



**THIS IS A FAIR OFFICE TRANSLATION OF A WRIT  
AS SERVED ON 23 AUGUST 2002**

**Please be informed that the Dutch language version of this writ of summons will prevail in case of conflict of interpretation. Furthermore, the Dutch version will be the version used in court proceedings in The Netherlands.**

**However, this translation of the Dutch writ of summons is a fair office translation and has been performed with care.**

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On this day, the twenty third day of August two thousand and two,

at the request of:

**HEWLETT-PACKARD EUROPA HOLDING GmbH & Co. KG**, a limited partnership organised under the laws of Germany, having its registered office in (D-71032) Böblingen, Germany, at Herrenbergerstrasse 140,

electing in this matter domicile at Apollolaan 151, Amsterdam, at the offices of R.W.Th. Norbruis, who is appointed by Plaintiff as court registered lawyer (*advocaat en procureur*) and will act as such;

Have I, Jan Sebastiaan Evers, assigned junior bailiff at Melchert Cornelis Groot's office, bailiff practicing in Amsterdam, at Maassluisstraat 258;

**Pages 2 –21 of the English Translation of the Writ of Summons**

**Pages 2 – 21 of the English Translation of the Writ of Summons include the names and addresses of registered shareholders. For privacy reasons, this information is not included in this copy posted on the Internet.**

**TO:**

appear, not in person but represented by a court-registered lawyer (*procureur*), on Thursday the third of April two thousand and three, at 10:00 hours, at the court session of the Enterprise Chamber of the Court of Appeal in Amsterdam, the Netherlands (*Ondernemingskamer*), being held there and then in the Courthouse at Prinsengracht 436.

**ON THE NOTIFICATION:**

that, in case the prescribed notice periods and formalities have been duly observed and no Defendant appears in court in accordance with prescribed formalities, the Enterprise Chamber will grant leave to proceed in default of appearance against all Defendants, and will render judgment in favour of Plaintiff's claim, unless the claim appears to be unlawful or unfounded;

that, in case the prescribed notice periods and formalities have been duly observed and at least one Defendant has so appeared in court, the Enterprise Chamber will grant leave to proceed in default of appearance against the Defendants who have failed to appear in court in accordance with prescribed formalities, and that between all parties one judgment will be rendered, that will be considered as a judgement in a defended case; and

that Plaintiff hereby claims and submits the following grounds in respect of such claims:

**A. Introduction**

1. The Plaintiff hereby institutes proceedings in accordance with article 2:92a or, if applicable, 2:201a of the Netherlands Civil Code (*Burgerlijk Wetboek, NCC*) for the compulsory transfer of shares in Indigo N.V., a public limited liability company (*naamloze vennootschap, N.V.*) having its official seat in and its office address at (6221 SH) Maastricht at Limburglaan 5, the Netherlands (hereinafter also referred to as *Indigo* or the *Company*). HP (as defined here-

inafter in paragraph 3) intends to cause the conversion of Indigo to Hewlett-Packard Indigo B.V, a private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid, B.V.*). It is expected that this conversion will be completed prior to the date of judgment in these proceedings. In light of this anticipated conversion, any reference to article 2:92a NCC should be deemed to read "article 2:201a NCC" and any reference to Indigo should be construed as to refer to Hewlett-Packard Indigo B.V. in the event the conversion has occurred in the meantime. This conversion will allow Indigo to make a so-called check-the-box election. Under the applicable U.S. tax regulations a check-the-box election can be made on a B.V. but not on an N.V. As a result of the check-the-box election, which is an election routinely made by U.S. multinational corporations, Indigo will be treated as a "disregarded entity" for U.S. tax purposes. This will enable HP to fully integrate Indigo into its worldwide tax structure and it will reduce substantially the administrative tax compliance burdens on Indigo.

2. The total issued and outstanding share capital of the Company consists of 111,299,651 common registered shares, with a nominal value of euro 0.02 each (*Shares*). This number does not include the 1,013,500 Shares that are held by Indigo in treasury (*Treasury Stock*).
3. The Plaintiff is an indirect subsidiary of Hewlett-Packard Company (*HP*). The shares of common stock of HP (*HP Shares*) are listed on the New York Stock Exchange and the Pacific Exchange. The Plaintiff is the registered holder of 109,337,331 Shares which represents 98.2% of the Company's issued and outstanding share capital, excluding the Treasury Stock. Therefore, the Plaintiff holds, for its own account (*voor eigen rekening*), in excess of 95% of the issued and outstanding capital of the Company (excluding the Treasury Stock) and therefore satisfies the requirements of article 2:92a NCC. The Plaintiff

will demonstrate its shareholding by means of submitting the following exhibits<sup>1</sup>:

1. the Shareholders' Register of Indigo (Exhibit 1);
  2. extract from the Trade Register of the Chamber of Commerce in respect of Indigo (Exhibit 2);
  3. the Articles of Association of Indigo (Exhibit 3); and
  4. statement by chartered accountant of PricewaterhouseCoopers N.V. in respect of the issued and outstanding share capital of the Company and the number of Shares in the Company held by the Plaintiff (Exhibit 4).
4. The Shares owned by the Plaintiff were originally acquired by indirect subsidiaries of HP pursuant to two separate transactions:
- (i) a direct sale by Indigo of 14,814,814 newly issued Shares to Hewlett-Packard Europe B.V. (*HP Europe*), which was completed on 17 October 2000; and
  - (ii) a public exchange offer (*openbaar rullbod*) made to shareholders of Indigo by Hewlett-Packard Erste Vermögensverwaltungs- und Beteiligungsgesellschaft mbH (*HP mbH*), in respect of all Shares that were not then held by (subsidiaries of) HP (the *Offer*), which Shares were listed on the Nasdaq National Market (*Nasdaq*). The Offer commenced on 21 February 2002 and was completed on 22 March 2002. The Offer was made pursuant to an Offer Agreement between HP and Indigo dated 6 September 2001 as amended on 13 February 2002 (the *Offer Agreement*) and resulted in HP mbH acquiring 94,522,517 of the 96,484,837 then outstanding Shares (excluding the Treasury Stock and the 14,814,814 Shares then held by HP Europe). Subsequent to the completion of the Offer, the 14,814,814 Shares held by HP Europe and the

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<sup>1</sup> The Exhibits referred to in this writ of summons will, with corresponding numbers of reference, be submitted to the court, on the day on which the case will come up, by a Document for submittance of exhibits (*Akte houdende overlegging van producties*).

94,522,517 Shares held by HP mbH were transferred to the Plaintiff. The price offered under the Offer will be discussed in section B. The acceptance period, being the period during which Indigo shareholders were able to tender their Shares under the Offer started at 21 February 2002 and expired on 22 March 2002. After counting, it was established that 94,522,517 Shares were tendered in connection with the Offer, being, together with the Shares already then held by HP Europe, 98.2% of the issued and outstanding capital of Indigo, excluding the Treasury Stock.

5. On 5 April 2002, Computershare Trust Company of New York, the exchange agent for the Offer, completed all calculations for determining the precise amount of offer consideration to be paid to each Indigo shareholder who participated in the Offer and delivered and or mailed such consideration to each such shareholder (the *Settlement Date*).
6. The Plaintiff wishes the Enterprise Chamber to order Defendants, or their legal successors, to transfer to the Plaintiff all Shares not held by the Plaintiff or the Company.

**B. Price**

7. Subject to what is said in paragraph 10 of this writ of summons, in connection with the Offer, the following offer price per Share was offered to each Indigo shareholder who participated in the Offer:

either (a) the so-called Fixed Offer Price, which consisted of 0.3759 of a HP Share;

or (b) the so called Contingent Offer Price, which consisted of (i) 0.3008 of a HP Share, plus (ii) a so-called contingent value right (hereinafter referred to as *CVR*), entitling its holder to a payment of a certain amount in cash after the expiration of a three year period commencing 1 April 2002; this amount will vary between USD 0.00 and USD 4.50 and is dependent on, amongst other things, the revenues generated over the aforementioned three year period that can be attributed to certain Indigo related products as specifically described in

the Contingent Value Rights Agreement, which is the indenture under which the CVRs were issued by HP mbH (Exhibit 5).

8. The number of HP Shares that each tendering Indigo shareholder received in the Offer was determined by – in short - dividing USD 7.50 in case of the Fixed Offer Price or USD 6.00 in case of the Contingent Offer Price by the average closing sales price of HP Shares on the New York Stock Exchange during the twenty consecutive trading days ending on 19 March 2002. Pursuant to the Offer Agreement, the average HP closing sales price to be used in such calculation could not be less than USD 16.69 or more than USD 23.68. Consequently, each Indigo shareholder tendering his Shares for the Fixed Offer Price was going to receive for each Share between 0.3167 and 0.4494 of a HP Share, and each Indigo shareholder tendering his Shares for the Contingent Offer Price was going to receive for each Share between 0.2534 and 0.3595 of a HP Share plus one CVR.
9. On the basis of the actual average closing sales price of HP Shares on the New York Stock Exchange during the twenty consecutive trading days ending on 19 March 2002, being USD 19.95, each Indigo shareholder having tendered his Shares for the Fixed Offer Price was going to receive on the Settlement Date 0.3759 of a HP Share for each Share tendered, subject to what is said in paragraph 10 below.
10. The total number of Shares exchangeable for the Fixed Offer Price and the Contingent Offer Price was limited as described in the Offer Agreement. Because the total number of Shares that were elected to be exchanged for the Fixed Offer Price exceeded the number that was available for such election, each of the Indigo shareholders electing the Fixed Offer Price was required to accept a portion of the consideration in the form of the Contingent Offer Price. As a result, Indigo shareholders who elected the Fixed Offer Price did not receive 0.3759 of a HP Share for each Share. Instead they received, in exchange for each Share tendered, 0.3689 of a HP Share and 0.0931 of a CVR.

11. A further explanation of the process for determining the Fixed Offer Price and the limitations on the number of Shares available for the Fixed Offer Price and the Contingent Offer Price is contained in the Registration Statement filed with the US Securities and Exchange Commission on Form S-4 (Exhibit 6a) and the final Prospectus (the *Prospectus*) also filed with the United States Securities and Exchange Commission under Rule 424(b)(3) under the United States Securities Act 1933, as amended (Exhibit 6b). These documents could be described as the U.S. law equivalent of an offer document (*biedingsbericht*) incorporating a prospectus. The Plaintiff refers in particular to:
- (a) a written fairness opinion dated 6 September 2001 (and attached as Annex D to the Prospectus), from Indigo's investment banker, Gleacher & Co. LLC (an internationally-recognized investment banking and advisory firm that regularly engages in the valuation of businesses and their securities in connection with mergers and acquisitions), to the effect that, as of the date of the opinion and based on and subject to the matters set forth in its opinion, the aggregate consideration provided for in the Offer Agreement to be offered to all holders of Shares was fair, from a financial point of view, to the holders of the Shares, other than HP and its affiliates;
  - (b) certain recent unaudited condensed consolidated interim financial statements of Indigo and HP (including certain unaudited pro forma condensed combined consolidated financial statements of HP and comparative historical and pro forma per share data giving effect to the merger of HP with Compaq Computer Corporation (*Compaq*) as a purchase of Compaq by HP using the purchase method of accounting which was filed with the US Securities and Exchange Commission on Form 8-K on 14 February 2002 by HP) (Exhibit 7);
  - (c) audited consolidated financial statements of HP for each of the three years in the period ended 31 October 2001 (Exhibit 8); and

(d) audited consolidated financial statements of Indigo, in accordance with Netherlands law and Netherlands Generally Accepted Accounting Principles, for each of the three years in the period ended 31 December 2001 (Exhibit 9).

12. The Plaintiff requests the Enterprise Chamber to determine the price of the Shares to be transferred to the Plaintiff at USD 6.39 per Share. This amount represents the monetary value of the Fixed Offer Price as of the close of trading on the Settlement Date (the closing sales price of HP Shares on the New York Stock Exchange at that date was USD 16.99;  $0.3759 \times \text{USD } 16.99 = \text{USD } 6.39$ ). The basis of this request can be found in the following.
13. The Plaintiff believes that the Contingent Offer Price is not appropriate to serve as a reference to determine the price of the Shares for the following reasons:
- (i) the cash value of the Contingent Offer Price, which includes a CVR, is difficult to determine since the CVRs themselves only provide for the possibility of a future pay-out; furthermore, the CVRs, by their terms are non-transferrable, and, as a result, there is no independent trading market available to establish a current value for a CVR;
  - (ii) it is impracticable at this point to estimate what the future CVR pay-out might be since the amount of any potential pay-out for the CVRs will not become known until after April 2005; the Plaintiff expects the present proceedings to have resulted in a judgment prior to that date;
  - (iii) under the terms of Section 2.1 of the Offer Agreement, HP is required to offer a price equivalent to the Fixed Offer Price for any Shares it determines to purchase, after the expiration of the Offer pursuant to article 2:92a of the NCC as well as certain other corporate reorganisations and restructurings as described in the Offer Agreement;
  - (iv) the vast majority of Indigo shareholders who tendered their Shares into the Offer elected the Fixed Offer Price rather than the Contingent Offer

Price; therefore, it may be inferred that many Indigo shareholders viewed the Fixed Offer Price as more attractive than the Contingent Offer Price; and

- (v) if the value of the Contingent Offer Price would exceed the value of the Fixed Offer Price, and if the Contingent Offer Price would be used as a reference to determine the price for the Shares, the Defendants would be treated better than those Indigo shareholders who accepted the Offer on the basis of the Fixed Offer Price without having assumed the risk taken by those Indigo shareholders who accepted the Offer on the basis of the Contingent Offer Price.
14. The Settlement Date was the date that Computershare Trust Company of New York, the exchange agent for the Offer, first delivered the Offer consideration to the account of Indigo shareholders who accepted the Offer. For those Indigo shareholders whose account was credited prior to the close of market on the settlement date, the Settlement Date was the first date they could dispose of the HP Shares they received under the Offer, for example by selling such shares on the New York Stock Exchange. On the Settlement Date the closing price of HP shares was USD 16.99. On April 8 2002, the next trading day after the Settlement Date, the opening price of HP Shares was USD 16.88.
15. The Plaintiff believes that a price of USD 6.39 per Share is a fair price, for the following reasons:
- (a) that price is equal to the value of the Fixed Offer Price received by tendering Indigo shareholders on the Settlement Date;
  - (b) the Offer was perceived by Indigo shareholders to be reasonable, given that approximately 98% of then outstanding Shares (excluding Shares then held by HP Europe and the Treasury Stock) were tendered under the Offer; the Offer has therefore been accepted by the shareholders of Indigo on a large scale;

- (c) the boards of Indigo recommended the Indigo shareholders to accept the Offer;
  - (d) there is no reason to believe that the Fixed Offer Price is no longer fair;
  - (e) the closing price of the Shares on 10 April 2002, the last trading day before Indigo was delisted from Nasdaq, was USD 6.35; and
  - (f) USD 6.39, the cash value of the Fixed Offer Price on the Settlement Date, represents a premium of 16% above USD 5.52, the closing price of the Shares on Nasdaq on the trading day immediately prior to the date of the first announcement of the Offer.
16. Considering that the Offer closed shortly before these proceedings were initiated and that the Offer has been accepted in respect of approximately 98% of the then outstanding Shares (excluding the Treasury Stock and the 14,814,814 Shares already held by HP Europe), in the Plaintiff's view there is no reason for the Enterprise Chamber to order the appointment of one or three experts to report on the value of the Shares to be transferred.
17. Given the above, and the fact that the Plaintiff is a shareholder holding in excess of 95% of the issued share capital of a company for its own account, as referred to in article 2:92a NCC, the Plaintiff has a right to and interest in the Enterprise Chamber ordering the Defendants to transfer their Shares to the Plaintiff in consideration for a price to be determined by the Enterprise Chamber at USD 6.39 per Share, or such other price as the Enterprise Chamber may determine.

**C. Substantiation**

18. The Plaintiff is not aware of any objections and the grounds thereof that Defendants have in connection with the claim of the Plaintiff.

**D. Jurisdiction**

19. Pursuant to article 2:92a subsection 2 NCC, the Enterprise Chamber of the Court of Appeal in Amsterdam has jurisdiction to hear the claim in this case.

**THEREFORE**

May it please the Enterprise Chamber by judgment, to the extent possible with immediate effect:

1. to order Defendants, or their legal successors, to transfer their Shares to the Plaintiff in accordance with article 2:92a NCC;
2. to determine the price to be paid by the Plaintiff, per Share, at USD 6.39 as at the date of the judgment; or such price as at such date as the Enterprise Chamber may determine, increased with statutory interest (if applicable), to the holders or future holders of the Shares, if necessary by deposit of payment (*consignatie*) in consideration for unencumbered delivery of the Shares;
3. to determine that statutory interest will be added to the price to be paid, as from the date determined in accordance with 2 above, until the date of delivery of the Shares to the Plaintiff or the date of deposit for payment of the price for the Shares with statutory interest (*consignatie*) in accordance with article 2:92a (8) NCC;
4. to determine that any distributions payable in respect of the Shares since 5 April 2002 (the Settlement Date) shall, on the date on which the price with interest is paid, serve as part payment of that price with interest to be paid;
5. to order Defendants appearing in court and conducting a defence to pay the costs of these proceedings.

The costs for me, bailiff, are EUR 65,18, excluding expenses in the form of postage.

 **FRESHFIELDS BRUCKHAUS DERINGER**

**J.S. Evers**

**assigned junior bailiff**