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13 UNITED STATES BANKRUPTCY COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 In re
17 TECHNOLOGY PROPERTIES LIMITED,
18 LLC,
19 Debtors.

20 Case No. 13-51589-SLJ-11

21 Chapter 11

22 **LIMITED OBJECTION AND
23 RESERVATION OF RIGHTS OF
24 HEWLETT-PACKARD COMPANY TO
25 OFFICIAL COMMITTEE OF
26 UNSECURED CREDITORS'
27 DISCLOSURE STATEMENT**

28 Date: January 23, 2014

Time: 10:00 a.m.

Place: United States Bankruptcy Court
Courtroom 3099
280 South First Street
San Jose, California

1 Hewlett-Packard Company (“HP”) hereby files this Limited Objection and
2 Reservation of Rights (the “Limited Objection”) to the *Disclosure Statement for Official*
3 *Committee of Unsecured Creditors’ Plan of Reorganization (Dated December 17, 2013)* (the
4 “Disclosure Statement”)¹ [Docket No. 322]. HP respectfully states as follows:

5 **A. LIMITED OBJECTION**

6 1. HP entered into a non-exclusive patent license with TPL under the
7 Moore Microprocessor Portfolio (the “MMP Portfolio”) on or about January 16, 2006 (as the
8 same has been amended or modified, the “HP License”). HP is also a litigant against TPL in
9 cases pending in front of the United States Patent and Trademark Office and the United
10 States District Court for the Eastern District of Texas with respect to the CORE Flash
11 Portfolio.²

12 2. **MMP Portfolio Issues.** The Disclosure Statement does not provide
13 sufficient information regarding the Plan’s impact on the Reorganized Company’s ownership
14 interests in its patent portfolios or its related licensing rights. There is a complicated history
15 of ownership and several agreements in the chain of title relating to the MMP Portfolio. It is
16 unclear from the Disclosure Statement if the Reorganized Company will assume all the
17 agreements related to its right to license the MMP Portfolio. The Disclosure Statement
18 indicates that the Plan will only affect the assumption of the final January 2013 Settlement
19 Agreement. Without the assumption of all agreements relating to the ownership of the
20 MMP Portfolio, the rights, interests, claims and defenses of HP and other licensees may be
21 adversely affected.³ HP believes that additional disclosure is required to protect the interests

22 _____
23 ¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Disclosure
Statement.

24 ² HP is filing this limited objection to protect its rights as a licensee. HP does not consent to jurisdiction of the
25 Bankruptcy Court with respect to any patent dispute. This Limited Objection shall not be deemed or construed to be
26 a waiver of the rights of HP under applicable law or in equity, including but not limited to, the right (i) to have final
27 orders entered only after de novo review by a district judge in applicable matters, (ii) to trial by jury in any
proceeding so triable in this case or any case, controversy, or proceeding related to this case, (iii) to have the District
Court withdraw the reference in any matter subject to mandatory or discretionary withdrawal, or (iv) to assert or
exercise any other rights, claims, actions, defenses, setoffs or recoupments to which HP is or may be entitled, all of
which are expressly reserved.

28 ³ HP acknowledges that the Disclosure Statement provides that all executory contracts “which have not previously
and expressly been assumed or rejected . . . are deemed under such circumstances to have ‘passed through’ the

1 of licensees such as that included in the Disclosure Statement re TPL Plan of Reorganization
2 dated December 23, 2013 (“Debtor’s Disclosure Statement”):

3 TPL will, subject only to Plan approval, assume any and all
4 agreements related to the Joint Venture with Patriot related in
5 any way to the ownership of the MMP Portfolio or the rights to
6 license the MMP Portfolio that are executory contracts and
7 confirms that all non-executory contracts and agreements related
8 in any way to the ownership of the MMP Portfolio or the rights
9 to the MMP Portfolio, including rights to license, will pass
10 through the Bankruptcy Plan and Case.

11 Debtor’s Disclosure Statement p. 54 lines 21-26.

12 3. **Post Confirmation Contract Rejection.** The Disclosure Statement
13 provides that “[t]he Reorganized Company shall retain the right to reject any Excluded
14 Contracts at any time following the Effective Date.” (Disclosure Statement page 38). The
15 rejections would be effective upon service of written notice to the counterparty without any
16 oversight from the Bankruptcy Court. A plan may not provide a reorganized debtor with
17 discretion to reject executory contracts after the effective date of a confirmed plan without
18 court intervention. *See* 11 U.S.C. § 365(d)(2); *Diamond Z Trailer, Inc. v. JZ L.L.C. (In re JZ*
19 *L.L.C.)*, 371 B.R. 412, 420 (B.A.P. 9th Cir. 2007). In addition, this provision could have the
20 effect of circumventing important intellectual property rights available to licensees under the
21 Bankruptcy Code such as those found in section 365(n) of the Bankruptcy Code. HP and
22 other licensees have additional rights, claims, defenses and remedies in connection with their
23 license agreements that the Reorganized Company should not be able to effectively override
24 with a post-confirmation rejection. HP requests that language be added to the Disclosure
25 Statement to clarify that all non-exclusive licenses of patent portfolios granted by TPL as
26 licensor are not Excluded Contracts under the Plan. In addition, HP requests that clear
27 language be added to the Disclosure Statement and Plan such as Section 5.02 of the Debtor’s
28 Plan of Reorganization dated December 23, 2013 (“Debtor’s Plan”) that states:

bankruptcy and will remain in effect without modification.” (Disclosure Statement page 38). However, this
language is not enough to provide complete protection to licensees of non-exclusive patent licenses.

1 Other contracts of TPL not previously and expressly assumed or rejected by
2 TPL by final Order of the Court, or through the Plan and Confirmation
3 Order, including the Alliacense Amended Services Agreement, each
4 License, and each agreement with any IP Owner, are deemed to have
5 "ridden through" the bankruptcy without prejudice or adverse effects of any
6 kind. All Licenses remain in full force and effect and continue to be valid,
7 binding, and enforceable in accordance with their terms, against TPL, the
8 Reorganized Debtor, and all applicable third-party IP Owners and their
9 successors and assigns. For the avoidance of doubt, nothing in the Plan, and
10 no act or omission of TPL (such as rejection of or failure to assume any
11 executory contract) changes any rights, interests, claims, licenses or
12 defenses under the Licenses.

13 Debtor's Plan, Section 5.02, p. 17, lines 11 -19.

14 **B. CONCLUSION**

15 1. The Disclosure Statement provides inadequate information
16 regarding the Plan's effect on the Reorganized Company's ownership interests in and
17 licensing ability of the MMP Portfolio. HP requests the additional disclosures (and
18 changes to the Plan) set forth above, in order to make sure that neither the Plan nor
19 any action or omission of the Reorganized Company will change or otherwise affect
20 HP's rights, interests, or defenses provided in the HP License.

21 2. Nothing in this Limited Objection shall constitute a waiver of
22 any of the rights, interests and remedies that may be available to HP pursuant to the
23 Bankruptcy Code and applicable law, and all such rights, interests and remedies are
24 hereby expressly reserved. HP explicitly reserves the right to object to the Plan and
25 the Confirmation Order.

26 3. HP has contacted counsel for the Committee regarding these
27 limited objections, and hopes to resolve these issues with counsel to the Committee
28 prior to the hearing.

Dated: January 16, 2014

Respectfully submitted,

FRIEDMAN & SPRINGWATER LLP

By: /s/ Ellen A. Friedman

Ellen A. Friedman

Attorneys for Hewlett-Packard Company

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UNITED STATES BANKRUPTCY COURT
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SAN JOSE DIVISION

In re
TECHNOLOGY PROPERTIES LIMITED,
LLC,
Debtors.

Case No. 13-51589-SLJ-11
Chapter 11

CERTIFICATE OF SERVICE

1 **CERTIFICATE OF SERVICE**

2 I, Juliet Quiambao, hereby declare:

3 I am over the age of 18 years and not a party to or interested in the within
4 entitled cause. I am an employee of Friedman & Springwater LLP and my business address
5 is 33 New Montgomery Street, Suite 290, San Francisco, California 94105.

6 On January 16, 2014, at my place of business as listed above, I served a true
7 and correct copy of the following document(s):

8 **LIMITED OBJECTION AND RESERVATION OF RIGHTS OF HEWLETT-
9 PACKARD COMPANY AND HEWLETT PACKARD DEVELOPMENT
10 COMPANY, L.P.'S TO OFFICIAL COMMITTEE OF UNSECURED CREDITORS'
11 DISCLOSURE STATEMENT**

12 in the manner indicated below:

13 By Electronic Filing said document(s) and transmission of the Notification of
14 Electronic Filing by the Clerk to a Registered Participant(s), addressed as follows:

15 **UNITED STATES TRUSTEE**
16 Office of the U.S. Trustee
17 John S. Wesolowski
18 E-mail: john.wesolowski@usdoj.gov
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22 **Request for Special Notice**

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I declare under penalty of perjury, under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed at San Francisco, California on January 16, 2014.

/s/ Juliet Quiambao
Juliet Quiambao