No. 19-20799

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

HEWLETT-PACKARD COMPANY,

Plaintiff–Appellee

v.

QUANTA STORAGE, INCORPORATED,

Defendant–Appellant

Appeal from the United States District Court for the
Southern District of Texas, Houston Division; No. 4:18-CV-00762

APPELLEE'S SUR-REPLY TO EMERGENCY MOTION TO STAY

TO THE COURT OF APPEALS FOR THE FIFTH CIRCUIT:

As the Court requested, Appellee HP Inc. (f/k/a Hewlett-Packard Company) ("HP") respectfully files this Sur-Reply to Appellant's Quanta Storage, Incorporated's ("Quanta") Emergency Motion to Stay, Pending Appeal, Execution on Judgment and Turnover Orders.

INTRODUCTION

Quanta distorts the record to suggest that Judge Hittner abused his discretion by requiring Quanta to turn over millions of dollars' worth of property without due consideration of the issues. This assertion is simply not true.

Originally, Judge Hittner denied HP's request for a turnover order. Instead, he allowed Quanta to post a reduced bond for approximately 20% of the judgment and 25% of its net worth and stayed execution for 15 days so Quanta could do so. When Quanta failed to meet the deadline (or alert the Court of any intention to put up a bond), Judge Hittner granted HP's Renewed Motion for Turnover. This order was issued on April 1, 2020. Nevertheless, despite Quanta's failure to turn over a single document or piece of property, Judge Hittner allowed it until May 1, 2020—a month after the issuance of his order—to comply or show cause to avoid sanctions.

Because Quanta has done neither, Judge Hittner's orders do not represent an abuse of discretion, but an orderly exercise of the federal judicial power. If courts cannot demand compliance with judgments, the American legal system is toothless and respect for both courts and the rule of law is lost. Quanta's motion to stay should be denied.

HP acknowledges that Quanta has indicated it will file a motion to expedite the main appeal and will waive argument to secure a prompt decision. HP agrees to both motions and is filing its Appellee's Brief in the main appeal today. Therefore, the Court will quickly recognize that Quanta's appeal is futile.

FACTUAL BACKGROUND

Quanta's erroneous assertion that Judge Hittner gave it a mere three days to turn over millions of dollars in property merits a thorough factual rebuttal.

On October 15, 2019, this case was tried to a jury. **Exhibit 8**.[1] A week later, the jury returned a verdict in favor of HP and awarded damages of $176 million. **Exhibit 9**. The jury unanimously found that Quanta participated in a conspiracy to fix prices in violation of Section 1 of the Sherman Act. *Id*. On November 19, 2019, Quanta filed a notice of appeal. **Exhibit 10**. On January 2, 2020, the court granted HP's Motion to Amend the Judgment by, *inter alia*, awarding HP treble damages in the amount of $438,650,000. **Exhibit 11**. As this Court is aware, on March 2, 2020, Quanta filed its opening appellate brief. That brief did not deny that Quanta had violated U.S. antitrust laws and challenged only the amount of damages.

On March 3, 2020, Quanta filed a Motion for Stay of Execution of the Judgment and requested permission to post alternative security because its assets were less than the judgment. **Exhibit 12**. Quanta submitted financial statements showing approximately $393 million in assets, including $167 million in cash and cash equivalents. *Id*. On March 12, 2020, the court denied HP's initial request for a turnover order and allowed Quanta to file a reduced supersedeas bond of $85 million. **Exhibit 1**.

Quanta failed to post a bond. Thus, on April 1, 2020, the court granted in part HP's motions for post-judgment relief and for a writ of execution. **Exhibit 2**.

[1] References to Exhibits 1-7, refer to exhibits to HP's Initial Response to Quanta's Emergency Motion. References to Exhibit 8-19 refer to exhibits submitted for the first time with this Sur-Reply.

Relevant here, the district court granted HP's request that Quanta be ordered to turn over all of its nonexempt property and all documentary evidence of Quanta's nonexempt property in accordance with Tex. Civ. Prac. & Rem. Code § 31.0002. *Id*. This order is the "Turnover Order."

On April 2, 2020, HP sent a letter to Quanta's counsel seeking information regarding its plans for compliance and asking Quanta to turn over the property to Chief Carl Shaw and Sergeant Richard Smith at Constable Alan Rosen's office by April 8, 2020. **Exhibit 7** at Ex. A.

On April 13, 2020, because Quanta failed to comply with the turnover order, HP moved for a show cause hearing. **Exhibit 13**. Quanta filed three responses to this motion arguing Taiwanese law and COVID-19 prevented it from complying with the Turnover Order. **Exhibit 14–16**. Despite its recently articulated confusion, Quanta never suggested to the district court that it did not know to whom it was supposed to turn over the property. *Id*. Quanta actually stated precisely the opposite: "Quanta is in the process of reaching out to the office of Constable Alan Rosen and counsel for Plaintiff to determine the specific method and process of handling this transfer." **Exhibit 14** (stating this in a filing on April 14, 2020). Quanta made this same representation under oath on April 14, 2020. **Exhibit 14**, Ex. A at ¶ 3.

On April 22, 2020, the court denied HP's request for a show cause hearing, instead ordering Quanta to fully comply with the Turnover Order by May 1, 2020 or show cause as to why it should not be held in contempt and sanctioned at a rate of $50,000 per day until it fully complies with the Turnover Order ("Contempt Order"). **Exhibit 3**. The court rejected Quanta's assertions related to its ability to comply. *Id*.

In response to the Contempt Order, Quanta, for the first time, filed a motion claiming it could not comply because it did not know to whom it was supposed to turn over the property. **Exhibit 17**. To eliminate any confusion, on April 27, 2020, the court specifically ordered Quanta to turn over the property and documents to "Constable Alan Rosen's office, Harris County Precinct 1, 1302 Preston, Suite 301, Houston, TX 77002." **Exhibit 18**. Because Quanta already had represented it was in the process of turning the property over to Alan Rosen's office on April 14, 2020, Judge Hittner refused to extend Quanta's deadline. *Id*.

In truth, therefore, Judge Hittner allowed Quanta a month (from April 1, 2020, to May 1, 2020) to comply with its order before facing sanctions. Nevertheless, Quanta did not turn over a *single* asset or a *singl*e piece of documentary evidence prior to filing this motion.[2]

[2] Quanta purportedly turned over its United States Patents and Trademarks yesterday, April 30, 2020, although the turnover includes requiring HP to agree to liquidated damages of $1.5 million in the event that the judgment is reversed. Regardless, Quanta still has failed to turn over a single document or any of its other non-exempt property (including $167 million in cash).

ARGUMENT

Four factors govern the decision to grant a stay pending appellate review:

(1) whether the movant has made a strong showing that it is likely to succeed on the merits of the appeal;

(2) whether the movant will be irreparably injured absent a stay;

(3) whether a stay will substantially injure the other party; and

(4) where the public interest lies.

Texas v. EPA, 829 F.3d 405, 424 (5th Cir. 2016). "A stay is not a matter of right, even if irreparable injury might otherwise result to the appellant." *Id*.

As shown below, all factors weigh against the issuance of a stay in this case. Judge Hittner correctly denied the stay motion and his disciplined actions to enforce his judgment should be respected.

A. Quanta has not shown a strong likelihood of success on the merits of its appeal.

Quanta advances two arguments related to its appeal of the Turnover Order and the Contempt Order: (1) Judge Hittner abused his discretion because his orders compel Quanta to violate Taiwanese law; and (2) Judge Hittner abused his discretion because his orders compel Quanta to domesticate HP's Judgement in Taiwan. Neither argument is supported by law or facts. Accordingly, Quanta has *not* made the requisite "strong showing" that it is likely to succeed on the merits of its appeal, and the motion should be denied.

1. The Court did not abuse its discretion in relation to the Turnover Order.

A district court's turnover order is reviewed only for an abuse of discretion and may be reversed only if the court acted in an unreasonable or arbitrary manner. *Santibanez v. Wier McMahon & Co.*, 105 F.3d 234, 239 (5th Cir. 1997). Moreover, even if "predicated on an erroneous conclusion of law, [a turnover order] will not be reversed for abuse of discretion if the judgment is sustainable for any reason." *Id.*

Under Texas law, which governs enforcement of this judgment, "[a]ssets of a judgment debtor that are located in whole or in part outside of the state of Texas, including property in foreign countries, are properly subject to turnover." *DiAthegen, LLC v. Phyton Biotech, Inc.*, A-12-CV-1146-LY, 2013 WL 12116146, at *2 (W.D. Tex. Sept. 11, 2013); *see also Lozano v. Lozano*, 975 S. W.2d 63, 68 (Tex. App.—Houston [14th Dist.] 1998, pet. denied) (ordering turnover of real property in Mexico); *Reeves v. Fed. Sav. & Loan Ins. Corp.*, 732 S.W.2d 380, 381 (Tex. App.—Dallas 1987, no writ) (ordering turnover of real property in Portugal). Quanta does not challenge this principle. Accordingly, the district court did not abuse its discretion in relation to the Turnover Order.

2. The Court did not abuse its discretion in relation to the Contempt Order.

Because the district court had entered an enforceable final judgment and a valid turnover order to aid enforcement, Quanta was under an obligation to comply. When Quanta refused, the district court had no choice but to threaten contempt.

"A party commits contempt when he violates a definite and specific order of the court requiring him to perform or refrain from performing a particular act or acts with knowledge of the court's order." *Travelhost, Inc. v. Blandford*, 68 F.3d 958, 961 (5th Cir. 1996); *see also Shafer v. Army & Air Force Exchange Serv.*, 376 F.3d 386, 396 (5th Cir. 2004). "A movant in a civil contempt proceeding bears the burden of establishing by clear and convincing evidence: (1) that a court order was in effect, (2) that the order required certain conduct by the respondent, and (3) that the respondent failed to comply with the court's order." *Test Masters Educ. Servs., Inc. v. Singh*, 428 F.3d 559, 581–82 (5th Cir. 2005).

To be clear, "the question is not one of intent but whether the alleged contemnors have complied with the court's order." *Jim Walter Res., Inc. v. Int'l Union, United Mine Workers of Am., et al.*, 609 F.2d 165, 168 (5th Cir. 1980). "Willfulness is [also] not an element of civil contempt." *Petroleos Mexicanos v. Crawford Enters., Inc.*, 826 F.2d 392, 401 (5th Cir. 1987). Once the movant has established the failure to comply with an order, the respondent bears the burden of showing mitigating circumstances that might permit the court to withhold exercising its contempt power. *Whitfield v. Pennington*, 832 F.2d 909, 914 (5th Cir. 1987). Under these principles, Quanta has demonstrated no reason it should not be held in contempt for its ongoing refusal to comply with the Turnover Order.

It is undisputed that Quanta has not complied with the Turnover Order. Accordingly, Quanta's only argument is that the district court abused its discretion by failing to accept two purported "mitigating circumstances": (1) compliance would violate Taiwanese law; and (2) compliance would require Quanta to domesticate the judgment in Taiwan. The evidence presented by Quanta does not support either of these arguments.

a. The only evidence in the record establishes that Taiwanese law does not prevent compliance.

Quanta's unsupported assertion that Taiwanese law prevents compliance was thoroughly addressed before the district court. *See* **Exhibits 4–7**.

Initially, Quanta argued that Taiwan Securities and Exchange Act § 36-1 prevents it from turning over assets pursuant to a foreign court order without the judgment being recognized first in Taiwan. **Exhibit 14**. But rather than attaching this statute to its filing, Quanta instead submitted an affidavit of its in-house counsel: Jake Wang. *Id*. at Ex. A. Tellingly, Mr. Wang's declaration never actually states that this statute (or any other statute) prevents compliance. *Id*. Instead, it just alludes to this possibility with non-committal generalizations. *Id*.

In response, HP provided the court with the text of the statute and regulations. **Exhibit 6** at Exs. A, B. These statutes and regulations provide no such restrictions. *Id*. In fact, they do not even mention the turnover or transfer of property pursuant to a foreign court order or the need to domestic a judgment in Taiwan. *Id*.

Faced with the actual statute and regulations, Quanta retreated and submitted a new declaration from Mr. Wang clarifying that it is actually Quanta's *internal procedures* that allegedly prevent compliance with the court's Turnover Order.[3] **Exhibit 16** at Ex. A. Now, Mr. Wang asserted that Quanta's *internal procedures* require board approval prior to any turnover of asserts. *Id*. Mr. Wang also stated, without any foundation, that he does not "*expect*" that the board would approve such a turnover without a domesticated judgment. *Id*. In other words, Mr. Wang "expected" Quanta's board of directors to defy the Turnover Order.

To be clear, the Turnover Order is directed to Quanta, its management, and its board of directors. *Wilson v. United States*, 221 U.S. 361, 376 (1911) ("A command to the corporation is in effect a command to those who are officially responsible for the conduct of its affairs. If they, apprised of the writ directed to the corporation, prevent compliance or fail to take appropriate action within their power for the performance of the corporate duty, they, no less than the corporation itself, are guilty of disobedience, and may be punished for contempt."). Thus, "executive officers" are "subject to contempt changes" if they instruct non-compliance with a court order. *Am. Airlines, Inc. v. Allied Pilots Ass'n*, 228 F.3d 574, 581 (5th Cir. 2000).

[3] Quanta did not supply the court (or HP) with these alleged internal procedures. For this reason, HP objected to Mr. Wang's declaration for lack of foundation, lack of personal knowledge, and because the procedures themselves are the best evidence of the assertions being made by Quanta.

Next, Mr. Wang clarified that instead of preventing Quanta from complying, the regulations simply require that Quanta get two professional appraiser's reports prior to the disposition of any real property valued at over $33.43 million (and do not affect, at all, Quanta's compliance in regard to its extensive non-real property). Predictably, Mr. Wang did not say what efforts, if any, Quanta had made to obtain any appraisals of its real property.

To summarize the record before Judge Hittner, Mr. Wang (whose declarations are Quanta's only evidence on the issue) never actually stated that Taiwanese law prevented Quanta's compliance with the Turnover Order. On the other hand, HP submitted the declaration of a 30-year Taiwanese lawyer who explained that the statutes cited by Quanta *do not* prevent compliance in relation to Quanta's intellectual property, $167 million in cash, its real property after Quanta obtains the necessary appraisals, or any of its other non-exempt property. **Exhibit 7** at Ex. B. The district court correctly rejected Quanta's arguments.

Prior to its Motion to Stay the Turnover Order Pending Appeal, Quanta had not argued that Taiwanese emergency orders related to COVID-19 prevented the turnover of property. Like its original arguments, Quanta's newfound assertion that Taiwanese emergency orders related to COVID-19 prevent it from complying is unsupported by the record.

First, Quanta failed to cite to and/or provide the court a copy of the purported "emergency orders" that "effectively commandeer Quanta's assets, manpower, and managerial and operational capacities for use by the Taiwanese government in fighting COVID-19." This is likely because they do no such thing.

Quanta again merely relied on the declarations from Mr. Wang, in which Mr. Wang made three statements related to these purported "emergency orders": (1) Quanta transitioned *some of* its production lines to make face masks for its *own employees*, **Exhibit 14** at Ex. A, ¶ 6; (2) Quanta is required to screen its employees that travel to the People's Republic of China, *id*. at ¶ 5; and (3) Quanta is required to provide its employees' tracking data to the local government for case identification and containment, *id*. at ¶ 6. *See generally* **Exhibits 14–16** at Ex. A.

Wang did not identify what percentage of Quanta's production facilities were impacted by its production of face masks, or even for how long it produced masks. With fewer than 400 confirmed cases, Taiwan's President declared nearly two weeks ago that it had "effectively managed the containment of the corona-virus within our borders." *See* **Exhibit 4** at Ex. A, Tsai Ing-Wen, *President of Taiwan: How My Country Prevented a Major Outbreak of COVID-19*, TIME, Apr. 16, 2020, *available* https://time.com/collection/finding-hope-coronavirus-pandemic/5820596/taiwan-coronavirus-lessons/. Quanta's nonspecific claim to the impact of emergency orders does not satisfy its burden and the district court rightfully rejected it.

Similarly, Quanta made no effort to substantiate how its efforts to contain employees who traveled to China and to take its employees' temperatures make it impossible to comply with the district court's orders. For example, a wire transfer of cash to Constable Rosen requires little effort beyond instructions directed to a financial institution. Quanta's arguments are fanciful and the district court correctly saw through them. It certainly did not abuse its discretion.

On this record, Quanta has not shown a substantial likelihood of success on its appeal of the Turnover Order and the Contempt Order.

b. This Court's order does not require Quanta to domesticate the judgment in Taiwan.

The district court ordered Quanta to turn over (1) all non-exempt property and (2) any documentary evidence of its non-exempt property. **Exhibit 2**. The court has *not* issued an order requiring Quanta to domesticate the judgment in Taiwan. Moreover, as shown above, Quanta has not cited to or otherwise presented evidence that Taiwanese law requires a domesticated judgment prior to turning over assets pursuant to a foreign court order. In fact, this record establishes just the opposite:

> [Taiwanese] Regulations do not require a foreign judgment or court order be recognized by a Taiwanese court prior to a public company disposing of assets pursuant to a foreign judgment or court order.

Exhibit 7 at Ex. B at ¶ 7; *see also id* at ¶ 10 (noting that Article 402 of Taiwan Code of Civil Procedure does not bar the ability of a foreign court to order the turnover of property located in Taiwan or hold a party in contempt for doing so).

3. Quanta's purported success on its appeal of the jury verdict is irrelevant.

Quanta's arguments related to its appeal of the jury verdict are irrelevant—and unfounded in any event.

First, because Quanta failed to post the reduced bond set by Judge Hittner, HP is entitled to enforce its judgment regardless of a pending appeal on the merits. *See* Fed. R. Civ. P. 62(a)–(b). As such, Quanta's arguments related to the purported merits of its appeal of the jury verdict are irrelevant.

Nevertheless, as shown by HP's Appellee's Brief (which will be filed today), Quanta does not have a strong chance of prevailing on the merits of its appeal. Quanta's sole argument on appeal is a challenge the jury's finding on damages based on arguments it did not preserve in a Rule 50(a), which are subject to plain error. Under any standard of review, the judgment will be upheld because the evidence supported the jury's verdict. And under the plain error standard that will control, affirmance will be especially straightforward.

B. Quanta will not be irreparably injured.

Quanta advances two purported "irreparable injuries": (1) the district court's orders supposedly compel Quanta to violate Taiwanese law; and (2) the orders supposedly threaten the health and safety of the Taiwanese public.

As shown above, Taiwanese law does *not* prevent compliance. Accordingly, Judge Hittner correctly found this argument does not establish an irreparable injury.

Similarly, there is no evidence that Quanta is doing anything to protect the general public from COVID-19. Quanta is a tech company manufacturing optical disk drives and robotics arms. Quanta is *not* a medical supplies company and there is no evidence that Quanta is producing face masks for the general public. Further, Quanta does not offer proof that if it were to stop making masks for its employees (if, in fact, it is still doing so), it would be unable to obtain those masks elsewhere. *See* **Exhibit 4** at Ex. A (President of Taiwan noting "[h]ere, masks are available and affordable to both hospitals and the general public."). This argument is a scarecrow, and Judge Hittner correctly rejected it as unsupported by the evidence.

As Quanta has not presented any evidence supporting its purported "irreparable injury," this factor does not support the issuance of a stay.

C. HP will be substantially injured by a stay.

HP, on the other hand, will be substantially injured if a stay is issued.

As evidenced by the jury's finding on Quanta's liability, which is uncontested, Quanta's regular course of business involves an utter disregard for the laws of the United States. Quanta willingly conspired with its competitors for several years in violation of U.S. antitrust laws. Given this backdrop, Quanta's assertion that HP will suffer no harm because Quanta has been enjoined not to dispose of its assets rings hollow. If Quanta respected U.S. laws, there would be no judgment to enforce; asking HP simply to trust it to act in good faith is difficult to take seriously.

Put plainly, Quanta is a foreign entity without a physical presence in the United States that has already demonstrated its disdain for American laws. As such, the enforcement mechanisms ordered by the court, including the Contempt Order, are necessary to ensure the satisfaction of the $438,650,000 judgment. Moreover, Quanta's refusal to post the reduced bond of $85,000,000 (50% less than its cash on hand and roughly 25% of its total assets) demonstrates its expectation that HP will never collect the judgment against it—and the risk that Quanta will attempt to shield its assets from collection efforts.

Additionally, Quanta's stock performance over the past year indicates it is a company on the decline. **Exhibit 19** (screenshot of Quanta's stock performance). Accordingly, even if Quanta were a trustworthy entity, HP faces the real possibility that its ability to collect on its judgment (which Quanta asserts is already worth more than Quanta's total assets) will be eroded by a stay.

Accordingly, this factor also weighs against the issuance of a stay.

D. Public interest supports enforcing antitrust judgements.

Quanta is a tech company that makes optical disk drives and robotics arms. Quanta is *not* a medical supplies company and there is no evidence Quanta is producing face masks for the general public. Accordingly, Quanta's purported "public interest" favoring a stay is a façade. Judge Hittner correctly rejected it.

In contrast, the principal purpose of awarding treble damages in antitrust cases is to deter antitrust violations and protect the integrity of our competitive economy. *Lehrman v. Gulf Oil Corp.*, 500 F.2d 659, 667 (5th Cir. 1974). Allowing a foreign entity to escape enforcement of a treble-damages judgment would compromise this bedrock principle of antitrust laws. To protect the public's interest in deterring future violations of American antitrust laws, immediate enforcement of the judgment is necessary and proper. Failing to do so would send the signal that judgment debtors may defy valid and enforceable judgments with impunity, which can only lead to disrespect for the courts and the rule of law. That way lies chaos.

CONCLUSION

For the foregoing reasons, this Court should deny the motion to stay.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2020, a copy of the foregoing response was filed electronically with the Clerk of the Court using the Court's ECF System. Notice of this filing will be sent electronically by operation of the Court's electronic filing system to all counsel of record:

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CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitation of Fed. R. App. P. because: this document contains 3,895 words.

2. This document complies with the typeface requirements of Fed. R. App. P. and the type style requirements of Fed. R. App. P. because: this motion has been prepared in a proportionally spaced typeface using Microsoft Word in 14 pt. font.

Dated: May 1, 2020.

/s/ *Russell S. Post*
Russell S. Post

Exhibit 8

COURTROOM MINUTES

JUDGE Hittner PRESIDING

COURTROOM CLERK E. Alexander

COURT REPORTER Laura Wells

LAW CLERK Pat Fackrell

MORNING SESSION _____ AFTERNOON SESSION 2:00 - 6:00 DATE: 10/15/19

DOCKET ENTRY

(DH) 4:18-762 (Rptr- Wells)
(PROCEEDINGS: Jury Selection and Trial)

Hewlett-Packard Co., V. Toshiba Corporation, et al.

Appearances: For Plaintiff: A. Dawson, A. Roberts, G. Brawley

For Defendants: David Carman

Jury Selection held. Jury trial held and continued to October 16, 2019 at 10:00 a.m. Testimony taken.

Witnesses: Russell Hudson

Exhibit 9

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Hewlett-Packard Company,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civ. A. No. 4:18-00762
	§	
Quanta Storage, Inc. and	§	
Quanta Storage America, Inc.	§	
	§	
Defendants.	§	

JURY CHARGE

Instruction No. 1

GENERAL CHARGE TO THE JURY

MEMBERS OF THE JURY:

It is my duty and responsibility to instruct you on the law you are to apply in this case. The law contained in these instructions is the only law you may follow. It is your duty to follow what I instruct you the law is, regardless of any opinion that you might have as to what the law ought to be.

If I have given you the impression during the trial that I favor either party, you must disregard that impression. If I have given you the impression during the trial that I have an opinion about the facts of this case, you must disregard that impression. You are the sole judges of the facts of this case. Other than my instructions to you on the law, you should disregard anything I may have said or done during the trial in arriving at your verdict.

You should consider all of the instructions about the law as a whole and regard each instruction in light of the others, without isolating a particular statement or paragraph.

The testimony of the witnesses and other exhibits introduced by the parties constitute the evidence. The statements of counsel are not evidence; they are only arguments. It is important for you to distinguish between the arguments of counsel and the evidence on which those arguments rest. What the lawyers say or do is not

evidence. You may, however, consider their arguments in light of the evidence that has been admitted and determine whether the evidence admitted in this trial supports the arguments. You must determine the facts from all the testimony that you have heard and the other evidence submitted. You are the judges of the facts, but in finding those facts, you must apply the law as I instruct you.

You are required by law to decide the case in a fair, impartial, and unbiased manner, based entirely on the law and on the evidence presented to you in the courtroom. You may not be influenced by passion, prejudice, or sympathy you might have for the plaintiff or the defendants in arriving at your verdict.

Plaintiff Hewlett-Packard Company has the burden of proving its case by a preponderance of the evidence. To establish by a preponderance of the evidence means to prove something is more likely so than not so. If you find that plaintiff has failed to prove any element of its claim by a preponderance of the evidence, then it may not recover on that claim.

The fact that a company brought a lawsuit and is in court seeking damages creates no inference that the company is entitled to a judgment. Anyone may make a claim and file a lawsuit. The act of making a claim in a lawsuit, by itself, does not in any way tend to establish that claim and is not evidence.

The evidence you are to consider consists of the testimony of the witnesses, the documents and other exhibits admitted into evidence, and any fair inferences and reasonable conclusions you can draw from the facts and circumstances that have been proven.

Generally speaking, there are two types of evidence. One is direct evidence, such as testimony of an eyewitness. The other is indirect or circumstantial evidence. Circumstantial evidence is evidence that proves a fact from which you can logically conclude another fact exists. As a general rule, the law makes no distinction between direct and circumstantial evidence, but simply requires that you find the facts from a preponderance of all the evidence, both direct and circumstantial.

In weighing the credibility of a witness, you may consider the fact that he or she has previously been convicted of a felony. Such a conviction does not necessarily destroy the witness's credibility, but it is one of the circumstances you may take into account in determining the weight to give to his or her testimony.

You alone are to determine the questions of credibility or truthfulness of the witnesses. In weighing the testimony of the witnesses, you may consider the witness's manner and demeanor on the witness stand, any feelings or interest in the case, or any prejudice or bias about the case, that he or she may have, and the consistency or inconsistency of his or her testimony considered in the light of the

circumstances. Has the witness been contradicted by other credible evidence? Has he or she made statements at other times and places contrary to those made here on the witness stand? You must give the testimony of each witness the credibility that you think it deserves.

You are not to decide this case by counting the number of witnesses who have testified on the opposing sides. Witness testimony is weighed; witnesses are not counted. The test is not the relative number of witnesses, but the relative convincing force of the evidence. The testimony of a single witness is sufficient to prove any fact, even if a greater number of witnesses testified to the contrary, if after considering all of the other evidence, you believe that witness.

You have heard and/or shall consider testimony from Shang Hao ("Haw") Chen, Shu Ming Tzeng, and Ya-Ping ("Sally") Huang refusing to answer certain questions about his or her work for Quanta Storage, Inc. or Quanta Storage America, Inc. Mr. Chen and Ms. Tzeng were employees of Quanta Storage Inc. during the relevant time. Ms. Huang was an employee of Quanta Storage America, Inc. while she lived in the United States, and was employed by Quanta Storage, Inc. while she lived outside the U.S. They each refused to answer certain questions on the grounds that his or her answers might be incriminating. A witness has a constitutional right to decline to answer on the grounds that their answer might incriminate them.

You may, but are not required to, infer by the witness's refusal to answer that the answers to the questions posed would have been adverse to Quanta Storage, Inc. and/or Quanta Storage America, Inc.'s interests. You may not base your verdict solely on that adverse inference.

Certain testimony has been presented to you through a deposition. A deposition is the sworn, recorded answers to questions a witness was asked in advance of the trial. Under some circumstances, if a witness cannot be present to testify from the witness stand, that witness's testimony may be presented, under oath, in the form of a deposition. Some time before this trial, attorneys representing the parties in this case questioned this witness under oath. A court reporter was present and recorded the testimony. The questions and answers have been shown to you during trial. This deposition testimony is entitled to the same consideration and weighed and otherwise considered by you in the same way as if the witness had been present and had testified from the witness stand in court.

A typewritten transcript of an oral conversation, which can be heard on a recording received in evidence as Exhibits 340-357 was admitted. The transcripts also purport to identify the speakers engaged in such conversation. I have admitted the transcripts as Exhibits 340-357 for the limited and secondary purpose of aiding you in following the content of the conversation as you listen to the recording, and also to aid you in identifying the speakers.

You are specifically instructed that whether the transcripts correctly or incorrectly reflect the contents of the conversations or the identity of the speakers is entirely for you to determine, based on your evaluation of the testimony you have heard about the preparation of the transcripts and on your own examination of the transcripts in relation to your hearing of the recordings themselves as the primary evidence of their own contents. If you should determine that the transcripts are in any respect incorrect or unreliable, you should disregard them to that extent.

When knowledge of technical subject matter may be helpful to the jury, a person who has special training or experience in that technical field is permitted to state his or her opinion on those technical matters. However, you are not required to accept that opinion. As with any other witness, it is up to you to decide whether to rely on it.

Certain parties are no longer involved in this litigation. As jurors, it is your duty to consider the issues among the remaining parties. Do not concern yourself with the fact that companies which were discussed during the trial are not parties to this lawsuit.

Instruction No. 2

PARTIES AND CLAIMS

In these instructions, I will refer to the Plaintiff Hewlett-Packard Company as "plaintiff." I will refer to the Defendants Quanta Storage, Inc. and Quanta Storage America, Inc. as "defendants."

Although there are two defendants in this action, it does not follow from that fact alone that if one defendant is liable to the plaintiff, both defendants are liable. Each defendant is entitled to a fair consideration of the evidence. Neither defendant is to be prejudiced should you find against the other. All instructions I give you govern the case as to each defendant. In considering a claim against a defendant, you must not consider evidence admitted only against the other defendant.

In this case, plaintiff alleges that defendants violated the federal antitrust laws by entering into a conspiracy that unreasonably restrained trade, and by engaging in price-fixing.

Defendants deny that they have engaged in any unlawful conduct or in any way violated the federal antitrust laws.

Instruction No. 3

PURPOSE OF ANTITRUST LAWS

This case involves alleged violations of a federal antitrust law called the Sherman Act. The purpose of this antitrust law is to preserve free and unfettered competition in the marketplace. The law rests on the central premise that competition produces the best allocation of our economic resources, the lowest prices, the highest quality, and the greatest material progress.

Instruction No. 4

THE SHERMAN ACT

The Sherman Act prohibits contracts, combinations, or conspiracies that unreasonably restrain trade in interstate commerce. Any agreement between or among competitors to fix, raise, or stabilize prices constitutes an unreasonable and illegal restraint of trade under the Sherman Act.

Instruction No. 5

ELEMENTS – CONSPIRACY TO FIX PRICES

Plaintiff claims that it was injured because defendants participated in an agreement to fix or stabilize the prices of optical disk drives. To prevail against defendants on this price-fixing claim under the Sherman Act, plaintiff must prove, as to defendants, each of the following elements:

(1) That an agreement or agreements to fix or stabilize the prices of optical disk drives existed among competing sellers of those drives;

(2) That defendants knowingly participated in such an agreement to fix or stabilize prices;

(3) That such an agreement occurred in, or affected, interstate commerce; and

(4) That the agreement in which defendants participated caused plaintiff to suffer an injury to its business or property.

Instruction No. 6

EXISTENCE OF A CONSPIRACY

An agreement between two or more competitors exists when they share a commitment to a common scheme. To establish the existence of an agreement, the evidence need not show that the competitors entered into any formal or written agreement. The agreement itself may have been entirely unspoken. A person can participate in a price-fixing agreement without full knowledge of all of the details of the overall agreement, the identity of all the participants, or the parts each participant plays in the agreement. Participants in a price-fixing agreement need not necessarily have met together, directly stated what their object or purpose was to one another, or stated the details or the means by which they would accomplish their purpose. To prove an agreement existed, the evidence must show that the participants in the agreement came to an understanding among themselves to accomplish a common purpose.

An agreement may be formed without all participants coming to an agreement at the same time. Similarly, it is not essential that all participants acted exactly alike, nor is it necessary that they all possessed the same motive for entering the agreement. It is also not necessary that all of the means or methods claimed by plaintiff were agreed upon to carry out the agreement, nor that all of the means or methods that were agreed upon were actually used or put into operation, nor that all alleged participants were actually participants. It is the agreement to fix or stabilize optical disk drive ("ODD") prices that constitutes the pertinent agreement. You may find an agreement existed even if it did not succeed in all particulars.

Plaintiff may prove the existence of the agreement through direct evidence, circumstantial evidence, or both. Direct evidence is explicit and requires no inferences to establish the existence of the agreement.

Direct evidence of an agreement may not be available, and, therefore, an agreement may also be shown through circumstantial evidence. You may infer the existence of an agreement from the circumstances, including what you find the participants actually did and the words they used. Mere similarity of conduct among various persons, however, or the fact that they may have associated with one another and may have met or assembled together, does not, by itself, establish the existence of the claimed agreement. If they acted similarly but independently of

one another, without any agreement among them, then the claimed agreement would not exist.

In determining whether an agreement between one or more competitors has been proved, you must view the evidence as a whole, and not piecemeal. In particular, you should consider all of the evidence, as a whole, in determining whether any similarity or identity of prices resulted from competitors' independent judgment freely competing in the ODD market, or whether it resulted from an agreement among them.

Similarly, the fact that ODD sellers exchanged price information does not necessarily establish an agreement to fix or stabilize prices. There may be other, legitimate reasons why competitors might exchange price information. On the other hand, if you find that price information was exchanged, and defendants offer no reasonable explanation as to why prices were exchanged, you may consider that in determining whether the prices were being exchanged as part of a price-fixing agreement, together with all the other evidence relevant to the existence, or nonexistence, of such an agreement.

Instruction No. 7

KNOWING PARTICIPATION

Before you can find that defendants participated in an agreement among sellers to fix or stabilize ODD prices, the evidence must show that defendants knowingly joined in the price-fixing agreement at its inception, or at some later time, with the intent to further the purpose of the price-fixing agreement.

To act knowingly means to participate deliberately, and not because of mistake, accident, or other innocent reason. A person may participate in an agreement without full knowledge of all the details of the entire agreement among competitors, the identity of all participants, or the parts they played. Knowledge of the essential nature of the plan is enough. On the other hand, a person who has no knowledge of a price-fixing agreement, but happens to act in some way to help the agreement succeed, does not thereby become a participant.

A competitor who knowingly joins an existing price-fixing agreement, or who participates in only a part of the agreement with knowledge of the overall agreement, is just as responsible as if it had been one of those competitors who formed or began the agreement and participated in every part of it.

In determining whether defendants participated in an ODD price-fixing agreement, you should consider only the evidence about defendants' statements and conduct, including any evidence of defendants' knowledge and participation in

the events involved, and any other evidence of defendants' participation in an agreement.

You may not find that defendants participated in a price-fixing agreement based only on their association with, or knowledge of, price-fixing, but that is a factor you may consider in determining whether defendants participated.

If you find that a price-fixing agreement existed, then the acts and the statements of the participants in the price-fixing agreement are binding on all those you find were participants.

If you find that defendants participated in a price-fixing agreement, it is not a defense that defendants acted with good motives, that they thought their conduct was legal, or that their conduct may have had some good results.

Nor does it matter that agreed-upon prices were reasonable. If you find that a price-fixing agreement existed, it does not matter whether the prices agreed upon were high or low, or reasonable or unreasonable.

Likewise, it does not matter that ODD sellers competed in some respects, or failed to eliminate price competition among all of them. Nor does it matter that the price-fixing agreement did not extend to all products sold by the participant competitors, or did not affect all ODD customers or transactions. And it does not matter whether the participants stuck to their price-fixing agreement on every occasion.

Instruction No. 8

CONSIDER DAMAGES ONLY IF NECESSARY

If you have determined that defendants participated in a price-fixing agreement among competing ODD sellers that caused some injury to plaintiff, then you must determine the amount of damages to award to plaintiff. The proper way to calculate those damages is to determine the difference between the amounts actually paid by plaintiff for ODDs at the fixed or stabilized price, and the amounts plaintiff would have paid for the same volume of ODDs, had there been no agreement among competitors to fix or stabilize ODD prices. This is referred to as the overcharge.

Instruction No. 9

JOINT AND SEVERAL LIABILITY

Each participant in a conspiracy that violates the antitrust laws is jointly and severally liable for all of the damages resulting from the conspiracy. This means that each conspirator is fully liable for all of the damages caused by the conspiracy and not solely for damages caused by an individual conspirator. One who knowingly joins an ongoing conspiracy is liable for the previous acts of the other conspirators in furtherance of the conspiracy.

If you find that plaintiff has proven the existence of the alleged conspiracy, that one or both of the defendants participated in the conspiracy, and that plaintiff is entitled to recover damages based on the other instructions in this case, then defendants would be liable for all damages caused by the conspiracy.

Instruction No. 10

JURY DELIBERATIONS

It will soon be your duty to deliberate and to consult with one another in an effort to reach a verdict. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors. During your deliberations, do not hesitate to reexamine your own opinions and change your mind if you are convinced that you were wrong. But do not give up on your honest beliefs because the other jurors think differently, or just to finish the case.

Remember at all times, you are the judges of the facts. You have been allowed to take notes during this trial. Any notes that you took during this trial are only aids to memory. If your memory differs from your notes, you should rely on your memory and not on the notes. The notes are not evidence. If you did not take notes, rely on your independent recollection of the evidence and do not be unduly influenced by the notes of other jurors. Notes are not entitled to greater weight than the recollection or impression of each juror about the testimony.

When you go into the jury room to deliberate, you may take with you a copy of this charge, the exhibits that I have admitted into evidence, and your notes. You must select a presiding juror to guide you in your deliberations and to speak for you here in the courtroom.

Your verdict must be unanimous. After you have reached a unanimous verdict, your presiding juror must fill out the answers to the written questions on the verdict form and sign and date it. After you have concluded your service and I have discharged the jury, you are not required to talk with anyone about the case.

If you need to communicate with me during your deliberations, the presiding juror should write the inquiry and give it to the court security officer. After consulting with the attorneys, I will respond either in writing or by meeting with you in the courtroom. Keep in mind, however, that you must never disclose to anyone, not even to me, your numerical division on any question.

INTERROGATORIES

Conspiracy to Fix Prices by Quanta Storage, Inc.

Question No. 1

Did plaintiff prove, by a preponderance of the evidence, that Quanta Storage, Inc. participated in a conspiracy to fix, raise, maintain, and stabilize the prices of optical disc drives?

Yes ✓ No _____

If you answer "Yes," go to Question No. 2. If you answer "No," go forward to the section titled "Conspiracy to Fix Prices by Quanta Storage America, Inc."

Question No. 2

Did plaintiff prove, by a preponderance of the evidence, that Quanta Storage, Inc. knowingly, voluntarily, and intentionally participated in the conspiracy?

Yes ✓ No _____

If you answer "Yes," go to Question No. 3. If you answer "No," go forward to the section titled "Conspiracy to Fix Prices by Quanta Storage America, Inc."

Question No. 3

Did plaintiff prove, by a preponderance of the evidence, that it suffered an injury to its business or property as a result of the conspiracy?

Yes ✓ No _____

Now proceed to answer the following questions regarding Quanta Storage America, Inc.

Conspiracy to Fix Prices by Quanta Storage America, Inc.

Question No. 4

Did plaintiff prove, by a preponderance of the evidence, that Quanta Storage America, Inc. participated in a conspiracy to fix, raise, maintain, and stabilize the prices of optical disc drives?

Yes ✓ No _____

If you answer "Yes," go to Question No. 5. If you answer "No," stop and do not answer any further questions.

Question No. 5

Did plaintiff prove, by a preponderance of the evidence, that Quanta Storage America, Inc. knowingly, voluntarily, and intentionally participated in the conspiracy?

Yes ✓ No _____

If you answer "Yes," go to Question No. 6. If you answer "No," stop and do not answer any further questions.

Question No. 6

Did plaintiff prove, by a preponderance of the evidence, that it suffered an injury to its business or property as a result of the conspiracy?

Yes ✓ No _____

If your answer to either Question 3 or Question 6 was "Yes," answer Question No. 7. Otherwise, stop and do not answer any further questions.

Damages

Question No. 7

What is the amount of the overcharge that plaintiff paid as a result of the conspiracy to fix, raise, maintain, and stabilize the price of optical disc drives?

Answer in dollars and cents, if any. $ 176 MILLIONS
176,000,000.00

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Hewlett-Packard Company,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civ. A. No. 4:18-00762
	§	
Quanta Storage, Inc. and	§	
Quanta Storage America, Inc.	§	
	§	
Defendants.	§	

CERTIFICATE

We the jury return the foregoing as our unanimous verdict.

Exhibit 10

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY,	§	
	§	
Plaintiff,	§	Civ. A. No. 4:18-CV-00762
v.	§	
	§	
QUANTA STORAGE, INC. and QUANTA STORAGE AMERICA, INC.,	§	
	§	
	§	JURY TRIAL DEMANDED
	§	
Defendants.	§	

QUANTA STORAGE, INC.'S NOTICE OF APPEAL

Defendant Quanta Storage, Inc. hereby appeals to the United States Court of Appeals for the Fifth Circuit from the Final Judgment of October 23, 2019 (Dkt. No. 297), including all rulings adverse to Quanta Storage, Inc. made prior to entry of Final Judgment. Plaintiff Hewlett-Packard Company filed a Motion to Modify Judgment (Dkt. No. 300) on October 29, 2019, and that motion remains pending. In addition, Quanta Storage, Inc. filed a Renewed Motion for Judgment as a Matter of Law (Dkt. No. 316) on November 19, 2019, and Quanta Storage, Inc. also filed a Motion for New Trial (Dkt. No. 317) on November 19, 2019. Quanta Storage, Inc. files this Notice of Appeal in advance of the Court's rulings on all the above-mentioned motions. *See* Fed. R. App. P. 4(a)(4)(B)(i). By filing this Notice of Appeal while those motions remains pending, Quanta Storage, Inc. is not waiving or abandoning, but expressly continues to pursue, its arguments in opposition to

Plaintiff's Motion to Modify Judgment, and Quanta Storage, Inc.'s own (1) Renewed Motion for Judgment as a Matter of Law and (2) Motion for New Trial.

DATE: November 19, 2019

Respectfully submitted,

/s/ Marie R. Yeates

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ATTORNEYS FOR DEFENDANT QUANTA STORAGE. INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of November, 2019, all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing instrument via the Court's CM/ECF filing system.

/s/ Marie R. Yeates
Marie R. Yeates

Exhibit 11

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY, Plaintiff, v. QUANTA STORAGE INC. *and* QUANTA STORAGE AMERICA INC., Defendants.	§ § § § § § § § § § §	Civil Action No. H-18-762

ORDER

Pending before the Court are Hewlett-Packard Company's Motion to Modify Judgment (Document No. 300), Quanta Storage Inc.'s Renewed Motion for Judgment as a Matter of Law under Federal Rule of Civil Procedure 50(b) and Memorandum in Support (Document No. 316), Quanta Storage Inc.'s Motion for New Trial under Federal Rule of Civil Procedure 59 (Document No. 317), and Quanta Storage Inc.'s Motion for Judicial Notice (Document No. 318). Having considered the motions, submissions, and applicable law, the Court determines the motion to modify the judgment should be granted and the remaining motions should be denied.

I. BACKGROUND

This is an anti-trust case. On October 24, 2013, Plaintiff HP Inc. (formerly known as Hewlett-Packard Company) ("HP") filed this lawsuit against several defendants, including Defendants Quanta Storage Inc. ("Quanta Storage") and Quanta Storage America Inc. ("Quanta Storage America"). HP alleges Quanta Storage and Quanta Storage America (collectively, the "Quanta Defendants") participated in a conspiracy to artificially inflate prices of optical disk drives ("ODDs") in violation of the Sherman Act, 15 U.S.C. § 1 *et seq.* On November 15, 2013, this case was transferred to the United States District Court for the Northern District of California for consolidated pretrial proceedings before the Judicial Panel on Multi-district Litigation (the "MDL Panel"). On March 8, 2018, the MDL Panel remanded the case to this Court for trial.

On October 15, 2019, a jury trial on HP's claims against the Quanta Defendants commenced. On October 22, 2019, the jury returned a verdict in favor of HP in the amount of $176,000,000.00. On October 23, 2019, the Court entered judgment in accordance with the jury's verdict. On October 29, 2019, HP moved to modify the judgment. On November 19, 2019, Quanta Storage renewed its motion for judgment as a matter of law and further moved for a new trial and for the Court to take judicial notice of certain matters.

II. LAW & ANALYSIS

HP moves to modify the judgment. Quanta Storage renews its motion for judgment as a matter of law and further moves for a new trial and for the Court to take judicial notice of certain matters. The Court addresses each motion in turn.

A. HP's Motion to Modify the Judgment

HP moves to modify the judgment by first trebling the jury's verdict of $176,000,000.00 and then deducting certain settlement credits from the trebled award. Quanta Storage contends the evidence is insufficient to support the jury's verdict and further contends settlement credits should be deducted before any trebling occurs. Quanta Storage America did not respond to the motion. Under Local Rule 7.4, failure to respond is taken as a representation of no opposition. S.D. Tex. Local R. 7.4.

Under 15 U.S.C. § 15(a), "any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor . . . and shall recover threefold the damages by him sustained[.]" 15 U.S.C. § 15(a); *see also Hanover Shoe, Inc. v. United Shoe Mach. Corp.*, 392 U.S. 481, 489 (1968). A successful anti-trust plaintiff is therefore "entitled . . . to recover treble damages." *Affiliated Capital Corp. v. City of Hous.*, 793 F.2d 706, 712 (5th Cir. 1986). In cases where treble damages and settlement credits intersect, the Court must first

treble damages and then deduct settlement credits from the trebled award. *Sciambra v. Graham News Co.*, 841 F.2d 651, 658 (5th Cir. 1988).

On October 22, 2019, the jury returned a verdict in favor of HP. The jury unanimously found HP proved by a preponderance of the evidence, *inter alia*: (1) the Quanta Defendants knowingly, voluntarily, and intentionally participated in a conspiracy to fix, raise, maintain, and stabilize prices of ODDs; and (2) as a result, HP suffered injury to its business or property.[1] Based on the evidence presented, the jury unanimously awarded damages to HP in the amount of $176,000,000.00. Quanta Storage fails to demonstrate any reason the jury's unanimous findings should be disregarded.

As the successful anti-trust plaintiff, HP is therefore entitled to treble damages. Trebling the jury's verdict before deducting settlement credits results in $528,000,000.00. However, it is undisputed HP received certain settlement credits.[2] Taking the trebled award of $528,000,000.00 and deducting the undisputed settlement credits results in $438,650,000.00.

Quanta Storage contends, however, the award as trebled violates due process. Due process precludes "grossly excessive or arbitrary" awards of punitive damages. *Wellogix, Inc. v. Accenture, LLP*, 716 F.3d 867, 884 (5th Cir. 2013)

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[1] *Jury Verdict*, Document No. 296 at 18–19.

[2] *Declaration of Alistair B. Dawson*, Document No. 301, ¶ 3.

(quoting *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 416 (2003)). Treble damages are distinct from punitive damages in anti-trust suits. *Inv. Partners, L.P. v. Glamour Shots Licensing, Inc.*, 298 F.3d 314, 317–18 (5th Cir. 2002). "Unlike punitive damages, which punish a wrongdoer, treble-damages compensate an injured party." *Id.* at 317. Because treble damages are distinct from punitive damages and serve to compensate HP, a party the jury found was injured, the Court finds the award as trebled does not violate due process.

Based on the foregoing, HP is entitled to final judgment in the amount of $438,650,000.00. HP's motion to modify the judgment is therefore granted.

B. Quanta Storage's Renewed Motion for Judgment as a Matter of Law, Motion for a New Trial, & Motion for Judicial Notice

Quanta Storage renews its motion for judgment as a matter of law and further moves for a new trial and for the Court to take judicial notice of certain matters. Having considered the motions, submissions, and applicable law, the Court determines Quanta Storage's motions should be denied.

III. CONCLUSION

Accordingly, the Court hereby

ORDERS that Hewlett-Packard Company's Motion to Modify Judgment (Document No. 300) is **GRANTED**. The Court further

ORDERS that Quanta Storage Inc.'s Renewed Motion for Judgment as a Matter of Law under Federal Rule of Civil Procedure 50(b) and Memorandum in Support (Document No. 316) is **DENIED**. The Court further

ORDERS that Quanta Storage Inc.'s Motion for New Trial under Federal Rule of Civil Procedure 59 (Document No. 317) is **DENIED**. The Court further

ORDERS that Quanta Storage Inc.'s Motion for Judicial Notice (Document No. 318) is **DENIED**.

The Court will issue a separate amended final judgment.

SIGNED at Houston, Texas, on this 2 day of January, 2020.

DAVID HITTNER
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY, Plaintiff, v. QUANTA STORAGE INC. *and* QUANTA STORAGE AMERICA INC., Defendants.	§ § § § § § § § § § §	Civil Action No. H-18-762

AMENDED FINAL JUDGMENT

In accordance with the jury's unanimous verdict in favor of Plaintiff HP Inc. (formerly known as Hewlett-Packard Company) ("HP Inc.") and the Court's Order granting HP Inc.'s motion to modify the judgment, the Court hereby

ORDERS that judgment be entered in favor of HP Inc. in the amount of $438,650,000.00. This judgment shall include post-judgment interest in the maximum amount allowed by law until paid.

THIS IS A FINAL JUDGMENT.

SIGNED at Houston, Texas, on this 2 day of January, 2020.

DAVID HITTNER
United States District Judge

Exhibit 12

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY, *Plaintiff*, v. QUANTA STORAGE, INC. and QUANTA STORAGE AMERICA, INC., *Defendants*.	§ § § § § § § § § § §	Civ. A. No. 4:18-CV-00762

QUANTA STORAGE, INC.'S
OPPOSITION TO HP'S MOTION FOR POST-JUDGMENT RELIEF IN AID OF ENFORCING JUDGMENT AND EMERGENCY MOTION FOR RESTRAINING ORDER

Comes now, Defendant Quanta Storage, Inc. ("Quanta"), and files this Opposition to HP's Motion for Post-Judgment Relief in Aid of Enforcing Judgment and Emergency Motion for Restraining Order. In support thereof, Quanta would respectfully show the Court as follows:

INTRODUCTION

Plaintiff Hewlett-Package Company ("HP") is attempting to deprive Quanta of an appeal by asking this Court—while Quanta's appeal is ongoing—to take the drastic step of appointing a receiver to seize and sell Quanta's property, including Quanta's patents, copyrights, and trademarks, etc. *See* HP's Motion for Post-

Judgment Relief in Aid of Enforcing Judgment and Emergency Motion for Restraining Order, Doc. 402 ("Motion"). HP contends that this drastic remedy is required to protect against the threat that, while the case is on appeal, Quanta will dispose of its patents, copyrights, and trademarks. But the threat cited by HP is illusory. Quanta has already filed a Brief of Appellant in the Fifth Circuit, and that Brief raises a narrow challenge going only to the issue of proof of damages. Quanta attaches as Exhibit 2 to this Opposition a copy of its Brief of Appellant, already filed in the Fifth Circuit. HP can promptly file its Brief of Appellee, and Quanta will quickly file its reply brief so that this Fifth Circuit appeal will move forward rapidly.

Moreover, Quanta has no intention of disposing of any assets while the appeal is pending. To provide protection to HP, Quanta will stipulate to an injunction preventing Quanta, while its appeal is pending, from selling, transferring, or otherwise disposing of the very intellectual property assets that HP wants to seize to satisfy this judgment—*i.e.*, Quanta's patents, copyrights, and trademarks. Moreover, Quanta will also stipulate to an injunction preventing Quanta, while its appeal is pending, from selling, transferring, or disposing of any <u>other</u> assets outside the ordinary course of its business operations.[1]

[1] For example, for the avoidance of doubt, Quanta would continue to sell the products that it manufactures in the ordinary course of its business operations.

HP says that Quanta could prevent execution by filing a supersedeas bond (security for payment of the judgment), but Quanta is unable to procure such a bond for several reasons. First, the amount of the judgment exceeds Quanta's assets. *See* Exhibit 1 (Declaration of Jake Wang) ¶ 6. Second, Quanta's major assets are real property (*e.g.*, factories) in Taiwan and mainland China. *Id.* ¶ 7. Given the value and location of Quanta's assets, Quanta has been unable to locate any approved U.S. surety that will underwrite a half-a-billion-dollar bond for Quanta. *Id.* ¶¶ 6-9. In short, it is impossible for Quanta to post a bond to secure payment of this judgment.

Although Quanta cannot post a bond, Quanta can provide alternative security to HP. To provide such alternative security, Quanta will stipulate to an injunction prohibiting disposition of Quanta's assets during its appeal.

In no event should the Court appoint a receiver. Receivership is a drastic and disfavored remedy. Receivers are generally entitled to immunity, such that mistakes by a receiver are very difficult to correct. Moreover, if Quanta prevails on appeal, it will be nearly impossible to unwind a receivership. This Court should therefore deny HP's request for the Court to appoint a receiver.

ARGUMENT

I. HP is attempting to deprive Quanta of an appeal by destroying Quanta's business while Quanta's appeal is pending.

A receivership would effectively terminate Quanta's business. After all, HP seeks to have a receiver seize and sell the intellectual property that Quanta needs to operate its business. Exhibit 1 (Declaration of Jake Wang) ¶ 5. HP knows that if it can end Quanta's business, it can also end this litigation without ever having to have its judgment reviewed on appeal.

Such a result would be particularly inequitable given that Quanta believes that it has a legitimate appellate complaint to reverse the judgment given that (1) HP failed to prove damages sustained by HP itself, as opposed to HP's foreign subsidiaries, and (2) the charge, verdict, and judgment are all limited to damages sustained by HP and do not include any claims by HP's foreign subsidiaries.

HP failed to differentiate its own damages despite the fact that Quanta's counsel—through objections and cross-examination, and in its Rule 50(a) Motion for JMOL during trial—put HP on notice that it needed to differentiate purchases of ODDs by HP, on the one hand, from purchases of ODDs by HP's foreign subsidiaries, on the other. Quanta set out its arguments in its Fifth Circuit Brief of Appellant, a copy of which is attached hereto. In an effort to move the appeal as

quickly as possible, Quanta filed its Brief of Appellant on March 2 even though the Fifth Circuit had set the due date for Quanta's Brief of Appellant as April 4.

II. Quanta is unable to post a supersedeas bond for the amount of this judgment.

The judgment amount exceeds Quanta's assets, and the assets Quanta does possess are largely illiquid assets, such as factories and fixtures, located in Taiwan and mainland China. *Id.* ¶¶ 6-7. Given the value and location of Quanta's assets, Quanta has not identified any approved U.S. surety that will issue a bond for the half-a-billion-dollar amount of this judgment. *See* Exhibit 1 (Declaration of Jake Wang) ¶ 9.

III. Quanta can offer alternative security in lieu of a supersedeas bond.

Although Quanta cannot post a supersedeas bond, Quanta can offer HP other, adequate security. HP is seeking to appoint a receiver to seize and sell Quanta's intellectual property and to prevent Quanta from disposing of that intellectual property. Motion at 1-2. To provide security to HP, Quanta will stipulate to an injunction preventing Quanta, while its appeal is pending, from selling, transferring, or otherwise disposing of the very intellectual property assets that HP wants to access to satisfy this judgment—*i.e.*, Quanta's patents, copyrights, and trademarks. Quanta will also stipulate to an injunction preventing Quanta, while its appeal is

pending, from selling, transferring, or disposing of any other assets outside the ordinary course of its business operations.[2]

IV. In no event should the Court appoint a receiver.

A. A receivership is a drastic and disfavored remedy.

Even if HP were entitled to execute on the judgment, in no event should the Court allow execution through the appointment of a receiver. Federal Rule of Civil Procedure 69 governs the collection of money judgments. It says, "A money judgment is enforced by a writ of execution, unless the court directs otherwise." Rule 69 thus indicates that a writ of execution is the default procedure for collecting a money judgment.

As one of HP's cases makes clear, a receivership is distinct from a writ of execution and is not subject to the rules governing writs of execution. *See Childre v. Great Southwest Life Ins. Co.*, 700 S.W.2d 284, 286–87 (Tex.App.—Dallas 1985, no writ); Motion at 7 (citing *Childre*). HP's request for a receivership is thus a deviation from the default preference under Rule 69.

Rule 69's preference for writs of execution over receivership makes good sense. Courts have long recognized that receiverships are a "drastic remedy," *see*,

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[2] For example, for the avoidance of doubt, Quanta would continue to sell the products that it manufactures in the ordinary course of its business operations.

e.g., *Netsphere, Inc. v. Baron*, 703 F.3d 296, 305 (5th Cir. 2012); *Davidson-Wesson Implement Co. v. Parlin & Orendorff Co.*, 141 F. 37, 40 (5th Cir. 1905) (calling a receivership of the "most drastic character"), partly due to how "intrusive" they are, *see PNC Bank, N.A. v. 2013 Travis Oak Creek GP, LLC*, No. 1:17-CV-560-RP, 2018 WL 6433312, at *4 (W.D. Tex. Sept. 27, 2018); *2013 Travis Oak Creek GP, LLC v. PNC Bank, N.A.*, No. 1:17-CV-560-RP, 2017 WL 8774231, at *6 (W.D. Tex. June 19, 2017). Another reason receiverships should be disfavored is that receivers are typically entitled to judicial immunity, which makes abuses by receivers nearly impossible to remedy. *See Davis v. Bayless*, 70 F.3d 367 (5th Cir. 1995).

B. The Court has discretion to deny a receivership.

Even setting aside Rule 69's preference for writs of execution over receiverships, the relevant Texas law does not require the imposition of a receivership. Plaintiff relies on Texas Civil Practice & Remedies Code § 31.002. But any order under § 31.002 is committed to the District Court's discretion. *See Barlow v. Lane*, 745 S.W.2d 451, 454 (Tex. App.—Waco 1988, writ denied); *Charles v. Tamez*, 878 S.W.2d 201 (Tex. App.—Corpus Christi 1994, writ denied); *Beeler v. Fuqua*, 351 S.W.3d 428 (Tex. App.—El Paso, 2011, pet. denied). Thus, even if Rule 69 did not already discourage non-execution procedures like a

receivership, this Court would retain authority to determine whether some other procedure would be more appropriate.

C. This Court should deny a receivership.

In line with Rule 69's distaste for receiverships and the Court's discretion under state law, this Court should deny the request for a receivership. A receivership will irreversibly destroy Quanta's business and deprive Quanta of its appeal.

CONCLUSION AND PRAYER

If the relief requested by HP were granted, and then the judgment against Quanta were reversed on appeal, HP would be liable for wrongful execution. *See, e.g.*, *Ziemian v. TX Arlington Oaks Apartments, Ltd.*, 233 S.W.3d 548 (Tex. App.—Dallas 2007, no pet.). Quanta has already put HP's counsel on notice that it will pursue such wrongful execution remedies if the Fifth Circuit reverses the judgment.

For the foregoing reasons, this Court should grant in part and deny in part HP's Motion for Post-Judgment Relief in Aid of Enforcing Judgment and Emergency Motion for Restraining Order, Doc. 402. The Court should deny HP's request for the appointment of a receiver and the turnover of all Quanta's intellectual property. The Court should grant HP's request for a restraining order, but only restraining Quanta from disposing of non-exempt property outside the ordinary course of business.

DATE: March 3, 2020

Respectfully submitted,

/s/ Marie R. Yeates
Harry Reasoner
Southern Dist. No. 538
Marie R. Yeates
Southern Dist. No. 568
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Bryan U. Gividen
Southern Dist. No. 2839561
VINSON & ELKINS L.L.P.
2001 Ross Ave, Suite 3900
Dallas, Texas 75201

ATTORNEYS FOR DEFENDANT QUANTA STORAGE. INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of March, 2020, all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing instrument via the Court's CM/ECF filing system.

/s/ Marie R. Yeates
Marie R. Yeates
Attorney for Quanta Storage, Inc.

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Hewlett-Packard Company,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	Civ. A. No. 4:18-00762
Quanta Storage, Inc. and	§	
Quanta Storage America, Inc.,	§	
	§	
Defendants.	§	

DECLARATION OF JAKE WANG

I, Jake Wang, declare as follows:

1. I am over the age of 18 years old. I am the Head of Quanta Storage, Inc.'s ("Quanta") Legal and Intellectual Property Departments. The following facts are within my personal knowledge or made known to me through a review of the records and documents normally kept within the course of Quanta's business. If called upon to testify, I would and could competently testify to the following.

2. I am submitting this declaration in support of Quanta's Opposition to HP's Motion For Post-Judgment Relief in Aid of Enforcing Judgment and Emergency Motion For Restraining Order.

3. Quanta owns and controls 17 active patents and 4 trademarks that are registered in the United States. Quanta estimates that these patents and trademarks are worth approximately $834,000.00 (NT$24,766,000). Quanta has no copyrights or tangible assets in the United States.

4. Quanta agrees not to dispose of these patents and trademarks while its appeal is pending.

5. Having a receiver dispose of or restrict Quanta's use of these patents and trademarks would be an undue hardship on Quanta. It would significantly hinder Quanta's business and operations such that it would make it unlikely that Quanta would be able to continue operating in the United States while its appeal is pending, or, that Quanta would be able to pay Hewlett-Packard Company the judgment amount if its appeal is not successful.

6. True and correct copies of Quanta's financial statements are attached hereto as Exhibit A. These statements show that Quanta's total monetary value is less than the amount of the $438,650,000.00 judgment in this case. As of September 30, 2019, Quanta's assets totaled approximately $398,793,633.00 (NT$11,963,809,000). Its revenue is not likely to significantly increase this number in the near future. Quanta's net operating income for the first three quarters of 2019 was $13,397,800.00 (NT$401,934,000). During that same period in 2018, Quanta showed a net operating income *loss* of $1,641,000.00

(NT$49,230,000). Quanta's net non-operating income and expenses was $6,602,700.00 (NT$198,081,000) for the first three quarters of 2019 and $8,311,500 (NT$249,345,000) for the first three quarters of 2018. Quanta has other liabilities and losses as well.

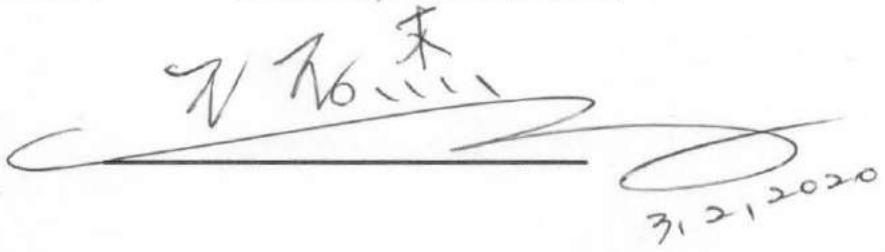
7. The majority of Quanta's assets are in Taiwan, Thailand, and China. Most of Quanta's assets, and in particular the most valuable ones, would be difficult to sell without significantly disrupting Quanta's business and operations. These include other entities and real property. These types of fixed assets cannot be reasonably moved to the United States, and selling them would be an undue hardship on Quanta. It would make it unlikely that Quanta would be able to continue operating any part of its business while its appeal is pending, or, that Quanta would be able to pay Hewlett-Packard Company the judgment amount if its appeal is not successful.

9. I contacted three surety companies to try and secure a bond in the amount of $500,000,000.00. True and correct copies of the emails sent to surety companies for this purpose are attached hereto as Exhibit B. All of these companies refused to underwrite a bond for Quanta in this amount or did not respond as of my signing this Declaration.

10. Even if a surety company were willing to post such a bond for Quanta, the amount required to do so is likely to be an undue hardship on Quanta. It would hinder, and possibly obliterate, its ability to operate.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: March 2nd, 2020 in California.



3/2/2020

EXHIBIT A

Back>>

Financial Statement – Balance Sheet

Provided by: Quanta Storage Inc.
Finacial year: Yearly
Unit: NT$ thousand

Accounting Title	2019/09/30	2018/12/31	2018/09/30
Balance Sheet			
Assets			
Current assets			
Cash and cash equivalents	5,015,483	4,156,758	3,851,141
Current financial assets at fair value through profit or loss	292,608	1,247,162	1,427,683
Current financial assets at fair value through other comprehensive income	935,124	894,115	882,502
Notes receivable, net	0	0	446
Accounts receivable, net	1,603,446	2,108,631	1,553,250
Other receivables	136,093	122,832	152,077
Current tax assets	38,597	226	44,112
Current inventories	1,546,301	1,222,091	1,197,402
Inventories, manufacturing business	1,546,301	1,222,091	1,197,402
Prepayments	65,963	95,466	36,939
Other current assets	630,549	4,313,344	5,913,498
Other current financial assets	630,549	4,313,344	5,913,498
Total current assets	10,264,164	14,160,825	15,059,050
Non-current assets			
Non-current financial assets at fair value through profit or loss	802	796	791
Non-current financial assets at fair value through other comprehensive income	4,482	73,750	77,905
Investments accounted for using equity method	35,754	34,013	33,177
Property, plant and equipment	1,209,021	1,191,786	1,183,807
Right-of-use assets	202,116	0	0
Intangible assets	24,766	30,527	27,843
Deferred tax assets	167,640	236,522	216,130
Other non-current assets	55,064	149,242	114,538
Net defined benefit asset, non-current	32,701	31,632	0
Other non-current financial assets	14,291	13,494	10,505
Other non-current assets, others	8,072	104,116	104,033
Other non-current assets, others	8,072	104,116	104,033
Total non-current assets	1,699,645	1,716,636	1,653,991
Total assets	11,963,809	15,877,261	16,713,041
Liabilities and equity			
Liabilities			
Current liabilities			
Current borrowings	350,400	3,848,750	5,506,200
Bank loan	350,400	3,848,750	5,506,200
Current financial liabilities at fair value through profit or loss	0	0	3,248
Current contract liabilities	418,294	328,325	310,110
Notes payable	10	0	0
Accounts payable	1,662,629	1,982,428	1,630,959
Other payables	914,144	1,101,511	951,650
Current tax liabilities	132,851	140,598	132,316
Current lease liabilities	43,203	0	0
Other current liabilities	97,308	145,949	126,221
Current refund liabilities	49,056	58,803	36,991
Other current liabilities, others	48,252	87,146	89,230
Total current liabilities	3,618,839	7,547,561	8,660,904
Non-current liabilities			
Deferred tax liabilities	297,202	308,779	286,067
Non-current lease liabilities	86,944	0	0
Other non-current liabilities	1,131	1,705	1,506
Net defined benefit liability, non-current	0	0	841
Other non-current liabilities, others	1,131	1,705	665
Total non-current liabilities	385,277	310,484	287,573
Total liabilities	4,004,116	7,858,045	8,948,477
Equity			
Equity attributable to owners of parent			
Share capital			
Ordinary share	2,783,589	2,783,589	2,783,589
Preference share	0	0	0
Certificate of entitlement to new shares from convertible bond	0	0	0
Advance receipts for share capital	0	0	0
Stock dividend to be distributed	0	0	0
Certificate of entitlement to new shares from preference share	0	0	0
Share capital awaiting retirement	0	0	0
Total capital stock	2,783,589	2,783,589	2,783,589
Capital surplus			
Capital surplus, additional paid-in capital	1,900,087	1,997,393	1,997,393
Total capital surplus	1,900,087	1,997,393	1,997,393

Retained earnings			
Total retained earnings	3,385,580	3,245,653	3,043,413
Other equity interest			
Total other equity interest	-104,053	-7,419	-59,831
Total equity attributable to owners of parent	7,945,203	8,019,216	7,764,564
Non-controlling interests	14,490	0	0
Total equity	7,959,693	8,019,216	7,764,564
Total liabilities and equity	11,963,609	15,877,261	16,713,041
Equivalent issue shares of advance receipts for ordinary share	0	0	0
Number of shares in entity held by entity and by its subsidiaries	0	0	0

Back>>

Financial Statement – Income Statement

Provided by: Quanta Storage Inc.
Finacial year: Yearly
Unit: NT$ thousand

Accounting Title	2019/3rd	2018/3rd	2019/01/01To2019/09/30	2018/01/01To2018/09/30
Statement of comprehensive income				
Operating revenue				
Net sales revenue				
Sales revenue	1,935,743	1,728,109	6,537,240	4,731,611
Sales returns	2,392	0	8,056	470
Sales discounts and allowances	-5,301	7,256	36,374	20,086
Net sales revenue	1,938,652	1,720,853	6,492,810	4,711,055
Total operating revenue	1,938,652	1,720,853	6,492,810	4,711,055
Operating costs				
Cost of sales				
Total cost of sales	1,534,715	1,406,957	5,148,159	4,056,737
Total operating costs	1,534,715	1,406,957	5,148,159	4,056,737
Gross profit (loss) from operations	403,937	313,896	1,344,651	654,318
Gross profit (loss) from operations	403,937	313,896	1,344,651	654,318
Operating expenses				
Selling expenses	95,356	82,977	330,418	211,968
Administrative expenses	98,308	89,674	277,609	212,195
Research and development expenses	117,381	111,368	341,503	290,497
Impairment loss (impairment gain and reversal of impairment loss) determined in accordance with IFRS 9	-682	-11,077	-6,813	-11,112
Total operating expenses	310,363	272,942	942,717	703,548
Net operating income (loss)	93,574	40,954	401,934	-49,230
Non-operating income and expenses				
Other income				
Total other income	74,748	89,182	156,085	171,804
Other gains and losses				
Other gains and losses, net	33,694	23,343	80,359	158,854
Finance costs				
Finance costs, net	9,595	21,041	40,105	81,901
Share of profit (loss) of associates and joint ventures accounted for using equity method				
Share of profit (loss) of associates and joint ventures accounted for using equity method, net	-775	66	1,742	588
Total non-operating income and expenses	98,072	91,550	198,081	249,345
Profit (loss) from continuing operations before tax	191,646	132,504	600,015	200,115
Tax expense (income)				
Current tax expense (income)	52,797	28,637	160,925	35,532
Total tax expense (income)	52,797	28,637	160,925	35,532
Profit (loss) from continuing operations	138,849	103,867	439,090	164,583
Profit (loss)	138,849	103,867	439,090	164,583
Other comprehensive income				

Components of other comprehensive income that will not be reclassified to profit or loss				
Unrealised gains (losses) from investments in equity instruments measured at fair value through other comprehensive income	-58,885	-33,415	-6,103	10,644
Components of other comprehensive income that will not be reclassified to profit or loss	-58,885	-33,415	-6,103	10,644
Components of other comprehensive income that will be reclassified to profit or loss				
Exchange differences on translation	-132,356	-167,333	-89,708	-83,877
Components of other comprehensive income that will be reclassified to profit or loss	-132,356	-167,333	-89,708	-83,877
Other comprehensive income, net	-191,241	-200,748	-95,811	-73,233
Total comprehensive income	-52,392	-96,881	343,279	91,350
Profit (loss), attributable to:				
Profit (loss), attributable to owners of parent	139,071	103,867	439,305	164,583
Profit (loss), attributable to non-controlling interests	-222	0	-215	0
Comprehensive income attributable to:				
Comprehensive income, attributable to owners of parent	-52,155	-96,881	343,406	91,350
Comprehensive income, attributable to former owner of business combination under common control	0	0	0	0
Comprehensive income, attributable to non-controlling interests	-237	0	-127	0
Basic earnings per share				
Total basic earnings per share	0.50	0.37	1.58	0.59
Diluted earnings per share				
Total diluted earnings per share	0.50	0.37	1.57	0.59

EXHIBIT B

[ACE Insurance/Chubb] Re. $500M Judgment Bond Service Request

jake.wang@qsitw.com <jake.wang@qsitw.com> Mon, Mar 2, 2020 at 11:34 AM
To: info@argolimited.com
Cc: jake.wang@qsitw.com

Greetings,

My name is Jake Wang, on behalf of Quanta Storage Inc., a company registered in Taiwan.

I've been told Argonaut Insurance Company Inc is part of ARGO Group, and you have an office in San Antonio, Texas.

[Quoted text hidden]

[ACE Insurance/Chubb] Re. $500M Judgment Bond Service Request

jake.wang@qsitw.com <jake.wang@qsitw.com> Mon, Mar 2, 2020 at 11:39 AM
To: info@cnasurety.com
Cc: jake.wang@qsitw.com

Greetings,

My name is Jake Wang, on behalf of Quanta Storage Inc., a company registered in Taiwan.

I've been told CAN Surety has a local agent located in Houston, Texas at 5151 San Felipe Ave.

[Quoted text hidden]

[ACE Insurance/Chubb] Re. $500M Judgment Bond Service Request

jake.wang@qsitw.com <jake.wang@qsitw.com> Mon, Mar 2, 2020 at 11:25 AM
To: cmaxwell@lockton.com
Cc: jake.wang@qsitw.com

Greetings,

My name is Jake Wang, on behalf of Quanta Storage Inc., a company registered in Taiwan.

I've been told ACE Insurance is now Chubb, and you are one of their local agents in Houston, Texas.

I am writing this email to ask whether your company is willing to take on this business by posting a $500M bond for Quanta.

Unfortunately, Quanta does not have any tangible assets within the United States jurisdiction, our assets are mainly in Taiwan and in China. and the judgment amount is US$500M.

I would appreciate your feedback before noon time on March 3rd. Thank you.

Jake S. Wang, Esq.

Head of Legal

Legal / IP Department

Quanta Storage Inc.

(626)873 4865

廣明光電股份有限公司
Quanta Storage Inc.

http://www.qsitw.com/

Exhibit 2

No. 19-20799

In the United States Court of Appeals for the Fifth Circuit

HEWLETT-PACKARD COMPANY,
Plaintiff – Appellee
v.
QUANTA STORAGE, INCORPORATED,
Defendant – Appellant

On Appeal from the U.S. District Court, Southern District of Texas
No. 4:18-CV-00762, Hon. David Hittner

BRIEF OF APPELLANT

Harry M. Reasoner
Marie R. Yeates
Michael A. Heidler
Bryan Gividen
VINSON & ELKINS LLP
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Houston, Texas 77002
Telephone: (713) 758-4576
Email: myeates@velaw.com

Attorneys for Appellant Quanta Storage, Inc.

CERTIFICATE OF INTERESTED PERSONS

(1) *Number and Style of Case*: No. 19-20799; Hewlett-Packard Company, Plaintiff – Appellee v. Quanta Storage, Incorporated, Defendant – Appellant.

(2) *Statement*: The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the Judges of this Court may evaluate possible disqualification or recusal.

Hewlett-Packard Company:

- Appellee/Plaintiff Hewlett-Packard Company, now known as HP, Inc., is a corporation organized and existing under the laws of Delaware. No parent corporation or publicly held corporation owns 10% or more of Hewlett-Packard Company's stock.

- The following attorneys have appeared for Appellee/Plaintiff Hewlett-Packard Company in this Court and in the District Court:

  Alistair B. Dawson (adawson@beckredden.com)
  Alex Benjamin Roberts (aroberts@beckredden.com)
  Russell Post (rpost@beckredden.com)
  Garrett Scott Brawley (gbrawley@beckredden.com)
  Beck Redden LLP
  1221 McKinney, Suite 4500
  Houston, TX 77010
  (713) 951-6225

Quanta Storage, Inc:

- Appellant/Defendant Quanta Storage, Inc. ("Quanta") is a business entity organized and existing under the laws of Taiwan.

- The following attorneys have appeared for Appellant/Defendant Quanta Storage, Inc. ("Quanta") in this Court or in the District Court:

  In the District Court:

  David A. Carman
  Wolk & Levine, LLP
  535 North Brand Boulevard, Suite 300

Glendale, California 91203
(818) 241-7499

Post-judgment in the District Court, the following counsel were added:

Harry M. Reasoner (hreasoner@velaw.com)
Marie R. Yeates (myeates@velaw.com)
Michael A. Heidler (mheidler@velaw.com)
VINSON & ELKINS LLP
1001 Fannin Street, Suite 2500
Houston, Texas 77002
Telephone: (713) 758-3256

In the Court of Appeals:

Harry M. Reasoner (hreasoner@velaw.com)
Marie R. Yeates (myeates@velaw.com)
Michael A. Heidler (mheidler@velaw.com)
Bryan Gividen (bgividen@velaw.com)
VINSON & ELKINS LLP
1001 Fannin Street, Suite 2500
Houston, Texas 77002
Telephone: (713) 758-3256

/s/ Marie Roach Yeates
Marie Roach Yeates
Attorney for Quanta Storage, Inc.

STATEMENT REGARDING ORAL ARGUMENT

In this antitrust case, the District Court entered a treble-damages judgment in the amount of $438,650,000. Given the significance of the amount in controversy and the important legal issues presented on appeal, Appellant Quanta Storage, Inc. respectfully requests the opportunity to present oral argument.

RECORD REFERENCES

The Record on Appeal is referred to herein using this Court's convention for citing the record, for example, "ROA.1."

The Supplemental Record on Appeal is referred to herein as SuppRec.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

CASES

STATUTES AND RULES

JURISDICTIONAL STATEMENT

Appellant/Defendant Quanta Storage, Inc. ("Quanta") appeals from the District Court's Amended Final Judgment awarding $438,650,000 in trebled antitrust damages against Quanta and in favor of Appellee/Plaintiff Hewlett-Packard Company ("HP"). ROA.5342; 28 U.S.C. §1291.

On October 23, 2019 the District Court entered a Final Judgment awarding $176,000,000 in actual antitrust damages against Quanta and in favor of HP.[1] ROA.3854. On October 29, 2019, Appellee/Plaintiff Hewlett-Packard Company ("HP") filed a Motion to Modify Judgment, thereby extending Quanta's deadline for filing a notice of appeal. ROA.3856-61; Fed. R. App. P. 4(a)(4)(A)(i). On November 19, 2019 Quanta timely filed a Rule 50(b) Motion for Judgment as a Matter of Law (ROA.3896-3918) and a Rule 59 Motion for New Trial (ROA.3920-3941), thereby further extending Quanta's deadline for filing a notice of appeal. Fed. R. App. P. 4(a)(4)(A)(i). While those motions were pending, Quanta filed a premature notice of appeal. ROA.5273-75; Fed. R. App. P. 4(a)(4)(B)(i).

The District Court entered an order on January 3, 2020 granting HP's Motion to Modify Judgment, denying Quanta's Rule 50(b) Motion for Judgment as a Matter

[1] Another defendant, Quanta Storage America, Inc., was also cast in judgment but has not filed a notice of appeal.

of Law, and denying Quanta's Rule 59 Motion for New Trial. ROA.5336-41; Fed. R. App. P. 4(a)(4)(B)(i).

On January 2, 2020, the District Court entered an Amended Final Judgment trebling the damages to $438,650,000. ROA.5342. On January 22, 2020, Quanta filed an Amended Notice of Appeal, appealing the Amended Final Judgment and the District Court's denial of Quanta's Rule 50(b) motion and Rule 59 motion. ROA.5345-47; Fed. R. App. P. 4(a)(4)(B)(ii). Also on January 22, 2020, Quanta filed a motion re-urging its renewed Motion for Judgment as a Matter of Law and Motion for New Trial as against the Amended Final Judgment. ROA.5347-53. On February 27, 2020 the District Court denied that motion. SuppRec.[2] On February 27, 2020, Quanta filed a Second Amended Notice of Appeal to clarify that Quanta is also appealing the District Court's order of February 27, 2020 that denied Quanta's re-urged motion for Judgment as a Matter of Law and Motion for New Trial. SuppRec.

[2] On February 28, 2020, Quanta filed a motion for a supplemental record on appeal to include matters docketed in the District Court after February 18, 2020. In this brief, that supplemental record on appeal is "SuppRec."

ISSUES PRESENTED

In this antitrust price-fixing case, the jury found $176,000,000 as the amount of damages sustained by Plaintiff Hewlett-Packard Company ("HP") based on Plaintiff HP's purchase of optical disk drives ("ODDs") impacted by the price-fixing conspiracy. In its Amended Final Judgment, the District Court trebled the damages to $438,650,000. The issues presented are:

1. Is there no legally sufficient evidence to support the jury's damages finding of $176,000,000 in actual damages (which the Court trebled to $438,650,000) because there is no legally sufficient evidence of what amount of ODDs were purchased by Plaintiff HP, as opposed to purchases of ODDs by HP's foreign subsidiaries whose claims were not included in the jury charge, verdict, or judgment?

2. Did the District Court abuse its discretion, and commit harmful error, by overruling Quanta's "no foundation" and "hearsay" objections to the testimony of HP's damages expert, Dr. Debra Aron, especially given that Dr. Aron testified to her "understanding—that all ODD purchases in the transactions she considered were made by HP, as opposed to HP's foreign subsidiaries—based on an unidentified out-of-court declarant's representation to her?

3. Is the jury's $176,000,000 actual damages finding (which the Court trebled to $438,650,000) against the great weight of the evidence because that finding assumes that Plaintiff HP purchased all the ODDs in the transactions that Dr. Aron considered, when overwhelming evidence shows that HP did not prove what amount of ODDs were purchased by Plaintiff HP, as opposed to HP's foreign subsidiaries?

INTRODUCTION

In this antitrust suit, Plaintiff Hewlett-Packard Company ("HP")[3] alleges that, due to a price-fixing conspiracy from 2003-2009, HP paid inflated prices for "optical disk drives" or "ODDs"—a class of computer components that includes CD-ROM drives and DVD drives. Defendant Quanta Storage, Inc. ("Quanta") was one of several foreign companies that manufactured ODDs and sold them to be incorporated into computers made by HP and others. ROA.5627-31.

Although Quanta was a smaller player in the ODD industry (ROA.8394, 8409), the jury found that Quanta participated in the price-fixing conspiracy with its larger counterparts. Quanta does not challenge the jury's liability finding on appeal. Quanta's appeal is limited to the issue of damages.

The Amended Final Judgment makes Quanta liable to HP for the staggering sum of $438,650,000. The District Court calculated that amount by trebling the $176,000,000 in actual damages found by the jury in Question 7 of the jury charge—an amount purportedly reflecting HP's damages, based on HP's purchases of ODDs, caused by the price-fixing conspiracy. But that $176,000,000 actual damages finding is not supported by legally sufficient evidence because, at trial, HP failed to differentiate between (1) ODDs purchased by the Plaintiff HP, and (2) ODDs purchased by one of HP's foreign subsidiaries.

[3] During the pendency of this lawsuit, Plaintiff HP changed its name to"HP, Inc."

The jury charge limited HP's damages to those resulting from Plaintiff Hewlett-Packard Company's ODD purchases. The charge specifically defined the "plaintiff" to be the "Hewlett-Packard Company":

> In these instructions, I will refer to the **Plaintiff Hewlett-Packard Company as "plaintiff."**[4]

ROA.6067. And the charge instructed the jury to calculate damages by comparing the amount that "plaintiff" paid for ODDs against the amount "plaintiff" would have paid but-for the price-fixing conspiracy:

> The proper way to calculate [] damages is to determine the difference between the amounts actually paid by **plaintiff** for ODDs at the fixed or stabilized price, and the amounts **plaintiff** would have paid for the same volume of ODDs, had there been no agreement among competitors to fix or stabilize ODD prices. This is referred to as the overcharge.

ROA.6074-75. Question 7 of the charge, on damages, asked the jury to find "the amount of the overcharge that **plaintiff** paid as a result of the conspiracy." ROA.6080. This restriction on HP's damages—to overcharges paid by Plaintiff HP—was no accident. U.S. antitrust law does not apply to, and a plaintiff cannot recover for, purchases by the plaintiff's foreign subsidiaries. *Motorola Mobility LLC v. AU Optronics Corp.*, 775 F.3d 816 (7th Cir. 2015).

[4] All emphasis in this brief is added.

As explained below, HP failed to prove which ODDs were purchased by the Plaintiff HP, as opposed to ODDs that were purchased by HP's foreign subsidiaries. Because HP failed to prove its case as to damages sustained by HP, the Court should render judgment for Quanta or, at the very least, order a new trial.

STATEMENT OF THE CASE

A. HP commodity managers, stationed in the U.S. and abroad, held online procurement events to obtain worldwide pricing for global ODD purchases.

HP procured ODDs on a worldwide basis through Internet-based procurement events in which multiple ODD manufacturers/suppliers/sellers were asked to compete with each other on ODD prices. ROA.5621-22; ROA.7986-87. These procurement events were organized and administered by HP commodity managers stationed in the United States (primarily in Houston) and abroad. ROA.5624-25; ROA.7986-87. For example, some procurement events were organized by HP commodity manager Becky Lin, who worked for Hewlett-Packard International Pte Ltd., which is HP's Singaporean subsidiary and one of many HP foreign subsidiaries. ROA.7311; ROA.8120.

After the procurement event, the ODDs were then purchased and delivered to regional "hubs"—*i.e.*, "warehouses at different locations around the world for [HP's] factories." ROA.5712-13,16. The factory would then use the ODDs in manufacturing HP-branded computers. *Id.* To participate in a procurement event,

the ODD manufacturers/suppliers/sellers were required to "be ready to have product available in hubs WW [worldwide]." ROA.6281; *see* ROA.8123 (Quanta delivered ODDs to HP hubs).

The ODD prices obtained through procurement events applied worldwide. ROA.5621-22; ROA.7986-87. Thus, a stated volume/quantity of ODDs was purchased at an agreed, global price regardless of the geographic location of the HP factory where the computer would be built, and regardless of the country in which the computer would ultimately be sold. ROA.5621-22; ROA.7986-87.

It is undisputed that HP has numerous foreign subsidiaries in countries around the world, including Germany, Japan, Mexico, Hong Kong, Korea, and Singapore. ROA.8118-8121; ROA.8185-8188. It is also undisputed that HP's foreign subsidiaries "purchase[d] [] ODDs" affected by this ODD price-fixing conspiracy. ROA.5747-48; ROA.8118-8121; ROA.8185-8188; *infra*, p. 10-14, 28-31. Indeed, as shown below, the evidence in this trial includes assignments of antitrust claims by these HP foreign subsidiaries—even though (1) Plaintiff HP ultimately did not request to have the foreign subsidiaries' claims submitted to the jury and (2) the charge, verdict, and judgment address only claims by Plaintiff HP and no claims by HP's foreign subsidiaries.

B. Governments around the world investigated the ODD price-fixing conspiracy and launched criminal prosecutions.

Although ODD suppliers were supposed to compete with one another, they instead collaborated to fix prices on the ODDs they sold. The price-fixing conspiracy was investigated worldwide, including by the United States, the European Commission, Taiwan, Brazil, and Mexico. ROA.5674.

In its investigation of this antitrust conspiracy, the European Commission found that, after sales were awarded to ODD manufacturers in a procurement event, the ODDs were then purchased by various "HP entities," *including HP subsidiaries in the European Economic Area* ("EEA"). The European Commission determined that "EEA-based [] HP entities [*i.e.*, HP entities based in the European Economic Area] purchased the ODDs at the globally determined prices and were invoiced for those purchases." ROA.8038; ROA.5675-77. The European Commission thus recognized that HP subsidiaries in Europe were buying ODDs.

C. HP sued Quanta and others in the United States for conspiring to fix prices of ODDs.

In the United States, HP and other plaintiffs (including Dell and a class of persons/entities who purchased computers during the conspiracy period) filed numerous antitrust lawsuits against Quanta and other ODD suppliers. Those suits were sent to multidistrict litigation in the Northern District of California. *See In re Optical Disk Drive Products Antitrust Litigation*, No. 3:10-MD-2143 (N.D. Cal.).

Most of the ODD suppliers settled, but Quanta did not, and HP's suit against Quanta proceeded to trial in the Southern District of Texas before the Honorable David Hittner.

D. At trial, Plaintiff HP's evidence failed to quantify the amount of ODDs purchased by HP, as opposed to HP's foreign subsidiaries.

1. HP's head of procurement, Russell Hudson, admitted that HP's foreign subsidiaries purchased some of the ODDs—but he was unable to quantify amounts purchased.

Hudson acknowledged that HP has subsidiaries "in different countries around the world," given "the global scope of [HP's] business." ROA.5747-48. When asked whether Plaintiff HP was the purchaser in all of HP's ODD transactions, Hudson explained that "[i]t was some form of HP," but not necessarily Plaintiff HP here. Hudson testified:

> It was some form of HP. I don't know that it was HP, Inc. [*i.e.*, Plaintiff HP], but it was a legal entity of HP, somewhere in the region that these were purchased, that purchased the drives.

Id. Hudson admitted that, for the particular procurement events he was describing in which the ODDs were purchased, the purchaser "could well have been" a foreign HP subsidiary. *Id.*

> Q: So the purchaser might not have been [Plaintiff] HP, Inc. at a particular procurement event? It might have been some subsidiary of HP, Inc.?
>
> A [Mr. Hudson]: **It could well have been, yes**.

ROA.5749. Hudson was unable to testify as to what amount of ODDs were purchased by Plaintiff HP, as opposed to ODDs purchased by HP's foreign subsidiaries.

> Q: Wasn't that, in fact, the case in many of these procurement events that the purchaser wasn't [Plaintiff] HP, Inc?
>
> A [Mr. Hudson]: Again, **I'm not exactly sure** on how that was spread out, but it could very well have been.

Id. Thus HP's head of procurement not only did not provide any quantification of the amount of ODDs purchased by Plaintiff HP (as opposed to HP's foreign subsidiaries), he testified that *he was unable* to divide purchases by HP from purchases by HP's foreign subsidiaries.

2. Trial exhibits confirmed that ODDs were purchased by HP's foreign subsidiaries.

As noted above, the European Commission, in its report on this ODD price-fixing conspiracy, specifically found that some of the price-fixed ODDs were sold to European HP subsidiaries. *Supra*, p. 9. Moreover, HP acknowledged that certain of its foreign subsidiaries had "purchase[d] [] ODDs" when HP took assignments of those subsidiaries' antitrust claims arising out of this ODD price-fixing conspiracy. ROA.8118-8121; ROA.8185-8188. Those HP foreign subsidiaries, which assigned their antitrust claims to HP, include:

- Hewlett-Packard GMBH (referred to in the assignment as **HP Germany**);
- Hewlett-Packard Japan, Ltd. (referred to in the assignment as **HP Japan**);
- Hewlett-Packard Mexico, S.de R.L.cd C.V. (referred to in the assignment as **HP Mexico**);
- Hewlett-Packard Asia Pacific Pte Ltd. (referred to in the assignment as **HP Singapore Asia**);
- Hewlett-Packard International Pte Ltd. (referred to in the assignment as **HP Singapore**);
- Hewlett-Packard AP (Hong Kong) Ltd. (referred to in the assignment as **HP Hong Kong**); and
- Hewlett-Packard Korea Ltd. (referred to in the assignment as **HP Korea**).

ROA.8118-8121; ROA.8185-8188.

In one trial exhibit, Quanta listed HP Singapore (Hewlett-Packard Int'l Pte Ltd.) as one of Quanta's "[c]ustomer[s]." ROA8741. In a separate exhibit, another ODD supplier (a supplier called PLDS) tracks the number of ODDs in "HP SG" (**HP Singapore**), "HP AUS" (**HP Australia**), "**HP China**," "**HP Japan**," and "**HP India**." ROA.9362-64; ROA.8038.

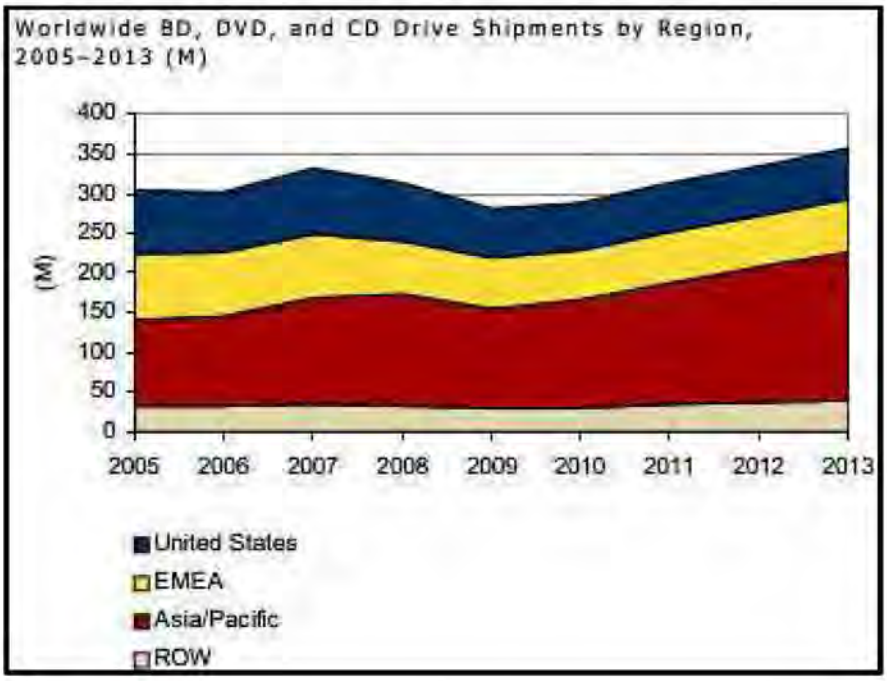
PLDS, which, like Quanta, is an ODD supplier, also tracked ODD stock available at Foxconn and Flextronics, which are large Original Design Manufacturers that manufacture HP's personal computers. *Id.* Original Design

Manufacturers directly purchased some ODDs during the conspiracy period. ROA.7823. ODD suppliers forecasted significant volumes of ODDs for HP's Original Design Manufacturer companies located in various regions of the world, including Asia Pacific/Japan (APJ), Europe and the Middle East (EMEA), and North America (NA):

HP ODM Forecast		Apr'08	May'08	Jun'08	Jul'08
	APJ	40979	31868	44537	55476
	EMEA	15208	8343	1690	12
	NA	164486	133373	181415	204241
	Total	221673	173582	227643	259731

ROA.6359. In the exhibit reproduced above, APJ stands for Asia Pacific/Japan, EMEA stands for Europe and the Middle East, and NA stands for North America.

The Asia Pacific region received substantial ODD shipments in part "because of its role as an important PC [personal computer] manufacturing area." ROA.8702, 8706, 8710-11; ROA.8458, 8473. Indeed, the Asia Pacific region received the largest share of ODD shipments between 2005 and 2013, which is relevant because the price-fixing conspiracy here is alleged to have extended from 2003-2009.



ROA.8458, 8473. These trial exhibits confirm the testimony of HP's head of procurement, Russell Hudson, that "it was a legal entity of HP, somewhere in the region that these were purchased, that purchased the [ODD] drives." ROA.5747-48.

3. HP's damages expert, Dr. Aron, described three categories of ODD purchases—without identifying quantities of ODDs purchased in each category.

Dr. Aron testified that the ODDs purchased through HP's procurement events fall into three categories:

- **Category #1**: The ODD was shipped directly to the *United States*, where it was incorporated into a computer that was sold in the *United States*.
- **Category #2**: The ODD was shipped to a *foreign country*, where the ODD was incorporated into a computer in that *foreign country*, and that computer—containing the ODD—was then shipped to, and sold in, the *United States*.

- **Category #3**: The ODD was shipped to a *foreign country*, where the ODD was incorporated into a computer, and that computer—containing the ODD—was then sold in a *foreign country*.

ROA.5952-54.

Dr. Aron's three categories of ODD purchases describe a standard procurement practice in the consumer electronics industry. In *Motorola Mobility LLC v. AU Optronics Corp.*, 775 F.3d 816 (7th Cir. 2015), the court considered a price-fixing conspiracy in which foreign suppliers of cell phone display panels (screens) fixed prices of the panels that were incorporated into Motorola phones. The Seventh Circuit, in a decision by Judge Posner, explained that the purchases fell into three categories:

- **Category #1**: "About **1 percent** of the panels sold by the defendants to Motorola and its subsidiaries were bought by, and delivered to, Motorola in the United States for assembly here into cellphones."
- **Category #2**: "**Forty-two percent** of the panels were bought by [Motorola's foreign] subsidiaries and incorporated by them into cellphones that the subsidiaries then sold to and shipped to Motorola for resale in the United States."
- **Category #3**: "Another **57 percent** of the panels, also bought by Motorola's foreign subsidiaries, were incorporated into cellphones abroad and sold abroad."

Id. at 817-18.

The three categories of purchases described in the *Motorola* decision thus resemble Dr. Aron's three categories of ODD purchases here, except that Dr. Aron did not assign any percentage of ODDs purchased in each of her three categories. But under *Motorola*'s holding, U.S. antitrust law does not apply to, or provide a remedy for, purchases by the U.S. company's foreign subsidiaries, such that, under *Motorola*, only Dr. Aron's Category 1 would be recoverable—Dr. Aron's Category 2 purchases by HP's foreign subsidiaries are not recoverable under U.S. antitrust law. But Dr. Aron included, in her damages number, purchases by HP's foreign subsidiaries (Dr. Aron's Category 2).

4. Based on her "understanding," Dr. Aron assumed that all purchases were made by Plaintiff HP—leading Dr. Aron to calculate HP's damages as $176,000,000.

Dr. Debra Aron testified that she omitted from her damages calculation ODDs in Category #3 (where neither the ODD itself nor the manufactured computer was sold in the United States). ROA.5976-77. But Dr. Aron explained that her damages calculation included ODDs in her Category #1 (where the ODD was shipped directly to the United States) and her Category #2 (where the ODD was shipped to a foreign country, and then, once a computer was manufactured abroad, the computer containing the ODD was shipped to and sold in the United States). *Id.*

Dr. Aron did not quantify, or otherwise testify to, the amount of ODD purchases that come within her Category 1, on the one hand, as opposed to ODD

purchases that come within her Category 2, on the other hand. Therefore, no inference reasonably drawn from Dr. Aron's testimony (concerning the three categories) could provide the missing evidence to identify the amount of ODD purchases made by Plaintiff HP itself, as opposed to HP's foreign subsidiaries. Combining purchases in her Category #1 with purchases in her Category #2—without quantifying amounts in either category—Dr. Aron testified that Plaintiff HP's damages were $176,000,000.

Dr. Aron said her damages opinion was based on data she was provided by HP as being "relevant to this litigation." ROA.6045. But, of course, given that HP adduced, as trial exhibits, assignments of antitrust claims from its foreign subsidiaries, data "relevant to this litigation" could include purchases by those HP foreign subsidiaries. Indeed, Dr. Aron confessed that some of the data she had been provided by HP as "relevant to this litigation" did indeed involve ODDs purchased in other countries.

Dr. Aron testified that, based on speaking with some unidentified person, she had the "understanding" that the data HP had provided her involved only purchases by HP. ROA.5961. Dr. Aron separately said that she had spoken with Hudson, the head of HP's procurement, but she never identified Hudson as the mystery person who was the source of her "understanding." Of course, Hudson testified at trial that

he had no way of knowing which ODDs were purchased by Plaintiff HP, as opposed to ODDs purchased by HP's foreign subsidiaries. *Supra* p. 10-11.

Quanta objected to Dr. Aron testifying about her "understanding" as to which legal entity made "the purchases of the DVDs" because such testimony had "no foundation" and "call[ed] for hearsay." ROA.5961. The Court overruled Quanta's objections. But Quanta's objections and its cross-examination of head of procurement Hudson and damages expert Dr. Aron put Plaintiff HP on notice that HP needed to prove the quantity of ODDs purchased by HP (as opposed to ODDs purchased by HP's foreign subsidiaries). HP failed to adduce such proof.

5. The District Court denied Quanta's Motion for Judgment as a Matter of Law ("JMOL") at trial.

Quanta's JMOL motion at trial was narrow and specific. Quanta's counsel stated that:

> "[w]hen [HP's head of procurement] Hudson testified on cross-examination about procurement events, he testified that it was sometimes HP subsidiaries that were procuring these ODDs, that he didn't know in each instance for each procurement event what the entity was that was purchasing the ODDs."[5]

[5] Quanta also moved for judicial notice of the large number of HP's foreign subsidiaries (as reflected by public filings) during the years at issue in this case. The Court denied that motion. ROA.3943-3948.

ROA.6051. Given Hudson's testimony, Quanta's counsel requested "judgment as a matter of law [because] the jury does not have sufficient evidentiary basis to determine with reasonable certainty the amount of damages Hewlett-Packard Company has suffered[.]" *Id.* The District Court denied Quanta's JMOL motion. *Id.*

6. The jury found $176,000,000 as "the amount of the overcharge that plaintiff [Hewlett-Packard Company] paid."

The jury charge defines the "plaintiff" as "Plaintiff Hewlett-Packard Company" and instructs the jury to calculate damages by comparing:

> (1) "the amounts actually paid by **plaintiff** for ODDs at the fixed or stabilized price," with
>
> (2) "the amounts **plaintiff** would have paid for the same volume of ODDs, had there been no agreement among competitors to fix or stabilize ODD prices."

ROA.6074-75. Thus, the charge limited the term "plaintiff" to HP, thereby excluding any foreign HP subsidiaries. Question 7 of the charge, on damages, asked the jury to find "the amount of the overcharge that **plaintiff** paid as a result of the conspiracy." The jury's answer to Question 7 was $176,000,000—*i.e.*, the precise amount of damages that Dr. Aron calculated by combining the ODD purchases in her Category #1 with the ODD purchases in her Category #2.

E. Trebling damages, the District Court entered an amended judgment of $438,650,000 for HP.

The District Court initially entered judgment against Quanta for the $176,000,000 in damages found by the jury. In Quanta's renewed Motion for Judgment as a Matter of Law, Quanta again asserted the argument that Quanta had made in its Judgment-as-a-Matter-of-Law motion at trial—*i.e.*, that Plaintiff HP had failed to prove the amount of ODD purchases made by HP, as opposed to HP's foreign subsidiaries.[6] The District Court denied Quanta's renewed Motion for Judgment as a Matter of Law and Motion for New Trial. ROA.5336-41.

However, the District Court granted HP's motion to amend the judgment to treble damages. Trebling the $176,000,000 in damages found by the jury, the Amended Final Judgment holds Quanta liable for $438,650,000. ROA.5342. Quanta, having earlier filed a premature Notice of Appeal following the District Court's initial judgment, filed an Amended Notice of Appeal. ROA.5345-47.

Out of an abundance of caution, Quanta re-urged its Motion for JMOL and Motion for New Trial as against the District Court's Amended Final Judgment. ROA.5348-53. The District Court denied those re-urged motions on February 27,

[6] In connection with its Rule 50(b) and Rule 59 motions, Quanta also filed a renewed judicial notice motion asking the Court to take judicial notice of the same public filings, showing HP's many foreign subsidiaries, for which Quanta asked the Court to take judicial notice during trial. ROA.3943.

2020. SuppRec; *supra* n.2. And on February 27, 2020, Quanta filed another Amended Notice of Appeal. SuppRec. This appeal followed.

F. Shortly before Quanta filed this Brief of Appellants, Plaintiff HP asked the District Court to appoint a receiver to sell Quanta's patents in order to pay this $438,650,000 judgment.

Virtually all of Quanta's assets are in mainland China and Taiwan. Quanta did not post a supersedeas bond because bonding companies would not provide such a bond based on Quanta's assets located abroad. Despite HP's knowledge of the very significant appellate issue presented by this judgment, HP filed with the District Court its Motion for Post-Judgment Relief in Aid of Enforcing Judgment and Emergency Motion for Restraining Order. SuppRec. In that motion, HP asked the District Court to appoint a receiver to sell Quanta's patents, trademarks, and copyrights in order to pay the $438,650,000 judgment. *Id*. HP also filed a Motion for Writ of Execution. SuppRec. The Court set an hearing on HP's motions for March 5, 2020.

Quanta filed a response explaining that it was unable to obtain a supersedeas bond but that it would stipulate that, pending this appeal, Quanta would not dispose of its property, including the patents, trademarks, and copyrights that HP sought to have a receiver appointed to sell. SuppRec. Quanta also explained in its response that, while this Court had set April 4, 2020 as the due date for Quanta's Brief of Appellant on this appeal, Quanta filed its Brief of Appellant early, on March 2, 2020,

in order to bring this appeal to conclusion as quickly as possible. SuppRec. Quanta also represented in its response that, if HP would file its Brief of Appellees promptly, Quanta would immediately file its Reply Brief. Given the singular nature of the issue on this appeal, and the fact that only limited portions of the record address that singular issue, Quanta hopes that this appeal can be swiftly decided. SuppRec.

As this brief is being filed, the District Court has not yet ruled on HP's attempts to execute on this $438,650,000 judgment pending this appeal.

SUMMARY OF ARGUMENT

Plaintiff/Appellee HP failed to prove what quantity of optical disc drives ("ODDs") were purchased by HP, as opposed to HP's foreign subsidiaries—even though only claims of HP (and no claims of HP's foreign subsidiaries) were included in the charge, verdict, or judgment. Under U.S. antitrust law, a domestic company cannot recover for purchases made by its foreign subsidiaries. *Motorola Mobility LLC v. AU Optronics Corp.*, 775 F.3d 816 (7th Cir. 2015).

HP's head of procurement Russell Hudson acknowledged that some ODDs would have been purchased by HP's foreign subsidiaries, but he also confessed that he was unable to quantify the amount of ODDs purchased by HP itself, as opposed to ODDs purchased by HP's foreign subsidiaries. For all this record reveals, some huge percentage of the ODD purchases made the basis of the $176,000,000 in actual

damages found by the jury were in fact purchased by HP's foreign subsidiaries—entities that, again, were not included in the charge, verdict, or judgment.

HP's damages expert, Dr. Debra Aron, needed that very evidence—*i.e.*, the quantity of ODDs purchased by HP as opposed to its foreign subsidiaries—as the foundation for her damages opinions (adopted by the jury) by which she calculated $176,000,000 as damages sustained by HP. But Dr. Aron's testimony did not provide the needed legally sufficient evidence of what quantity of ODDs were purchased by HP as opposed to HP's foreign subsidiaries.

When HP asked Dr. Aron to state her "understanding" as to which legal entity made "the purchases of the DVDs," Quanta objected that HP had laid "no foundation" for such an opinion, and that the question "call[ed] for hearsay." ROA.5961. HP never proved that Dr. Aron—in providing her "understanding" of which entity made the ODD purchases forming the basis for her damages opinions—was relying on the type of information (even if hearsay) that experts in her field would normally consider.

Using the passive voice, Dr. Aron testified that it "was represented to" her by some unidentified person that HP was the "company that purchased the ODDs." ROA.6042. Although Dr. Aron talked to Russell Hudson (HP's head of procurement), Dr. Aron never identified Hudson as the person who represented to her that all ODDs in her data set were purchased by HP, as opposed to HP's foreign

subsidiaries. Hudson testified that he was unable to parse ODD purchases made by HP, on the one hand, from ODD purchases made by HP's foreign subsidiaries, on the other hand. Given his own testimony, if Hudson *had* been the mystery out-of-court declarant upon whose hearsay Dr. Aron's opinions were based, then his hearsay could not have been the type upon which an expert in Dr. Aron's field could rely to overcome the hearsay objection.

In deciding whether judgment as a matter of law should have been rendered, this Court excises out (excludes from consideration) the inadmissible portions of Dr. Aron's testimony. *Hodges v. Mack Trucks Inc.*, 474 F.3d 188, 193 (5th Cir. 2006) ("An appellate court, in deciding whether JMOL should have been awarded, must first excise inadmissible evidence."). The portions of Dr. Aron's testimony concerning her "understanding"—that HP was the purchaser of all ODDs included in the data she was provided—should have been excluded in response to Quanta's "no foundation" and "hearsay" objections.

Dr. Aron calculated HP's damages based on ODD data that HP provided to her as "relevant to this litigation." But, of course, at least at some point in time, HP must have intended to include in this litigation antitrust claims by its foreign subsidiaries. After all, HP adduced, as trial exhibits, assignments by HP's foreign subsidiaries of those subsidiaries' antitrust claims. Accordingly, data that HP provided to Dr. Aron as being "relevant to this litigation" could well have included

purchases by those HP foreign subsidiaries. Indeed, Dr. Aron confessed that some of the data she had been provided by HP as "relevant to this litigation" did indeed involve ODDs purchased in other countries.

Dr. Aron never testified that, on its face, the data provided to her by HP identified which legal entity purchased each ODD—even though she was directly asked that question, and even though she listed numerous *other* pieces of information reflected on the face of that data. ROA.5949, 6051. HP's head of procurement Hudson testified that HP does not track which HP entity is making each ODD procurement. ROA.5755. Dr. Aron also testified that HP must be the purchaser because HP is the entity from which she obtained the data, but that testimony was speculation. After all, HP very well could possess data reflecting purchases made by its foreign subsidiary companies.

Dr. Aron's testimony was unreliable and speculative. And because Dr. Aron's damages opinion is unreliable, there is no legally sufficient evidence to support the jury's answer to Question 7—a question that the District Court expressly limited to purchases that were made by HP (as opposed to HP's foreign subsidiaries).

Given the absence of legally sufficient evidence of damages, this Court should reverse and render judgment for Quanta. At the very least, the Court should grant a new trial for two separate and independent reasons. ***First***, the District Court abused its discretion in overruling Quanta's "no foundation" and "hearsay" objections to

Dr. Aron's expert testimony. ***Second***, for all the reasons explained above, the jury's finding—that HP (as opposed to HP's foreign subsidiaries) purchased ODDs leading to $176,000,000 in damages—is against the great weight of the evidence. *Whitehead v. Food Max of Miss., Inc.*, 163 F.3d 265, 270 n.2 (5th Cir. 1998).

The Amended Final Judgment trebled the damages to $438,650,000. But HP was required to prove its case on damages. This Court should reverse.

ARGUMENT

I. No legally sufficient evidence supports the jury's finding of $176,000,000 as HP's damages in answer to Question 7.

A. Standard of review for denial of a motion for judgment as a matter of law (JMOL).

A motion for JMOL after jury trial "is a challenge to the legal sufficiency of the evidence supporting the jury's verdict" (*Texas Farm Bureau v. United States*, 53 F.3d 120, 123 (5th Cir. 1995)), and should be granted if there is no legally sufficient evidence to support a jury finding (*Brady v. Houston Ind. Sch. Dist.*, 113 F.3d 1419, 1422 (5th Cir. 1997)). This Court "review[s] the sufficiency of the evidence *de novo* and will overturn the jury verdict only if there is no legally sufficient evidentiary basis for a reasonable jury to find" as the jury did. *Duvall v. Dallas County, Tex.*, 631 F.3d 203, 206 (5th Cir. 2011).

B. The jury's verdict required evidence of the quantity of purchases by Plaintiff HP itself—not purchases by HP's foreign subsidiaries.

Instruction No. 2 charged the jury that: "In these instructions, I will refer to the **Plaintiff Hewlett-Packard Company** as '**plaintiff**.'" ROA.3840. Moreover, Instruction No. 8 charged the jury:

> The proper way to calculate [] damages is to determine the difference between amounts actually **paid by plaintiff** for ODDs at the fixed or stabilized price, and the amounts **plaintiff would have paid** for the same volume of ODDs, had there been no agreement among competitors to fix or stabilize ODD prices.

ROA.3847. In the jury charge, Question 7, which inquired about HP's damages, asked:

> What is the amount of overcharge that **plaintiff** paid as a result of the conspiracy to fix, raise, maintain, and stabilize the price of optical disc drives [ODDs]?

ROA.3852. Thus, Question 7 asked the jury to base damages on the amount of ODDs that HP itself purchased—not on purchases by HP's foreign subsidiaries. By restricting HP's damages to overcharges paid by Plaintiff HP, the charge correctly embodied governing antitrust-law principles under which a plaintiff cannot recover for its foreign subsidiaries' purchases. *Motorola Mobility LLC v. AU Optronics Corp.*, 775 F.3d 816 (7th Cir. 2015).

Because the charge and verdict did not reference or include any purchases of ODDs by HP's foreign subsidiaries, to support the verdict HP needed evidence of

the quantity of ODDs purchased by HP itself, as opposed to purchases by HP's foreign subsidiaries. But, as explained below, there is no legally sufficient evidence of the amount of ODDs purchased by HP itself—*i.e.*, there is no evidence dividing out purchases by HP itself from purchases by HP's foreign subsidiaries.

C. The evidence establishes that HP's foreign subsidiaries purchased some of the ODDs impacted by the price-fixing conspiracy.

1. HP's head of procurement, Russell Hudson, acknowledged that HP foreign subsidiaries purchased some of the ODDs.

Russell Hudson, the head of procurement for HP, testified that HP has subsidiaries "in different countries around the world," given "the global scope of [HP's] business." ROA.5747-48. When asked whether Plaintiff HP was the purchaser in all of HP's ODD transactions, Hudson admitted that "[i]t was some form of HP," but not necessarily the Plaintiff HP here. Thus Hudson testified:

> It was some form of HP. I don't know that it was HP, Inc., but it was a legal entity of HP, somewhere in the region that these were purchased, that purchased the drives.

Id.

Hudson even acknowledged that the purchaser of ODDs "could very well have been" one of HP's foreign subsidiaries. ROA.5747-48.

> Q: So the purchaser might not have been [Plaintiff] HP, Inc. at a particular procurement event? It might have been some subsidiary of HP, Inc.?
>
> A [Mr. Hudson]: **It could well have been, yes**.

> Q: Wasn't that, in fact, the case in many of these procurement events that the purchaser wasn't [Plaintiff] HP, Inc?
>
> A [Mr. Hudson]: Again, **I'm not exactly sure** on **how that was spread out**, but it could very well have been.

Id. Hudson described HP's procurement process whereby commodity managers for HP's foreign subsidiaries would purchase ODDs. *Supra* p. 7-8. (HP commodity manager for HP Singapore subsidiary engaging in procurement of ODDs). Hudson readily conceded that, in that procurement process, the purchaser in many instances "could very well have been" an HP foreign subsidiary. ROA.5747-48.

2. The European Commission found that HP's foreign subsidiaries purchased some of the ODDs.

When the European Commission investigated this antitrust conspiracy, it had to determine whether it possessed jurisdiction given the global reach of this conspiracy. To establish its jurisdiction, the European Commission specifically found that, after sales were awarded to ODD manufacturers in a procurement event, the ODDs were then purchased by various "HP entities," including HP subsidiaries in the European Economic Area ("EEA"). The European Commission determined that "EEA-based [] HP entities"—*i.e.*, HP entities/subsidiaries based in the European Economic Area—"purchased the ODDs at the globally determined prices and were invoiced for those purchases." ROA.8038; ROA.5675-77. Similarly, the European Commission also found that some ODDs were "invoiced to [] HP in the [European

Economic Area]" and "sold to [] EEA-based entities of HP [] which have been invoiced for them [the ODDs]." ROA.8038. Thus HP's foreign subsidiaries in Europe were purchasing ODDs.

3. When HP took assignment of its foreign subsidiaries' antitrust claims arising out of this ODD price-fixing conspiracy, HP thus acknowledged that its foreign subsidiaries purchased some of the ODDs.

HP introduced evidence at trial that HP subsidiaries in foreign countries bought ODDs impacted by the price-fixing conspiracy. ROA.8118-8121; ROA.8185-8188. Indeed, HP put in evidence two instruments by which HP subsidiaries in foreign countries assigned to HP those foreign subsidiaries' antitrust claims arising out of the ODD price-fixing conspiracy. ROA.8118-8121; ROA.8185-8188. Those foreign subsidiaries assigning their antitrust claims (arising out of the ODD price-fixing conspiracy) are: Hewlett-Packard GmbH (*i.e.*, **Germany**); Hewlett-Packard **Japan**, Ltd.; Hewlett-Packard **Mexico**, S.de R.L.de C.V.; Hewlett-Packard **Asia Pacific** Pte Ltd. (*i.e.*, **Singapore**); Hewlett-Packard AP (**Hong Kong**) Ltd.; and Hewlett-Packard **Korea** Ltd. ROA.8118-8121; ROA.8185-8188.

Of course, if HP wanted to recover for its foreign subsidiaries' antitrust claims based on those assignments, then HP should have asked the Court to word the damages question (and the Court's instructions) to include purchases by HP's foreign subsidiaries that assigned their claims to HP. But the jury charge and verdict

expressly limited the damages inquiry only to purchases made by HP itself; the jury charge and verdict did not encompass or include purchases made by HP's foreign subsidiaries. ROA.3852; *see Motorola Mobility LLC v. AU Optronics Corp.*, 775 F.3d 816 (7th Cir. 2015) (Judge Posner, writing for the court, that, for an antitrust claim, a plaintiff parent corporation must treat its subsidiaries as separate legal entities).

4. HP's damages expert, Dr. Aron, included in the damages ODD purchases made abroad—where an HP foreign subsidiary would have been the purchaser.

As noted above, HP's head of procurement Hudson testified that, where purchases were made in other countries, the purchaser would have been a regional subsidiary of HP—such as HP Korea or HP Mexico. ROA.5747-48. Dr. Aron admitted that some of the data she was provided by HP as being "relevant to this litigation" involved ODD purchases made in other countries. Thus, Dr. Aron testified:

> Q. So you are aware that Hewlett-Packard Company has a number of subsidiaries, correct?
>
> A. [Dr. Aron] I'm aware that there are other HP entities. []
>
> Q. In the data that you saw, you saw transactions from different geographic areas. Is that worldwide, essentially?
>
> A. [Dr. Aron] Yes. There were transactions that were identified as being associated with Europe and being associated with Asia and so forth and North America.

> Q. And I believe you saw in the data that there were computers manufactured outside of the United States; is that right?
>
> A. [Dr. Aron] There were drives [ODDs] that were shipped directly to the United States. And then there were drives [ODDs] that were incorporated into computers outside of the United States, and the computers were shipped to the United States.

ROA.6045.

Dr. Aron included in her damages calculation her "category one," which consisted of drives (ODDs) that were shipped directly to the United States. *Id.* But Dr. Aron *also* included in her damages a category she labeled as "category two," which consisted of transactions involving drives (ODDs) that were purchased outside of the United States where those drives (ODDs) were incorporated into computers outside of the United States, with those computers then being shipped into the United States. *Id.*[7] But HP's head of procurement Hudson testified that, if drives (ODDs) were purchased outside the United States, they would have been purchased by HP's foreign subsidiaries. *Supra*, p. 10-11.

Also, Dr. Aron's "category two" purchases in this case resemble the "category two" purchases in *Motorola Mobility LLC v. AU Optronics Corp.*, 775 F.3d 816 (7th

[7] Dr. Aron testified that she created, and excluded from her damages opinion, a third category of transactions where ODDs (drives) "never made it to the United States in either of those forms"—*i.e.*, either as an ODD or as an ODD already incorporated into a computer that came into this country. ROA.6045.

Cir. 2015). The court in *Motorola Mobility* concluded that the domestic plaintiff could not recover for such "category two" purchases because, in those "category two" purchases, the purchaser is a foreign subsidiary of the domestic plaintiff. *Id.*

Dr. Aron discussed, on direct examination, her "category two" data that she included in her damages calculation:

> Q. Did you also learn from [Hudson, HP's head of procurement] that some of the computers were shipped from -- they were assembled overseas but shipped into the United States?
>
> A. [Dr. Aron] Yes. I also could see that in the data.
>
> Q. Okay. And were they [the computers] shipped to end-user customers located throughout the United States?
>
> A. [Dr. Aron] Yes. That's what I understand from Mr. Hudson.

ROA.5951-52. But the ODDs in those computers were purchased in foreign countries, and considering procurement witness Hudson's testimony, those ODDs purchased in a foreign country would have been purchased by an HP foreign subsidiary. Because Dr. Aron expressly testified that she included this second category of purchases in her damages, the $176,000,000 in damages that Dr. Aron calculated (and the jury accepted) included ODD purchases by HP's foreign subsidiaries.

D. HP adduced no evidence of the quantity of ODDs purchased by HP itself, as opposed to HP's foreign subsidiaries.

1. HP's head of procurement Hudson did not provide the necessary evidence quantifying HP's own purchases.

HP did not even attempt to introduce in evidence business records, such as purchase documents, that might have proved the quantity of HP's purchases of ODDs. HP had only two live witnesses—HP's head of procurement, Russell Hudson, and damages expert Dr. Aron. But Hudson's testimony did not provide the crucial evidence of the quantity of HP's purchases.

Indeed, Hudson admitted that HP works through subsidiaries in foreign countries, and that HP subsidiaries purchased some of the ODDs during the years at issue in this case. Hudson explained that HP has foreign subsidiaries all around the world:

> Q. The company you work for is now called HP, Inc.; is that right?
>
> A. [Hudson] That's correct.
>
> Q. And does it have any subsidiaries?
>
> A. [Hudson] Yes, we do.
>
> Q. About how many?
>
> A. [Hudson] I don't know the exact number.
>
> Q. Are there **subsidiaries of HP, Inc., in different countries around the world?**

> A. [Hudson] That's my understanding that we have **subsidiaries or legal entities, as I would call them, in various countries around the world, given the global scope of our business, yes**.

ROA.5747-48.

Hudson also testified that the global procurement events that he described, in which ODDs were purchased, included commodity managers in other parts of the world purchasing ODDs:

> Q. And the procurement events that you have testified about, **who is the buyer** in those procurement events?
>
> A. [Hudson] Well, the commodity manager is a -- as I described, is that he or she would reside in the business unit. That primarily happened in the United States. **The global procurement services, the actual people that administrated and facilitated the strategy of the commodity manager in these specific regions were located in these different countries around the world where we had warehouses and factories**.
>
> Q. And the manufacturers of the actual computers that the ODDs would go in, are those -- **is that HP, Inc. or is that subsidiaries or is there a mix?**
>
> A. [Hudson] I think during this relevant time period **it would be a mix**, to my understanding.
>
> Q. And that's the 2003 to 2009 time period [of this antitrust conspiracy]?
>
> A. [Hudson] Correct.

ROA.5747-48.

Hudson specifically confessed that, for a given procurement event, the ODDs "might have been" purchased by an HP foreign subsidiary.

> Q. And so in a procurement event you have an ODD supplier and a purchaser, an entity that purchases. Did HP, Inc., the company now known as HP, Inc., was that the purchaser in all of these procurement events that you have described?
>
> A. [Hudson] It was some form of HP. I don't know that it was HP, Inc., but it was **a legal entity of HP, somewhere in the region that these were purchased**, that purchased the drives.
>
> Q. So the purchaser might not have been HP, Inc. at a particular procurement event? **It might have been some subsidiary of HP, Inc.?**
>
> A. [Hudson] **It could well have been, yes.**
>
> Q. Wasn't that, in fact, the case in many of these procurement events that the purchaser wasn't HP, Inc.?
>
> A. [Hudson] Again, **I'm not exactly sure on how that was spread out**, but it could very well have been.

ROA.5747-48.

Thus Hudson admitted that he was "not exactly sure how [procurement of ODDs] was spread out" as among HP itself and HP's many foreign subsidiaries around the world. Hudson confessed that "we don't track [purchases] by legal entities," and that HP does not "track procurement spend by subsidiaries." ROA.5755. According to Hudson, HP tracks all purchases "as HP," regardless of

which HP legal entity (*i.e.*, HP itself or an HP foreign subsidiary) makes the purchase. *Id.* Despite being HP's procurement witness, Hudson expressly confessed that he did not know which purchases were made by Plaintiff HP, as opposed to purchases made by some HP foreign subsidiary.

As shown below, HP's damages expert Dr. Aron testified that her "understanding" about HP's purchases was based on data provided to her by HP and represented to her as being "relevant to this litigation." ROA.6045. But because, as explained by Hudson, HP does not track which HP entity is making the purchase, Dr. Aron could not have gleaned a reliable "understanding" from anyone at HP as to which purchases were made by HP itself, as opposed to HP's foreign subsidiaries.

Indeed, given that HP does not track which HP entity is making the purchase, the HP-provided data could not have supplied Dr. Aron with the information she needed to separate out HP's purchases from purchases made by HP's foreign subsidiaries. *Id*. Moreover, given that HP apparently intended, at one point in time, to include in this case assigned antitrust claims based on purchases by assignor HP's foreign subsidiaries, data "relevant to this litigation" could well have included data on ODD purchases made by HP foreign subsidiaries.

E. The testimony of HP's damages expert Dr. Aron did not provide legally sufficient evidence of the amount of purchases by HP, as opposed to HP's foreign subsidiaries.

HP's damages expert, Dr. Aron, did not supply the critical missing evidence quantifying HP's purchases. HP retained Dr. Aron, an economics expert, to perform a multiple regression analysis—*i.e.*, a "statistical technique that economists and other scientists use to figure out how different factors affect an outcome." ROA.5937, 5954. Dr. Aron calculated HP's damages as $176,000,000 based on her multiple regression analysis. But, to make that analysis generate damages for HP, as opposed to HP's foreign subsidiaries, Dr. Aron needed information quantifying ODD purchases by HP, as opposed to HP's foreign subsidiaries. And HP's head of procurement Hudson testified that HP does not track purchases by HP, as opposed to HP's foreign subsidiaries.

1. Quanta timely objected when HP attempted to elicit Dr. Aron's expert opinion as to which legal entity purchased the ODDs in question.

Early in Dr. Aron's direct examination, HP asked Dr. Aron if she had an "understanding" that the Plaintiff here, HP, was the purchaser in all the transactions she considered:

> [Question:] From the data that you looked at, was it your understanding that the purchases of the DVDs were by the plaintiff HP, Inc.?

ROA.5961. When HP's counsel asked that question, Quanta made two related objections.

First, Quanta objected that HP had laid "no foundation" for Dr. Aron to give any expert opinion on whether HP was the purchaser in the transactions she considered. ROA.5961. To be admissible, an expert opinion must rest on a reliable foundation. *Guillory v. Domtar Industries Inc.*, 95 F.3d 1320, 1330–31 (5th Cir. 1996); *Viterbo v. Dow Chemical Co.*, 826 F.2d 420, 422 (5th Cir. 1987).

Second, Quanta objected that HP's question "call[ed] for hearsay." ROA.5961. When HP's counsel asked Dr. Aron if she had an "understanding" that the Plaintiff here, HP, was the purchaser in all the transactions she considered, that question necessarily asked Dr. Aron to repeat what an out-of-court declarant told her.

Taken together, the substance of Quanta's two objections was clear: Dr. Aron had no reliable foundation for opining as to whether HP was the purchaser in the ODD transactions that she considered, and any such opinion would necessarily rest on what someone else had told her (hearsay). As shown below, Dr. Aron never identified the source of her "understanding" that HP was the purchaser in all the transactions she considered. Given Hudson's testimony about HP not tracking purchases in a way that divides purchases by HP, on the one hand, from purchases

by HP's foreign subsidiaries, on the other hand, Dr. Aron's source could not have provided hearsay on which an expert like Dr. Aron could rely.

2. Quanta's objections shifted the burden to HP to establish a reliable foundation for Dr. Aron's expert opinion.

Because HP was the proponent of Dr. Aron's expert opinion testimony, Quanta's two objections shifted, to HP, the burden to establish that Dr. Aron's testimony rested on a reliable foundation. *Moore v. Ashland Chemical Inc.*, 151 F.3d 269, 276 (5th Cir. 1998). In other words, in response to Quanta's two objections, HP was required to establish that Dr. Aron's opinion—as to which HP entity had purchased the ODDs in the transactions she considered—rested on the type of information that experts in her field would normally rely on in forming an opinion. Fed. R. Evid. 703; *Factory Mut. Ins. Co. v. Alon USA L.P.*, 705 F.3d 518, 523 (5th Cir. 2013); *Soden v. Freightliner Corp.*, 714 F.2d 498, 502–03 (5th Cir. 1983).

Experts like Dr. Aron are entitled to rely on hearsay in forming an opinion—but only if the expert establishes that the particular hearsay statement at issue is the type of hearsay statement on which experts in the field would normally rely. *Factory Mut. Ins. Co.*, 705 F.3d at 523. Thus, with respect to Quanta's hearsay objection, HP bore the burden to establish that any hearsay statement relied on by Dr. Aron is the type of hearsay statement on which experts in her field rely.

The District Court overruled Quanta's objections. HP made several attempts to establish a foundation for Dr. Aron to opine as to which ODD purchases were made by HP, but as shown below, none of those attempts was successful.

3. HP failed to establish any reliable foundation for Dr. Aron's expert opinion.

a. Dr. Aron said had someone "represented" to her that HP was the purchaser, but she never identified the mystery out-of-court declarant.

Dr. Aron repeatedly testified, using the passive voice, that "[t]he company that purchased the ODDs was represented to me as being HP, Inc., formerly known as Hewlett-Packard Company." ROA.6042-43. But Dr. Aron never identified the mystery person who made that representation; she never identified the out-of-court declarant for the hearsay statements.

Dr. Aron testified that she interviewed HP's procurement head, Hudson, but she did not say that he was the source of her "understanding" that HP was the purchaser. ROA.5951-52. And, as explained above, if Hudson *were* the mystery out-of-court declarant, Dr. Aron could not have reliably based her opinion on his hearsay given that Hudson testified that he did not know which purchases were made by HP, as opposed to HP's foreign subsidiaries.

Because Dr. Aron never identified the mystery speaker who made this critical hearsay representation to her, HP and Dr. Aron failed to establish that this hearsay representation is the type of hearsay statement on which experts in Dr. Aron's field

would normally rely in forming an opinion. Fed. R. Evid. 703; *Factory*, 705 F.3d at 523; *Soden*, 714 F.2d at 502–03. For all this record reveals, the mystery speaker may have been someone with no personal knowledge as to which legal entity purchased the ODDs in the transactions that Dr. Aron considered.

Nor is Dr. Aron's repetition of the mystery speaker's hearsay statement itself substantive evidence. As an expert, Dr. Aron is entitled to rely on hearsay in forming her opinion, but the hearsay on which an expert relies is not substantive evidence; such hearsay is admissible only to explain the expert's opinion. Fed. R. Evid. 703; *Fox v. Taylor Diving & Salvage Co.*, 694 F.2d 1349, 1356 (5th Cir. 1982); *Consol. Edison Co. v. NLRB*, 305 U.S. 197, 230 (1938) ("Mere uncorroborated hearsay . . . does not constitute substantial evidence"). Dr. Aron's repetition of the hearsay does not provide a reliable foundation for her opinion as to which HP entity purchased the ODDs in the transactions at issue. Nor does Dr. Aron's testimony otherwise provide independent, substantive evidence of which HP entity made those ODD purchases.

b. Dr. Aron never established that the data provided to her by HP identified which legal entity purchased the ODDs.

Dr. Aron calculated HP's damages based on ODD purchase data provided to her by HP. ROA.5949, 6051. But, as shown above, HP's head of procurement, Hudson, admitted that HP does not track purchases based on whether they are made by HP itself, as opposed to an HP foreign subsidiary. If HP does not track which

HP entity is making the purchase, then HP could not have included that information in the data that HP provided to Dr. Aron.

When explaining what information was contained in the data provided to her, Dr. Aron never listed the identity of the purchaser:

> [Dr. Aron:] [M]y data would show how many drives were purchased, what kind of drives they were, how much was spent, what the prices were, how many were purchased, what the date was of the purchase, some information about -- *sometimes* about **the address to which they were delivered**, **the currency** in which the transaction was recorded, and other details like that.

ROA.5949. Thus, her answer did not establish that the data provided to her by HP identified the legal entity that purchased the ODDs. Indeed, Dr. Aron's confession that the data "sometimes" shows the address to which the ODDs were delivered indicates that the data on which she relied did *not* always show the address to which the ODDs were delivered. Also, her reference to the "currency" in which the transaction was recorded indicates that the transaction might have been in the currency of a foreign country, such as Korea or Mexico.

And when Dr. Aron was directly asked whether the data that HP provided showed which entity was the purchaser, she evaded the question by once again referring to the mystery out-of-court declarant's representation:

> Q. And did that data show the company that purchased the ODDs?

> A. [Dr. Aron] The company that purchased the ODDs was **represented to me** as being HP, Inc., formerly known as Hewlett-Packard Company. That's what the company [HP] produced to Quanta and to me.

ROA.6042.

Rather than answering the question asked—and explaining whether the data she received from HP shows which legal entity purchased the ODDs—Dr. Aron parroted the hearsay "represent[ation]" of the unidentified mystery speaker. *Id.* Again, Dr. Aron never identified her mystery source, so she never established that this hearsay "represent[ation]" is the type of hearsay statement on which experts would normally rely. Dr. Aron also pointed out that HP is "the company [that] produced" the data to her. As shown below, the fact that HP produced this data to Dr. Aron is not a reliable foundation to support an opinion that HP was the purchaser in all the transactions that Dr. Aron considered.

c. Dr. Aron's speculation and ipse dixit do not establish any reliable, non-hearsay foundation for her opinion that HP was the purchaser.

According to Dr. Aron, HP provided her with the data and represented that data as being "relevant to the case," and *she assumed* that the data "relevant to the case" would be purchases by the Plaintiff, HP. ROA.6044. Of course, as shown above, given the assignments of claims by HP's foreign subsidiaries, data "relevant

to the case" could well include purchases by HP's foreign subsidiaries. *Supra* p. 11-13. Dr. Aron testified:

> Q. And you need to distinguish ODDs purchased by Hewlett-Packard Company from ODDs purchased from another company, perhaps a subsidiary, correct?
>
> A. [Dr. Aron] Well, I don't know the answer to that. I think that's a legal question. **My understanding is** that the plaintiff in the case is HP, Inc. and that **HP, Inc. produced the purchase data relevant to the case**.

ROA.5960-61. Dr. Aron also testified that the data she received was "what the company produced as the purchases that are relevant to this litigation. So that's the data that were produced to [] me." ROA.6043. But again, given that HP introduced in evidence assignments of claims by HP's foreign subsidiaries, data "relevant to this litigation" or "relevant to the case" could include purchases by HP's foreign subsidiaries.

Dr. Aron was merely speculating that, because HP provided this data to her, HP must have been the purchaser in all the transactions reflected in that data. *Small Bus. Assistance Corp. v. Clear Channel Broadcasting, Inc.*, 210 F.3d 278, 280 (5th Cir. 2000) (speculation is not probative evidence). Dr. Aron had no way of excluding the possibility that the Plaintiff HP would possess data on ODD purchases made by HP's foreign subsidiaries—especially because those subsidiaries had assigned their antitrust claims to HP.

4. Applying Federal Rule of Evidence 103, Quanta was not required to continue asserting objections that the District Court had already overruled.

As shown above, early in Dr. Aron's testimony—and before HP elicited Dr. Aron's opinion as to which legal entity had purchased the ODDs in question—Quanta made "no foundation" and "hearsay" objections to counsel's question that would elicit Dr. Aron's testimony concerning her "understanding" that HP was the purchaser in all of the transactions she considered. At the time Quanta made those objections, the District Court definitively overruled them. ROA.5961. On appeal, HP cannot escape the legal insufficiency of Dr. Aron's opinion—that HP was the purchaser—by pointing to Quanta's failure continuously to object to Dr. Aron's testimony. Federal Rule of Evidence 103(b) relieved Quanta of any obligation to keep repeating its objections once the District Court had overruled them.

Federal Rule of Evidence 103(b) states: "Once the court rules definitively on the record—either before or at trial—a party need not renew an objection or offer of proof to preserve a claim of error for appeal." Fed. R. Evid. 103(b). When that language was added to Rule 103 in 2000, the Advisory Committee made clear that the rule "applies to all rulings on evidence whether they occur at or before trial[.]" Notes of Advisory Committee on 2000 Amendments to Rule 103. Wright & Miller "assume that Rule 103 incorporates the common law rule that when an objection is made to a bit of evidence and overruled, the objection need not be repeated at each

subsequent question seeking to elicit that evidence." 21 Fed. Prac. & Proc. Evid. § 5036.4 (2d ed.).

In *United States v. Marshall*, this Court applied the common-law rule and held that a defendant preserved error after the court overruled his objection. 762 F.2d 419, 426 (5th Cir. 1985). The defendant objected in a bench conference but did not continuously object during the line of questioning. *Id.* This Court held that the first objection was a "continuing objection that need not be repeated to preserve the objection to subsequent evidence admitted within the scope of the ruling." *Id.*

Subsequent to the amendments to Rule 103(b), courts have applied the plain text of Rule 103(b) to hold that a party preserved error by objecting only once. The Fourth Circuit made the point in *Cisson v. C.R. Bard, Inc.*, 810 F.3d 913, 923 n.2 (4th Cir. 2016), as follows:

> Cisson argues that [its opponent] Bard waived [its appellate complaint] by failing to continually object. Bard, however, was relieved of this obligation by Rule 103(b) once the court had 'definitively' ruled on the matter. Fed. R. Evid. 103(b).

Id; *see also Field v. Trigg Cty. Hosp. Inc.*, 386 F.3d 729, 737 (6th Cir. 2004) (applying Rule 103(a)(2) [now 103(b)] to hold that appellant had preserved error by objecting during trial despite failure to request a clear curative instruction from the judge).

In the beginning of Dr. Aron's testimony, when HP first sought to have Dr. Aron testify about which HP entity had purchased the ODDs, the District Court definitively overruled Quanta's "no foundation" and "hearsay" objections. ROA.5961. Under Rule 103(b), Quanta was not obligated to continue asserting "no foundation" and "hearsay" objections that the District Court had already overruled.

F. The Court should reverse and render judgment for Quanta.

In assessing the legal sufficiency of evidence to support a jury finding, this Court "must first excise inadmissible evidence" because "such evidence contributes nothing to a legally sufficient evidentiary basis." *Hodges v. Mack Trucks Inc.*, 474 F.3d 188, 193 (5th Cir. 2006). As noted above, HP never established any reliable foundation for Dr. Aron's opinion that HP was the purchaser of ODDs in the purchase transactions that Dr. Aron considered. Thus, in assessing the legal sufficiency of the evidence, the Court must excise/exclude, from its consideration, Dr. Aron's opinion that HP was the purchaser in all those transactions.

The jury's $176,000,000 damages finding is not supported by legally sufficient evidence given the absence of evidence of which purchases were made by plaintiff HP, as opposed to HP's foreign subsidiaries. The jury's finding is expressly limited, based on the wording of Question 7, to purchases by HP. HP did not prove its damages.

Quanta specifically put HP on notice—during Quanta's cross-examination of Hudson and Dr. Aron—of this defect in HP's damages proof, but HP did nothing to fill the gaping hole in its damages evidence. Indeed, given Hudson's testimony that HP does not track procurement based on whether the purchaser is HP or one of HP's foreign subsidiaries, one must wonder whether HP is even able to produce the necessary proof of purchaser identity. The Court should reverse and render judgment for Quanta.

II. At the very least, a new trial is required because the District Court abused its discretion in overruling Quanta's "hearsay" and "no foundation" objections to Dr. Aron.

A. Standard of review for overruling evidentiary objection.

This Court reviews a ruling on the admissibility of expert testimony for abuse of discretion. *Bear Ranch, L.L.C. v. Heartbrand Beef, Incorporated*, 885 F.3d 794, 802 (5th Cir. 2018). If the District Court abused its discretion, then the Court "review[s] the error under the harmless error doctrine" to determine whether "the ruling affected substantial rights of the complaining party." *Id.*

B. The District Court abused its discretion in overruling Quanta's objections to Dr. Aron.

As explained above, Quanta's "no foundation" and "hearsay" objections were well-founded. S*upra*, p. 38-41. Dr. Aron had no reliable foundation for opining as to whether HP was the purchaser in the ODD transactions that she considered, and any such opinion necessarily rested on the hearsay representation of an unidentified

out-of-court declarant. *Id.* Because HP never established any reliable foundation for Dr. Aron's opinion as to which HP entity purchased the ODDs, the District Court abused its discretion in overruling Quanta's objections. *Moore*, 151 F.3d at 276; *Factory*, 705 F.3d at 523; *Soden*, 714 F.2d at 502–03.

C. The District Court's error was harmful.

Applying the harmless error doctrine, this Court considers whether the district court's error "affected substantial rights of the complaining party." *Bear Ranch*, 885 F.3d at 802. Here, the District Court's error—in overruling Quanta's "no foundation" and "hearsay" objections to Dr. Aron's testimony—directly led to (1) the jury's acceptance of Dr. Aron's calculation of $176,000,000 as HP's damages and (2) the District Court's judgment against Quanta of $438,650,000 in treble damages. After all, absent evidence that HP was the legal entity which purchased the ODDs in question, there is no legally sufficient evidence to support the jury's $176,000,000 finding of HP's antitrust damages.

III. At the very least, the jury's finding of $176,000,000—as HP's damages in answer to Question 7—is against the great weight of evidence.

A. Legal standard for "against the great weight" challenges.

"Trial courts have the power to grant a new trial when the verdict is against the weight of the evidence." *Roman v. W. Mfg., Inc.*, 691 F.3d 686, 701 (5th Cir. 2012). The against-the-great-weight standard "is lower than that for granting judgment as a matter of law." *Whitehead v. Food Max of Miss., Inc.*, 163 F.3d 265,

270 n.2 (5th Cir. 1998). "A verdict can be against the 'great weight of the evidence,' and thus justify a new trial, even if there is substantial evidence to support it." *Whitehead*, 163 F.3d at 270 n.2.

In deciding whether the District Court should have granted a motion for a new trial, this Court "need not take the view of the evidence most favorable to the verdict winner, but may weigh the evidence." *Whitehead*, 163 F.3d at 270 n.2. The against-the-great-weight "standard is not impossible to meet," and this Court has frequently found new trials to be appropriate "on purely evidentiary grounds." *Shows v. Jamison Bedding, Inc.*, 671 F.2d 927, 931 (5th Cir. 1982).

B. The jury's damages finding is against the great weight of the evidence.

As explained above, the overwhelming evidence establishes that HP's foreign subsidiaries purchased some of the ODDs in question:

- HP's head of procurement, Russell Hudson, testified that HP's foreign subsidiaries made some of those purchases. *Supra*, p. 10-11.
- The European Commission expressly found that HP's European subsidiaries purchased some of the ODDs. *Supra*, p. 9.
- With respect to this very ODD price-fixing conspiracy, HP took assignments of antitrust claims from seven foreign subsidiaries of HP (in Asia, Europe, and Mexico) based on those subsidiaries' "purchase

of ODDs" impacted by the conspiracy. *Supra*, p. 11-13; ROA.8118-8121; ROA.8185-8188.

In the face of this overwhelming evidence of substantial ODD purchases by HP's foreign subsidiaries, HP adduced the following so-called "evidence" that the U.S. parent company, HP, purchased all the ODDs in the transactions that Dr. Aron considered:

- Dr. Aron testified that an unidentified out-of-court declarant "represented" to her that HP was the purchaser of all the ODDs;
- Dr. Aron testified to her "understanding" that HP purchased all the ODDs;
- Dr. Aron speculated that HP must have purchased all the ODDs because HP is the company that produced the ODD transaction data to her; and
- HP provided Dr. Aron the data as being "relevant to this litigation."

Supra, p. 41-45.

Dr. Aron's "understanding" that HP purchased all the ODDs in question is based on her reliance on the mystery "out-of-court" declarant who was never identified. *Id.* While Dr. Aron talked to Hudson, HP's head of procurement, Hudson testified that he had no way of knowing whether the ODDs at issue were purchased by HP itself, as opposed to HP's foreign subsidiaries. *Supra* p. 10-11. And Dr. Aron

never identified Hudson as the out-of-court declarant or the source of her "understanding." *Supra* p. 16-18.

As explained above, Dr. Aron's testimony concerning the data she reviewed indicates that it did not provide information on the name of the purchaser. *Supra* p. 43-44. Because Dr. Aron conceded that the data included purchases in foreign countries, and potentially in foreign currencies, it is likely that the data included purchases by HP's foreign subsidiaries. *Id.*

Dr. Aron testified that she was provided the data as being "relevant to this litigation." ROA.6045. But given the HP's foreign subsidiaries' assignments of antitrust claims, HP must have intended, at least at one point in time, to have included in this litigation its foreign subsidiaries' claims. Therefore, data that HP provided to Dr. Aron as being "relevant to this litigation" could very well have included purchases made by HP's foreign subsidiaries—particularly because Dr. Aron confessed that the data included purchases made in foreign countries.

Even if Dr. Aron's testimony—that HP purchased all the ODDs in question—could constitute probative evidence (and it cannot), at the very least, the jury's damages finding is against the great weight of evidence. After all, that damages finding matches, to the penny, the damages testified to by Dr. Aron based on her "understanding" that HP purchased all the ODDs. That damages finding could be sustained only if HP, in fact, purchased all the ODDs in the transactions that Dr.

Aron considered, but there is no legally sufficient evidence that HP did so. Indeed, the great weight of evidence shows that HP did not purchase all those ODDs. A new trial is required.

CONCLUSION AND PRAYER

For the reasons stated above, Quanta Storage, Inc. prays that this Court reverse and render judgment for Quanta Storage, Inc. In the alternative, Quanta Storage, Inc. prays that this Court reverse and remand for a new trial. Quanta Storage, Inc. also prays for all other relief to which it is entitled.

DATE: March 2, 2020

Respectfully submitted,

/s/ Marie Roach Yeates
Harry M. Reasoner
Marie R. Yeates
Michael A. Heidler
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Attorneys for Appellant Quanta Storage, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that on March 2, 2020 the foregoing document was filed electronically by filing the same with the Clerk of Court using CM/ECF. As such, this document was served on all counsel who are deemed to have consented to electronic service.

/s/ Marie Roach Yeates
Marie Roach Yeates
Attorney for Quanta Storage, Inc.

CERTIFICATE OF DIGITAL SUBMISSION

The foregoing document: (1) does not require privacy redactions; (2) is an exact copy of the paper document; and (3) was determined to be virus-free following a virus scan

Dated: March 2, 2020

/s/ Marie Roach Yeates
Marie Roach Yeates
Attorney for Quanta Storage, Inc.

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 28.1(e)(2)(B) because this brief contains 11,520 words, excluding those sections exempted by Rule 32(f).

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman. Footnotes are in 14-point Times New Roman in compliance with Fifth Circuit Rule 32.1.

Dated: March 2, 2020

/s/ Marie Roach Yeates
Marie Roach Yeates
Attorney for Quanta Storage, Inc.

Exhibit 13

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Hewlett-Packard Company,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civ. A. No. 4:18-00762
	§	
Quanta Storage, Inc. and	§	
Quanta Storage America, Inc.	§	
	§	
Defendants.	§	

PLAINTIFF'S MOTION FOR SHOW CAUSE HEARING REGARDING QUANTA'S NON-COMPLIANCE WITH COURT'S TURNOVER ORDER

COMES NOW, HP Inc. f/k/a Hewlett-Packard Company ("HP") and files this Motion for Show Cause Hearing Regarding Quanta's Non-Compliance with Court's April 1, 2020 turnover order showing the Court as follows:

I. INTRODUCTION

This Court awarded HP Inc. (f/k/a Hewlett-Packard Company) ("HP") a judgment of $438,650,000.00 against Quanta Storage, Inc. ("Quanta") on January 2, 2020. (Dkt. No. 334). On April 1, 2020, based in part on Quanta's refusal to post a supersedeas bond, this Court ordered Quanta to turn-over all of its nonexempt property and any documentary evidence of its non-exempt property pursuant to the Texas Turnover Statute (the "Turnover Order"). (Dkt. No. 424).

Based on the Turnover Order, HP sent the letter attached to this Motion as **Exhibit A** to Quanta on April 2, 2020. In this letter, HP requested compliance with the Court's Turnover Order by April 8, 2020 (seven days after the Court's Turnover Order) and provided the contact information of a constable prepared to take possession of the turned over property. **Exhibit A**. To the extent Quanta needed additional time, the letter encouraged Quanta to reach out to HP to discuss these issues. As of this filing, Quanta has not reached out to HP or turned over any non-exempt property or documentary evidence. *See* **Exhibit B**, Dec. of A. Dawson. Based on this non-compliance, HP requests a show cause hearing.

I. ARGUMENTS AND AUTHORITIES

A. Legal Standard.

"A party commits contempt when he violates a definite and specific order of the court requiring him to perform or refrain from performing a particular act or acts with knowledge of the court's order." *Travelhost, Inc. v. Blandford*, 68 F.3d 958, 961 (5th Cir. 1996); *see also Shafer v. Army & Air Force Exchange Serv.*, 376 F.3d 386, 396 (5th Cir. 2004). "A movant in a civil contempt proceeding bears the burden of establishing by clear and convincing evidence: (1) that a court order was in effect, (2) that the order required certain conduct by the respondent, and (3) that the respondent failed to comply with the court's order." *Test Masters Educ. Servs., Inc. v. Singh*, 428 F.3d 559, 581–82 (5th Cir. 2005). In the context of civil contempt,

clear and convincing evidence is "that weight of proof which 'produces in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without hesitancy, of the truth of the precise facts' of the case." *Shafer*, 376 F.3d at 396. To be clear, intent is not an issue in civil contempt proceedings; rather, "the question is not one of intent but whether the alleged contemnors have complied with the court's order." *Jim Walter Resources, Inc. v. International Union, etc*., 609 F.2d 165,168 (5th Cir.1980). "Willfulness is [also] not an element of civil contempt." *Petroleos Mexicanos v. Crawford Enterprises, Inc*., 826 F.2d 392, 401 (5th Cir. 1987). Once the movant has established the failure to comply with an order, then the respondent bears the burden of showing mitigating circumstances that might permit the court to withhold exercising its contempt power. *Whitfield v. Pennington*, 832 F .2d 909, 914 (5th Cir. 1987).

B. Quanta Refuses to Comply with a Clear and Direct Order.

This Court's Turnover Order required Quanta to turnover (1) all of its non-exempt property and (2) any documentary evidence of its non-exempt property. (Dkt. No. 424 at 3). Despite this clear and direct Order, Quanta has failed to turn-over *any* of its non-exempt property or *any* of the documentary evidence of this property to Constable Alan Rosen's office (as requested by HP). *See* **Exhibit B**.

C. This Court Should Issue A Show Cause Order.

By Quanta's own admission, extensive non-exempt property exists and is properly subject to this Court's Turnover Order. (Dkt. No. 412, Ex. 1). Accordingly, Quanta's failure to turnover this property constitutes contempt of this Court's Turnover Order. *Sec. & Exch. Com'n v. Res. Dev. Intern., LLC*, 3:02-CV-0605-R, 2004 WL 2599886, at *2 (N.D. Tex. Nov. 15, 2004) (finding contempt based, in part, on party's failure to comply with turnover order and ordering him into federal custody until he complies). HP therefore requests that the Court issue a show cause order requiring Quanta's President, Chief Executive Officer or Chief Financial Officer to appear (either in person or by live videoconference) and show cause why Quanta should not be held in contempt for its failure to comply with the Turnover Order. At the show cause hearing, Quanta should also be required to explain how it intends to comply with the Court's Turnover Order to avoid sanctions. A form of order has been submitted with this Motion.

Upon an opportunity to be heard (and if it is determined that Quanta will not comply with the Court's Turnover Order without additional coercion), Quanta should be held in contempt and punished appropriately. A contempt order might, by way of example only, require Quanta, and potentially its President, Chief Operating Officer and/or Board of Directors, to pay $50,000.00 per day until Quanta complies with the Court's Turnover Order. The contempt order may also appoint a receiver

to effectuate the transfer of Quanta's patents and trademarks and other non-exempt property. It is worth noting, the United States Supreme Court has made clear that a corporation's non-compliance can also be addressed through sanctions of the individual or individuals controlling the corporation:

> A command to the corporation is in effect a command to those who are officially responsible for the conduct of its affairs. If they, apprised of the writ directed to the corporation, prevent compliance or fail to take appropriate action within their power for the performance of the corporate duty, they, no less than the corporation itself, are guilty of disobedience, and may be punished for contempt.

Wilson v. United States, 221 U.S. 361, 376, 31 S. Ct. 538, 543, 55 L. Ed. 771 (1911); *see also Am. Airlines, Inc. v. Allied Pilots Ass'n*, 228 F.3d 574, 581 (5th Cir. 2000) ("As executive officers of the APA, LaVoy and Mayhew are subject to contempt charges for their failure to cause the APA to comply with the district court's order"); *Elec. Workers Pension Tr. Fund of Local Union |58, IBEW v. Gary's Elec. Serv. Co.*, 340 F.3d 373, 382 (6th Cir. 2003) ("Pipia, as an officer of the corporation and the one responsible for the corporation's affairs, was subject to the court's order just as the corporation itself was … [b]ecause Pipia either 'prevent[ed] compliance or fail [ed] to take appropriate action within [his] power for the performance of the corporate duty,' the district court had the authority to hold Pipia in contempt.").

III. CONCLUSION

For the foregoing reasons, HP respectfully requests this Court issue a show cause order requiring Quanta's President, Chief Executive Officer or Chief Financial

Officer to appear (either in person or by live videoconference) and show cause why Quanta should not be held in contempt for its failure to comply with the Turnover Order and explain how Quanta intends to comply with the Court's Turnover Order. HP also requests such other relief to which it has shown itself entitled.

April 13, 2020

Respectfully submitted,

BECK | REDDEN LLP

By: /s/ *Alistair B. Dawson*

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CERTIFICATE OF CONFERENCE

I have conferred with counsel for Quanta Storage, Inc with regard to the foregoing motion and confirmed that Quanta Storage, Inc is opposed to this motion. During those conferences, I was told that Quanta's counsel in California was handling Quanta's compliance with this Court's order. I asked the California counsel what Quanta intended to do in response to this Court's order and was told that "Quanta will make its subsequent move."

/s/ Alistair B. Dawson
Alistair B. Dawson

CERTIFICATE OF SERVICE

The undersigned hereby certifies on April 13, 2020, that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system.

/s/ Garrett S. Brawley
Garrett S. Brawley

Exhibit A

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ALISTAIR DAWSON
adawson@beckredden.com

April 2, 2020

Re: Civil Action No. 4:18-cv-00762; *Hewlett-Packard Company v. Quanta Storage, Inc. et al*; In the United States District Court for the Southern District of Texas, Houston Division

Quanta Storage, Inc.
c/o Marie Yeates
Harry Reasoner
Vinson & Elkins
1001 Fannin Street
Suite 2500
Houston, Texas 77002

Via Email: myeates@velaw.com
Via Email: hreasoner@velaw.com

Dear Harry and Marie:

Pursuant to the Court's April 1, 2020 Order (attached hereto as **Exhibit A**) ["Turnover Order"], demand is made for the the turnover of Quanta Storage, Inc.'s ("Quanta") non-exempt property *and* all documentary evidence of Quanta's non-exempt property by April 8, 2020. As outlined in Texas Civil Practice and Remedies Code §31.002, this turnover should be made to a sheriff or constable for execution. Accordingly, please remit all property and documentary evidence to Chief Carl Shaw and Sergeant Richard Smith at Constable Alan Rosen's office: 1302 Preston, Suite 301 Houston, TX 77002. Please copy me on any communications with Chief Shaw and Sergeant Smith.

To comply with the Turnover Order, Quanta must turnover all of its non-exempt assets, including but not limited to the following

- Quanta's patents, trademarks, and copyrights, including but not limited to the patents and trademarks shown in the attached **Exhibit B**;
- Any auxiliary rights to Quanta's patents, trademarks, or copyrights;
- The $165,987,710.81[1] in cash or cash equivalents reflected on the financials submitted by you to the Court (Dkt. No. 412, Ex. 1 at Ex. A);
- The $51,174,924.37 in inventory reflected on the financials submitted by you to the Court (Dkt. No. 412, Ex. 1 at Ex. A);

[1] All valuations are based on current exchange rates between the NT$ and the United States Dollar.

- The $40,012,622.54 in property reflected on the financials submitted by you to the Court (Dkt. No. 412, Ex. 1 at Ex. A);

- The $53,066141.58 million in accounts receivables reflected on the financials submitted by you to the Court (Dkt. No. 412, Ex. 1 at Ex. A).

- Any and all cash, bank deposits, cash on hand, cash held or maintained by Quanta or any subsidiary of Quanta, any officer, director, shareholder, attorney or third party in possession thereof, which has arisen from and based on the sale by the subsidiaries of any goods, wares or merchandise belonging to, or an interest therein, of Quanta

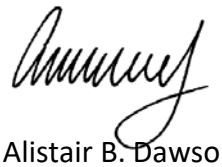
- All shares of stock subscription for shares of stock, membership interest, or any evidence of ownership of the subsidiaries of Quanta.

- Any and all cash, cash on hand, funds held by a third party, funds held in trust, cash held by any subsidiary of Quanta.

Should Quanta fail to comply with the Court's Order by April 8, 2020, HP will be forced to initiate contempt proceedings. However, to the extent Quanta has partially complied by April 8, 2020, but needs more time to fully comply, I encourage you to reach out and discuss these issues and the reasoning behind them.

Thank you for your attention to this matter. Feel free to reach out if you have any questions.

Very truly yours,



Alistair B. Dawson

cc: Chief Carl Shaw
Sergeant Richard Smith
1302 Preston, Suite 301
Houston, Texas 77002

Via Email: Carl.Shaw@cn1.hctx.net

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY, Plaintiff, v. QUANTA STORAGE INC. *and* QUANTA STORAGE AMERICA INC., Defendants.	§ § § § § § § § § § §	Civil Action No. H-18-762

ORDER

Pending before the Court are Plaintiff's Emergency Motion Re-Urging its Motion for Post-Judgment Relief in Aid of Enforcing its Judgment (Document No. 421) and Plaintiff's Motion Re-Urging its Motion for Writ of Execution (Document No. 422). Having considered the motions, submissions, and applicable law, the Court determines the motion for post-judgment relief should be granted in part and denied in part and the motion for writ of execution should be granted.

Plaintiff HP Inc. (formerly known as Hewlett-Packard Company) ("HP") renews its motions for post-judgment relief to enforce the judgment and for a writ of execution against Defendant Quanta Storage, Inc. ("Quanta Storage"). Specifically, HP requests: (1) appointment of Randy W. Williams as Receiver to obtain, sell, license, transfer, or dispose of Quanta Storage non-exempt property,

including Quanta Storage's patents, trademarks, and copyrights; (2) order Quanta Storage to turn over all documentary evidence of its non-exempt property, including documents relating to licensing, sale, or other disposition of Quanta Storage's patents, trademarks, or copyrights; (3) order Quanta Storage to turn over all Quanta Storage's non-exempt property, including any patents, trademarks, and copyrights, and all licensing and revenue related to its patents to the Receiver; and (4) enter a restraining order preventing Quanta Storage from disposing non-exempt property, including all patents, trademarks, and copyrights, pending the sale by the Receiver. Quanta Storage contends HP's execution on the amended judgment will severely impair Quanta Storage's business.

"To enforce a judgment, judgment creditors must file a writ of execution in accordance with the 'practice and procedure of the state in which the district court is held.' " *Andrews v. Roadway Exp. Inc.*, 473 F.3d 565, 568 (5th Cir. 2006) (quoting Fed. R. Civ. P. 69(a)(1)). Under Texas law, after a judgment is finalized, the prevailing party may execute on the judgment by securing a writ of execution from the clerk of the court that issued the judgment. *See* Tex. R. Civ. P. 627. In addition, the Texas Turnover Statute allows the Court to, *inter alia*, "order the judgment debtor to turn over non-exempt property in the debtor's possession or that is subject to the debtor's control, together with all documents or records related to the property . . . for execution." Tex. Civ. Prac. & Rem. Code § 31.002(b)(1). The Texas Turnover

statute also permits the appointment of a receiver "to take possession of the nonexempt property, sell it and pay proceeds to the judgment creditor to the extent required to satisfy the judgment." *Id.* § 31.002(b)(3). However, "[r]eceivership is an extraordinary remedy that should be employed with the utmost caution and is justified only where there is a clear necessity to protect a party's interest in property, legal and less drastic equitable remedies are inadequate, and the benefits of receivership outweigh the burdens on the affected parties." *Netsphere, Inc. v. Baron*, 703 F.3d 296, 305 (5th Cir. 2012) (internal citations omitted).

To prevent execution on a judgment by the judgment creditor, the judgment debtor must post a supersedeas bond or other security. Fed. R. Civ. P. 62(b). The supersedeas bond is usually for "the whole amount of the judgment remaining unsatisfied, costs on appeal, interest, and damages for delay." *Poplar Grove Planting and Refining Co., Inc. v. Bache Halsey Stuart, Inc.*, 600 F.2d 1189, 1191 (5th Cir. 1979). However, "if a judgment debtor's present financial condition is such that posting of a full bond would impose an undue financial burden, the court is . . . free to exercise a discretion to fashion some other arrangement for substitute security through an appropriate restraint on the judgment debtors financial dealings, which would furnish equal protection to the judgment creditor." *Id.*

On March 5, 2020, the Court conducted a hearing (the "Hearing") on HP's original motion for post-judgment relief, including the temporary restraining order,

and Quanta Storage's motion to stay execution on the amended judgment. At the Hearing, HP produced evidence of Quanta Storage's declining stock. Quanta Storage also produced financial records showing Quanta Storage's assets are valued at less than the full amount of the judgment.[1] On March 12, 2020, the Court, after finding Quanta Storage objectively demonstrated posting the full supersedeas bond would pose an undue financial hardship, entered injunctive relief as agreed to by both parties and ordered Quanta Storage to post a reduced supersedeas bond in the amount of $85,000,000 within fifteen days of the Order to stay execution of the amended judgment.[2]

Quanta Storage failed to post the required bond within the fifteen-day deadline. In response to HP's renewed motions, Quanta Storage alleges, three days after the deadline, it is unable to secure the reduced bond due to restrictions on nonessential businesses put in place by the Taiwanese government in light of the COVID-19 pandemic. Quanta Storage fails to produce any documentation showing restrictions on its business. Based on the motions, representations made at the Hearing, and Quanta Storage's failure to post the reduced supersedeas bond, the Court finds HP is entitled to post-judgment relief and a writ of execution to enforce

[1] *Quanta Storage, Inc.'s Motion for Stay of Execution and Opposition to HP's Motion for Writ of Execution*, Document No. 412, Exhibit 1-A (*Financial Statements*).

[2] *Order*, Document No. 418.

the amended judgment. However, the Court further finds it not been shown: (1) there is a clear necessity for appointment of a receiver; (2) legal or less drastic remedies are inadequate or unavailable; and (3) the benefits of receivership outweigh burdens on the affected parties. *See Netsphere*, 703 F.3d at 305. Accordingly, the Court hereby

ORDERS that Plaintiff's Emergency Motion Re-Urging its Motion for Post-Judgment Relief in Aid of Enforcing its Judgment (Document No. 421) is **GRANTED IN PART** and **DENIED IN PART**. The motion is granted as to the temporary restraining order, the turnover of all Quanta Storage's non-exempt property, and the turnover of documentary evidence of Quanta Storage's non-exempt property. The motion is denied at this time as to the request for the appointment of a receiver. The Court further

ORDERS that Plaintiff's Motion Re-Urging its Motion for Writ of Execution (Document No. 422) is **GRANTED**.

SIGNED at Houston, Texas, on this 1 day of April, 2020.

DAVID HITTNER
United States District Judge

Exhibit B

US008095944B2

(12) **United States Patent**
Chang et al.

(10) **Patent No.: US 8,095,944 B2**
(45) **Date of Patent: Jan. 10, 2012**

(54) **SLOT-IN OPTICAL DISK DRIVE**

(75) Inventors: **Yu-Ming Chang**, Guishan Shiang (TW); **Yu-Sheng Wang**, Guishan Shiang (TW); **Jen-Chen Wu**, Guishan Shiang (TW)

(73) Assignee: **Quanta Storage Inc.**, Taoyuan County (TW)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 427 days.

(21) Appl. No.: **12/492,687**

(22) Filed: **Jun. 26, 2009**

(65) **Prior Publication Data**

US 2010/0077414 A1 Mar. 25, 2010

(30) **Foreign Application Priority Data**

Sep. 23, 2008 (TW) ..... 97136580 A

(51) **Int. Cl.**
G11B 17/051 (2006.01)
G11B 17/04 (2006.01)

(52) **U.S. Cl.** **720/622**

(58) **Field of Classification Search** 720/616, 720/617, 619–625

See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

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7,900,220	B2 *	3/2011	Chiou et al.	720/622
2004/0022160	A1 *	2/2004	Takai et al.	369/77.1
2008/0271063	A1 *	10/2008	Yamanaka et al.	720/672

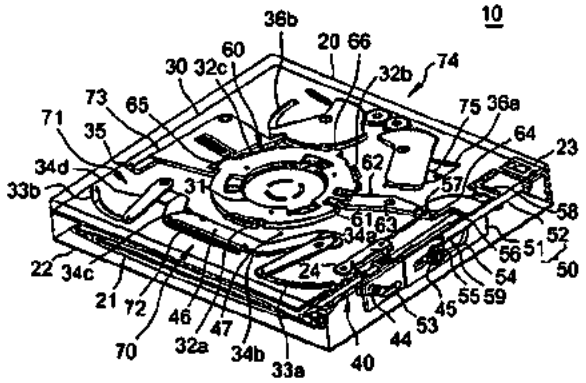
* cited by examiner

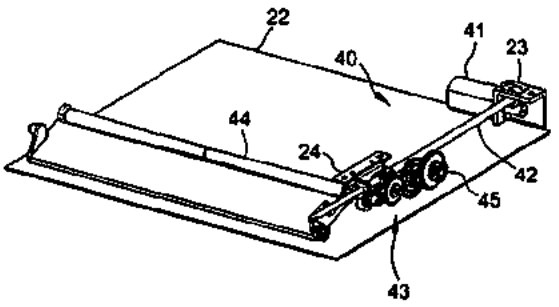
Primary Examiner — Will J Klimowicz
(74) *Attorney, Agent, or Firm* — Rabin & Berdo, PC

(57) **ABSTRACT**

A slot-in type disk drive fastens a clamping unit with two protrusions around its periphery on the central hole of a base plate. A front positioning part utilizes a stick to link a front right positioning bar and a front left positioning bar to synchronously open or close. A locking rod has a limiting pin inserted into an arc slot on the side of the base plate, and protrudes a locking end from the rear end. A rear positioning part utilizes an idle gear to link rear right and rear left positioning bars to synchronously open or close. The locking end can insert a first or second positioning recess on the rear left positioning bar and a touch block of the locking rod leans against the first protrusion. A lever is disposed on the rear right positioning bar to link a linkage plate set by one end.

16 Claims, 11 Drawing Sheets





US009193073B1

(12) **United States Patent**
Huang et al.

(10) **Patent No.: US 9,193,073 B1**
(45) **Date of Patent: Nov. 24, 2015**

(54) **ROBOT CALIBRATION APPARATUS FOR CALIBRATING A ROBOT ARM**

(71) Applicant: **QUANTA STORAGE INC.**, Taoyuan County (TW)

(72) Inventors: **Chung-Hsien Huang**, Taoyuan County (TW); **Shuo-Ji Shia**, Taoyuan County (TW); **Jen-Chen Wu**, Taoyuan County (TW)

(73) Assignee: **QUANTA STORAGE INC.**, Taoyuan (TW)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **14/514,408**

(22) Filed: **Oct. 15, 2014**

(51) **Int. Cl.**
G05B 19/18 (2006.01)
B25J 9/16 (2006.01)

(52) **U.S. Cl.**
CPC ***B25J 9/1692*** (2013.01); ***Y10S 901/02*** (2013.01); ***Y10S 901/47*** (2013.01)

(58) **Field of Classification Search**
CPC B25J 9/1692; Y10S 901/02; Y10S 901/47
USPC 701/245, 248, 252, 254
See application file for complete search history.

(56) **References Cited**

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2003/0144765	A1 *	7/2003	Habibi	B25J 9/1697 700/259
2004/0172164	A1 *	9/2004	Habibi	B25J 9/1692 700/245

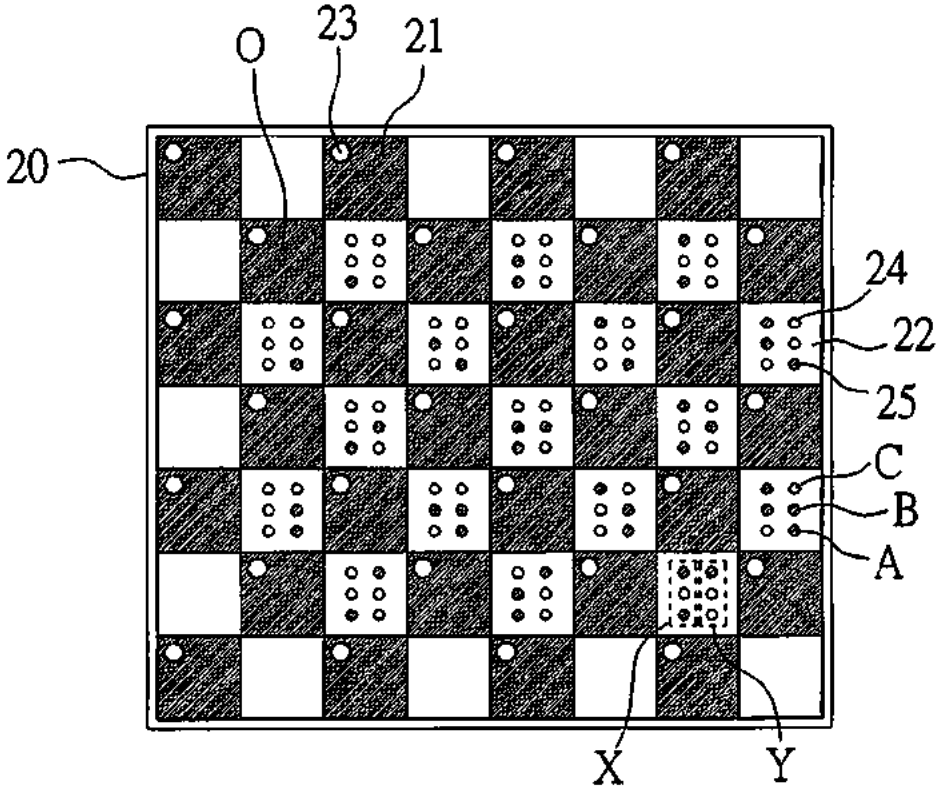
* cited by examiner

Primary Examiner — Ian Jen
(74) *Attorney, Agent, or Firm* — Winston Hsu; Scott Margo

(57) **ABSTRACT**

An encoded calibrating plate is fixed on the working environment of the robot arm and has a chessboard pattern with each square in the chessboard pattern being an encoding. The encoding indicates direction or position on the encoded calibration plate. A visual system of the robot arm captures an image of the encoded calibrating plate, calculates the coordinates encoding of the encoded calibration plate, and positions the visual system to calibrate a positioning error of the robot arm and the visual system.

13 Claims, 5 Drawing Sheets



US009612752B2

(12) **United States Patent**
Lin et al.

(10) **Patent No.: US 9,612,752 B2**
(45) **Date of Patent: Apr. 4, 2017**

(54) **WRITING METHOD FOR SOLID STATE DRIVE**

(71) Applicant: **QUANTA STORAGE INC.**, Taoyuan (TW)

(72) Inventors: **Cheng-Yi Lin**, Taoyuan (TW); **Ying-Kai Yu**, Taoyuan (TW); **Shih-Wei Chen**, Taoyuan (TW); **Yi-Long Hsiao**, Taoyuan (TW)

(73) Assignee: **QUANTA STORAGE INC.**, Taoyuan (TW)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 11 days.

(21) Appl. No.: **14/731,095**

(22) Filed: **Jun. 4, 2015**

(65) **Prior Publication Data**

US 2016/0202908 A1 Jul. 14, 2016

(30) **Foreign Application Priority Data**

Jan. 12, 2015 (CN) 2015 1 0013853

(51) **Int. Cl.**
G06F 12/02 (2006.01)
G06F 3/06 (2006.01)

(52) **U.S. Cl.**
CPC ***G06F 3/061*** (2013.01); ***G06F 3/0604*** (2013.01); ***G06F 3/0638*** (2013.01); ***G06F 3/0653*** (2013.01); ***G06F 3/0685*** (2013.01); ***G06F 12/0238*** (2013.01); ***G06F 12/0246*** (2013.01)

(58) **Field of Classification Search**
CPC G06F 12/0236; G06F 12/0246; G06F 2212/214; G06F 2212/7203
USPC 711/103, 102
See application file for complete search history.

(56) **References Cited**

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2016/0041924	A1 *	2/2016	Fields et al.	714/6.23
2016/0092113	A1 *	3/2016	Veal et al.	711/103

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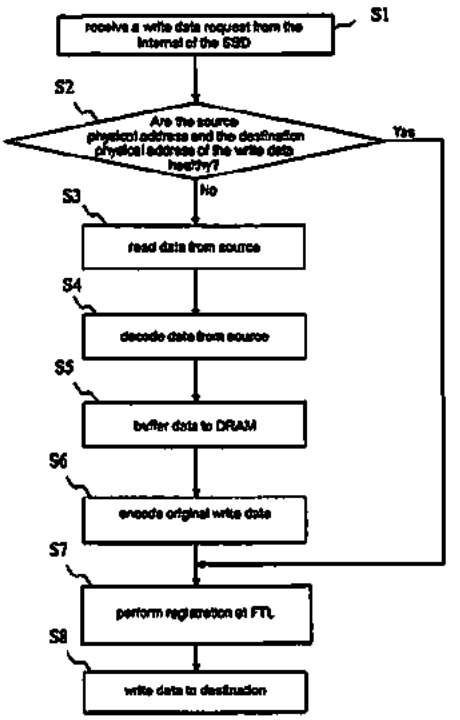
Primary Examiner — Than Nguyen
(74) *Attorney, Agent, or Firm* — Rabin & Berdo, P.C.

(57) **ABSTRACT**

A writing method for SSD (SSD) is disclosed. When processing a write data request from an internal of the SSD, whether both the source physical address and the destination physical address of the write data are in a healthy state is checked; the destination physical address corresponding to the logical address of the write data is registered to the flash transmit layer (FTL); the write data stored in the source is directly written to the destination physical address to accelerate the write speed.

8 Claims, 6 Drawing Sheets



US009389788B2

(12) **United States Patent**
Lin et al.

(10) **Patent No.: US 9,389,788 B2**
(45) **Date of Patent: Jul. 12, 2016**

(54) **READING METHOD OF SOLID STATE DISK FOR IMPROVING READING SPEED AND MITIGATING READING CONGESTION**

(71) Applicant: **QUANTA STORAGE INC.**, Taoyuan County (TW)

(72) Inventors: **Cheng-Yi Lin**, Taoyuan County (TW); **Yi-Long Hsiao**, Taoyuan County (TW)

(73) Assignee: **QUANTA STORAGE INC.**, Guishan Dist., Taoyuan (TW)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 54 days.

(21) Appl. No.: **14/490,691**

(22) Filed: **Sep. 19, 2014**

(65) **Prior Publication Data**

US 2015/0220274 A1 Aug. 6, 2015

(30) **Foreign Application Priority Data**

Feb. 5, 2014 (TW) ..... 103103878 A

(51) **Int. Cl.**
G06F 12/00 (2006.01)
G06F 3/06 (2006.01)
G06F 12/02 (2006.01)

(52) **U.S. Cl.**
CPC *G06F 3/0611* (2013.01); *G06F 3/061* (2013.01); *G06F 3/0656* (2013.01); *G06F 3/0659* (2013.01); *G06F 3/0679* (2013.01); *G06F 3/0688* (2013.01); *G06F 12/0246* (2013.01); *G06F 2003/0691* (2013.01); *G06F 2003/0692* (2013.01); *G06F 2206/1014* (2013.01)

(58) **Field of Classification Search**
CPC G06F 12/00; G06F 3/061; G06F 11/10; G06F 12/02; G06F 2212/214; G06F 13/00; G06F 3/0628; G06F 2003/0691; G06F 2003/0692; G06F 3/0611; G06F 3/0656; G06F 3/0679; G06F 12/0246; G06F 2212/7203
USPC 711/103
See application file for complete search history.

(56) **References Cited**

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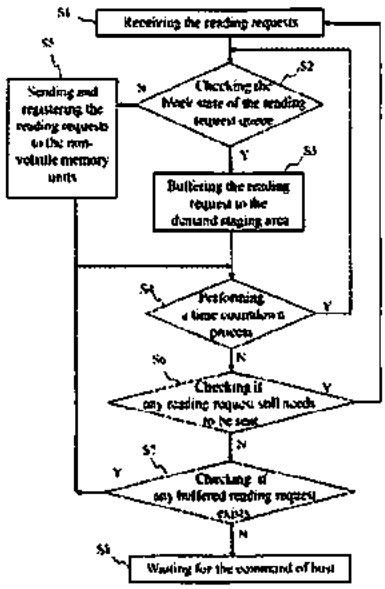
Primary Examiner — Mardochee Chery
(74) *Attorney, Agent, or Firm* — Winston Hsu; Scott Margo

(57) **ABSTRACT**

The present invention is to provide a reading method of a solid state disk, receiving read requests, pre-checking the blocked state of the request queue in non-volatile memory, registering the reading request to the reading request queue if the request queue is adjudged to be unblocked, buffering the request queue if the reading request queue is adjudged to be blocked, sending a next reading request, and checking and re-sending the buffered reading request at predetermined time length in order to improve the speed of data reading.

6 Claims, 4 Drawing Sheets



US009507723B2

(12) **United States Patent**
Lin et al.

(10) **Patent No.: US 9,507,723 B2**
(45) **Date of Patent: Nov. 29, 2016**

(54) **METHOD FOR DYNAMICALLY ADJUSTING A CACHE BUFFER OF A SOLID STATE DRIVE**

(71) Applicant: **QUANTA STORAGE INC.**, Taoyuan (TW)

(72) Inventors: **Cheng-Yi Lin**, Taoyuan (TW); **Yi-Long Hsiao**, Taoyuan (TW)

(73) Assignee: **QUANTA STORAGE INC.**, Taoyuan (TW)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 11 days.

(21) Appl. No.: **14/670,401**

(22) Filed: **Mar. 26, 2015**

(65) **Prior Publication Data**

US 2016/0062898 A1 Mar. 3, 2016

(30) **Foreign Application Priority Data**

Aug. 28, 2014 (CN) 2014 1 0430802

(51) **Int. Cl.**
G06F 12/00 (2006.01)
G06F 12/08 (2016.01)

(52) **U.S. Cl.**
CPC ***G06F 12/0873*** (2013.01); ***G06F 12/0866*** (2013.01); ***G06F 12/0871*** (2013.01); ***G06F 2212/214*** (2013.01); ***G06F 2212/461*** (2013.01); ***G06F 2212/604*** (2013.01); ***G06F 2212/608*** (2013.01)

(58) **Field of Classification Search**
CPC ... G06F 12/00; G06F 12/0238; G06F 3/0679
USPC 711/103, 154
See application file for complete search history.

(56) **References Cited**

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2015/0277802	A1 *	10/2015	Oikarinen	G06F 3/0631 711/114

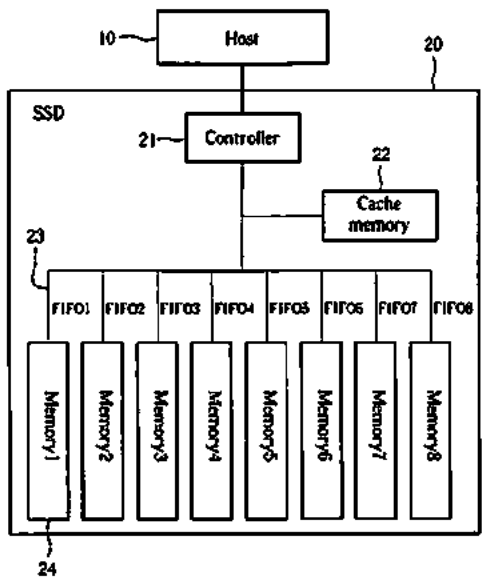
* cited by examiner

Primary Examiner — Tuan Thai
(74) *Attorney, Agent, or Firm* — Winston Hsu; Scott Margo

(57) **ABSTRACT**

A method for dynamically adjusting a cache buffer of a solid state drive includes receiving data, determine if the data are continuous according to logical allocation addresses of the data, increasing a memory size of the cache buffer, searching the cache buffer for same data as at least one portion of the data, modifying and merging of the at least one portion of the data with the same data already temporarily stored in the cache buffer, temporarily storing the data in the cache buffer.

8 Claims, 6 Drawing Sheets



US009545719B2

(12) **United States Patent**
Huang et al.

(10) **Patent No.: US 9,545,719 B2**
(45) **Date of Patent: Jan. 17, 2017**

(54) **TEACHING DEVICE AND METHOD FOR ROBOTIC ARM**

(71) Applicant: **QUANTA STORAGE INC.**, Taoyuan County (TW)

(72) Inventors: **Chung-Hsien Huang**, Taoyuan County (TW); **Shih-Chih Ho**, Taoyuan County (TW)

(73) Assignee: **QUANTA STORAGE INC.**, Taoyuan County (TW)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **14/564,944**

(22) Filed: **Dec. 9, 2014**

(65) **Prior Publication Data**

US 2015/0217450 A1 Aug. 6, 2015

(30) **Foreign Application Priority Data**

Feb. 5, 2014 (TW) ..... 103103879 A

(51) **Int. Cl.**
B25J 9/16 (2006.01)

(52) **U.S. Cl.**
CPC ***B25J 9/1671*** (2013.01); ***G05B 2219/35444*** (2013.01)

(58) **Field of Classification Search**
CPC G05B 2219/35444; B25J 9/163
See application file for complete search history.

(56) **References Cited**

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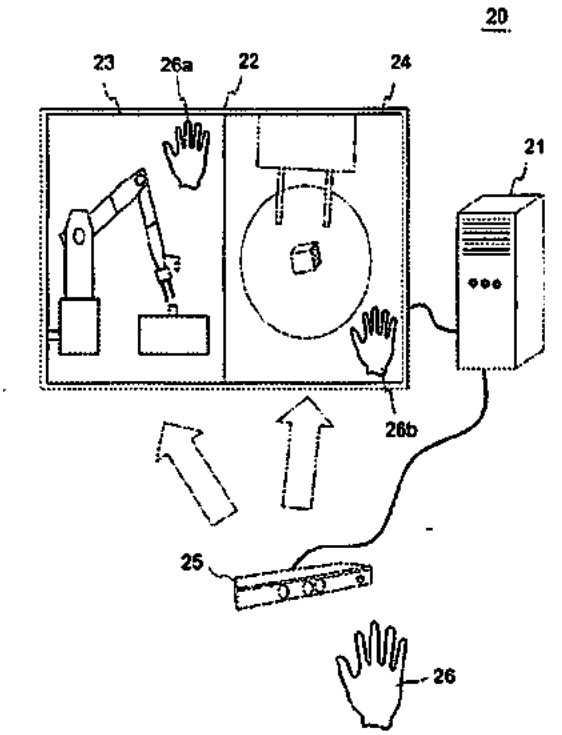
Primary Examiner — Yuen Wong
(74) *Attorney, Agent, or Firm* — Rabin & Berdo, P.C.

(57) **ABSTRACT**

A teaching device and a teaching method for a robotic arm are disclosed. The teaching device comprises a robotic arm, a control device and a gesture recognition module. The gesture recognition module detects a control gesture signal and transmits the detected control gesture signal to the control device. After receiving the control gesture signal, the control device teaches the robotic arm to move and switches between an arm movement mode and a hand movement mode. In an arm movement mode, the control device, aided by an arm ambient image shown on an eye frame and an arm control gesture, teaches an arm unit to move to a target at a high velocity. In the hand movement mode, the control device, aided by a hand vicinity image shown on an eye-in-hand frame and a hand control gesture, teaches a hand unit to move the processing target at a low velocity.

6 Claims, 4 Drawing Sheets



J. Y. McCLINTOCK.

PROCESS OF MAKING PAVEMENTS.

APPLICATION FILED NOV. 3, 1909.

957,985. Patented May 17, 1910.

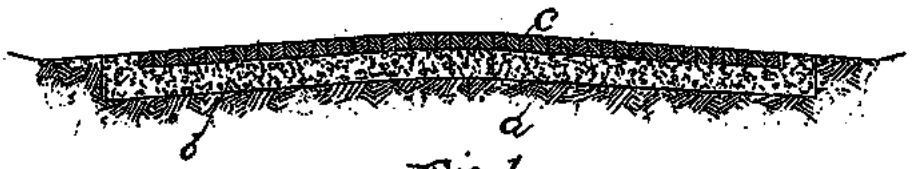


Fig. 1

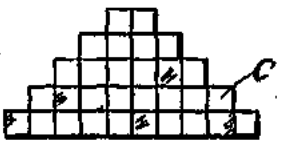


Fig. 2.

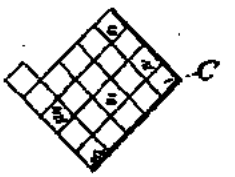
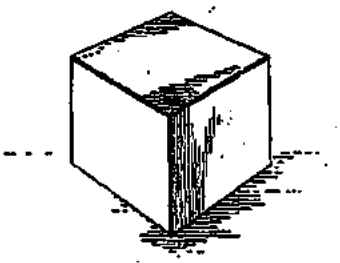


Fig. 3.

Fig 4



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By Williamson, Fisher & Whittemore
Attorneys.

US009263117B2

(12) **United States Patent**
Lin et al.

(10) **Patent No.: US 9,263,117 B2**
(45) **Date of Patent: Feb. 16, 2016**

(54) **WRITING METHOD FOR SOLID STATE DISK**

(71) Applicant: **QUANTA STORAGE INC.**, Taoyuan County (TW)

(72) Inventors: **Cheng-Yi Lin**, Taoyuan County (TW); **Yi-Long Hsiao**, Taoyuan County (TW)

(73) Assignee: **QUANTA STORAGE INC.**, Taoyuan County (TW)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 15 days.

(21) Appl. No.: **14/505,856**

(22) Filed: **Oct. 3, 2014**

(65) **Prior Publication Data**

US 2015/0255147 A1 Sep. 10, 2015

(30) **Foreign Application Priority Data**

Mar. 6, 2014 (CN) 2014 1 0079814

(51) **Int. Cl.**
G06F 9/26 (2006.01)
G11C 11/4093 (2006.01)

(52) **U.S. Cl.**
CPC *G11C 11/4093* (2013.01)

(58) **Field of Classification Search**
USPC 711/219; 365/189.05
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

2015/0220274 A1* 8/2015 Lin G06F 3/0611 711/103

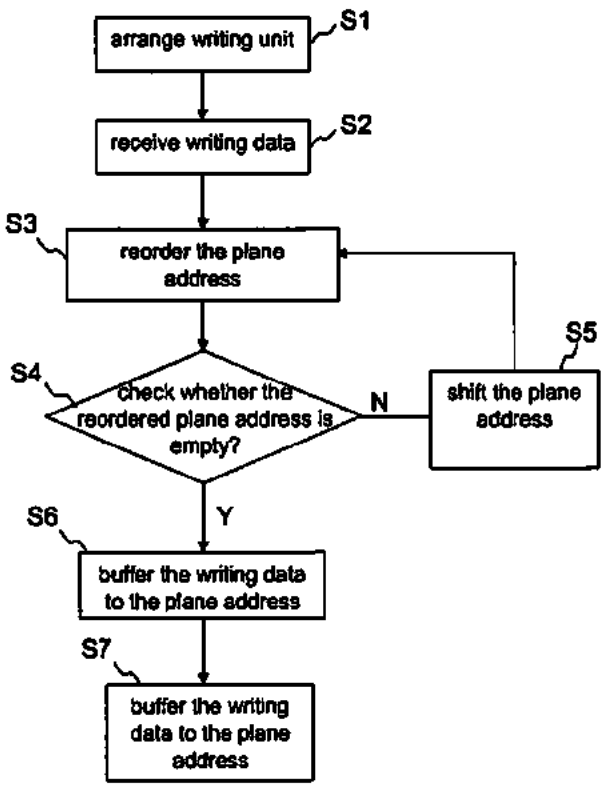
* cited by examiner

Primary Examiner — Hoai V Ho
(74) *Attorney, Agent, or Firm* — Rabin & Berdo, P.C.

(57) **ABSTRACT**

A writing method for a solid state disk is disclosed. The method comprises following steps: A writing unit is arranged in a buffer memory, wherein plane addresses of the writing unit are in one-to-one correspondence with non-volatile memories of the solid state disk. A writing data is received. A reordered plane address of the writing unit is obtained by using the residue of the logical allocation address of the writing data dividing the plane address number. Whether the reordered plane address is empty is checked. If the reordered plane address is not empty, the next plane address is shifted and the plane address is reordered. If the reordered plane address is empty, the writing data is buffered to the reordered plane address and the logical allocation address of the writing data is arranged in order.

8 Claims, 9 Drawing Sheets



US009720605B2

(12) **United States Patent**
Lin et al.

(10) **Patent No.: US 9,720,605 B2**
(45) **Date of Patent: Aug. 1, 2017**

(54) **METHOD FOR DYNAMICALLY ESTABLISHING TRANSLATION LAYER OF SOLID STATE DISK**

(71) Applicant: **QUANTA STORAGE INC.**, Taoyuan (TW)

(72) Inventors: **Cheng-Yi Lin**, Taoyuan (TW); **Ying-Kai Yu**, Taoyuan (TW); **Yi-Long Hsiao**, Taoyuan (TW)

(73) Assignee: **QUANTA STORAGE INC.**, Taoyuan (TW)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 55 days.

(21) Appl. No.: **14/931,849**

(22) Filed: **Nov. 3, 2015**

(65) **Prior Publication Data**

US 2016/0266818 A1 Sep. 15, 2016

(30) **Foreign Application Priority Data**

Mar. 11, 2015 (CN) 2015 1 0105384

(51) **Int. Cl.**
G06F 3/06 (2006.01)
G06F 12/02 (2006.01)

(52) **U.S. Cl.**
CPC *G06F 3/0616* (2013.01); *G06F 3/0604* (2013.01); *G06F 3/0634* (2013.01); *G06F 3/0685* (2013.01); *G06F 3/0688* (2013.01); *G06F 12/0246* (2013.01); *G06F 2212/22* (2013.01); *G06F 2212/601* (2013.01); *G06F 2212/6012* (2013.01); *G06F 2212/7201* (2013.01); *G06F 2212/7203* (2013.01); *G06F 2212/7207* (2013.01)

(58) **Field of Classification Search**
None
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

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2016/0259589 A1* 9/2016 Zettsu G06F 3/0634

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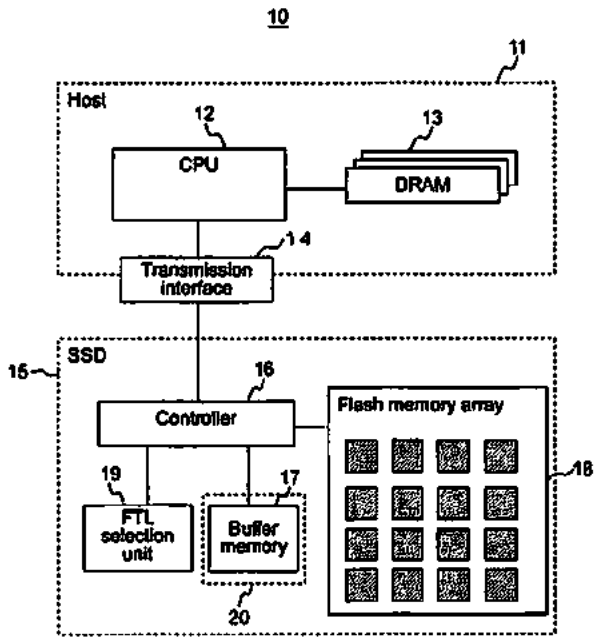
Primary Examiner — Kevin Verbrugge
(74) *Attorney, Agent, or Firm* — Rabin & Berdo, P.C.

(57) **ABSTRACT**

A method for dynamically establishing a transition layer of a solid state disk (SSD). When a SSD is activated, the storage mode of the logical to physical (L2P) table is dynamically selected according to the state in the buffer memory of the SSD and the comparison between the capacity of the buffer memory and that of the L2P table. The establishing position of a flash translation layer (FTL) is suitably adjusted according to the selected storage mode such that the lifespan of the SSD can be prolonged.

12 Claims, 6 Drawing Sheets



US009870320B2

(12) **United States Patent**
Lin et al.

(10) **Patent No.: US 9,870,320 B2**
(45) **Date of Patent: Jan. 16, 2018**

(54) **METHOD FOR DYNAMICALLY STORING A FLASH TRANSLATION LAYER OF A SOLID STATE DISK MODULE**

(71) Applicant: **QUANTA STORAGE INC.**, Taoyuan (TW)

(72) Inventors: **Cheng-Yi Lin**, Taoyuan (TW); **Ying-Kai Yu**, Taoyuan (TW); **Yi-Long Hsiao**, Taoyuan (TW)

(73) Assignee: **QUANTA STORAGE INC.**, Taoyuan (TW)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 148 days.

(21) Appl. No.: **15/132,267**

(22) Filed: **Apr. 19, 2016**

(65) **Prior Publication Data**

US 2016/0342522 A1 Nov. 24, 2016

(30) **Foreign Application Priority Data**

May 18, 2015 (CN) 2015 1 0251065

(51) **Int. Cl.**
G06F 12/10 (2016.01)

(52) **U.S. Cl.**
CPC ***G06F 12/10*** (2013.01); ***G06F 2212/1044*** (2013.01); ***G06F 2212/2022*** (2013.01)

(58) **Field of Classification Search**
None
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

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2016/0246726	A1*	8/2016	Hahn	G06F 12/0862
2017/0177497	A1*	6/2017	Chun	G06F 12/1009

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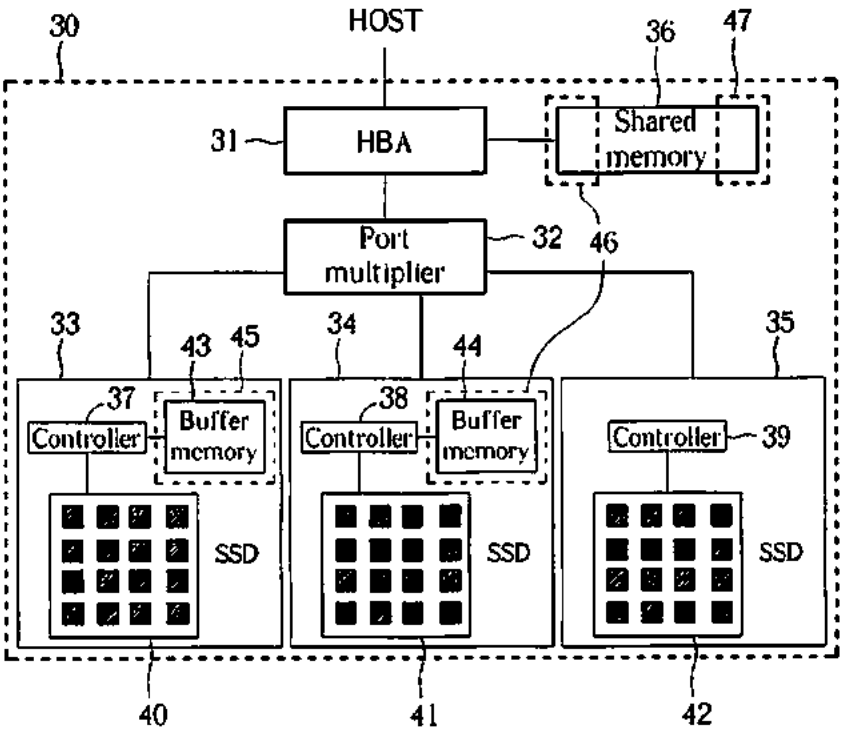
Primary Examiner — John A Lane
(74) *Attorney, Agent, or Firm* — Winston Hsu

(57) **ABSTRACT**

A shared memory is initially set in the solid state module. A command for accessing information is received. The translation time of the flash translation layer is measured. The translation time is compared to a predetermined time. Dynamic storing of the flash translation layer is initialized. And, the flash translation layer is moved to the shared memory to increase efficiency.

11 Claims, 5 Drawing Sheets



US010059005B2

(12) **United States Patent**
Huang et al.

(10) **Patent No.: US 10,059,005 B2**
(45) **Date of Patent: Aug. 28, 2018**

(54) **METHOD FOR TEACHING A ROBOTIC ARM TO PICK OR PLACE AN OBJECT**

(71) Applicant: **QUANTA STORAGE INC.**, Taoyuan (TW)

(72) Inventors: **Chung-Hsien Huang**, Taoyuan (TW); **Shih-Jung Huang**, Taoyuan (TW)

(73) Assignee: **QUANTA STORAGE INC.**, Taoyuan (TW)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 21 days.

(21) Appl. No.: **15/189,292**

(22) Filed: **Jun. 22, 2016**

(65) **Prior Publication Data**

US 2017/0368687 A1 Dec. 28, 2017

(51) **Int. Cl.**

G06F 19/00	(2018.01)
B25J 9/16	(2006.01)
G05B 19/423	(2006.01)

(52) **U.S. Cl.**

CPC ***B25J 9/1697*** (2013.01); ***B25J 9/1612*** (2013.01); ***G05B 19/423*** (2013.01); ***G05B 2219/39543*** (2013.01)

(58) **Field of Classification Search**

CPC B25J 9/1627; B25J 9/1687
USPC 700/245, 259
See application file for complete search history.

(56) **References Cited**

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2016/0034305	A1 *	2/2016	Shear	G06F 9/50 707/722

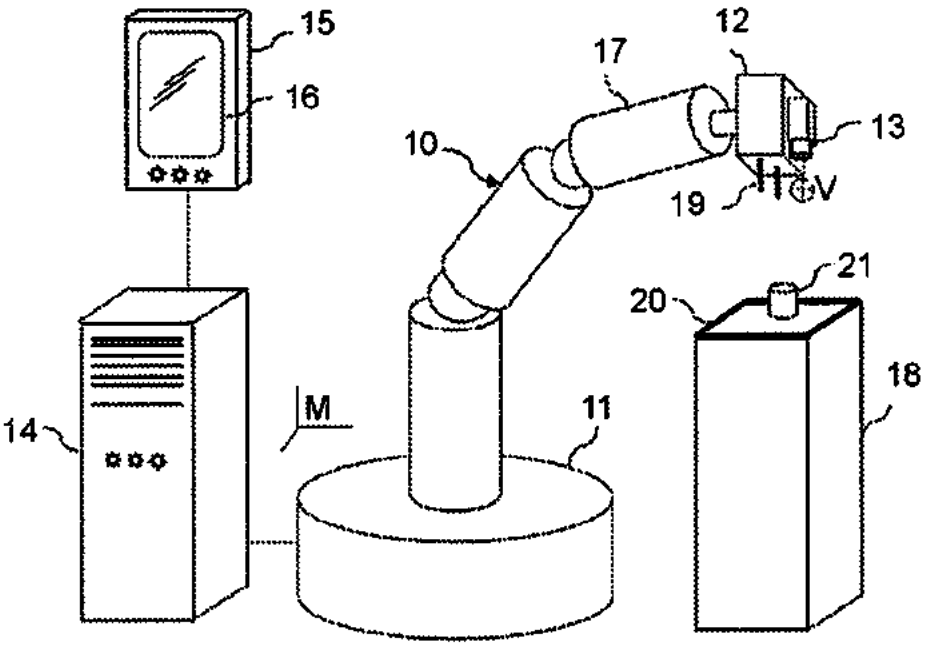
* cited by examiner

Primary Examiner — Ronnie M Mancho
(74) *Attorney, Agent, or Firm* — Rabin & Berdo, P.C.

(57) **ABSTRACT**

A method for teaching a robotic arm to pick or place an object includes the following steps. Firstly, the robot arm is pushed until a target appears within a vision. Then, an appearance position of the target is set as a visual point. Then, a first image is captured. Then, the robot arm is pushed to a target position from the visual point. Then, the target position is set as a pick and place point. Then, an automatic movement control of the robot arm is activated. Then, the robot arm automatically picks and places the object and returns to the visual point from the pick and place point. Then, a second image is captured. Then, a differential image is formed by subtracting the second image from the first image, the target image is set according to the differential image, and image characteristic of the target are automatically learned.

12 Claims, 4 Drawing Sheets



US010309955B2

(12) **United States Patent**
Chang et al.

(10) **Patent No.: US 10,309,955 B2**
(45) **Date of Patent: Jun. 4, 2019**

(54) **ROTATING DEVICE FOR BIOLOGICAL DETECTION**

(71) Applicant: **QUANTA STORAGE INC.**, Taoyuan (TW)

(72) Inventors: **Chen-Fu Chang**, Taoyuan (TW); **Chien-Hui Hsu**, Taoyuan (TW); **Sheng-Wen Chiu**, Taoyuan (TW); **Chuan-Tsung Feng**, Taoyuan (TW)

(73) Assignee: **QUANTA STORAGE INC.**, Taoyuan (TW)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 414 days.

(21) Appl. No.: **15/233,960**

(22) Filed: **Aug. 11, 2016**

(65) **Prior Publication Data**

US 2017/0059545 A1 Mar. 2, 2017

(30) **Foreign Application Priority Data**

Aug. 26, 2015 (CN) 2015 1 0529123

(51) **Int. Cl.**

B01L 3/00	(2006.01)
C12M 3/00	(2006.01)
G01N 33/487	(2006.01)
G01N 35/00	(2006.01)
G01N 21/59	(2006.01)

(52) **U.S. Cl.**

CPC ***G01N 33/487*** (2013.01); ***B01L 3/5027*** (2013.01); ***G01N 21/59*** (2013.01); ***G01N 35/00069*** (2013.01); ***G01N 2035/00495*** (2013.01)

(58) **Field of Classification Search**

CPC C12M 23/48; C12M 23/46; B01L 9/52; B01L 9/523; B01L 9/527

See application file for complete search history.

(56) **References Cited**

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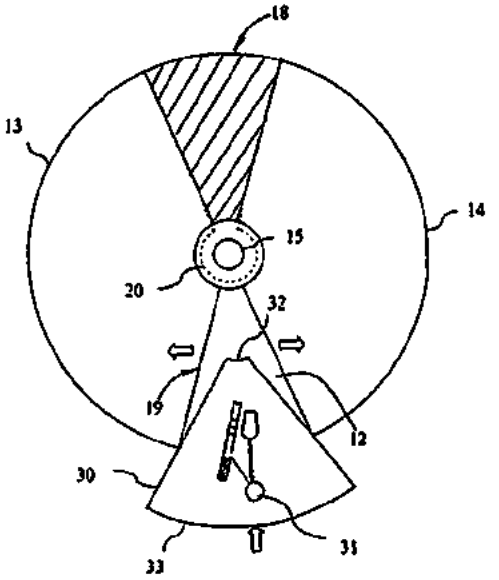
(Continued)

Primary Examiner — Nathan A Bowers
(74) *Attorney, Agent, or Firm* — Winston Hsu

(57) **ABSTRACT**

A rotating device includes a rotating shaft, a rotating disc, a left clamping disc, a right clamping disc, an upper clamping disc, and a recovering component. The upper clamping disc, the left clamping disc, and the right clamping disc are sleeved on the rotating shaft. The upper clamping disc fixes the rotating disc, the left clamping disc, and the right clamping disc on the rotating shaft. The recovering component abuts between a side of the left clamping disc and a side of the right clamping disc. A clamping zone is formed between the other side of the left clamping disc and the other side of the right clamping disc for clamping the detecting disc, and an overlapping zone is formed between the side of the left clamping disc and the side of the right clamping disc and opposite to the clamping zone.

10 Claims, 6 Drawing Sheets



United States Patent and Trademark Office

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Mon Feb 10 03:48:02 EST 2020

Record 1 out of 1

Word Mark	TM
Goods and Services	IC 007. US 013 019 021 023 031 034 035. G & S: Industrial robot; Robotic arm for industrial purposes; Industrial robotic arm. FIRST USE: 20151202. FIRST USE IN COMMERCE: 20180910 IC 009. US 021 023 026 036 038. G & S: Solid state drives; Robotic arms for laboratory purposes. FIRST USE: 20151202. FIRST USE IN COMMERCE: 20180910
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	86794659
Filing Date	October 21, 2015
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	September 27, 2016
Registration Number	5638281
Registration Date	December 25, 2018
Owner	(REGISTRANT) QUANTA STORAGE INC. CORPORATION TAIWAN 3F No.188, Wenhua 2nd Rd., Guishan Dist. Taoyuan City 333 TAIWAN R.O.C.
Attorney of Record	James M. Slattery
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the stylized letters "T" and "M".
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

United States Patent and Trademark Office

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Mon Feb 10 03:48:02 EST 2020

Record 1 out of 1

TM

Word Mark	TM
Goods and Services	IC 007. US 013 019 021 023 031 034 035. G & S: Industrial robot; Robotic arm for industrial purposes; Industrial robotic arm. FIRST USE: 20151202. FIRST USE IN COMMERCE: 20180910 IC 009. US 021 023 026 036 038. G & S: Solid state drives; Robotic arms for laboratory purposes. FIRST USE: 20151202. FIRST USE IN COMMERCE: 20180910
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	86794660
Filing Date	October 21, 2015
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	September 27, 2016
Registration Number	5638282
Registration Date	December 25, 2018
Owner	(REGISTRANT) QUANTA STORAGE INC. CORPORATION TAIWAN 3F No.188, Wenhua 2nd Rd., Guishan Dist. Taoyuan City 333 TAIWAN R.O.C.
Attorney of Record	James M. Slattery
Description of Mark	The color(s) blue and red is/are claimed as a feature of the mark. The mark consists of the stylized letters "T" in blue and "M" in red.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

United States Patent and Trademark Office

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Mon Feb 10 03:48:02 EST 2020

Record 1 out of 1

Word Mark	TM
Goods and Services	IC 009. US 021 023 026 036 038. G & S: Computer software for automated equipment management; Industrial computers
	IC 012. US 019 021 023 031 035 044. G & S: Automatic guided vehicles
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	87940796
Filing Date	May 30, 2018
Current Basis	1B
Original Filing Basis	1B
Published for Opposition	February 19, 2019
Owner	(APPLICANT) QUANTA STORAGE INC CORPORATION TAIWAN 3F No.188 Wenhua 2nd Rd., Guishan Dist. Taoyuan City TAIWAN 333
Attorney of Record	Joe McKinney Muncy
Description of Mark	The color(s) green and blue is/are claimed as a feature of the mark. The mark consists of the overlapping letters "TM" with the letter "T" in green and the remainder of the letter "M" in blue.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

United States Patent and Trademark Office

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Mon Feb 10 03:48:02 EST 2020

Record 1 out of 1

Word Mark	TM
Goods and Services	IC 007. US 013 019 021 023 031 034 035. G & S: Industrial robots. FIRST USE: 20151200. FIRST USE IN COMMERCE: 20190404
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	87982215
Filing Date	May 30, 2018
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	February 19, 2019
Registration Number	5927677
Registration Date	December 3, 2019
Owner	(REGISTRANT) QUANTA STORAGE INC CORPORATION TAIWAN 3F No.188 Wenhua 2nd Rd., Guishan Dist. Taoyuan City TAIWAN 333
Attorney of Record	Joe McKinney Muncy
Description of Mark	The color(s) green and blue is/are claimed as a feature of the mark. The mark consists of the overlapping letters "TM" with the letter "T" in green and the remainder of the letter "M" in blue.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Hewlett-Packard Company,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civ. A. No. 4:18-00762
	§	
Quanta Storage, Inc. and	§	
Quanta Storage America, Inc.	§	
	§	
Defendants.	§	

DECLARATION OF ALISTAIR B. DAWSON

Pursuant to 28 U.S.C. § 1746, I, ALISTAIR B. DAWSON, declare that the following is true and correct:

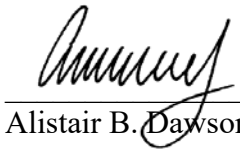
1. I am over the age of eighteen (18) years, am of sound mind, and am competent to make this Declaration. I am counsel for Plaintiff HP Inc. (formerly known as Hewlett-Packard Company) ("HP") in this action. I have personal knowledge and am personally acquainted with HP's attempts to collect on its judgment in the above-captioned lawsuit.

2. Quanta Storage, Inc. ("Quanta") has not contacted me or HP to discuss their compliance or attempts to comply with the Court's April 1, 2020 Order.

3. I have checked with the representatives from Constable Alan Rosen's office identified in my April 2, 2020 letter and Quanta has not turned over any property or documentary evidence as of the date of this declaration.

4. I am not aware of Quanta turning over any property in compliance with this Court's April 1, 2020 Order as of the date of this declaration.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 13, 2019.



Alistair B. Dawson

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Hewlett-Packard Company,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civ. A. No. 4:18-00762
	§	
Quanta Storage, Inc. and	§	
Quanta Storage America, Inc.	§	
	§	
Defendants.	§	

ORDER TO SHOW CAUSE
WHY SANCTIONS SHOULD NOT BE ENTERED FOR
QUANTA'S NON-COMPLIANCE WITH COURT'S TURNOVER ORDER

After considering Plaintiff Hewlett-Packard Company's Motion for Show Cause Hearing Regarding Quanta's Non-Compliance with Court's Turnover Order, Defendant Quanta Storage, Inc.'s ("Quanta") Response, if any, any reply, any argument of counsel, and the record evidence, the Court is of the opinion that the Motion should be GRANTED. It is THEREFORE ORDERED that:

1. A show cause hearing is set for the _____ day of April, 2020, at ___.m. during which Defendant Quanta, and its President, Chief Executive Officer or Chief Financial Officer, will be required to show cause why they should not be held in contempt of this Court's April 1, 2020 Order;

2. Quanta's President, Chief Executive Officer or Chief Financial Officer shall appear (either in person or by live videoconference) at this hearing and explain how Quanta intends to comply with the Court's Turnover Order;
3. Should Quanta or its President, Chief Executive Offer or Chief Financial Officer fail to appear, sanctions, including monetary sanctions, against Quanta and/or its President, Chief Operating Officer and/or Board of Directors may issue;
4. If the Court is unsatisfied with the steps Quanta is taking and/or is prepared to take to comply with the Court's April 1, 2020 Order, sanctions, including monetary sanctions, against Quanta and/or its President, Chief Operating Officer and/or Board of Directors may issue.

It is so ORDERED.

SIGNED this ____ day of _____, 2020.

_____
HON. DAVID HITTNER
United States District Judge

Exhibit 14

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY, *Plaintiff*, v. QUANTA STORAGE, INC. *Defendants*.	§ § § § § § § § § § §	Civ. A. No. 4:18-CV-00762

QUANTA STORAGE, INC.'S OPPOSITION TO HP'S MOTION FOR SHOW CAUSE HEARING

COMES NOW, Defendant Quanta Storage, Inc. ("Quanta"), and files this Opposition to HP's Motion styled "Motion for Show Cause Hearing Regarding Quanta's Non-Compliance With Court's Turnover Order." (Doc. No. 425) In support thereof, Quanta would show as follows:

1. On April 1, 2020, the Court entered a turnover order (Document No. 424) (the "Order"). As explained herein, Quanta is working to comply with that Order, but Quanta's efforts are impacted by the international COVID-19 pandemic. The Court's Order included no deadline, perhaps given (1) the circumstances of the pandemic and (2) the Court's awareness (as reflected by the record) that—with the exception of Quanta's U.S. patents and trademarks, which Quanta is working to turn

over to comply with the Court's order—Quanta's assets are real property (*e.g.*, factories) located in Taiwan and China.

2. As explained herein, Quanta has been doing what it can do in light of the circumstances to arrange for the compliance it is able to do at this point. But HP has unilaterally created, first a one-week deadline, and now a two-week deadline for Quanta's compliance. HP is now asking the Court to hold Quanta in contempt because Quanta has not met HP's unilaterally imposed two-week deadline for compliance. HP's conduct, in light of the international pandemic, is hard to understand.

3. And HP has done all of this while HP is enjoying the one-month extension of time (until May 1) for filing HP's Brief of Appellee in the Fifth Circuit—an extension that Quanta opposed in light of HP's efforts to execute on the judgment. Quanta is making all preparations immediately to file its Reply Brief (shortly after May 1) and to ask the Fifth Circuit— in light of HP's efforts to execute on the judgment and to hold Quanta in contempt—to expedite this single-issue appeal (with Quanta expressing its willingness to waive oral argument), so that this appeal can be decided quickly.

QUANTA'S NON-EXEMPT ASSETS IN THE UNITED STATES

4. Quanta's non-exempt assets in the United States are Quanta's U.S. patents and trademarks, and Quanta is attempting to comply with the Court's order by arranging to turn over such U.S. patents and trademarks. Quanta is in the process of reaching out to the office of Constable Alan Rosen and counsel for Plaintiff to determine the specific method and process of handling this transfer. Quanta is prepared to execute a general assignment of its patents and trademarks registered in the United States in favor of Plaintiff, if such an assignment will satisfy the Order and Plaintiff.

QUANTA'S NON-EXEMPT ASSETS OUTSIDE THE UNITED STATES

5. As Quanta has previously shown the Court, its assets outside the United States are primarily comprised of real property (*e.g.*, factories) in Taiwan and China. However, with respect to all Quanta's non-exempt property located outside the United States, Quanta's compliance with the Court's Order is impacted by the current situation due to the COVID-19 pandemic. The declaration of Jake Wang, attached hereto, explains how, as a result of the pandemic, Quanta has effectively been divested of its manpower and managerial and operational capacities in order to comply with Taiwanese emergency regulations. According to the declaration of Jake Wang:

- To counter the current COVID-19 pandemic, the central government of Republic of China ("Taiwan") had activated the Central Epidemic Command Center (CECC) as early as January 20, 2020, and over the following weeks, the CECC imposed scores of measures on all companies to aid in containing the disease and preventing its spread into the general community. For example, government regulations require Quanta (a) to screen all employees and (b) to impose a mandatory 14-day self-quarantine for employees who have traveled to People's Republic of China ("China"), with criminal penalties in accordance with the Communicable Disease Control Act.
- By late February 2020, Quanta had imposed a 14-day quarantine on all employees (into the hundreds) who had recently returned from China—including Quanta's Chief Executive Officer.
- By late February 2020, Quanta also had implemented alternative work arrangement by rotating roughly one-third (1/3) of its headquarters employees to meet minimum staffing requirements.
- Quanta has transitioned some of its production lines to make face masks for its own employees (*i.e.*, the production lines in the factories that HP is demanding that Quanta immediately turn over).

- The local government has required Quanta, as "quarantine relief," to provide isolation hotel rooms for those who cannot conduct self-quarantine at home, and to provide employees' tracking data to the local government for case identification and containment.
- Quanta's attorneys in the United States are all subject to "shelter at home" orders.

6. As Quanta has previously shown the Court, its assets overseas are primarily made up of real property (*e.g.* factories) in Taiwan and China. The attached declaration of Jake Wang explains the legal proceedings that must be conducted in Taiwan before Quanta could transfer such assets. According to the attached declaration of Jake Wang:

- Quanta is a Taiwanese company publicly traded on the Taiwan Stock Exchange.
- Under Taiwanese law, §36-1 of the Taiwan Securities and Exchange Act ("SEA")—and Regulations Governing the Acquisition and Disposal of Assets by Public Companies adopted in accordance with SEA §36-1—govern the transfer of property belonging to publicly traded companies listed on Taiwan Stock Exchange (such as Quanta).

- These laws impose requirements if a publicly traded company chooses to transfer major assets without a final and binding judgment.
- Pursuant to Taiwan Code of Civil Procedure ("TRCP") §402, this Court's Order, as an order for a foreign court (from the perspective of Taiwanese law), would need to be recognized as final and binding through proper Taiwanese judicial proceedings.
- As these non-exempt properties are within the sovereignty and jurisdiction of Taiwan, in order to comply with the Taiwanese Securities and Exchange Act and other Taiwanese governmental regulations, Quanta must petition the governmental and judicial authorities in Taiwan for permission to comply with the Order.
- Without these proper adjudications, Quanta would not be able to transfer such assets without violating regulations and laws imposed upon Quanta by the sovereignty of Taiwan and its judiciary.
- Quanta has taken measures to consult its Taiwanese counsel regarding the relevant proceedings, but the COVID-19 virus has not only slowed Quanta's business but also the governmental and judicial functions of Taiwan.

- Quanta, a publicly traded Taiwanese company, and its shareholders, would be unduly prejudiced if Quanta ignored the laws and regulations imposed by Taiwanese government.

7. Quanta asks the Court to deny HP's attempts to hold Quanta in contempt in light of (1) the efforts Quanta is making to comply, (2) the ongoing COVID-19 situation, and (3) the fact that the Court's order does not contain a date by which Quanta must turn over its assets.

8. In light of the circumstances, Quanta believes a hearing on a motion to show cause is premature.

THEREFORE, Quanta respectfully requests the Court to Deny HP's motion.

PRAYER

Quanta Storage, Inc. asks the Court to deny HP's motion.

DATE: April 14th, 2020

Respectfully submitted,

/s/ Marie R. Yeates

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ATTORNEYS FOR DEFENDANT QUANTA STORAGE. INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of April, 2020, all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing instrument via the Court's CM/ECF filing system.

/s/ Marie R. Yeates
Marie R. Yeates
Attorney for Quanta Storage, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY, *Plaintiff*, v. QUANTA STORAGE, INC. *Defendants*.	§ § § § § § § § § § §	Civ. A. No. 4:18-CV-00762

DECLARATION OF JAKE WANG

Pursuant to 28 U.S.C. §1746, I, Jake Wang, declare that the following is true and correct:

1. I am over the age of eighteen (18) years, am of sound mind, and am competent to make this Declaration. I am Head of Legal in the Legal/IP Department for Defendant Quanta Storage Inc. ("Quanta"), and I have personal knowledge of the matters described herein. In addition, I have been personally involved in Quanta's defense of this matter as well as its compliance with post-trial orders.

2. In connection with the Court's turnover order entered on April 1, 2020 (the "Order"), I would like to explain to the Court the situation that Quanta faces

given the international pandemic and the fact that Quanta is a Taiwanese company with the bulk of its assets in Taiwan and China. Although the Court's Order does not contain any deadline by which Quanta must comply with the Order, HP is asking this Court to hold Quanta in contempt only two weeks after the Order was entered. Quanta is taking steps to comply with the Order to the best of its ability given the situation. Compliance is hindered both by the international COVID-19 pandemic and the additional legal requirements associated with any transfer of Quanta's overseas assets.

3. Quanta's only non-exempt property within the United States consists of trademarks and patents, and the Order does not provide any specific mechanism for turnover of the same to Constable Alan Rosen's office. I have instructed Quanta's counsel to reach out to Constable Rosen's office as well as counsel for Plaintiff to determine the specific method and process of handling this transfer. Presently, Quanta is prepared to execute a general assignment of its patents and trademarks registered in the United States in favor of Plaintiff, if such an assignment will satisfy the Order and Plaintiff.

4. With respect to Quanta's non-exempt property located outside the United States, Quanta's compliance is impacted by the current situation due to the COVID-19 pandemic. Compliance requires not only coordination with attorneys in

the United States, who are all subject to "shelter at home" orders, but also guidance from counsel in Taiwan concerning the additional steps discussed below required to lawfully effect certain transfers.

5. To counter the current COVID-19 pandemic, the central government of Republic of China ("Taiwan") had activated the Central Epidemic Command Center (CECC) as early as January 20, 2020. Over the following weeks, the CECC put scores of measures onto all companies to aid in containing the disease and preventing its spread into the general community, including screening all companies' employees for mandatory 14-day self-quarantine for employees who had traveled to People's Republic of China ("China") with criminal penalties in accordance with the Communicable Disease Control Act.

6. As a result, Quanta, as early as late February 2020, had implemented alternative work arrangement by rotating roughly one-third (1/3) of its headquarters employees to meet minimum staffing requirements. Furthermore, as early as late February 2020, Quanta required all employees returning from China to self-quarantine, resulting in the self-quarantine of hundreds of Quanta employees,

including Quanta's Chief Executive Officer.[1] Quanta had also transitioned some of its production lines to make face masks for its own employees. Quanta had also been required by the local government on "quarantine relief" to provide isolation hotel rooms for those who cannot conduct self-quarantine at home, and to provide employees' tracking data to the local government for case identification and containment.

7. In essence, Quanta had divested not only its manpower but also its managerial and operational capacities in order to comply with Taiwanese regulations against the COVID-19 pandemic.

8. As Quanta has previously shown the Court, its assets overseas are primarily comprised of real property (*e.g.*, factories) in Taiwan and China. As I understand it, Taiwan Securities and Exchange Act ("SEA") §36-1—and Regulations Governing the Acquisition and Disposal of Assets by Public Companies adopted in accordance with SEA §36-1—govern the transfer of property belonging to publicly traded companies listed on Taiwan Stock Exchange. These laws impose requirements if a publicly traded company chooses to

[1] Taiwan has 23 million citizens of which 850,000 reside in, and 404,000 work in, China. In 2019, 2.71 million visitors, including these citizens and seasonal workers, from China traveled to Taiwan.

transfer major assets without a final and binding judgment. It is my understanding, pursuant to Taiwan Code of Civil Procedure ("TRCP") §402, that this Court's Order, as an order for a foreign court, would need to be recognized as final and binding through proper Taiwanese judicial proceedings.

9. As these non-exempt properties are within the sovereignty and jurisdiction of Taiwan, in order to comply with the Taiwanese Securities and Exchange Act and other Taiwanese governmental regulations, Quanta must petition the governmental and judicial authorities in Taiwan for permission to comply with the Order. Without these proper adjudications, Quanta would not be able to comply with this Court's Order without violating regulations and laws imposed upon Quanta by the sovereignty of Taiwan and its judiciary. Quanta has taken measures to consult its Taiwanese counsel regarding the relevant proceedings, but the COVID-19 virus has not only slowed Quanta's business but also the governmental and judicial functions of Taiwan. Quanta, a publicly traded Taiwanese company, and its shareholders, would be unduly prejudiced if Quanta ignored the laws and regulations imposed by Taiwanese government.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 14, 2020.

/s/ Jake Wang
Jake Wang

Exhibit 15

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY,	§	
	§	
Plaintiff,	§	
v.	§	Civ. A. No. 4:18-CV-00762
	§	
QUANTA STORAGE, INC.	§	
	§	
Defendants.	§	
	§	
	§	
	§	

QUANTA STORAGE, INC.'S SUPPLEMENT TO QUANTA'S OPPOSITION TO HP'S MOTION FOR SHOW CAUSE HEARING

COMES NOW, Defendant Quanta Storage, Inc. ("Quanta"), and files this Supplement to Quanta's Opposition to HP's Motion styled "Motion for Show Cause Hearing Regarding Quanta's Non-Compliance With Court's Turnover Order" (the "Motion"). (Doc. No. 425) In support thereof, Quanta would show as follows:

1. On April 1, 2020, the Court entered a turnover order (Document No. 424) (the "Order"). On April 13, 2020, HP filed its Motion for a hearing and request to hold Quanta in contempt of court due to Quanta allegedly violating this Court's Order. On April 14, 2020, Quanta filed its opposition to HP's Motion and attached the declaration of Jake Wang to that opposition. Quanta hereby supplements its

opposition to HP's motion with the supplemental argument below and the attached supplemental declaration of Jake Wang.

2. This Court's Order of April 1, 2020 directs Quanta to turn over all Quanta's non-exempt assets to satisfy the judgment in this case. As explained in the Declaration of Jake Wang (filed with this Court on April 14, 2020), under the Taiwan Securities and Exchange Act, the regulations promulgated pursuant to that Act, and the Taiwan Code of Civil Procedure, this Court's judgment must be domesticated or recognized in Taiwanese courts before Quanta can turn over property located in Taiwan. (Doc. No. 425-1 ¶8)

3. Mr. Wang's declaration contains statements on Taiwanese law. *See* Fed. R. Civ. P. 44.1 ("In determining foreign law, the court may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under the Federal Rules of Evidence."). That declaration, however, omits an explanation as to the basis for Mr. Wang's knowledge of Taiwanese law. The First Supplemental Declaration of Jake Wang, attached hereto, explains that Mr. Wang is a practicing attorney in Taiwan with two Taiwanese legal degrees, experience clerking in a Taiwanese court, and over 15 years' experience representing Taiwanese companies in various matters of Taiwanese law.

4. For the reasons given below, this Court's Order should not be construed to require Quanta, the judgment debtor, to seek domestication of this Court's Judgment in Taiwanese courts. The Texas turnover statute does not permit a court to order a foreign judgment debtor to domesticate a judgment in a foreign court, and any such order would violate international comity and abridge the judgment debtor's right to due process of law.

I. The Texas turnover statute does not authorize a court to compel a judgment debtor to domesticate a judgment in a foreign court.

5. The Texas turnover statute does not, on its face, contain any provision authorizing a court to order a foreign judgment debtor to domesticate a judgment in a foreign country. Tex. Civ. Prac & Rem Code §31.002. Moreover, HP has not cited, and Quanta has not found, any authority interpreting the Texas turnover statute to authorize a court to do so. HP is impermissibly asking this Court to write language into the Texas turnover statute that the Texas legislature did not include in the statute. *In re Geomet Recycling LLC,* 578 S.W.3d 82, 87 (Tex. 2019) ("It is not our place to judicially amend the statute.").

6. Texas law is clear that efforts to enforce a domestic judgment in a foreign country must comport with the laws of that foreign country. For example, in *Reeves v. Federal Savings & Loan Insurance Corp.*, the Texas court made clear that a receiver seeking to obtain assets located in a foreign country may need to

comply with the laws of that foreign country. 732 S.W.2d 380, 381 (Tex. App.—Dallas 1987, no writ). It would turn Texas law on its head to hold that a U.S. court can dictate a foreign country's judgment-execution procedures.

II. To require Quanta to domesticate this judgment in Taiwanese courts would violate international comity.

7. It would violate international comity to require Quanta, the judgment debtor, to pursue litigation in Taiwan to have this judgment against Quanta recognized in Taiwan, where Quanta's assets are located. "The doctrine of comity contains a rule of 'local restraint' which guides courts reasonably to restrict the extraterritorial application of sovereign power." *Karaha Bodas Co., L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara*, 335 F.3d 357, 371 (5th Cir. 2003). "Comity has been defined as the 'recognition which one nation extends within its own territory to the legislative, executive, or judicial acts of another.'" *Banque Libanaise Pour Le Commerce v. Khreich*, 915 F.2d 1000, 1004 (5th Cir. 1990). "Comity, is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and good will, upon the other, but it is the recognition which one allows within its territory to the judicial acts of another nation, having due regard to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws." *Hilton v. Guyot*, 159 U.S. 113, 163-64 (1895). International comity promotes and enforces the "good relations

among nations." *Motorola Mobility LLC v. AU Optronics Corp.*, 775 F.3d 816, 818 (7th Cir. 2015).

A. Normally, in domestication proceedings, a judgment debtor has the right to challenge the validity/enforceability of a foreign judgment.

8. International comity and reciprocity dictate that this Court should not compel a foreign judgment debtor (here, Quanta) to file suit in a foreign court (here, the courts of Taiwan) to request recognition of a judgment. When a court casts a party in judgment, that party customarily has the right—when the judgment creditor seeks to enforce the judgment in a foreign country—to challenge recognition of the judgment in that country's courts. For example, Texas law permits a judgment debtor to challenge a foreign judgment on a long list of grounds, including that the foreign judgment (1) resulted from defects in the foreign tribunal or the foreign proceedings, (2) is repugnant to the public policy of Texas or the United States, or (3) was issued in violation of an agreement between the parties. Tex. Civ. Prac. & Rem. Code § 36A.004(b) (emphases added); *see DeJoria v. Maghreb Petroleum Exploration, S.A.*, 804 F.3d 373, 380 & n.5 (5th Cir. 2015). Other states' laws contain similar provisions. *See, e.g., Victrix S.S. Co., S.A. v. Salen Dry Cargo A.B.*, 825 F.2d 709, 715 (2d Cir. 1987).

9. It would be an affront to international comity for a foreign court, upon casting a Texas company in judgment, to order that Texas company, under threat of

contempt, to initiate proceedings in Texas to domesticate the foreign judgment—and thereby to forfeit the Texas company's customary right to contest enforceability of the foreign judgment under Texas law. Likewise, it would be an affront to international comity for a U.S. court, upon casting a foreign company in judgment, to order the foreign company to domesticate the U.S. judgment in a foreign court.

B. To require Quanta to domesticate this judgment in Taiwan would set a dangerous precedent for U.S. companies operating in foreign countries.

10. For international comity, and for protection of domestic (U.S.) companies operating abroad, it is important that proceedings to recognize and domesticate judgments be adversary proceedings—*i.e.*, proceedings in which both the judgment creditor and the judgment debtor have freedom to defend or challenge the judgment. Genuine adversity between the parties ensures that the tribunal will have a complete and accurate record on which to base its recognition or non-recognition of the foreign judgment.

11. To compel a judgment debtor, under pain of contempt, affirmatively to file litigation in a foreign country to seek domestication and enforcement of an adverse judgment would abridge international comity and set a dangerous precedent for domestic (U.S.) companies cast in judgment by a foreign court. After all, if U.S. courts order foreign judgment debtors to domesticate judgments in a foreign courts,

then foreign courts might reciprocate—*i.e.*, foreign courts might deem it appropriate to order U.S. companies, under threat of contempt, to domesticate foreign judgments against them in U.S. courts.

C. An order requiring Quanta to domesticate this judgment in Taiwan would usurp the sovereign prerogative of the Taiwanese courts to determine the enforceability of the judgment under Taiwanese law.

12. An order requiring Quanta, under pain of contempt, to domesticate this judgment in Taiwanese courts would deprive the Taiwanese courts of any genuine opportunity to determine the validity and enforceability of the judgment under Taiwanese law. If Quanta is compelled to request domestication of this judgment in Taiwan, then the domestication proceeding would essentially be stipulated. *See Reading & Bates Const. Co. v. Baker Energy Resources Corp.*, 976 S.W.2d 702, 706 (Tex. App.—Houston [1 Dist.] 1998, pet. denied) ("When recognition is not contested or a contest is overruled, a foreign country judgment is conclusive between the parties to the extent that it grants recovery or denial of a sum of money.").

13. And if this Court were to compel Quanta to seek domestication of this judgment in Taiwan, then this Court would, in effect, be dictating the legal positions that Quanta must take in the Taiwanese domestication proceeding—*i.e.*, this Court would be requiring Quanta, in the Taiwanese proceeding, to take the position that, as a matter of Taiwanese law, this Court's judgment is valid and enforceable. Quanta

would be deprived of its right, under Taiwanese law, to present a case for non-enforcement to the Taiwanese courts. The Taiwanese courts, in turn, would be deprived of a genuine opportunity to determine whether this judgment is valid and enforceable under Taiwanese law.

14. Of course, applying Taiwanese law to determine whether a foreign judgment is valid and enforceable in Taiwan is a sovereign prerogative of the courts of Taiwan. Just as it would be improper for a Taiwanese court to order an American company to domesticate a Taiwanese judgment in American courts—and thereby to compel the American company to forfeit any challenges to enforceability of that judgment under American law—it would be equally offensive to comity for this U.S. court to order Quanta to domesticate this judgment in Taiwanese courts.

D. To require Quanta to domesticate this judgment in Taiwan would effectively amount to an impermissible foreign antisuit injunction—*i.e.*, an injunction barring Quanta from contesting enforceability of the judgment under Taiwanese law.

15. "When a preliminary injunction takes the form of a foreign antisuit injunction, we are required to balance domestic judicial interests against concerns of international comity." *Karaha Bodas Co., L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara*, 335 F.3d 357, 366 (5th Cir. 2003). Here, an order requiring Quanta to domesticate this judgment in Taiwan would have the same effect as an anti-suit injunction barring Quanta from contesting the enforceability of the

judgment in Taiwan under Taiwanese law. Such an order would be especially offensive to international comity. As one court has explained:

> "[A]ntisuit injunctions are even more destructive of international comity than, for example, refusals to enforce foreign judgments. At least in the latter context foreign courts are given the opportunity to exercise their jurisdiction. Antisuit injunctions, on the other hand, deny foreign courts the right to exercise their proper jurisdiction. Such action conveys the message, intended or not, that the issuing court has so little confidence in the foreign court's ability to adjudicate a given dispute fairly and efficiently that it is unwilling even to allow the possibility. Foreign courts can be expected to reciprocate such disrespect. Reciprocity and cooperation can only suffer as a result. Accordingly, foreign antisuit injunctions should be issued only in the most extreme cases."

Gau Shan Co., Ltd. v. Bankers Trust Co., 956 F.2d 1349, 1355 (6th Cir. 1992). "[P]rinciples of comity counsel that injunctions restraining foreign litigation be used sparingly and granted only with care and great restraint." *Paramedics Electromedicina Comercial, Ltda v. GE Medical Systems Information Technologies*, Inc., 369 F.3d 645, 652 (2d Cir. 2004).

III. It would violate Due Process of Law to compel Quanta to forfeit its rights, under Taiwanese law, to challenge validity and enforceability of the judgment in Taiwanese courts.

16. The Supreme Court has looked to international comity to reinforce constitutional due process limitations on personal jurisdiction. *Daimler AG v. Bauman*, 134 S. Ct. 746, 763 (2014). A proceeding violates due process if "one of

the elements deemed essential to due process" is missing. *Johns v. Department of Justice of U. S.*, 624 F.2d 522, 524 (5th Cir. 1980). For example, due process is violated when a court precludes a litigant from advancing his or her own interests in the proceeding. *Id.*

17. Here, an order requiring Quanta to domesticate this judgment in Taiwanese courts would infringe Quanta's due process rights because that order would compel Quanta, in the Taiwanese domestication proceeding, to accept HP's positions and advance HP's interests (*i.e.*, to contend that, under Taiwanese law, the judgment is valid and enforceable), and that order would preclude Quanta from taking positions favorable to Quanta or advancing Quanta's interests.

18. This Court should not interpret the Order in a way that would infringe Quanta's due process rights. Nor should the Court hold Quanta in contempt or issue contempt sanctions for failing to domesticate this judgment in Taiwanese courts, where any requirement to do so would violate Quanta's due process rights.

PRAYER

Quanta Storage, Inc. asks the Court to deny HP's Motion.

DATE: April 15th, 2020

Respectfully submitted,

/s/ Marie R. Yeates

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ATTORNEYS FOR DEFENDANT QUANTA STORAGE. INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of April, 2020, all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing instrument via the Court's CM/ECF filing system.

/s/ Marie R. Yeates
Marie R. Yeates
Attorney for Quanta Storage, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY, *Plaintiff*, v. QUANTA STORAGE, INC. *Defendants*.	§ § § § § § § § § § §	Civ. A. No. 4:18-CV-00762

FIRST SUPPLEMENTAL DECLARATION OF JAKE WANG

Pursuant to 28 U.S.C. §1746, I, Jake Wang, declare that the following is true and correct:

1. I am over the age of eighteen (18) years, am of sound mind, and am competent to make this Declaration. I am Head of Legal in the Legal/IP Department for Defendant Quanta Storage Inc. ("Quanta"), and I have personal knowledge of the matters described herein. In addition, I have been personally involved in Quanta's defense of this matter as well as its compliance with post-trial orders.

2. On April 14, 2020, I submitted a declaration in support of Quanta's opposition the Motion for Show Cause Hearing filed by Plaintiff Hewlett-Packard Company. In that declaration, I attested to matters of Taiwanese law.

3. I submit this supplemental declaration to clarify that I am a practicing attorney both in Taiwan and the State of California. I received a Bachelor of Laws, a Master's Degree of Laws in Taiwan allowing me to practice as an attorney. I am also a member in good standing of the State Bar of California with a Juris Doctor Degree and a Master's Degree of Laws received in the United States. I was a law clerk at Taiwan Taoyuan District Court. I have been working for several Taiwanese publicly traded companies over fifteen (15) years in many legal positions, with a verified work experience credentials, in matters of Taiwanese civil litigations, Taiwanese securities and corporate laws, and cross border litigations.

4. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 15, 2020.

/s/ Jake Wang
Jake Wang

Exhibit 16

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY, *Plaintiff*, v. QUANTA STORAGE, INC. *Defendants*.	§ § § § § § § § § § §	Civ. A. No. 4:18-CV-00762

QUANTA STORAGE, INC.'S SECOND SUPPLEMENT TO QUANTA'S OPPOSITION TO HP'S MOTION FOR SHOW CAUSE HEARING

COMES NOW, Defendant Quanta Storage, Inc. ("Quanta"), and files this Second Supplement to Quanta's Opposition to HP's Motion styled "Motion for Show Cause Hearing Regarding Quanta's Non-Compliance With Court's Turnover Order" (the "Motion"). (Doc. No. 425) In support thereof, Quanta would show as follows:

1. On April 1, 2020, the Court entered a turnover order (Document No. 424) (the "Order"). On April 13, 2020, HP filed its Motion for a hearing and request to hold Quanta in contempt of court due to Quanta allegedly violating this Court's Order. On April 14, 2020, Quanta filed its opposition to HP's Motion and attached the declaration of Jake Wang to that opposition. On April 15, 2020, Quanta filed its

first supplement to that opposition and also filed a supplemental declaration of Jake Wang. On April 17, 2020, HP filed a Reply in support of its Motion.

2. Quanta hereby supplements its opposition to HP's motion with the supplemental argument below and the attached second supplemental declaration of Jake Wang.

3. Quanta's opposition (filed April 14, 2020) and supplemental opposition (filed April 15, 2020) to HP's Motion, based on the declarations of Taiwanese attorney Jake Wang, that (a) Quanta is a public company traded on the Taiwan Stock Exchange, and therefore (b) the Taiwanese Securities and Exchange Act and the regulations promulgated under that Act would require that a Taiwanese court domesticate this Court's judgment in Taiwan before Quanta could make a major disposition of assets pursuant to the turnover order entered by this Court on April 1, 2020. (The judgment for which HP seeks turnover is more than the value of Quanta.) In his Second Supplemental Declaration attached hereto, Mr. Wang provides further explanation for those opinions. Mr. Wang's Second Supplemental Declaration explains the following:

a. As a publicly traded company on the Taiwan Stock Exchange, Quanta is subject to and bound by Taiwan's Securities and Exchange Act ("SEA"). SEA §36-1 directs the "Competent Authority"—here, the

Taiwanese Financial Supervisory Commission (see SEA §3)—to prescribe rules governing, among other things, "disposal of assets."

b. In connection with SEA §36-1, the Taiwanese Financial Supervisory Commission has prescribed its Regulations Governing the Acquisition and Disposal of Assets by Public Companies (the "TFSC Regulation"). The TFSC Regulation broadly defines the term "asset" to include real property (such as land and buildings), equipment, receivables, and "[o]ther major assets." TFSC Regulation art. 3.

c. Within the TFSC Regulation, Chapter II is entitled "Disposition Procedures" and contains procedures that publicly traded companies must follow in making major disposition of assets. Within Chapter II of the TFSC Regulation, Article 6 requires a public company to "establish its procedures for the . . . disposal of assets." Article 7, in turn, requires public companies to "handle . . . disposal matters in compliance with the procedures." In Mr. Wang's opinion, the "procedures" referenced in Article 7 of the TFSC Regulation are the same procedures that are identified in Article 6—*i.e.*, the procedures the company has adopted for the disposal of assets. Thus, under Article 7 of the TFSC Regulation, a public company is required to abide by its

own, internal procedures for disposition of assets. In Mr. Wang's opinion, Article 7 of the TFSC Regulation gives legal force to a public company's internal procedures for disposal of assets because the company would violate the TFSC Regulation if the company, in disposing of assets, fails to abide by its own procedures governing such asset disposal.

d. For large asset dispositions of real property or equipment (such as the disposition required by this Court's turnover order), TFSC Regulation Article 9 requires that Quanta obtain an appraisal report from a professional appraiser. Where the "transaction amount" is NT$1 billion or more (roughly $33.43 million USD or more), Quanta must obtain at least two professional appraisal reports. In Mr. Wang's opinion, this Court's turnover order requires at least two professional appraisal reports because that turnover order requires Quanta to dispose of more than NT$1 billion in assets.

e. Due to the current situation in Taiwan arising from the COVID-19 pandemic, it is not practicable for Quanta to obtain even one, let alone two, professional appraisal reports, covering significant assets (valued into the hundreds of millions of dollars in USD), especially in the one-

or two-week period that HP has demanded for Quanta to comply with the turnover order. For example, appraisal of Quanta's assets would require having third-party inspectors do comprehensive inspections of Quanta's factories in Taiwan and China. As noted in Mr. Wang's previous declaration, certain of Quanta's production lines have been dedicated to manufacturing facemasks due to the exigent circumstances of the COVID-19 pandemic. At present, it is not practicable to risk disruption of essential production lines, or to risk contamination of Quanta's critical manufacturing facilities, by the presence of non-essential, third-party inspectors and appraisers.

f. Quanta's present inability to obtain the required appraisals is an obstacle that could, in normal circumstances (absent the COVID pandemic), be overcome by resort to the Taiwanese courts. But even in normal circumstances, a Taiwanese court, while it would have the power to excuse Quanta from complying with the requirement of obtaining appraisals, would not, in Mr. Wang's opinion, excuse such compliance based on a foreign judgment *unless that judgment had first been domesticated in Taiwan.* The domestication requirement is found in Taiwan Code of Civil Procedure §402, which states when "[a] final

and binding judgment rendered by a foreign court shall be recognized" in Taiwan. Absent domestication under §402, the need to comply with a foreign court judgment would not constitute a valid basis for disposing of assets without first obtaining the necessary appraisals.

g. In addition, under Quanta's internal procedures for disposal of assets, a Taiwanese court judgment is required before Quanta can dispose of assets without obtaining the necessary appraisals. To obtain such a Taiwanese court judgment, the judgment of this Court would need to be domesticated in Taiwan.

h. Also, under Quanta's internal procedures for disposal of assets, a petition must be made to Taiwanese court if Quanta encounters any ambiguity, whether patent or latent, in applicable requirements for disposal of assets pursuant to its internal procedures. Such a petition would be required in this case due to the uncertainties surrounding application of those requirements in the context of the COVID-19 pandemic. Again, in Mr. Wang's opinion, based on Taiwan Code of Civil Procedure §402, a foreign judgment (such as this Court's judgment) would need to be domesticated in Taiwan before the

Taiwanese court would determine that the judgment is a valid basis for Quanta to dispose of assets.

i. Finally, under Quanta's internal procedures for disposal of assets, Quanta would need formal approval from its Board of Directors before Quanta could make a major disposition of assets in response to a foreign court judgment. In Mr. Wang's opinion, Quanta's Board of Directors would not approve of a major asset disposition for compliance with a foreign court judgment unless that judgment has been domesticated (recognized as valid and binding) by a Taiwanese court.

4. HP has not offered this Court with any opinion from a Taiwanese attorney—and certainly none that contradicts the opinions of Mr. Wang. Thus, Mr. Wang's opinions of Taiwanese law stand unrebutted.

5. Similarly, HP has failed to rebut Mr. Wang's detailed explanation of how (a) the COVID-19 pandemic has brought Taiwanese governmental and economic functions to a standstill, and (b) this major disruption to Taiwanese institutions creates significant obstacles for Quanta in turning over Taiwanese assets, especially in the two-week period that HP has unilaterally imposed (or tried to impose) on Quanta.

6. Also, HP has failed to show any exigent circumstances. The assets at issue are not perishable, and Quanta is enjoined from disposing of them without this Court's approval. Even if there were no injunction, the present governmental and economic disruptions make it impossible for Quanta to make a major asset disposition in any event. HP has shown no reason why it needs the assets turned over on an emergency basis in the midst of the most significant international pandemic in over 100 years—especially since briefing on Quanta's appeal in the U.S. Fifth Circuit will be completed in a couple of weeks, and Quanta has represented that it will ask the U.S. Fifth Circuit to decide the appeal on the briefs, with Quanta waiving oral argument (unless the U.S. Fifth Circuit sets oral argument instead of deciding the appeal on the briefs).

7. Finally, HP also has not shown how (a) international comity could tolerate a requirement for Quanta to turn over assets located in foreign countries, when (b) under the laws of the those foreign countries, a foreign judgment would need to be domesticated before it could be enforced. "The doctrine of comity contains a rule of 'local restraint' which guides courts reasonably to restrict the extraterritorial application of sovereign power." *Karaha Bodas Co., L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara*, 335 F.3d 357, 371 (5th Cir. 2003). "Comity has been defined as the 'recognition which one nation extends

within its own territory to the legislative, executive, or judicial acts of another.'" *Banque Libanaise Pour Le Commerce v. Khreich*, 915 F.2d 1000, 1004 (5th Cir. 1990). International comity promotes and enforces the "good relations among nations." *Motorola Mobility LLC v. AU Optronics Corp.*, 775 F.3d 816, 818 (7th Cir. 2015). To promote international comity and good relations among nations, the Court should permit Taiwanese courts to domesticate this judgment before it requires Quanta to turn over assets located in Taiwan.

PRAYER

Quanta Storage, Inc. asks the Court to deny HP's Motion.

DATE: April 19, 2020

Respectfully submitted,

/s/ Marie R. Yeates

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ATTORNEYS FOR DEFENDANT QUANTA STORAGE. INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of April, 2020, all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing instrument via the Court's CM/ECF filing system.

/s/ Marie R. Yeates
Marie R. Yeates
Attorney for Quanta Storage, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY, *Plaintiff*, v. QUANTA STORAGE, INC. *Defendants*.	§ § § § § § § § § § §	Civ. A. No. 4:18-CV-00762

SECOND SUPPLEMENTAL DECLARATION OF JAKE WANG

Pursuant to 28 U.S.C. §1746, I, Jake Wang, declare that the following is true and correct:

1. I am over the age of eighteen (18) years, am of sound mind, and am competent to make this Declaration. I am Head of Legal in the Legal/IP Department for Defendant Quanta Storage Inc. ("Quanta"), and I have personal knowledge of the matters described herein. In addition, I have been personally involved in Quanta's defense of this matter as well as its compliance with post-trial orders.

2. On April 14 and April 15, 2020, I submitted declarations in support of Quanta's opposition the Motion for Show Cause Hearing filed by Plaintiff

Hewlett-Packard Company ("HP"). In those declarations, I attested to matters of Taiwanese law. On April 17, 2020, HP filed a Reply in support of its Motion for Show Cause Hearing ("Reply"). In connection with that Reply, HP did not offer any opinion from any Taiwanese attorney, but HP did contest my opinions concerning Taiwanese law as stated in my declarations. I submit this supplemental declaration to respond to HP's challenges to my opinions concerning Taiwanese law.

3. In its Reply, HP contends that neither the Taiwanese Securities and Exchange Act nor the regulations promulgated under that Act would require that a Taiwanese court domesticate this Court's judgment in Taiwan before Quanta—a public company traded on the Taiwan Stock Exchange—could make a major disposition of assets pursuant to the turnover order entered by this Court on April 1, 2020. HP's attorneys appear to misunderstand the relevant legal requirements in Taiwan.

4. As a publicly traded company on the Taiwan Stock Exchange, Quanta is subject to and bound by Taiwan's Securities and Exchange Act ("SEA"). SEA §36-1 directs the "Competent Authority"—here, the Taiwanese Financial Supervisory Commission (see SEA §3)—to prescribe rules governing, among other things, "disposal of assets."

5. In connection with SEA §36-1, the Taiwanese Financial Supervisory Commission has prescribed its Regulations Governing the Acquisition and Disposal of Assets by Public Companies (the "TFSC Regulation"). The TFSC Regulation broadly defines the term "asset" to include real property (such as land and buildings), equipment, receivables, and "[o]ther major assets." TFSC Regulation art. 3.

6. Within the TFSC Regulation, Chapter II is entitled "Disposition Procedures" and contains procedures that publicly traded companies must follow in making major disposition of assets. Within Chapter II of the TFSC Regulation, Article 6 requires a public company to "establish its procedures for the . . . disposal of assets." Article 7, in turn, requires public companies to "handle . . . disposal matters in compliance with the procedures." In my opinion, the "procedures" referenced in Article 7 of the TFSC Regulation are the same procedures that are identified in Article 6. Those procedures are the ones the company has adopted for the disposal of assets. Thus, under Article 7 of the TFSC Regulation, a public company is required to abide by its own, internal procedures for disposition of assets. In my opinion, Article 7 of the TFSC Regulation gives legal force to a public company's internal procedures for disposal of assets because the company

would violate the TFSC Regulation if the company, in disposing of assets, fails to abide by its own procedures governing such asset disposal.

7. For large asset dispositions of real property or equipment (such as the disposition required by this Court's turnover order), TFSC Regulation Article 9 requires that Quanta obtain an appraisal report from a professional appraiser. Where the "transaction amount" is NT$1 billion or more (roughly $33.43 million USD or more), Quanta must obtain at least two professional appraisal reports. In my opinion, this Court's turnover order requires at least two professional appraisal reports because that turnover order requires Quanta to dispose of more than NT$1 billion in assets.

8. Due to the current situation in Taiwan arising from the COVID-19 pandemic, it is not practicable for Quanta to obtain even one, let alone two, professional appraisal reports, covering significant assets (valued into the hundreds of millions of dollars in USD), especially in the one- or two-week period that HP has demanded for Quanta to comply with the turnover order. For example, appraisal of Quanta's assets would require having third-party inspectors do comprehensive inspections of Quanta's factories. As noted in my previous declaration, certain of Quanta's production lines have been dedicated to manufacturing facemasks due to the exigent circumstances of the COVID-19

pandemic. At present, it is not practicable to risk disruption of essential production lines, or to risk contamination of Quanta's critical manufacturing facilities, by the presence of non-essential, third-party inspectors and appraisers.

9. Quanta's present inability to obtain the required appraisals is an obstacle that can be overcome by resort to the Taiwanese courts. A Taiwanese court would have power to excuse Quanta from complying with the requirement of obtaining appraisals, but in my opinion, the Taiwanese court would not excuse such compliance based on a foreign judgment unless that judgment had first been domesticated in Taiwan. The domestication requirement is found in Taiwan Code of Civil Procedure §402, which states when "[a] final and binding judgment rendered by a foreign court shall be recognized" in Taiwan. Absent domestication under §402, the need to comply with a foreign court judgment would not constitute a valid basis for disposing of assets without first obtaining the necessary appraisals.

10. In addition, under Quanta's internal procedures for disposal of assets, a Taiwanese court judgment is required before Quanta can dispose of assets without obtaining the necessary appraisals. To obtain such a Taiwanese court judgment, the judgment of this Court would need to be domesticated in Taiwan.

11. Also, under Quanta's internal procedures for disposal of assets, a petition must be made to Taiwanese court if Quanta encounters any ambiguity,

regardless of whether it is patent or latent, in applicable requirements for disposal of assets pursuant to its internal procedures. Such a petition would be required in this case due to the uncertainties surrounding application of those requirements in the context of the COVID-19 pandemic. Again, in my opinion, based on Taiwan Code of Civil Procedure §402, a foreign judgment (such as this Court's judgment) would need to be domesticated in Taiwan before the Taiwanese court would determine that the judgment is a valid basis for Quanta to dispose of assets.

12. Finally, under Quanta's internal procedures for disposal of assets, Quanta would need formal approval from its Board of Directors before Quanta could make a major disposition of assets in response to a foreign court judgment. In my opinion, Quanta's Board of Directors would not approve of a major asset disposition for compliance with a foreign court judgment unless that judgment has been domesticated (recognized as valid and binding) by a Taiwanese court.

13. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 19, 2020.

/s/ Jake Wang
Jake Wang

Exhibit 17

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY, *Plaintiff*, v. QUANTA STORAGE, INC. and QUANTA STORAGE AMERICA, INC., *Defendants*.	§ § § § § § § § § § §	Civ. A. No. 4:18-CV-00762 JURY TRIAL DEMANDED

QUANTA STORAGE, INC.'S EMERGENCY MOTION TO VACATE OR CLARIFY TURNOVER ORDERS

Comes now, Defendant Quanta Storage, Inc. ("Quanta"), and files this Emergency Motion to Vacate or Clarify Turnover Orders ("Motion"). In support thereof, Quanta would respectfully show the Court as follows:

REQUEST FOR EMERGENCY RULING ON MOTION

By this Motion, Quanta seeks vacatur, or needed clarification, of orders the Court entered on April 1, 2020 (Dkt. No. 424) and April 22, 2020 (Dkt. No. 430) (hereinafter, the "turnover orders" or "orders"). Quanta respectfully requests an emergency ruling on this Motion because this Court's turnover orders require Quanta to turn over assets by May 1, 2020 or risk being held in contempt and being assessed a fine of $50,000 per day.

ARGUMENT

1. On February 25, 2020, Plaintiff Hewlett-Packard Corporation ("HP") filed a Motion for Post-Judgment Relief in Aid of Enforcing Judgment and Emergency Motion for Restraining Order. Dkt. No. 402. In that motion, HP asked the Court to appoint a receiver to obtain and sell Quanta's non-exempt assets and to receive Quanta's documentary evidence concerning Quanta's non-exempt assets. *Id.*

2. On April 1, 2020, this Court entered a turnover order (Dkt. No. 424) that "granted [HP's motion] as to [] the turnover of all Quanta Storage's non-exempt property, and the turnover of documentary evidence of Quanta Storage's non-exempt property" but "denied [the motion] at this time as to the request for the appointment of a receiver." Thus, the turnover order directed the "turnover" of property and documentary evidence, but because the Court did not appoint a receiver, the order did not **state to whom** Quanta should turn over any property or documents. The turnover order also did not contain a date by which Quanta must comply with the order.

3. On April 22, 2020, this Court entered an order (Dkt. No. 430) that, in effect, amended the turnover order by providing the date—May 1, 2020—by which Quanta must complete the turnover of its property and documents. However, neither the April 1, 2020 order nor the April 22, 2020 order **states to whom** Quanta must

turn over any property or documents.

4. This Court's orders (of April 1 and April 22) are unclear because those orders do not **state to whom** Quanta must turn over property or documents. The Court denied HP's request for appointment of a receiver, so there is no receiver to whom Quanta could turn over any property or documents.

5. Nor is it reasonable to interpret this Court's turnover orders as requiring Quanta to turn over property to the judgment creditor, HP. This Court's orders were issued pursuant to the Texas turnover statute, but under that statute, "a turnover order may not order the turnover of property directly to judgment creditors." *Lozano v. Lozano*, 975 S.W.2d 63, 69 (Tex. App.—Houston [14th Dist.] 1998, pet. denied). After all, "direct turnover to the creditor could deny the debtor an opportunity to assert defenses if the creditor promptly or improperly disposes of the property." *Id.*

6. In *Johnson*, the Texas Supreme Court stated: "[a]t least one commentator has suggested the [Texas turnover] statute allows turnover directly to judgment creditors in certain circumstances." *Ex parte Johnson*, 654 S.W.2d 415, 418 (Tex. 1983) (citing David Hittner, *Texas Post-Judgment Turnover and Receivership Statutes*, 45 Tex. B.J. 417, 419 (1982)). But in *Johnson*, the Texas Supreme Court expressly rejected that commentator's reading of the Texas turnover statute and held that, under the turnover statute, a court may not order the judgment debtor to turn over assets to the judgment creditor. *Id.*

7. On the face of the Court's turnover orders, it is not possible for Quanta to identify the person to whom Quanta must make a turnover. A judicial order is unenforceable if it is "too vague to be understood," so "those who must obey [the order]" do not know "what the court intends to require." *International Longshoremen's Ass'n, Local 1291 v. Philadelphia Marine Trade Ass'n*, 389 U.S. 64, 76 (1967). This Court's turnover orders are impermissibly vague because they do not tell Quanta what the Court intends to require—*i.e.*, the turnover orders do not tell Quanta to whom Quanta should turn over its property and documents.

8. Under Rule 69, Federal Rules of Civil Procedure, read together with the Texas turnover statute, for the first step in judgment execution process, the Court should give HP a reasonable opportunity to execute on the judgment pursuant to the writ of execution issued by this Court. Federal Rule of Civil Procedure 69 governs the collection of money judgments. It says, "A money judgment is enforced by a writ of execution, unless the court directs otherwise." Rule 69 thus indicates that a writ of execution is the default procedure for collecting a money judgment.

9. Only if HP is unable to collect on the judgment via the writ of execution should the Court consider appointment of a receiver. Of course, with respect to Quanta's assets in foreign countries, "[i]t may be that the receiver might have to comply with [the] law [of the foreign country where the assets are located.]" *Reeves v. Federal Sav. and Loan Ins. Corp.*, 732 S.W.2d 380, 382 (Tex. App.—Dallas 1987,

no writ). To date, Quanta is not aware of any reasonable efforts by HP to collect on the judgment through the writ of execution that this Court issued.

PRAYER

For the foregoing reasons, Quanta requests that this Court vacate its turnover orders of April 1, 2020 (Dkt. No. 424) and April 22, 2020 (Dkt. No. 430).

In the alternative, Quanta requests that the Court clarify its turnover orders of April 1, 2020 (Dkt. No. 424) and April 22, 2020 (Dkt. No. 430) to make those orders sufficiently clear to be enforceable—*e.g.*, to make those orders state to whom Quanta must turn over its non-exempt property and documentary evidence. Upon entry of such an order, Quanta prays that the Court allow Quanta a reasonable time to comply with such order, taking into account the circumstances that Quanta has already pointed out to the Court (Dkt. Nos. 423, 426, 427, 429): (1) the international COVID-19 pandemic, (2) the mandatory requirements of Taiwanese law that Quanta (as a publicly traded company on the Taiwan Stock Exchange) must follow in making a significant disposition of Taiwanese assets, and (3) the time HP will need to domesticate its judgment in the courts of Taiwan.

DATE: April 23, 2020

Respectfully submitted,

/s/ Marie R. Yeates
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Dallas, Texas 75201

ATTORNEYS FOR DEFENDANT QUANTA STORAGE. INC.

CERTIFICATE OF CONFERENCE

I hereby certify that on the 23rd day of April, 2020, I conferred with Alistair Dawson, counsel for Plaintiff Hewlett-Packard Corporation ("HP") and was informed that HP opposes the relief requested by this Motion.

/s/ Michael A. Heidler
Michael A. Heidler
Attorney for Quanta Storage, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of April, 2020, all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing instrument via the Court's CM/ECF filing system.

/s/ Marie R. Yeates
Marie R. Yeates
Attorney for Quanta Storage, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY,	§	
	§	
Plaintiff,	§	Civ. A. No. 4:18-CV-00762
v.	§	
	§	
QUANTA STORAGE, INC. and QUANTA STORAGE AMERICA, INC.,	§	
	§	
	§	JURY TRIAL DEMANDED
	§	
Defendants.	§	

ORDER

On this day, the Court considered Quanta Storage, Inc.'s Emergency Motion to Vacate or Clarify Turnover Orders (the "Motion"). After reviewing the Motion, along with any argument of counsel and opposition thereto, the Court is of the opinion that the Motion should be GRANTED. It is therefore

ORDERED that Quanta Storage, Inc.'s Emergency Motion to Vacate or Clarify Turnover Orders is GRANTED; and

ORDERED that the orders this Court entered on April 1, 2020 (Dkt. No. 424) and April 22, 2020 (Dkt. No. 430) are VACATED.

SIGNED this ____ day of _____, 2020.

_____
HON. DAVID HITTNER
United States District Judge

Exhibit 18

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. H-18-762
	§	
QUANTA STORAGE INC. *and* QUANTA STORAGE AMERICA INC.,	§	
	§	
	§	
Defendants.	§	

ORDER

Pending before the Court is Quanta Storage, Inc.'s Emergency Motion to Vacate or Clarify Turnover Order (Document No. 431). Having considered the motion, submissions, and applicable law, the Court determines the motion should be granted in part and denied in part.

On October 15, 2019, a jury trial commenced in this anti-trust suit brought by Plaintiff HP Inc. (formerly known as Hewlett-Packard Company) ("HP"). On October 22, 2019, the jury returned a verdict in favor of HP in the amount of $176,000,000.00. On January 2, 2020, the Court granted HP's motion to amend the judgment by, *inter alia*, awarding HP $438,650,000.00.[1] On April 1, 2020, after Defendant Quanta Storage Inc. ("Quanta") failed to post the supersedeas bond

[1] *Order*, Document No. 333; *Order*, Document No. 334.

ordered by this Court, the Court granted in part HP's motions re-urging requests for post-judgment relief and for a writ of execution.[2] As relevant here, the Court granted HP's request that Quanta be ordered to turn over all of Quanta's nonexempt property and to further turn over all documentary evidence of Quanta's nonexempt property under the Texas Turnover Statute, Tex. Civ. Prac. & Rem. Code § 31.002 (the "Turnover Order").[3] On April 13, 2020, HP moved for a show cause hearing, contending Quanta did not comply with the Turnover Order. On April 22, 2020, the Court denied without prejudice HP's request for a show cause hearing, ordering specifically that Quanta must fully comply with the Turnover Order by May 1, 2020, or show cause as to why Quanta should not be immediately held in contempt—without further action by HP—and sanctioned a rate of $50,000.00 per day until it fully complies with the Turnover Order.[4] On April 23, 2020, Quanta moved to vacate or clarify the Turnover Order, requesting an emergency ruling.

Quanta asserts the Turnover Order does not state to whom Quanta must turn over applicable property and documents. HP asserts Quanta is merely seeking to delay compliance with the Turnover Order. Under the Texas Turnover Statute, the

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[2] *Order*, Document No. 424.

[3] *Order*, Document No. 424.

[4] *Order*, Document No. 430.

judgment debtor may "turn over nonexempt property . . . , together with all documents or records . . . , to a designated sheriff or constable for execution." Tex. Civ. Prac. & Rem. Code § 31.002(b)(1). By letter dated April 2, 2020, HP requested that Quanta turn over applicable property and documents to "Chief Carl Shaw and Sergeant Richard Smith at Constable Alan Rosen's office: 1302 Preston, Suite 301 Houston, TX 77002."[5] By submission in this case, on April 14, 2020, Quanta represented it was "reaching out to the office of Constable Alan Rosen and counsel for [HP] to determine the specific method and process of handling this transfer."[6] Quanta made this same representation to the Court under oath.[7] Quanta now states clarification is needed to enable compliance with the Turnover Order.

Having considered the motion, submissions, and applicable law, the Court determines Quanta must comply with the Turnover Order by turning over applicable property and documents to Constable Alan Rosen's Office, Harris County Precinct 1, 1302 Preston, Suite 301, Houston, TX 77002. As Constable Alan Rosen's Office is authorized under the Texas Turnover Statute, was already identified by HP on April 1, 2020, and was clearly acknowledged by Quanta on

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[5] *Plaintiff's Response to Quanta's Emergency Motion to Vacate or Clarify Turnover Order*, Document No. 432, Exhibit A (*April 2, 2020, Letter*).

[6] *Quanta Storage, Inc.'s Opposition to HP's Motion for Show Cause Hearing*, Document No. 426 at 3.

[7] *Quanta Storage, Inc.'s Opposition to HP's Motion for Show Cause Hearing*, Document No. 426, Exhibit A, ¶ 3 (*Declaration of Jake Wang*).

April 14, 2020, the Court declines to grant any extension of time to comply with the Turnover Order. Accordingly, the Court hereby

ORDERS that Quanta Storage, Inc.'s Emergency Motion to Vacate or Clarify Turnover Order (Document No. 431) is **GRANTED IN PART** and **DENIED IN PART**. The motion is granted as to clarifying Quanta must comply with the Turnover Order by turning over applicable property and documents to Constable Alan Rosen's Office, Harris County Precinct 1, 1302 Preston, Suite 301, Houston, TX 77002. The motion is denied as to all other requests.

SIGNED at Houston, Texas, on this 27th day of April, 2020.

DAVID HITTNER
United States District Judge

Exhibit 19

Exhibit C

6188:TT Taipei
Quanta Storage Inc COMPANY INFO

+ ADD TO WATCHLIST

29.70 TWD -0.30 -1.00%

1D 1M 6M YTD 1Y 5Y MINIMIZE CHART

Add a comparison