlets, catalogs, inserts, flyers, point-of-sale materials, direct-mail pieces, phone directories (including Yellow Pages advertisements and listings), letterheads, signage, and newspaper, periodical, radio, and television commercials.

r. “Packaging Materials” means any and all packaging materials, including but not limited to containers, labels, stickers, hang tags, software screen printouts, decals, etc.

REQUESTS

REQUEST FOR PRODUCTION NO. 1

Any and all documents reviewed by Applicant in answering Hewlett-Packard Company's First Set of Interrogatories to Applicant.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2

Any and all documents listed in response to or identified in Applicant's answers to Hewlett-Packard Company's First Set of Interrogatories to Applicant.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3

Copies of any and all documents relating to the following:

- a. Trademark search reports conducted by or on behalf of Applicant in connection with Applicant's Mark;
- b. Written opinions regarding the availability and/or registrability of Applicant's Mark; and
- c. Business, legal, or other opinions regarding Applicant's Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4

Applicant's written document retention policies and guidelines.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5

Applicant's written policies and guidelines relating to trademark use, clearance, selection, and enforcement.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6

If Applicant has used or intends to use Applicant's Mark in connection with Applicant's goods and/or services, then representative samples of all existing or proposed uses of Applicant's Mark, including but not limited to advertisements, labels, wrappers, screen displays, catalogs, circulars, brochures, press releases, invoices, and promotional material or literature. Include with each item documents that provide the date(s) of use/intended use or publication and, as appropriate, a description of where the advertisement or promotion appeared or will appear.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7

Any and all documents that demonstrate the types of goods and/or services that Applicant has offered or intends to offer for sale under Applicant's Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8

For each good and/or services that Applicant has offered or intends to offer under Applicant's Mark, please produce the following:

- a. Any and all documents evidencing, relating to, or referring to Applicant's first use or first intended use of Applicant's Mark in connection with such good and/or service;
- b. Any and all documents evidencing, relating to, or referring to Applicant's first use or first intended use of Applicant's Mark in commerce in connection with such good and/or service; and
- c. Any and all documents evidencing, relating to, or referring to each method or medium that Applicant has used or intends to use to promote or advertise goods and/or services under Applicant's Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9

Any and all documents evidencing, relating to, or referring to the following:

- a. Applicant's creation, selection, development, and adoption of Applicant's Mark, including but not limited to all documents relating to any trademark searches that were conducted by or for Applicant in connection with Applicant's Mark;
- b. The content or result of any meeting or discussion at which Applicant's consideration, acquisition, selection, approval, or adoption of Applicant's Mark was discussed;

- c. Any and all further investigations conducted by Applicant or on Applicant's behalf into the current status of any marks uncovered by trademark searches;
- d. Information, notice, or opinion concerning conflict or potential conflict associated with Applicant's adoption, use, or registration of Applicant's Mark;
- e. Any and all communications in which a person has recommended or cautioned against Applicant's acquisition, selection, development, adoption, or use of Applicant's Mark; and
- d. Any and all information, notices, or opinions concerning the availability of Applicant's Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10

Any and all documents that survey, sample, analyze, or summarize the following:

- a. Consumer demographics for goods and/services sold or intended to be sold by Applicant under Applicant's Mark;
- b. The existence of any potential for or actual likelihood of confusion resulting from Applicant's use of Applicant's Mark; and
- c. Consumer reactions to or attitudes concerning Applicant's Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11

Representative documents that identify the types of classes of customers to whom Applicant has sold or intends to sell goods and/or services under Applicant's Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12

Any and all documents relating to the following:

- a. Any assignment or purported assignment of rights in Applicant's Mark; and
- b. Any license of rights in Applicant's Mark or any other arrangement or understanding under which a third party is permitted to use Applicant's Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13

Any and all correspondence with third parties who have rendered services to or on behalf of Applicant in connection with the advertising, promotion, or selection of Applicant's Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14

For each good and/or service that Applicant has offered or intends to offer under Applicant's Mark, please produce the following:

- a. Any and all documents evidencing, relating to, or referring to Applicant's total or projected advertising and promotional expenditures associated with use of Applicant's Mark;

- b. Any and all documents that summarize or tabulate existing or projected advertising expenditures and expenses associated with Applicant's use of Applicant's Mark;
- c. Any and all documents that demonstrate Applicant's past or projected annual revenue from the goods and/or services bearing Applicant's Mark;
- d. Any and all documents that demonstrate past or projected retail and wholesale prices for Applicant's goods and/or services sold under Applicant's Mark; and
- e. Any and all sales planning guides, internal sales manuals, sales aids, sales training literature, or other such documents that Applicant has used or intends to use in connection with goods and/or services under Applicant's Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15

Any and all documents relating to each and every instance of confusion known to Applicant arising from its use of Applicant's Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16

Any and all documents in Applicant's actual or constructive possession that refer to or relate to Opposer, Opposer's use of the Mark "HP," or Opposer's use of the term "HP."

RESPONSE:

REQUEST FOR PRODUCTION NO. 17

Any and all communications Applicant has participated in or received that assume or inquire whether Applicant's goods offered under Applicant's Mark emanate from, are associated with, are certified or sponsored by, or are in any manner connected with Opposer.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18

Any and all documents relating to the use of the term "HP" by parties other than Applicant and Opposer.

RESPONSE:

REQUEST FOR PRODUCTION NO. 19

Any and all documents relating to any plans that Applicant has to expand the types of goods and/or services it has offered for sale under Applicant's Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20

To the extent not already produced or of record in this proceeding, any and all documents concerning each dispute, including all United States Patent and Trademark Office (including

T.T.A.B.) or court proceedings, involving infringement, invalidity, or ownership of any mark containing the word "HP" in which Applicant or any predecessors in interest have been involved.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21

Any state, federal, or foreign registration, or application for registration, received or filed by Applicant for Applicant's Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 22

Please produce the following:

- a. Any and all documents Applicant intends to introduce into evidence in this proceeding; and
- b. Any and all documents upon which Applicant intends to rely during its testimony period in support of Applicant's case, and all other documents referring or relating to such documents.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23

For each individual whom Applicant may call to testify as an expert witness, please produce the following:

- a. A written report containing a complete statement of all of the witness's opinions and conclusions relevant to this cause and the grounds therefor;
- b. Any and all information considered by the witness in forming his opinions;
- c. Any exhibits to be used as a summary of or in support of the witness's conclusions;
- d. A current resume, curriculum vitae, or other similar document listing the qualifications of the witness, including a list of all publications authored by the witness since 1989; and
- e. A list of any other cases in which the witness has testified at trial or by deposition within the last four years.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24

For each fact witness whom Applicant intends to call in this proceeding, please produce the following:

- a. A resume or employment history;
- b. A written report containing a complete statement of all of the witness's opinions and conclusions relevant to this case and the grounds therefor; and
- c. Other information considered by the witness in forming his or her opinions.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25

Any written report, memorandum, opinion, or other written document regarding either Applicant's Mark or Opposer's Mark that was prepared by any expert witness, regardless of whether Applicant presently intends to call such expert witness in this proceeding.

RESPONSE

Respectfully submitted,

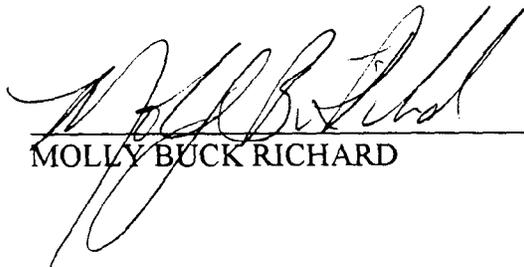


MOLLY BUCK RICHARD
COURTNEY L. JONES
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901 Main Street, Suite 4300
Dallas, Texas 75202
214) 651-4300
(214) 651-4330 (Telecopier)

ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document was forwarded to all counsel of record on this 25th day of May, 2001, in accordance with the Federal Rules of Civil Procedure.


MOLLY BUCK RICHARD

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

Hewlett-Packard Company	§	Opposition No.: 121,759
	§	
Opposer	§	Trademark Application No. 75/858,178
	§	
v.	§	
	§	
HopOne Internet Corporation	§	Published: <i>U.S. Official Gazette</i>
	§	September 26, 2000
Applicant.	§	TM 94

**HEWLETT-PACKARD COMPANY'S FIRST REQUESTS FOR
ADMISSION TO APPLICANT**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Procedure and Rule 36 of the Federal Rules of Civil Procedure, Opposer HEWLETT-PACKARD COMPANY serves this First Requests for Admission to Applicant HOPONE INTERNET CORPORATION, and requests that Applicant admit the truth of the Requests for Admission set forth below within thirty (30) days after service.

INSTRUCTIONS AND DEFINITIONS

The following definitions apply to, and are deemed to be incorporated into, each of the requests for production herein:

a. "Opposer" means the nominal Opposer, Hewlett-Packard Company, its predecessors in interest or title, parent and subsidiary entities, and any and all related companies (as defined by 15

U.S.C. Section 1127) together with the directors, officers, employees, attorneys, agents, representatives, and other personnel thereof.

b. "Applicant" means HopOne Internet Corporation and any and all related companies (as defined by 15 U.S.C. Section 1127), and all predecessors in interest or title, parent and subsidiary entities, together with the directors, officers, employees, attorneys, agents, representatives, and other personnel thereof.

c. "Applicant's Mark" means the mark HOPONE INTERNET CORP. and Design, shown in application serial number 75/858,178, which is being opposed herein.

d. "Opposer's Marks" mean those Marks identified by the registrations listed in paragraphs 3 thru 27 of the Notice of Opposition. Namely, Opposer's Marks refers to the following trademarks owned by Hewlett-Packard Company: (1) Registration No. 614,803 for the mark HP and Design for "thermistor mounts." This incontestable registration was filed November 12, 1954, and issued October 25, 1955; (2) Registration No. 862,308 the mark HP & Design for, among other things, "electrical systems, instruments, components and apparatus." This incontestable registration was filed November 30, 1966, and issued December 24, 1968; (3) Registration No. 1,251,648 for the mark HP and Design for, among other things, "newsletter and technical journals, pamphlets, books, catalogs . . . product and system operating and service manuals. . ." This incontestable registration was filed September 13, 1982, and issued September 20, 1983; (4) Registration No. 1, 474,656 for the mark HP for "electrocardiograph sensor adhesive materials, transmission gels, electrolytes, cremes, lotions, pastes, and contact fluids." This incontestable registration was filed May 26, 1987, and issued February 2, 1988; (5) Registration No. 1,733,457 for the mark HP for "business networking and business management consulting services; rental and leasing services for data processing equipment; consultation services in the field of computer, electronic, signaling, measuring,

data processing, analytical, and medical products; custom design of measurement and computation services; rental and leasing services for computer, electric signaling, measuring, analytical and medical equipment; retail mail and telephone order services for data processing, calculating, medical and analytical products.” This incontestable registration was filed December 6, 1990, and issued November 17, 1992; (6) Registration No. 1,735,159 for the mark HP and Design for “business networking and business management consulting services; rental and leasing services for data processing equipment; consultation services in the field of computer, electronic, signaling, measuring, data processing, analytical, and medical products; custom design of measurement and computation services; rental and leasing services for computer, electronic, signaling, measuring, analytical and medical equipment; retail mail and telephone order services for data processing, calculating, medical and analytical products.” This incontestable registration was filed January 10, 1991, and issued November 24, 1992; (7) Registration No. 1,683,247 for the mark HP and Design for “calibration, maintenance, installation and repair of electronic, data processing, medical and analytical equipment.” This incontestable registration was filed April 24, 1991, and issued April 14, 1992; (8) Registration No. 1,775,518 for the mark HP and Design for “seminars and training courses in the fields of science, engineering, computer systems, health care and business; production of video and audio recordings for others.” This incontestable registration was filed August 5, 1991, and issued June 8, 1993; (9) Registration No. 1,840,215 for the mark HP for “toner cartridges,” and, among other things, “House mark for computers, computer software, data processing, and data storage systems and parts therefor; printers and parts therefor.” This incontestable registration was filed November 3, 1992, and issued June 21, 1994; (10) Registration No. 1,842,724 for the mark HP and Design for, among other things, “House mark for computers, computer software, data processing, and data storage systems and parts therefor; printers and parts therefor.” This incontestable registration was filed November 3, 1992,

and issued July 5, 1994; (11) Registration No. 2,005,761 for the mark HP for “custom manufacturing and processing of reticles and photomasks for semiconductors.” This registration was filed May 30, 1995, and issued October 8, 1996; (12) Registration No. 2,011,590 for the mark HP and Design for “custom manufacturing and processing of reticles and photomasks for semiconductors.” This registration was filed May 30, 1995, and issued October 29, 1996; (13) Registration No. 2,017,918 for the mark HP and Design for “financial services, namely, purchase financing and lease financing services.” This registration was filed January 19, 1996, and issued November 19, 1996; (14) Registration No. 2,015,875 for the mark HP for “financial services, namely, purchase financing and lease financing services.” This registration was filed January 19, 1996, and issued November 12, 1996; (15) Registration No. 2,061,483 for the mark HP and Design for “chromatography chemicals; stationary and mobile phase chemical compositions for use with chromatography equipment; chemicals for use as packing and filtering materials for use with chromatography equipment.” This registration was filed July 1, 1996, and issued May 13, 1997; (16) Registration No. 2,065,140 for the mark HP for “chromatography chemicals; stationary and mobile phase chemical compositions for use with chromatography equipment; chemicals for use as packing and filtering materials for use with chromatography equipment.” This registration was filed July 1, 1996, and issued May 27, 1997; (17) Registration No. 2,069,931 for the mark HP and Design for “laboratory relocation services, namely, moving laboratory furnishings and equipment for others.” This registration was filed August 5, 1996, and issued June 10, 1997; (18) Registration No. 2,067,314 for the mark HP for “laboratory relocation services, namely, moving laboratory furnishings and equipment for others.” This registration was filed August 5, 1996, and issued June 3, 1997; (19) Registration No. 2,070,017 for the mark HP and Design for “computer disaster recovery planning.” This registration was filed September 3, 1996, and issued June 10, 1997; (20) Registration No. 2,070,019 for the mark HP for

“computer disaster recovery planning.” This registration was filed September 5, 1996, and issued June 10, 1997; (21) Registration No. 2,339,761 for the mark HP WORLD for “Printed matter, namely, newsletters, pamphlets, magazines, brochures, books, catalogs, reprints of articles and application notes, all on the subject of computers and printers; technical bulletins; product and system operating and services manuals.” This registration was filed March 23, 1998, and issued April 11, 2000; (22) Registration No. 2,275,713 for the mark HP WORLD for “Exhibitions and trade shows in the field of computers and information technology.” This registration was filed March 23, 1998, and issued September 7, 1999; (23) Registration No. 2,404,023 for the mark HP for “Scanners, cameras and copiers.” This registration was filed November 5, 1999, and issued November 14, 2000; (24) Registration No. 2,404,024 for the mark HP and Design for “Scanners, cameras and copiers.” This registration was filed November 5, 1999, and issued November 14, 2000.

e. “Person” or “persons” means an individual, association, partnership, corporation, firm, organization, or entity.

f. The word “or” means “and/or,” and the word “and” means “and/or.”

g. “Document” or “documents” means the original and all nonidentical copies of written, printed, typed, and visually or orally reproduced material of any kind, whether or not privileged, that are in the possession, custody, or control of Applicant, including but not limited to contracts, agreements, memoranda, assignments, licenses, minutes of meetings, minute books, books of account, orders, invoices, receipts, statements, computation sheets, notebooks, diaries, reports, photographs, drawings of any kind, tracings, blue prints, microfilm, photostats, sketches, charts, catalogs, brochures, advertising and promotional literature, bulletins, cables, telegrams, letters, notes, instructions, reports, test data, and any other similar materials. As used herein, the term “document” is used in its customary broad sense as described in Rule 34 of the Federal Rules of Civil Procedure.

h. The term “things” includes any tangible object, including but not limited to audio recordings, video recordings, and the like, which may for some reason be construed as something other than documents.

i. “Commerce” refers to commerce that is regulable by Congress, including but not limited to interstate commerce.

j. “Including” means “including but not limited to.”

k. “Date of first use” refers to the date of first use in the United States unless otherwise stated.

l. “Goods” and “services” mean “goods or services.”

m. “On” and “in connection with” mean “on or in connection with.”

n. “Relating to” and “referring to” mean “relating to, reflecting, supporting, evidencing, discussing, showing, summarizing, analyzing, containing, pertaining to, or concerning in any way, directly or indirectly.”

o. “Communication” means any contact or act, the purpose or effect of which is to convey information or knowledge, including but not limited to written contact by letters, memoranda, financial reports, telecopies, telegrams, telexes, or by any documents, and oral contact by such means as face-to-face meetings, telephone conversations, or recorded telephone messages.

p. The singular includes the plural, and the plural includes the singular.

q. “Advertising Materials” means any and all advertising or promotional materials, including but not limited to press releases, public statements, brochures, pamphlets, catalogs, inserts, flyers, point-of-sale materials, direct-mail pieces, phone directories (including Yellow Pages advertisements and listings), letterheads, signage, and newspaper, periodical, radio, and television commercials.

r. "Packaging Materials" means any and all packaging materials, including but not limited to containers, labels, stickers, hang tags, software screen printouts, decals, etc.

REQUEST FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Applicant's Mark contains a prominent depiction of the letters "HP."

RESPONSE:

REQUEST FOR ADMISSION NO. 2: Applicant was aware of Opposer prior to Applicant's adoption of Applicant's Mark.

RESPONSE:

REQUEST FOR ADMISSION NO. 3: Applicant, at the time it adopted Applicant's Mark, was aware that Opposer used at least some of Opposer's Marks in connection with consultation services in the field of computer services.

RESPONSE:

REQUEST FOR ADMISSION NO. 4: Applicant, at the time it adopted Applicant's Mark, was aware of computer services offered by Opposer.

RESPONSE:

REQUEST FOR ADMISSION NO. 5: Under Applicant's Mark, Applicant provides services of the type that Opposer provides under Opposer's Marks.

RESPONSE:

REQUEST FOR ADMISSION NO. 6. Applicant's use of Applicant's Mark on or in connection with Applicant's goods and/or services is likely to cause confusion, mistake, and deception as to the affiliation, connection, or association of Applicant with Opposer, and as to the origin, sponsorship, or approval of Applicant's goods and/or services by Opposer.

RESPONSE:

REQUEST FOR ADMISSION NO. 7. Applicant's Mark dilutes the distinctive quality of Opposer's Marks.

RESPONSE:

REQUEST FOR ADMISSION NO. 8. Opposer's HP trademark is famous.

RESPONSE:

Respectfully submitted,

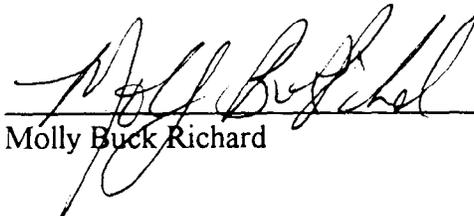


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ATTORNEYS FOR OPPOSER
HEWLETT-PACKARD COMPANY

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been forwarded to counsel of record for HopOne Internet Corporation on this the 22 day of May, 2001.



Molly Buck Richard



HOPONE INTERNET CORPORATION

1010 Wisconsin Avenue NW, Suite 303 • Washington, DC 20007-3603

Tel: (202) 298-6520 • Fax: (202) 298-6522 • E-mail: info@hopone.net • Web: www.hopone.net

The foundation of Internet success.™

June 11, 2001

JUN 14 2001

RECEIVED

Molly Buck Richard
901 Main St., Suite 4300
Dallas, TX 75202-3794

Dear Ms. Richard:

Responses for your Request for Production of Documents et al can be found, below.

1. None, as the interrogatories are entirely frivolous.
2. Refer to the answer to question (1), above.
3. a) Search was conducted online at the uspto.gov site. Contrary to its belief, HP does *not* own the alphabet letters "H" and "O", especially not in non-sequential order. There are no registrations or statements to back HP's frivolous claims.
b) The mark was available and is rightly ours (see (a), above and review our previous correspondence)
c) All opinions (verbal) point to the fact that HP's case is frivolous.
4. N/A
5. Trademarks are registered if such a mark is available. Trademarks are enforced as appropriate when and if so required.
6. Review <http://www.hopone.net> for service details, including the use of the mark online.
Two other specimens:
a) this letterhead
b) the business card attached
7. Review <http://www.hopone.net> for service details.
8. Whois of the domain name hopone.net shows the first use of it in trade as July 14th, 1999. The whois output is reproduced partially, below (you may execute a full whois to verify this, if so desired):

```
master1.yvr1:/opt2/home2/hjass>whois -h whois.register.com hopone.net
```

(...)

```
Created on.....: Wed, Jul 14, 1999  
Expires on.....: Sun, Jul 14, 2002  
Record last updated on...: Wed, Oct 18, 2000
```

(...)

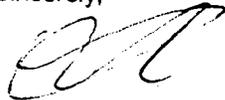
Mediums used to promote our services include, but are not limited to, Internet and professionals word of mouth.

June 11, 2001

9. Please review response to question (3), above.
10. a) N/A
b) Surveys of this have shown that HP's delusion that it owns the alphabet letters "H" and "P" are false and that no individual is confused between HopOne and HP.
c) See (b), above.
11. Customers our services are sold to are customers who require the type of services that we provide.
12. N/A
13. N/A
14. Advertising used is our site and worth of mouth. No exact cost can be attributed to such effective advertising methods.
15. There have been, and shall not be, any confusions between HopOne and HP. Customers realize that HopOne has nothing to do with HP, although it does contain the same two alphabet letters.
16. N/A
17. See response to (15), above.
18. N/A
19. N/A
20. N/A
21. N/A
22. Refer to question responses, above.
23. N/A
24. N/A
25. N/A

I trust that these answers will be sufficient for you to drop this frivolous case at once.

Sincerely,



Haralds Jass
President



HOPONE INTERNET CORPORATION

1010 Wisconsin Avenue NW, Suite 303 • Washington, DC 20007-3603

Tel: (202) 298-6520 • Fax: (202) 298-6522 • E-mail: info@hopone.net • Web: www.hopone.net

The foundation of Internet success.™

June 11, 2001

JUN 14 2001

RECEIVED

Molly Buck Richard
901 Main St., Suite 4300
Dallas, TX 75202-3794

Ms. Richard:

Responses for your Request for Admission can be found below:

1. Incorrect. Our mark contains the alphabet letters H and p, in a fashion as follows: HopOne. The H and p are *not* contiguous: the H is succeeded by an o, and only then the p follows., being immediately succeeded by the [second] O. HopOne prominently displays all five (six, if the o repeat is counted as two) letters. We suggest you review the mark by looking at it and attempting to use logic, if so possible.
2. Correct (yet irrelevant).
3. Partially correct (yet irrelevant).
4. Partially correct (yet irrelevant).
5. Incorrect. To the best of our knowledge, HP does not provide NOC or server collocation services. However, this question is irrelevant.
6. Incorrect. Please refer to (1), above.
7. Incorrect.
8. Correct.

Responses to your Interrogatories can be found below:

1. Haralds Jass, President & CEO
2. Please refer to <http://www.hopone.net> for details on our services.
3. The mark is used:
 - a) on our site
 - b) on business cards
 - c) in letterheads
4. Services are advertised online and via professional word of mouth.
5. Refer to response to a similar question in the Request for Production of Documents responses.
6. N/A

June 11, 2001

7. uspto.gov site was searched and there were no results returned for HopOne, nor anything stating, as the Opposer delusionally believes, that it owns the alphabet letters H and P.
8. N/A
9. N/A
10. There has been no confusion, nor is any confusion possible. HopOne is not similar to HP, as any individual who examines the mark will promptly state. We suggest that the Opposer conduct some field/market response studies, or simply examine the HopOne mark itself. Refer to (1) in the first section above for further detail.
11. N/A
12. N/A
13. N/A
14. N/A
15. N/A
16. N/A
17. Documentary evidence is possessed by us.
18. Source of information used here is the US Patent and Trademark Office and its trademark databases.

I trust that these answers will be sufficient for you to drop this frivolous case at once.

Sincerely,



Haralds Jass
President

June 29, 2001

MOLLY BUCK RICHARD
214.651.4720
Direct Fax: 214.659.4052
molly.richard@strasburger.com

Mr. Harolds Jass
HopOne Internet Corporation
1010 Wisconsin Avenue, N.W., Suite 303
Washington, D.C. 20007-3603

Re: Opposition No. 121,759
Hewlett-Packard Company
v. HopOne Internet Corporation
Our File: 42099.0101

Dear Mr. Jass:

I am in receipt of your Response to our Requests for Production of Documents, Request for Admissions and Interrogatories. Your response to the Requests for Admission are not in compliance with Rule 36 of the Federal Rules of Civil Procedure. In accordance with the Rules, the responses must be either admitted or denied and your responses are not in compliance with the Rules. Please provide me with proper responses within ten days of your receipt of this letter or I will move the Board for an Order in accordance with Rule 36.

Additionally, your Responses to the Interrogatories are not in compliance with Rule 33 of the Federal Rules of Civil Procedure. The Rules require that each interrogatory must be separately answered and answered fully in writing under oath and your answers do not comply with the Rule. Again, I request that you provide us with responses within ten days in compliance with Rule 33 of the Federal Rules of Civil Procedure. For example, in your Response No. 2, you state that there are no documents, however, your answers to Interrogatory Nos. 3, 7, 17 and 18 specifically refer to documentary evidence which are requested in Request for Production No. 2. Those documents need to be produced. In response for Request for Production No. 10b you mention surveys, however, no surveys have been produced.

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Mr. Harolds Jass

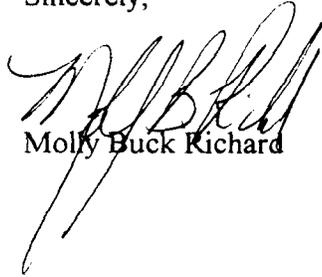
June 29, 2001

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Finally, please provide me with amended responses in accordance with Rule 34b which requires that the response must state that inspection of the documents will be permitted or providing the appropriate objection.

I look forward to receiving your Amended Responses.

Sincerely,



Molly Buck Richard

MBR:dvc

c: Hewlett-Packard Company