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Paul R. Kiesel, Esq. (SBN 119854)
kiesel@kbla.com
KIESEL BOUCHER LARSON LLP
8648 Wilshire Boulevard
Beverly Hills, CA 90211
Telephone: (310) 854-4444
Facsimile: (310) 854-0812

E-filing

**HORWITZ, HORWITZ &
PARADIS, Attorneys at Law**
Paul O. Paradis, Esq.
Gina M. Tufaro, Esq.
Mark A. Butler, Esq.
570 7th Avenue, 20th Floor
New York, NY 10018
Telephone: (212) 986-4500
Facsimile: (212) 986-4501

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CLERK, U.S. DISTRICT COURT
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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DAVID GOLDBLATT,
individually and on behalf of all
others similarly situated,

Plaintiff,

v.

**HEWLETT-PACKARD
COMPANY,**

Defendant.

CASE NO.: 11-05779

**CLASS ACTION COMPLAINT
FOR:**

- (1) VIOLATIONS OF THE CALIFORNIA CONSUMERS LEGAL REMEDIES ACT FOR INJUNCTIVE RELIEF; and
- (2) VIOLATIONS OF CALIFORNIA UNFAIR COMPETITION LAW.

DEMAND FOR JURY TRIAL

1 Plaintiff David Goldblatt ("Plaintiff") individually and on behalf of all others
2 similarly situated, by his undersigned counsel, alleges the following upon personal
3 knowledge as to his own acts and upon information and belief as to all other
4 matters. Plaintiff's information and belief are based upon the investigation
5 conducted by counsel.

6 **NATURE OF THE ACTION**

7 1. Plaintiff brings this action individually and as a class action against
8 Hewlett-Packard Company ("Hewlett-Packard" or "HP" or "Defendant") on behalf
9 of all others who purchased a Hewlett-Packard printer (the "HP Printers").

10 2. The HP Printers suffer from a design defect in the software (which is
11 also sometimes referred to as "firmware") that is resident on the HP Printers, which
12 allows computer hackers to gain access to the network on which the HP Printers are
13 connected, steal sensitive information, and even flood the HP Printers, themselves,
14 with commands that are able to control the HP Printers and even cause physical
15 damage to the HP Printers themselves.

16 3. Despite Defendant's knowledge of the design defect in the software of
17 the HP Printers, Defendant has failed to disclose the existence of the defect to
18 consumers.

19 4. As a result of the facts alleged herein, Defendant has violated
20 California laws governing consumer protection.

21 **THE PARTIES**

22 5. Plaintiff David Goldblatt is a resident and citizen of the State of New
23 York. Plaintiff purchased two HP Printers. Plaintiff was unaware that the HP
24 Printers that he purchased suffered from the design defect alleged herein. Had
25 Defendant disclosed the existence of the defect before Plaintiff purchased his HP
26 Printers, he would not have purchased them.

27 6. Defendant Hewlett-Packard Company is incorporated under the laws
28 of the State of Delaware. Defendant's corporate headquarters is located in Palo

1 Alto, California. Defendant advertises, distributes, markets and sells the HP
2 Printers to millions of consumers throughout the United States.

3 **JURISDICTION AND VENUE**

4 7. This Court has subject matter jurisdiction over the claims asserted in
5 this action pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332.

6 Plaintiff, a citizen of New York, brings claims on behalf of a nationwide class of all
7 persons who purchased the HP Printers against Defendant, a citizen of California.

8 8. This Court has jurisdiction over all causes of action asserted herein
9 pursuant to 28 U.S.C. § 1332(d) because the aggregate claims of Plaintiff and
10 members of the Class exceed the sum or value of \$5,000,000, and there is diversity
11 of citizenship between at least one member of the proposed Class and Defendant.

12 9. This Court has personal jurisdiction over Defendant because
13 Defendant maintains sufficient contacts in this jurisdiction, including the marketing
14 and distribution of the HP Printers in this jurisdiction.

15 10. Venue is proper in this District because a substantial part of the events
16 and omissions giving rise to the claim occurred in this District, including the
17 marketing and distribution of Defendant's products in this District.

18
19 **SUBSTANTIVE ALLEGATIONS**

20 **Background on Hewlett-Packard and the HP Printers**

21 11. Hewlett-Packard is the dominant printer seller worldwide.

22 12. Software is embedded in a printer to help the printer function and
23 perform specific tasks.

24 13. Software is installed in the HP Printers. The HP Printers' software
25 may be updated over the internet via a "software update," which is downloaded and
26 installed on the HP Printers.

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1 **The Defect In The Software of the HP Printers**

2 14. The HP Printers' software suffers from a design defect that renders the
3 HP Printers highly vulnerable to attacks by hackers.

4 15. The software in the HP Printers allows software upgrades through a
5 process called "Remote Software Update," which means that the software is
6 updated remotely via the Internet.

7 16. Because HP Printers can receive software updates or modifications
8 from *any* source on the Internet, the software in the HP Printers requires a
9 mechanism to recognize dangerous sources of software updates or modifications.
10 The software in the HP Printers is defective, however, because the software does
11 not have such a mechanism to recognize dangerous sources of software updates or
12 modifications.

13 17. Specifically, the software in the HP Printers was defectively designed
14 by HP because the software does not have any means of distinguishing between
15 safe and dangerous software updates or modifications due to the fact that HP failed
16 to require the use of digital signatures in order to verify the authenticity of any
17 software upgrades or modifications downloaded to the HP Printers via the internet.
18 As a result of HP's failure to require the use of digital signatures to authenticate
19 software upgrades, hackers are able to reprogram the HP Printers' software with
20 malicious software without detection.

21 18. Once the HP Printers' software is maliciously reprogrammed, the HP
22 Printers can be remotely controlled by computer hackers over the Internet, who can
23 then steal personal information, attack otherwise secure networks, and even cause
24 physical damage to the HP Printers, themselves.

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1 **The Defect In The Software of the HP Printers**
2 **Has Been Confirmed by Columbia University Researchers**

3 19. Researchers in the Computer Science Department of Columbia
4 University's School of Engineering and Applied Science have confirmed the
5 existence of the defect in the software of the HP Printers.

6 20. In particular, Columbia University researchers confirmed that: (i) the
7 software of the HP Printers allows the HP Printers to be updated remotely, without
8 a digital signature; (ii) as a result of updating its software without the need for
9 digital signatures, the HP Printers, and the networks on which they are installed, are
10 exposed and vulnerable to attacks; (iii) hackers can infiltrate networks and inflict
11 physical damage to the HP Printers, themselves; and (iv) the defect impacts tens of
12 millions of HP Printers.

13 **A. The Defect In The Software of the HP Printers**
14 **Exposes Personal and Confidential Information to Theft**

15 21. In one demonstration, a Columbia researcher printed a tax return on an
16 infected printer, which in turn sent the tax form to a second computer playing the
17 part of a hacker's machine. The latter computer then scanned the document for
18 critical information such as Social Security numbers, and when it found one,
19 automatically published the social security number on a Twitter feed.

20 22. The Columbia University demonstration results confirm that the defect
21 in the software of the HP Printers exposes users' sensitive and confidential
22 information to theft.

23 **B. The Defect In The Software of the HP Printers**
24 **Can Cause Physical Damage To The HP Printers**

25 23. In another demonstration by the Columbia University researchers, the
26 researchers showed how a hacked HP Printer could be given instructions that cause
27 the printer's fuser (a component that dries the ink once it is applied to paper), to
28 heat up and eventually cause the paper in the HP Printer to turn brown and smoke.

1 24. Further, the researchers confirmed that because the HP Printers do not
2 contain a “thermal switch,” the HP Printers, themselves, can be physically
3 damaged.

4 25. Columbia professor Salvatore Stolfo, who directed the research,
5 stated, “The research is crystal clear. The impact [of the defect] is very large.
6 These devices are completely open and available to be exploited.”

7 26. According to Professor Stolfo and his research team, infiltration by a
8 computer hack takes only about 30 seconds, and, during that time, a virtually
9 undetectable virus could be installed. The only way to reveal whether a particular
10 attack occurred is by removing certain chips from the HP Printer and visually
11 examining them.

12 27. “Done well, it’s completely stealthy,” Professor Stolfo said. “You
13 wouldn’t know the printer has that malicious capability. The printer sitting next to
14 you right now could be infected and you wouldn’t know it.”

15 **Hewlett-Packard Has Long Had Knowledge of the Defect**
16 **In the Software of the HP Printers**

17 28. HP commissioned a paper entitled “*Think Print, Think Security*” (the
18 “HP Study”), which was published in April 2010, long before Columbia professor
19 Salvatore Stolfo had initiated his study.

20 29. In a section entitled “Where are the vulnerabilities?”, the HP Study
21 explained that, as a result of the defect in the software of the HP Printers:
22

23 **Data can be intercepted and sent to a third party using a number**
24 **of methods. Software on some printers could be modified to add**
25 **this ability or other special features such as a network sniffer.**
26 **This could be done by either uploading modified software or by**
27 **modifying and replacing a chip on the printer’s circuit board.**

28 (Emphasis added).

1 30. Despite recognition of the defect in the HP Study, Hewlett-Packard
2 failed to: (i) disclose the existence of the defect to members of the Class; or (ii)
3 failed to take steps to remedy the defect.
4

5 **Hewlett-Packard Is Forced To**
6 **Acknowledge The HP Printer Software Defect**

7 31. On or about November 28, 2011, MSNBC published an article
8 exposing the existence of the HP Printer software defect and discussing, in detail,
9 the results of the study conducted by the team of researchers at Columbia
10 University.

11 32. In particular, MSNBC reported that HP Printers suffer from a
12 widespread security vulnerability as a result of the defect in the software of the HP
13 Printers.

14 33. This MSNBC article further reported that Hewlett-Packard, itself,
15 acknowledged that it has “identified a potential security vulnerability with some HP
16 Laserjet printers.”

17 34. In a press release issued on November 30, 2011, Hewlett-Packard
18 admitted that (i) a “security vulnerability” in the HP Printers exists; (ii) this
19 “security vulnerability” exposes the HP Printers to “malicious effort[s]” by
20 computer hackers; and (iii) as a result of this “security vulnerability,” “it may be
21 possible for a specially formatted corrupt print job to trigger a software upgrade”
22 by an unknown source.

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1 **Defendant's Failure to Disclose the Existence**
2 **Of The Defect In the HP Printer Software**
3 **Has Damaged Plaintiff and Class Members**

4 35. Despite its knowledge of the defect, Hewlett-Packard failed to disclose
5 the existence of the defect in the software of the HP Printers to Plaintiff and
6 members of the Class. Had Plaintiff and Class members known that the software in
7 the HP Printers is defective, Plaintiff and members of the Class would not have
8 purchased the HP Printers.

9 36. As a result of Defendant's misconduct, Plaintiff and Class members
10 suffered economic losses.

11 **CLASS ACTION ALLEGATIONS**

12 37. Plaintiff brings this action both individually and as a class action
13 pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3) against Defendant, on his own behalf
14 and on the behalf of any person who purchased an HP Printer in the United States.

15 38. Members of the Class are so numerous that joinder of all members
16 would be impracticable. Plaintiff estimates that there are millions of members of
17 the Class.

18 39. There are questions of law and fact common to all the members of the
19 Class that predominate over any questions affecting only individual members,
20 including:

- 21 a. Whether the software in the HP Printers is defective;
- 22 b. Whether Defendant failed to disclose the existence of the defect
23 in the software of the HP Printers;
- 24 c. Whether Defendant has engaged in unfair methods of
25 competition, unconscionable acts or practices, and unfair or deceptive acts or
26 practices in connection with the sale of the HP Printers that are programmed
27 with defective software; and
28

1 d. Whether as a result of Defendant's misconduct, Plaintiff and
2 other Class members are entitled to damages, restitution, equitable relief,
3 injunctive relief, or other relief, and the amount and nature of such relief.

4 40. The claims of Plaintiff are typical of the claims of the members of the
5 Class. Plaintiff has no interests antagonistic to those of the Class, and Hewlett-
6 Packard has no defenses unique to the Plaintiff.

7 41. Plaintiff will protect the interests of the Class fairly and adequately,
8 and Plaintiff has retained attorneys experienced in complex class action litigation.

9 42. A class action is superior to all other available methods for this
10 controversy because:

11 i. the prosecution of separate actions by the members of the Class would
12 create a risk of adjudications with respect to individual members of the
13 Class that would, as a practical matter, be dispositive of the interests of the
14 other members not parties to the adjudications, or substantially impair or
15 impede their ability to protect their interests;

16 ii. the prosecution of separate actions by the members of the Class would
17 create a risk of inconsistent or varying adjudications with respect to the
18 individual members of the Class, which would establish incompatible
19 standards of conduct for Defendant;

20 iii. Defendant acted or refused to act on grounds generally applicable to the
21 Class; and

22 iv. questions of law and fact common to members of the Class predominate
23 over any questions affecting only individual members, and a class action is
24 superior to other available methods for the fair and efficient adjudication of
25 the controversy.

26 43. Plaintiff does not anticipate any difficulty in the management of this
27 litigation.

28

COUNT I

**(By Plaintiff, Individually and on Behalf of All Nationwide Class Members,
for Violation of the California Consumers Legal Remedies Act For Injunctive
Relief Cal. Civ. Code §§ 1750 et seq.)**

44. Plaintiff incorporates and re-alleges all of the foregoing paragraphs.

45. At all times relevant herein, the Consumers Legal Remedies Act (“CLRA”) was in effect. The CLRA prohibits “unfair or deceptive acts or practices.” Plaintiff bases this count on Defendant’s omission of a material fact.

46. The HP Printers are a “goods” under Cal. Civ. Code § 1761(a).

47. Plaintiff and Class members are “consumers” under Cal. Civ. Code § 1761(d).

48. The CLRA applies to Defendant’s conduct because Defendant’s conduct was intended to result, and did result, in the sale of goods for personal, family, or household use.

49. The CLRA prohibits representing that goods or services have characteristics, ingredients, uses, benefits, or quantities which they do not have; representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another; and advertising goods with intent not to sell them as advertised.

50. At all times relevant hereto, the software in the HP Printers is defective because it exposes the HP Printers and the networks on which they are installed to computer hackers who can secretly steal sensitive documents, gain control of corporate networks, or even cause physical damage to the HP Printers themselves – including the ability to set the HP Printers on fire.

51. The existence of the defect is a material fact because the defect creates an unreasonable risk to the safety of Plaintiff and Class members and was not known to Plaintiff or members of the Class.


52. Defendant has had actual and exclusive knowledge of the defect.

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- d. Issue an order granting Plaintiffs' reasonable costs and attorney's fees; and
- e. Grant such other relief as may be just and proper.

DATED: December 1, 2011

KIESEL BOUCHER LARSON LLP

By: 
Paul R. Kiesel
8648 Wilshire Boulevard
Beverly Hills, CA 90211
Tel. (310) 854-4444
Fax (310) 854-0812

HORWITZ, HORWITZ & PARADIS,
Attorneys at Law
Paul O. Paradis, Esq.
Gina M. Tufaro, Esq.
Mark A. Butler, Esq.
570 7th Avenue, 20th Floor
New York, NY 10018
Tel. (212) 986-4500
Fax (212) 986-4501

Attorneys for Plaintiff

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DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury on all issues so triable.

DATED: December 1, 2011

KIESEL BOUCHER LARSON LLP

By: 
Paul R. Kiesel
8648 Wilshire Boulevard
Beverly Hills, CA 90211
Tel. (310) 854-4444
Fax (310) 854-0812

HORWITZ, HORWITZ & PARADIS,
Attorneys at Law
Paul O. Paradis, Esq.
Gina M. Tufaro, Esq.
Mark A. Butler, Esq.
570 7th Avenue, 20th Floor
New York, NY 10018
Tel. (212) 986-4500
Fax (212) 986-4501

Attorneys for Plaintiff