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David H. Yamasaki

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Case #1-05-CV-039231 Filing #G-43414

By R. Walker, Deputy

1 Eric H. Gibbs (State Bar No. 178658)
2 Geoffrey A. Munroe (State Bar No. 228590)
3 Amy M. Zeman (State Bar No. 273100)
4 C. Tucker Cottingham (State Bar No. 278896)

GIRARD GIBBS LLP

5 601 California Street, 14th Floor
6 San Francisco, California 94108
7 Telephone: (415) 981-4800
8 Facsimile: (415) 981-4846
9 Email: ehg@girardgibbs.com

Attorneys for Plaintiffs

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SANTA CLARA**

12 JANET SKOLD and DAVID DOSSANTOS,
13 on behalf of themselves and all others similarly
14 situated and the general public,

Plaintiffs,

v.

16 INTEL CORPORATION, HEWLETT
17 PACKARD COMPANY and DOES 1-50,

Defendants.

Case No. 1-05-CV-039231
CLASS ACTION

**PLAINTIFFS' SIXTH AMENDED CLASS
ACTION COMPLAINT FOR VIOLATION
OF THE UNFAIR COMPETITION LAW
[BUS. & PROF. CODE § 17200, ET SEQ.]**

1 **INTRODUCTION**

2 1. This class action arises from Intel Corporation’s manipulation of performance scores in
3 connection with the release of its first-generation Pentium 4 processor (codenamed Willamette).
4 Unless otherwise noted, all references to the “Pentium 4” within this complaint refer only to the first-
5 generation (Willamette) processor and not to subsequent generations of the Pentium 4 (*e.g.*,
6 Northwood, Prescott, Cedar Mill).

7 2. Intel had spent years developing the Pentium 4, but found that because of pervasive
8 design flaws, its performance scores were “dismal.” The Pentium 4 scored so poorly that Intel deemed
9 it “not competitive” with the company’s existing Pentium III processor, much less Advanced Micro
10 Devices’ (AMD’s) recently-released Athlon processor, which Intel viewed as the “greatest competitive
11 threat in our history.”

12 3. Intel used its enormous resources and influence in the computing industry to, in Intel’s
13 own words, “falsely improve” the Pentium 4’s performance scores. It secretly wrote benchmark tests
14 that would give the Pentium 4 higher scores, then released and marketed these “new” benchmarks to
15 performance reviewers as “independent third-party” benchmarks. It paid software companies to make
16 covert programming changes to inflate the Pentium 4’s performance scores and even disabled features
17 on the Pentium III so that the Pentium 4’s scores would look better by comparison.

18 4. Intel knew that these practices “would be considered dishonest by consumers,” but
19 figured that “[i]f we do it right the only thing customers will see is that P4’s run faster than P3’s,
20 hopefully shifting the marketplace to P4’s.” Intel succeeded in its plan, and as a result was able to
21 charge an inflated price for the Pentium 4—higher than both the Pentium III and the Athlon processor.

22 5. On behalf of a class of the Pentium 4’s end consumers, Plaintiffs Janet Skold and David
23 Dossantos seek (i) a determination that Intel’s manipulation of the Pentium 4’s performances scores
24 violates the Unfair Competition Law (UCL); (ii) an injunction prohibiting Intel from manipulating its
25 processor’s benchmark scores in the future, whether by using the techniques it used to inflate the
26 Pentium 4’s scores or similar techniques; and (iii) a class-wide award of restitution, which the UCL
27 makes available to ensure that wrongdoers do not retain the benefits of their misconduct.

28 6. Plaintiffs also seek to hold Defendant Hewlett-Packard (HP) liable under the UCL for

1 aiding and abetting Intel's unfair conduct. Intel shared its benchmark techniques and results with HP,
2 HP knew the benchmark results were manipulated, and yet HP chose to assist Intel by facilitating
3 release of the benchmarks under the BAPCo name, touting the benchmark scores in HP press and
4 marketing materials, and concealing the fact that Intel had manipulated the benchmarks.

5 **JURISDICTION AND VENUE**

6 7. This Court has jurisdiction over this action under Code of Civil Procedure section
7 410.10 and Article VI, section 10 of the California Constitution.

8 8. Venue is proper in this Court under Code of Civil Procedure Section 395.5, because
9 Defendants maintain their principal places of business within this County.

10 **PARTIES**

11 9. Plaintiff Janet Skold is a resident of Newark, California. She purchased an HP Pavilion
12 computer with a 1.4 GHz Pentium 4 in January 2001

13 10. Plaintiff David Dossantos is a resident of Brooklyn, New York. He purchased an HP
14 Pavilion computer with a 1.7 GHz Pentium 4 in November 2001.

15 11. Defendant Intel Corporation is a Delaware corporation with its principal place of
16 business in Santa Clara, California.

17 12. Defendant Hewlett-Packard Company is a Delaware corporation with its principal place
18 of business in Palo Alto, California.

19 **GENERAL ALLEGATIONS**

20 **A. Intel's Development of the Pentium 4 Processor**

21 13. Within each personal computer is a central processing unit (CPU), often referred to
22 simply as a processor. The processor is the "brain" of the computer, in charge of executing the
23 computing instructions given by the software applications people use each day. The faster the
24 processor can execute instructions—or, in other words, the higher the processor's performance—the
25 faster the computer in which it is installed can operate.

26 14. Intel is the dominant manufacturer of computer processors, occupying roughly 70 to
27 80% of the market over the last decade. But in 2000, Intel's Pentium III processor had begun losing
28 ground to AMD's recently-released Athlon (K7) processor, which was both faster and cheaper. Intel's

1 answer was supposed to be its Pentium 4 processor, code-named Willamette, which the company had
2 been designing over the past few years.

3 15. When Intel tested the Pentium 4, however, it found that it scored extremely poorly on
4 benchmark programs used to compare processor performance. The Pentium 4's scores were so bad that
5 Intel deemed it "not competitive" with AMD's Athlon processor or even Intel's existing Pentium III
6 processor, noting that most benchmark tests showed a "negative or zero performance gain." As one
7 Intel engineer explained, "the Pentium 4 numbers don't look very compelling." "Dismal" was how
8 another Intel engineer described the results of testing by Dell: "I was hoping Dell made a mistake
9 [with] the measurements, but it turns out that they are accurate."

10 16. Even when using its own benchmark, called iCOMP, Intel found it "[d]ifficult to show
11 compelling P4P performance." In 1999, before testing the Pentium 4, Intel lauded the iCOMP
12 benchmark as a forward-looking tool that accurately measured processor performance. The next year,
13 after testing the Pentium 4, Intel's take on iCOMP had changed. The new verdict: "Kill it." As one
14 Intel employee explained, "PR & analyst teams were convinced [performance review websites] and
15 maybe even AMD would use our formula and show our processors getting beat on our own tool."

16 17. The reason the Pentium 4 performed so poorly, as Intel soon realized, was because of
17 design flaws in the processor's architecture. Internally, Intel admitted that these design flaws were so
18 serious and so pervasive that they would significantly impair any computer's performance by
19 dramatically slowing its ability to process the computer's instructions. Intel blamed these flaws on a
20 "complete failure" of the design process, and acknowledged that a dramatic change in its engineering
21 would be required to properly address the Pentium 4's "short comings."

22 18. It would take Intel roughly two years to implement the dramatic engineering changes
23 necessary to address the Pentium 4's design flaws. But faced with what it termed the "greatest
24 competitive threat in our history" (AMD's faster and cheaper Athlon processor), Intel decided it could
25 not wait that long to release the Pentium 4 to the public.

26 19. Even when Intel ultimately did fix the Pentium 4, in a different processor code-named
27 Northwood, Intel deliberately concealed the vast improvements it had made to the Pentium 4. As Intel
28 put it, saying too much about the improved Pentium 4 "may raise the questions of what exactly was

1 improved, which could lead into the sensitive area of why these things [design flaws] were in P4 to
2 begin with.”

3 **B. Intel’s Manipulation of the Pentium 4’s Performance Scores**

4 20. Intel had a serious problem on its hands. If it released the Pentium 4 without doing
5 anything, the public would soon learn that the new processor could not even outscore the Pentium III
6 on benchmark tests—much less AMD’s Athlon processor. But if Intel waited until 2002, when the
7 necessary re-design would be complete, it was sure to lose a sizable chunk of its vaunted market share,
8 which it might never get back.

9 21. Intel solved its problem by making it *appear* as if the Pentium 4 outscored the Pentium
10 III and AMD Athlon processors. It unleashed a multi-tiered strategy that used several different
11 methods to inflate the Pentium 4’s performance scores—methods that Plaintiffs contend constitute
12 unfair business practices that hinder legitimate competition and thus harm consumers.

13 22. A key element of the strategy was the introduction of two “new” benchmarking tests—
14 called WebMark 2001 and SYSmark 2001—that made the Pentium 4 appear superior to the Pentium III
15 and Athlon. Intel claimed publicly that the new tests were created by a neutral benchmarking company,
16 and thus reflected an objective measure of processor performance; in reality, the tests were written in-
17 house by Intel to favor the Pentium 4 and inflate its scores.

18 23. Other elements of Intel’s strategy included paying software companies to secretly
19 rewrite software programs used in benchmarking tests so that the Pentium 4 would score higher; using
20 higher-performance memory to inflate the Pentium 4’s performance scores when compared to other
21 processors (which were tested with mainstream memory); and disabling certain features on the Pentium
22 III so that its performance scores would drop and the Pentium 4 would appear better by comparison.

23 **1. Intel Secretly Wrote Two “New” Benchmark Programs That Inflated The**
24 **Pentium 4’s Performance Scores.**

25 **a) The WebMark 2001 Benchmark**

26 24. The first “new” benchmark program that Intel designed specifically to inflate the
27 Pentium 4’s performance scores was called WebMark 2001.

28 25. To bypass the skepticism that Intel knew reviewers would harbor against a benchmark

1 Intel had written itself, Intel passed the new benchmark off to the market as one developed by a
2 seemingly independent, objective third-party called Business Applications Performance Corporation, or
3 BAPCo. As Intel’s Performance Marketing Manager told Intel insiders, “It is very important that
4 everybody understand the positioning that this is not an Intel developed benchmark....rather that it was
5 developed by BAPCo, who is an unbiased industry consortium of leading companies.”

6 26. BAPCo presents itself as a non-profit company whose mission is to develop and
7 distribute a set of objective performance benchmarks based on popular computer applications and
8 industry standard operating systems. But the true history of BAPCo appears in a “highly sensitive”
9 email from Intel’s Performance Marketing Manager to an Intel executive: it was Intel who “tasked
10 ourselves with building BAPCo as a recognized worldwide leader in industry-standard benchmarks.”
11 As a result, “Intel has been able to exercise almost complete control over the BAPCo agenda/goals,”
12 and “has benefited a great deal by being able to stack the deck in its favor so that our products
13 outperform the competition.”

14 27. In an August 2000 email to Intel Executive Vice President (and now-CEO) Paul Otellini,
15 another high-ranking executive described how Intel used BAPCo to deceive the public as to the true
16 developer and driving force behind WebMark 2001 (codenamed Internet Client Benchmark):

17 Between you and me, it is important that you understand that Intel has been the catalyst,
18 the driving force, as well as the developer of this benchmark. To avoid all of the
19 obvious potential perceived biases that people may have in using a benchmark created
20 by Intel, we have “donated” this benchmark to BAPCo so that they can claim it as their
21 own... In the end, Intel never wants any credit for the work that has been done
22 here.....instead Intel is just happy that the industry now has a tool from an independent
23 third-party.

24 28. Other executive correspondence depicts Intel’s undisclosed interest in WebMark 2001 in
25 even more colorful terms: “This is a ‘third party’ benchmark from Bapco... [¶] [Intel has] been
26 working with Bapco to get this developed (read: writing it for them) since last year. We planned on
27 this being one of our cards up our sleeve for P4P [Pentium 4].”

28 29. Not surprisingly, given its origins, WebMark 2001 generated excellent performance
scores for the Pentium 4, including a 30% performance bump over the Pentium III—a result Intel
characterized as “sort of a small miracle, especially in light of most benchmarks showing a negative or

1 zero performance gain at this frequency.”

2 30. One Intel director described the “benchmark [as] probably as close as we can get to a
3 marketing tool dream.” Another Intel director was equally thrilled: “[V]ery, very exciting stuff.
4 [F]irst time I’ve seen benchmark data that’s compelling for [Pentium 4].”

5 **b) The SYSmark 2001 Benchmark**

6 31. Another BAPCo benchmark, called SYSmark 2000, was already on the market and
7 being used by consumer publications to evaluate processor performance. The problem for Intel was
8 that it showed that the Pentium 4 offered little to no performance benefit over the existing Pentium III,
9 much less AMD’s Athlon processor. Intel’s internal discussions summed it up in blunter terms: the
10 Pentium 4 “stinks on Sysmark2000.”

11 32. To overcome the poor SYSmark 2000 scores, Intel revised the benchmark and delivered
12 it to BAPCo so that, like WebMark 2001, it could be passed off as another “new” BAPCo benchmark.

13 33. With the release of SYSmark 2001, the Pentium 4’s performance score improved
14 considerably. As one Intel employee not in-the-know observed, “Performance gain for P4P going from
15 SYSmark 2000 to 2001 was pretty substantial—much more than I’ve seen on previous versions of
16 benchmark updates.”

17 34. However, as detailed in “highly confidential” internal correspondence from the Intel
18 executive who doubled as BAPCo’s president, the Pentium 4’s improved performance scores on
19 SYSmark 2001 were not an accident but the result of carefully orchestrated re-writing of the benchmark
20 test by Intel: software programs that increased the Pentium 4’s score were run longer in SYSmark
21 2001 while programs that substantially reduced the Pentium 4’s score were run for shorter durations or
22 dropped altogether.

23 **c) Intel Successfully Lobbied Consumer Publications To Measure
24 Pentium 4 Performance Using The “New” Benchmarks.**

25 35. The WebMark and SYSmark benchmarks formed the basis on which Intel planned to
26 base its entire performance marketing strategy for the Pentium 4.

27 36. If Intel was going to be able to position the Pentium 4 as a premium product at a
28 premium price, it needed consumer publications to accept these “new” benchmarks and use them to

1 evaluate the Pentium 4's performance. As Intel put it at the time, "[i]t would be disastrous to Intel if
2 the industry rejects these benchmarks."

3 37. By surreptitiously releasing WebMark 2001 and SYSmark 2001 through BAPCo—a
4 supposedly neutral and objective maker of benchmark programs—Intel was able to achieve
5 "unquestioned acceptance by publications across the world" and create the "aura of credibility" it so
6 desperately needed for these benchmarks.

7 38. Intel then applied a "[f]ull court press on the members of the press and review websites"
8 who would be reviewing the Pentium 4's performance. It "even went so far as to help enable/create a
9 brand new company [called MadOnion] that could promote and market BAPCo products."

10 39. Unaware that the BAPCo benchmarks were really written by Intel, consumer
11 publications readily adopted these "new" benchmarks and used them to evaluate the Pentium 4, as Intel
12 had wanted. Among the most successful lobbyists was the President of BAPCo, who also happened to
13 be the head of the Intel team who wrote the benchmarks. Thanks to his and other Intel employees'
14 efforts, Intel was soon able to boast that the list of benchmarks used by popular internet sites such as
15 CNet and ZDNet "now exactly mirrors our recommended set of benchmarks."

16 **2. Intel Paid Software Companies For "Optimizations" So That The Pentium**
17 **4's Design Flaws Would Not Be Accurately Reflected In Its Performance**
18 **Scores.**

19 40. While creating "new" benchmarks was a major focus of Intel's scheme to manipulate the
20 Pentium 4's performance scores, it was not the only element of that scheme. Intel also took at least
21 three steps to artificially inflate the Pentium 4's performance scores on pre-existing benchmarks.

22 41. The first method involved secretly paying software companies whose applications were
23 frequently used in benchmarks. Intel would then engage in "focused code optimizations" so that the
24 applications would generate better scores for the Pentium 4.

25 42. The inflationary effect on the Pentium 4's performance scores from these "focused code
26 optimizations" was substantial. For example, one common benchmark scored the Pentium 4's
27 performance more than 10% *lower* than AMD's Athlon processor *before* Intel's manipulative
28 "optimization," but 13% *higher* after Intel had implemented its "optimization." A "[f]ew more of these
and we will be in cruise control," exulted one Intel executive.

1 43. Intel ultimately used more than a few of these “focused code optimizations.” In a
2 concerted effort it called the “Dirty Dozen” program, Intel orchestrated the delivery of a dozen
3 applications that Intel had re-coded to generate higher scores for the Pentium 4 when incorporated into
4 benchmark programs.

5 **3. Intel Used Higher-Performance Memory To Artificially Boost The**
6 **Pentium 4’s Performance Scores When Compared To Competing**
7 **Processors Tested With Mainstream Memory.**

8 44. Another way in which Intel artificially inflated the Pentium 4’s performance scores was
9 by testing the Pentium 4 with better-performing memory (RAM) than other processors were tested with.

10 45. To obtain an apples-to-apples performance comparison, two or more microprocessors
11 that are being compared should be in otherwise identically configured PCs so that the only thing
12 affecting the performance differential in the PCs measured by the benchmark is their different
13 microprocessors.

14 46. But rather than testing the Pentium 4 with mainstream memory—the same type of
15 memory the Pentium III, the AMD Athlon, and other alternative processors were tested with—Intel
16 used a more expensive, higher-performing memory to test the Pentium 4, resulting in roughly 15%
17 higher performance scores.

18 47. Intel’s refusal to test the Pentium 4 in computers equipped with mainstream memory
19 drew private reproof from computer manufacturers. For instance, Compaq believed that Intel’s
20 practices “detract from Intel[’]s credibility for true apples-to-apples performance testing.”

21 48. HP disparaged Intel’s data, which showed high-performance-memory-equipped Pentium
22 4s outperforming mainstream-memory-equipped Pentium IIIs, as “propaganda.” As HP noted, a more
23 accurate comparison would have caused the Pentium 4 to appear “somewhat worse compared to the P3.”

24 **4. Intel Disabled Driver Features On The Pentium III To Make The Pentium**
25 **4’s Scores Look Better By Comparison.**

26 49. Intel also manipulated benchmarks by sabotaging the Pentium III so that the Pentium 4’s
27 performance scores would look better by comparison.

28 50. Both the Pentium III and Pentium 4, like all microprocessors, require drivers to
communicate with other aspects of a computer, such as the hard drive. By disabling certain driver

1 features on Pentium III computers but not on Pentium 4 computers, Intel ensured that the Pentium III's
2 performance scores would be lower than those of the Pentium 4. As one Intel employee put it, "we
3 strip out features from our binaries to falsely improve our benchmarks."

4 51. Intel recognized that the practice of sabotaging the Pentium III to make the Pentium 4's
5 performance scores look better "taints the quality of the benchmark [testing] and would be considered
6 dishonest by consumers." As with each of the other practices described above, however, Intel
7 ultimately decided "to falsely improve our benchmarks," figuring that "[i]f we do it right the only thing
8 customers will see is that P4's run faster than P3's, hopefully shifting the marketplace to P4's."

9 **C. Inflated Pentium 4 Performance Scores Led to an Inflated Price.**

10 52. Because a processor's price is linked directly to its performance *perception*, not to its
11 actual performance, Intel's manipulation of the Pentium 4's performance scores resulted in consumers
12 paying higher prices. Or, as Intel succinctly puts it, the Pentium 4 was "priced high because of the
13 perceived benefit of it[s] performance."

14 53. The inflated prices that Intel charged for the Pentium 4 were then passed on to the end-
15 consumer by computer manufacturers, who incorporated the Pentium 4's price into the price of their
16 Pentium 4-equipped computers.

17 **D. Hewlett-Packard's Participation In Intel's Unfair Practices**

18 54. The benchmark manipulations at the heart of this lawsuit stem from Intel, but Intel did
19 not act alone. Hewlett-Packard knew what Intel was up to and helped to make sure that Intel's plan
20 was successful.

21 55. Intel shared its internal benchmark results for the Pentium 4 with HP at various stages of
22 manipulation. As a result, HP knew that the Pentium III "out scored" the Pentium 4 in unvarnished
23 tests and was "very much concerned about the lack of perf[ormance] increase."

24 56. Pursuant to a non-disclosure agreement, Intel shared with HP the specific techniques
25 used to inflate the Pentium 4's benchmark scores, including programming new drivers to "make a P4
26 look good" but not to run on a Pentium III.

27 57. HP also knew that Intel's benchmark results were mere "propaganda," in that they made
28 apples-to-oranges comparisons between the performance of Pentium 4 computers and Pentium III

1 computers equipped with inferior components.

2 58. Finally, HP is also involved in BAPCo and helped to facilitate the release of Intel-
3 designed benchmarks under the BAPCo name and conceal the fact that Intel had written (or rewritten)
4 the benchmarks to make the Pentium 4 look good.

5 59. Far from exposing Intel's deceptive conduct, HP went along and profited from it. Six
6 days after HP wrote internally that it had "obtained from Intel their benchmarks for the PIII and P4,"
7 and that the Pentium III "out scored" the Pentium 4, HP issued a press release telling the public that the
8 Pentium 4 was "Intel's fastest processor," and that HP's Pentium 4 processor offering would "provid[e]
9 customers with the ultimate in performance and power."

10 60. HP's marketing materials continued to represent the Pentium 4 as delivering "maximum
11 performance," which was consistent with HP's overall efforts to develop marketing material that
12 "clearly instructs the customer to buy P4 instead of P3."

13 **CLASS ACTION ALLEGATIONS**

14 61. Plaintiffs pursue this action on behalf of themselves and a class that has been defined as:

15 All residents of the United States, other than those residing in Illinois, who (i) purchased
16 a new computer equipped with a first-generation (Willamette) Pentium 4 processor, (ii)
17 purchased the computer between November 20, 2000 and June 30, 2002, and (iii)
18 purchased the computer for personal, family, or household use.

19 62. In addition, Plaintiff Skold pursues this action on behalf of a subclass of California class
20 members who purchased their computers from HP. In accordance with the Court's order certifying the
21 class and subclass, Plaintiffs also reserve the right to seek certification of additional subclasses for class
22 members in states other than California who purchased their computer.

23 63. The class and subclass satisfy the requirements of Code of Civil Procedure section 382
24 for the reasons stated in the Court's certification order dated April 19, 2012. In particular, the class and
25 subclass are both ascertainable and exhibit a well-defined community of interest, including claims that
26 raise predominantly common questions of law or fact, class representatives with claims typical of the
27 class and subclass, and class representatives who can adequately represent the class and subclass.

28 64. Ascertainability. The class and subclass are both defined objectively and in a manner
that enables consumers to know if they are part of the class.

1 Code § 17200, *et seq.*, which prohibits unfair business practices.

2 71. Intel’s practice of manipulating the benchmark results for its processors, including by
3 using benchmarking practices alleged herein, constitute unfair business practices in that they are
4 unethical, unscrupulous, and cause injury to consumers—in the form of increased prices. There are no
5 countervailing benefits to consumers.

6 72. As a result of Intel’s unfair business practices, Plaintiffs suffered injury in fact and lost
7 money or property. They each paid more for their Pentium 4 computers than they would have paid in
8 the absence of Intel’s unfair business practices.

9 73. Intel no longer sells the Pentium 4 but it has continued to manipulate the benchmark
10 results for its processors, including by writing benchmarks that favor its products and releasing them
11 through BAPCo. Intel has taken the position that there is “nothing wrong” with any of the
12 benchmarking practices alleged herein, which are likely to recur in the absence of a court order.

13 74. Pursuant to Section 17203 of the UCL, which permits the Court to make such orders or
14 judgments as may be necessary to prevent the use of any practice which constitutes unfair competition,
15 or as may be necessary to restore money that may have been acquired by means of such unfair
16 competition, Plaintiffs seek the following relief on behalf of themselves and the class: (i) a finding that
17 Intel’s manipulation of the Pentium 4’s benchmark results violates the UCL; (ii) an injunction
18 prohibiting Intel from manipulating its processor’s benchmark scores in the future, whether by using
19 the techniques it used to inflate the Pentium 4’s scores or similar techniques; and (iii) an order or
20 judgment requiring Intel to restore any money that it may have acquired from the class by means of its
21 benchmarking practices.

22 **SECOND CAUSE OF ACTION**

23 **(By Plaintiffs and the Subclass Against HP For Violation of the Unfair Competition Law)**

24 75. Plaintiffs re-allege, as if set forth fully, each preceding allegation.

25 76. HP aided and abetted Intel in the commission of the unfair business practices alleged
26 herein. HP knew that Intel had manipulated its benchmark results and substantially assisted Intel’s
27 efforts by facilitating release of the benchmarks under the BAPCo name, touting the benchmark scores
28 in HP press and marketing materials, and concealing the fact that Intel had manipulated the

1 benchmarks. HP continues to facilitate the release of Intel-written benchmarks under the BAPCo
2 name.

3 77. As a result of the unfair competition alleged herein, for which HP is also liable as an
4 aider and abettor, Plaintiffs suffered injury in fact and lost money or property. They each paid more for
5 the Pentium 4 computers they purchased from HP than they would have paid in the absence of the
6 unfair competition alleged herein.

7 78. A defendant who participates in unfair competition, either directly or by aiding and
8 abetting the principal, is liable under the UCL. Accordingly, Plaintiffs and the subclass seek to hold
9 HP liable under the UCL and seek such order or judgment as may be necessary to prevent HP from
10 continuing to aid and abet Intel's manipulation of benchmark results and to restore any money that HP
11 may have acquired from Plaintiffs or the subclass by means of the unfair competition alleged herein.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs, on their own behalf and on behalf of the class and subclass, pray for
14 judgment as follows:

- 15 a. For an order or judgment declaring that Intel's manipulation of the Pentium 4's
16 benchmark results constitutes unfair competition;
- 17 b. For an order or judgment enjoining Intel from manipulating its processor's benchmark
18 scores in the future, whether by using the techniques it used to inflate the Pentium 4's
19 scores or similar techniques;
- 20 c. For an order or judgment requiring Intel to restore any money that it may have acquired
21 from the class by means of its benchmarking practices;
- 22 d. For an order or judgment finding HP liable under the UCL for aiding and abetting Intel's
23 unfair practices and requiring HP to restore any money it may have acquired from
24 Plaintiffs or the subclass by means of those unfair practices;
- 25 e. For such other and further relief as the Court may deem just and proper, including any
26 order or judgment as may be necessary to prevent the use of any practice alleged herein
27 found to constitute unfair competition, or as may be necessary to restore money that may
28 have been acquired by means of such unfair competition.

