

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE**

WEX INC.,

Plaintiff,

v.

HP INC. and HEWLETT-PACKARD
DEVELOPMENT COMPANY, L.P.

Defendants.

Case No. _____

INJUNCTIVE RELIEF SOUGHT

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff WEX Inc. (“WEX”), by its attorneys Pierce Atwood LLP and Debevoise & Plimpton LLP, for its complaint against Defendants HP Inc. and Hewlett-Packard Development Company, L.P. (“HP Development”) (collectively “HP”), alleges as follows:

Nature of the Case

1. WEX brings this lawsuit to protect consumers, businesses, and investors from being deceived by HP’s theft of WEX’s name and attempt to co-opt the reputation and goodwill that WEX has earned through decades of hard work.

2. For more than 40 years, WEX has been providing its customers with innovative business solutions. WEX began in Portland, Maine, as a company that gave businesses access to fuel cards, allowing those in the fleet and trucking industries to operate more efficiently by optimizing the newest technology at the time. Over the years, WEX has vastly expanded its offerings to provide a myriad of software and service solutions that help companies solve the complexities of running a business. WEX owns multiple valid and incontestible federal trademark registrations for WEX in connection with its products and services.

3. Today, WEX is a customer-driven, technology-focused company that owns and operates a business to business (“B2B”) ecosystem of solutions. WEX’s global commerce platform is the key foundation to its customer solutions, allowing WEX to provide software as a service (“SaaS”) that offers seamless integration with its customers’ technology platforms, generating and using scalable data, analytics, and artificial intelligence (“AI”) to support customer needs. WEX’s primary business purpose is to make running a business easier for its customers, offering a diverse suite of WEX-branded management software and other solutions in three business segments: Mobility, Benefits, and Corporate Payments. WEX’s business solutions are used by over 800,000 customers worldwide, including major corporations like Booking.com, Expedia Group Inc., Verizon Communications, American Express Company, and Pepsi, as well as federal, state, and local governments.

4. The goodwill that WEX has so carefully created and nurtured over the last four-plus decades is now under attack by a Silicon Valley tech giant. On March 7, 2024, HP announced its launch of “WEX,” which HP says is the branding for its “Workforce Experience Platform.” The announcement came as part of HP’s “new and enhanced services and solutions that drive value and enable partners to build and grow their services and software businesses.”¹

5. WEX and HP’s just-announced “WEX” have the same mission: to supply businesses with innovative solutions to their everyday workforce problems. HP describes its “WEX” as a “fleet management tool that allows IT [information technology] managers to discover, configure, monitor and manage HP devices in one location” and utilizes AI to

¹ See Ex. A at 1, *HP Introduces New Services and Software that Turbocharge Productivity and Accelerate a Circular Future*, HP Press Release, (Mar. 7, 2024), <https://press.hp.com/us/en/press-releases/2024/hp-new-services-software-turbocharge-productivity-and-accelerate-circular-future.html>.

“unlock[] the full potential of the workforce and transform[] employees into an unstoppable force of growth”²—a progressive software solution to manage the “fleet” of devices that HP has sold both in Maine and across the United States for decades.

6. In the short time since HP announced its “WEX” product, even before it is widely available, it has become clear that confusion with WEX is not only likely, but inevitable. At least one sophisticated member of the financial press has already associated WEX’s New York Stock Exchange (“NYSE”) WEX stock ticker with HP’s new product. Even more confusion and deception will inevitably follow as HP starts to actively market, advertise, and sell its competing “WEX”-branded business software products and services.

7. HP could have chosen from nearly limitless alternatives instead of misappropriating the arbitrary WEX trademark. HP’s decision—either with knowledge of WEX’s trademark rights, or with inexcusable ignorance of WEX’s many incontestable trademark registrations—is an unacceptable attempt by HP to leverage WEX’s heritage of customer trust as a way of keeping up with its Silicon Valley competitors. HP is attempting to take a shortcut and flood the market with its new “WEX” software offering, creating a likelihood of both forward and/or reverse confusion with WEX’s services.

8. HP’s new venture will cause irreparable harm to WEX and deceive consumers, who will mistakenly believe either that WEX is one of the “Workforce Experience Platforms” in HP’s family of offerings, or that HP’s “WEX” is the same as WEX. Any bad news about HP—

² See Ex. A at 2, *HP Introduces New Services and Software that Turbocharge Productivity and Accelerate a Circular Future*, HP Press Release (Mar. 7, 2024), <https://press.hp.com/us/en/press-releases/2024/hp-new-services-software-turbocharge-productivity-and-accelerate-circular-future.html>; see also Ex. A at 6, *Delivering Exceptional Employee Experiences with WEX™, HP’s New AI-Enabled Digital Experience Platform*, HP Press Blogs (Mar. 7, 2024), <https://press.hp.com/us/en/blogs/2024/wex-hp-new-ai-enable-digital-experience-platform.html> (describing the functions of “WEX”).

like the many negative comments on its social media accounts, @hp on Instagram, or a potential data breach—would be devastatingly and unfairly associated with WEX. There is no harm more irreparable than the loss of goodwill and reputation that this confusion will cause. WEX therefore asks this Court to preliminarily and permanently enjoin HP’s unlawful conduct and prevent this harm to WEX and its customers in Maine and throughout the United States.

The Parties

9. Plaintiff WEX Inc. is a corporation organized under the laws of the State of Delaware, with its principal place of business located at 1 Hancock Street, Portland, Maine 04101.

10. Upon information and belief, Defendant HP Development is a limited partnership operating under the laws of Texas located at 10300 Energy Dr., Spring, TX, 77389. HP Development is a wholly-owned subsidiary of Defendant HP Inc. and regularly licenses its intellectual property to HP Inc. HP Inc. has its principal place of business in 1501 Page Mill Rd., Palo Alto, CA and is registered to conduct, and regularly does conduct, business in the State of Maine.

Jurisdiction and Venue

11. This Court has original jurisdiction over this action pursuant to 15 U.S.C. §§ 1121 and 28 U.S.C. §§ 1331 and 1338, and has supplemental jurisdiction over WEX’s state-law claims pursuant to 28 U.S.C. § 1367(a).

12. This Court has personal jurisdiction over HP pursuant to Title 14 § 704-A(2)(A) of the Maine Revised Statutes because HP transacts business within the State of Maine and committed trademark infringement in the State of Maine. *See* Fed. R. Civ. P. 4(k)(1)(A).

13. Venue is proper under 28 U.S.C. §§ 1391(b) and (c). Both parties are located in this District and do business in this District, and a substantial part of the events giving rise to the claims in this case occurred in this District.

WEX and the WEX Family of Goods and Services

14. WEX’s origins date back to 1895, to a family business—A.R. Wright—in the coal and heating industry. In 1983, WEX’s corporate predecessor, the Wright Express Corporation (“Wright Express”), was created in Portland, Maine, specializing in providing unattended fueling and payment solutions to the trucking industry. The name WEX has been used by the company and its customers since at least 1989. Given the goodwill the WEX brand had generated, and the company’s expanding goods and services, in 2012 Wright Express formally rebranded and adopted the WEX name as its corporate umbrella brand. This rebrand reflected the diversification of WEX’s product lines and customers, its technology-focused innovations, and the expansion of its business internationally. Today, WEX is a publicly traded corporation (NYSE: WEX) with over 800,000 customers using its services and software solutions, powering over \$225 billion in payments last year alone, and operating in a variety of markets both in Maine and around the world.

15. Over the past four decades, WEX has expanded its services to include a variety of solutions for business needs. WEX’s stated mission is to “simplify the business of running a business.”³ It owns and operates an ecosystem of SaaS solutions for business customers to help those customers



³ See *WEX: Simplifying the business of running a business*, WEX Blog (Feb. 11 2022), <https://www.wexinc.com/resources/blog/wex-simplifying-the-business-of-running-a-business/>.

overcome highly manual processes and reconciliations. The WEX Solutions Ecosystem consists of WEX-branded software platforms, mobile applications, and other customer-driven technologies, products, and services, which are illustrated below:

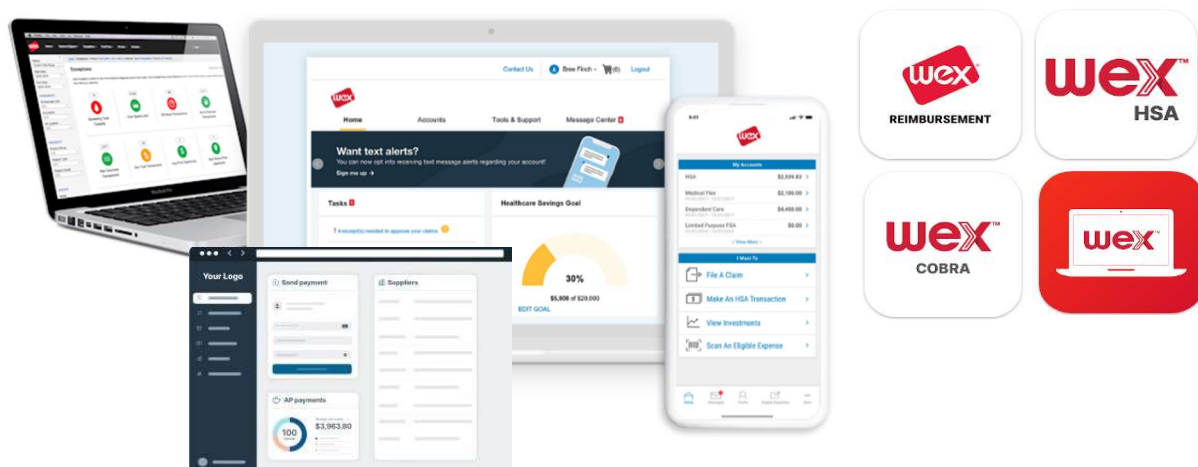


16. WEX's business solutions generally fall into three business segments, all of which operate under the WEX name: Benefits, Mobility, and Corporate Payments. WEX's Benefits segment provides software solutions that, among other things, automate and streamline processes to help its customers administer and manage employee benefit plans. WEX's Mobility offerings include fleet management solutions, including software for analytics, reporting and controls, and fuel cards, utilizing data to provide personalized solutions to customers. In the Corporate Payments space, WEX provides its customers with highly scalable payments solutions to integrate into their own technology and products, allowing businesses to, among other things, centralize purchasing and simplify complex supply chain processes. WEX is both one of the largest commercial






payment companies in the world as well as a trusted technology partner for some of the largest organizations in the world.

17. At its core, WEX is a global commerce platform that helps businesses in every industry solve for operational complexities. As illustrated above, WEX's global commerce platform enables the WEX suite of solutions, and features flexible user interfaces and superior integration capabilities that taps into existing client systems and IT programs. WEX's suite of solutions also leverages AI and other features to provide, among other things, insights, recommendations, scalable data, analytics, security, and fraud prevention. WEX's platform offerings can also be accessed through the internet, or used through mobile applications available on both the Google Play Store and Apple App Store.



18. WEX offers its services under a family of marks (the “WEX Marks”), a number of which are incontestable registered United States trademarks. WEX's registrations are *prima facie* evidence that WEX has the valid and protectible right to exclusive use of the WEX trademark for these and related services, and WEX's rights in its applications for WEX are superior to HP's. WEX's U.S. trademark registrations and applications include:

Mark	Reg. or App. No.	Date of First Use	Sampling of Goods and Services
WEX [Classes 035, 036]	2,218,706	1989 <i>Incontestable</i>	Management information services involving the collection and reporting of fueling and other purchase data associated with fleet vehicle usage; Commercial fleet credit card services
WEX [Classes 035, 036, 037, 042, 045]	4,597,806	2012 <i>Incontestable</i>	Management information services involving the collection and reporting of fueling and other purchase data associated with fleet vehicle usage; Collection, processing and dissemination of information related to the pricing and volume of goods and services purchased by commercial fleets; Commercial fleet credit card services; Financial services, namely ... commercial credit cards and commercial deposit accounts via a global computer network; Software-as-a-service (SaaS) featuring software in the fields of fleet management, supply chain management, environmental compliance reporting;
WEX [Classes 009, 035, 036, 042]	5,697,528	2015 <i>Incontestable</i>	Electronically encoded and magnetically encoded debit cards, prepaid stored-value cards, stored-value cards and smart cards for employee, retiree and government benefit management; software for employee, retiree and government benefit management; software for electronic processing of employee, retiree and government benefit payments; administration of employee, retiree and government benefit plans; Payment processing services; Providing temporary use of online, non-downloadable software for employee, retiree and government benefit management; software for enrolling participants, automatically verifying eligibility, adjudicating claims, processing payments, transferring funds and updating expenditure records
WEXONLINE [Classes 035, 036]	2,374,743	1997 <i>Incontestable</i>	Management information services involving the collection and reporting of fueling and other purchase data associated with fleet vehicle usage, via a global computer network;

Mark	Reg. or App. No.	Date of First Use	Sampling of Goods and Services
			Financial services, namely ... commercial credit cards and commercial deposit accounts via a global computer network
 [Classes 035, 036, 037, 042, 045]	4,597,810	2012 <i>Incontestable</i>	Management information services involving the collection and reporting of fueling and other purchase data associated with fleet vehicle usage; Collection, processing and dissemination of information related to the pricing and volume of goods and services purchased by commercial fleets; Payment card services; Payment processing services; Software-as-a-service (SaaS) featuring software in the fields of fleet management, supply chain management, environmental compliance reporting and processing transactions of debit cards, credit cards, fuel cards and special purpose card products
 [Classes 009, 035, 036, 042]	5,697,527	2015 <i>Incontestable</i>	Electronically encoded and magnetically encoded debit cards, prepaid stored-value cards, stored-value cards and smart cards for employee, retiree and government benefit management, namely, for transferring and processing payments; software for employee, retiree and government benefit management; software for electronic processing of employee, retiree and government benefit payments; administration of employee, retiree and government benefit plans; Payment processing services; Providing temporary use of online, non-downloadable software for employee, retiree and government benefit management; software for enrolling participants, automatically verifying eligibility, adjudicating claims, processing payments, transferring funds and updating expenditure records
 [Classes 009,	97/263,930 (pending)	2022	Electronically encoded and magnetically encoded debit cards, prepaid stored-value cards, stored-value cards and smart cards; downloadable software for employee, retiree, government benefit management, and

Mark	Reg. or App. No.	Date of First Use	Sampling of Goods and Services
035, 036, 037, 038, 042, 045]			insurance billing in the field of health care; downloadable mobile applications used to make payments at point of sale; Administration of employee, retiree and government benefit plans; financial records; management information services, namely, in connection with commercial fleets; Collection, processing and dissemination of information related to the pricing and volume of goods and services purchased by commercial fleets; assistance in management of business activities; providing business information management services dealing with managing and tracking transportation related business expenses; Payment processing services; financial services; electronic payments via a global computer network; Providing temporary use of online, non-downloadable software for benefit management; software-as-a service (SAAS) services featuring software for use in fleet management, supply chain management, environmental compliance reporting; application service provider, namely, hosting, managing, developing, analyzing, and maintaining applications and software in the fields of fleet management, supply chain management, environmental compliance reporting; application service provider, namely, hosting, managing, developing, analyzing, and maintaining applications and software for processing transactions of debit cards, credit cards, fuel cards, special purpose card products and mobile payment; fraud detection and prevention services in the field of commercial fleets
10-4 BY WEX [Class 009]	98/104,774 (pending)	<i>Intent-to-use Filing Date Jul. 27, 2023</i>	Downloadable software in the nature of a mobile application for use in the field of fleet management; downloadable mobile application for processing fleet vehicle-related payments, namely, processing transactions of debit cards, credit cards, fuel cards, and special purpose card products; downloadable mobile application for processing payments related to

Mark	Reg. or App. No.	Date of First Use	Sampling of Goods and Services
			fuel, electric vehicle charging, parking, auto repair services, and tolls; downloadable mobile application for identifying fuel stations and charging stations for electric vehicles; telematics apparatus, namely, wireless Internet devices which provide telematic services

19. WEX’s trademark registrations were duly and legally issued, and they are valid and subsisting. All of WEX’s registered word and design marks are also incontestable pursuant to 15 U.S.C. § 1065.

20. The arbitrary WEX mark exists in a barren field in which WEX’s mark is strong and distinctive. HP is attempting to register and use the identical WEX mark in the same field—and in the same trademark classes—as many of the incontestable trademarks owned by WEX.

21. For over a decade, WEX has prominently identified itself as WEX and it has used the WEX mark to promote its goods and services for decades prior. Over the last three years alone, WEX has spent almost \$100 million in the United States advertising its products and services under the WEX Marks.

22. WEX serves business customers in a variety of industries, including, but not limited to, technology, banking, fintech, travel, employee benefits, insurance, government, charge point operations, construction, fuel, trucking, and logistics. WEX’s customers range from large financial institutions to sole proprietorships. Regardless of industry or size, WEX’s services simplify the business of running a business and bring modern technology-forward solutions to its customers.

23. WEX reaches its diverse customer base in a variety of ways, including but not limited to, through direct relationships, brokers and consultants, partner channels, media

campaigns, sales representatives, digital marketing, and tradeshows. Depending on the industry, WEX interacts with C-Suite executives (e.g., Chief Executive Officer, Chief Financial Officer, Chief Human Resources Officer, or Chief Technology Officer), general managers, other human resources personnel, procurement professionals, and IT departments and executives, given the level of technology integration required in many of WEX's product offerings.

24. WEX promotes and provides its services under the WEX Marks on its websites including <https://www.wexinc.com/> and <https://www.wexcard.com/>.⁴ WEX also promotes its brand at events, tradeshows, digital and email marketing, direct mail, and on social media, including X (formerly Twitter) under the handle @WexIncNews; on Facebook under the name WEX; on Instagram under the handle @wexatwork; on LinkedIn as WEX at <https://www.linkedin.com/company/wexinc>; and on YouTube at @WEXIncNews. WEX operates a blog that is available at <https://www.wexinc.com/resources/blog/> where it posts company-wide updates, noteworthy happenings, and general news that may be beneficial to its customers and prospective customers.

25. WEX's marketing message emphasizes its core mission of "simplifying the business of running a business." WEX's advertising emphasizes its technological goals of driving efficiency, managing risk, reducing friction, and providing an enhanced user



⁴ See Ex. B (copies of webpages maintained by WEX).

experience, and utilizes taglines like “WEX Solves your WHAT IFs,” and “we make doing business simpler.”

26. WEX has made significant investments to develop the WEX brand identity, including through community development and outreach programs. WEX hosts an annual “SPARK” conference that brings together customers and leaders across the Benefits, Mobility, and Corporate Payments segments to help grow their businesses and expand their networks. This year, SPARK offered sessions on implementation and consulting operations processes; maximizing efficiency; navigating the fraud landscape; claim management and automation; modernizing your sales process; how to utilize AI in your business; and solution settings that can help streamline operations, enhance consumer experiences, and ensure employers get the information they need. WEX has a website available at <https://www.wexspark.com> that advertises its conference.

27. WEX views its employees, termed “WEXers,” as brand ambassadors. WEXers participate in conferences, panels, and interviews in a variety of media forums, and participate in advisory boards in a variety of customer industries. Some of the tradeshow and conferences WEXers have attended include: Salesforce Annual Dreamforce Conference, AFP Annual Conference, and Coupa Customer Shows. Upon information and belief, HP employees have attended some of the same conferences and trade shows from time to time.

28. In addition to investing in technological advancements, WEX is committed to building a diverse, world-class talent base, driving environmental innovation, minimizing environmental impacts, and enhancing the health and wellbeing of communities, customers, and employees.

29. WEX believes that thoughtful corporate philanthropy can open the door to partnerships that benefit the company and communities, engage employees, and help solve social issues. WEX’s commitment to giving back to the community through meaningful philanthropy is a core part of the WEX brand.

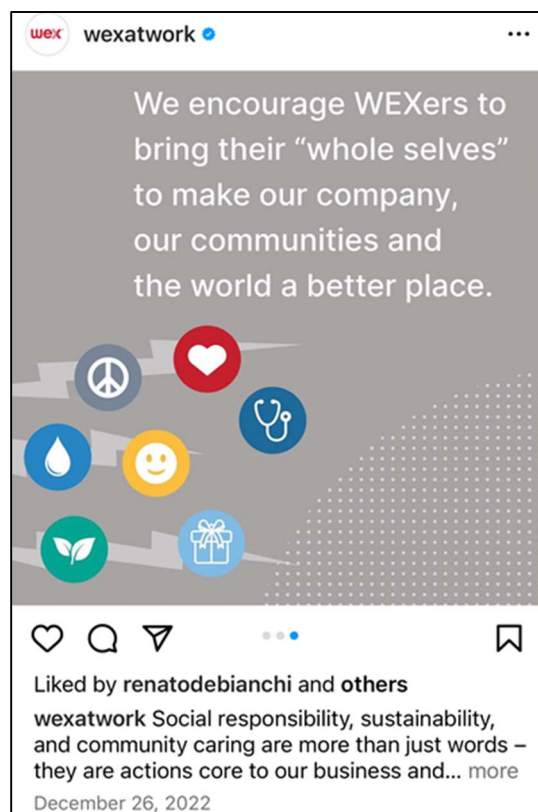
30. WEX and its employees partake in a variety of philanthropic efforts. WEXers volunteer and give back to their local communities in four major categories: the arts, education, social equality, and wellbeing—spending over 16,000 collective hours per year volunteering with their communities.

31. WEX partners with national organizations as well as those in its hometown of Portland, Maine—such as Maine Cancer Foundation, Girls Who Code, United Way of Southern Maine, The Boys and Girls Club of Southern Maine, The Opportunity Alliance, Educate Maine, and the American Heart Association—to build connections among neighbors and provide resources and support in communities through efforts such as donating to food pantries, enterprise funding campaigns, enhancing shared community spaces, and supporting small businesses. WEX also operates a



community grant program to benefit nonprofit organizations in Maine.⁵

32. WEX takes pride in prioritizing and maintaining a positive work environment where employees enjoy their work, respect and support their colleagues, and are encouraged to innovate and collaborate. WEX encourages its employees to show up as their “whole selves” and sponsors a variety of Employee Resource Groups. WEX is certified as a “Great Place to Work®.” WEX also operates a robust internship program, earning top spots on Vault.com’s “Best Internships” rankings and WayUp’s list of Top 100 Internship Programs.



33. As a result of its efforts, the WEX brand is well-known in the United States and abroad. WEX has offices in 13 different countries and services customers across the globe including the United States, Latin America, the United Kingdom, Europe, Asia and Australia.

⁵ See Ex. B at 57.

HP's Infringing Uses and Attempted Registration of "WEX"

34. WEX was shocked to see HP's public announcement on the HP Inc. website of a new "WEX"-branded "Workforce Experience Platform"⁶ According to HP, its "WEX" workforce solutions are meant to "empower partners to enhance employee experiences while creating new growth opportunities."⁷ HP claims its new "WEX"-branded technology is designed to build efficiencies in the workplace—much like the original WEX—and "unlock[] the full potential of the workforce and transform[] employees into an unstoppable force of growth."⁸

35. WEX also learned that HP Inc. has directed its subsidiary HP Development to file an intent-to-use trademark application with the United States Patent and Trademark Office ("USPTO"), seeking to register the stand-alone word mark "WEX," in overlapping classes with WEX's incontestable registrations for WEX. *See* App. No. 98/308,345 (listing HP Development as the applicant).⁹

HP's Applied- For Mark	Class	Sampling of Goods and Services
WEX	009	Downloadable computer software for data and device administration and management, secured access, remote access, configuration, virtualization, collaboration, monitoring, remote support, data security, data analytics, performance analytics, optimization, workflow streamline management, and digital experience in the fields of computer hardware, computer peripherals and accessories; Downloadable computer software for use in installing, configuring, managing, analyzing and monitoring IT processes

⁶ *See* Ex. A.

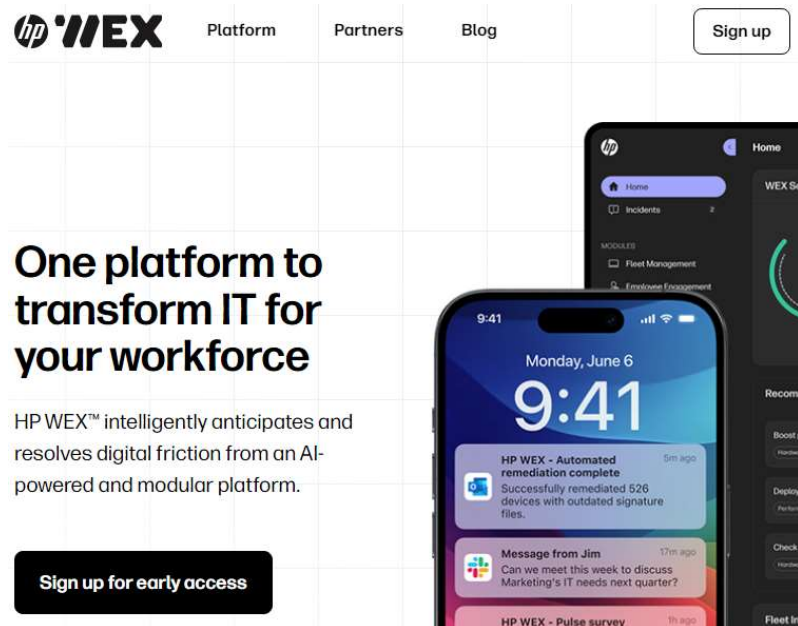
⁷ *See* Ex. B at 1, *HP Introduces New Services and Software that Turbocharge Productivity and Accelerate a Circular Future*, HP Press Release (Mar. 7, 2024), <https://press.hp.com/us/en/press-releases/2024/hp-new-services-software-turbocharge-productivity-and-accelerate-circular-future.html>.

⁸ *Id.* at 2.

⁹ *See* Ex. C (HP Development's trademark application).

		and devices; Downloadable computer software for information technology service, workflow and business automation; Downloadable computer software for tracking and analyzing user experience of digital devices, IT products and IT services
WEX	035	Data processing and management services in the field of information technology; Business advisory, consultancy, research and information services; Business management and consulting services in the fields of database management and digital experience, information technology, cloud computing and enterprise IT architecture; Providing assistance, advice and consultancy with regard to business planning, business analysis, business management and business organization relating to IT devices and software procurement
WEX	042	Software-as-a-service (SAAS) services featuring computer software platforms for data and device administration and management, secured access, remote access, configuration, virtualization, collaboration, monitoring, remote support, data security, data analytics, performance analytics, optimization, workflow streamline management, and digital experience; Platform-as-a-service (PAAS) services featuring computer software platforms for data and device administration and management, secured access, remote access, configuration, virtualization, collaboration, monitoring, remote support, data security, data analytics, performance analytics, optimization, workflow streamline management; Computer and IT project management services; Computer and IT device and system analysis, planning, integration and design; Platform-as-a-service (PAAS) services for workflow and business process automation, analysis and management; Software-as-a-service (SAAS) services for workflow and business process automation, analysis and management.

36. While HP has not officially launched its product and services yet, HP Inc. has launched a “WEX” website, <https://www.hpwex.com>, where consumers can sign up for early access.¹⁰ Based on a review of publicly available WHOIS data, the hpwex.com domain was registered by HP Inc., and the website states it is governed by HP Inc.’s terms of use. When prospective businesses and target consumers of HP’s product sign up for early access, they are prompted to enter business information, including their location and



state. Maine is among the states to select from in the drop down menu. HP is also advertising the Workforce Experience Platform on the <hp.com> domain.¹¹

37. According to the HP “WEX” website, HP’s new “WEX”-branded SaaS platform is intended to offer a myriad of workplace solutions, like boosting employee productivity, strengthening security measures and seamlessly integrating multi-vendor and multi-OS technology environments. HP’s “WEX” platform is modular and AI-powered, to specifically target unique client needs through employee engagement, fleet management, endpoint security,

¹⁰ See Ex. D (copy of HP “WEX” website).

¹¹ *Workforce Experience Platform*, HP Workforce Solutions, <https://www.hp.com/us-en/services/workforce-solutions/workforce-experience-platform.html> (last visited April 10, 2024).

digital workspaces, and workflow and software management—much like the features offered by WEX’s original WEX software and solutions.

38. HP job postings further highlight HP’s plans for “WEX”-branded services and its overlap with the WEX family of products and services:

HP “is embarking on an exciting journey of **creating multiple software SaaS and managed services products** to delight our customers. **In this area, we have created the Workforce Experience Platform (WEX)** that empower companies to enhance employee collaboration and productivity through **seamless, engaging experiences** across every touchpoint in any work environment. **With the right data and insights**, HP creates differentiated value for our customers by **leveraging our scale** and experience to simplify and streamline the way they manage their IT needs to optimize for their most valuable asset - their employees.”¹²

39. HP’s use of “WEX,” with or without the HP name, is likely to cause confusion with WEX’s original WEX-branded goods and services. Moreover, given the national and worldwide renown of HP, a technology giant known to millions of Americans, the use of “HP” alongside the “WEX” mark is likely to cause reverse confusion, leading to a loss of the goodwill that WEX has built over decades.

40. Both HP and third parties are relying on the WEX name in promoting the new HP technology. In its own blog, HP answers the question “What is WEX?” and describes its new offering as “a digital employee experience and fleet management platform.”¹³

¹² See Principle Product Manager – Cloud Fleet Management (US-Remote), Listing ID # 3128691, HP Jobs at HP, https://apply.hp.com/careers?query=wex&pid=20859126&domain=hp.com&sort_by=relevance (last visited Apr. 10, 2024) (emphasis added).

¹³ *The ROI of HP Workforce Experience Platform (WEX™)*, HP Blog, (Feb. 25, 2024) <https://hpwex.com/2024/02/25/roi-hp-wex/>.

What Is WEX?

WEX is a digital employee experience and fleet management platform that provides actionable data on a company's IT investment through Employee Engagement, Fleet Management, Endpoint Security, Digital Workspaces, and Workflow and Software Management.

41. News reports in March 2024, immediately after HP's announcement of its infringing "WEX" product, also highlighted how HP is trading on the stand-alone WEX name. For example, *Yahoo! Finance* reported that "WEX is designed to provide chief information officers with an AI-enabled digital experience platform. WEX comes with a user-friendly interface that integrates multiple services into a single platform, enhancing the overall experience for customers. Its key features include persona-based recommendations, streamlined hardware monitoring, total cost of ownership reduction, task automation and security enhancement."¹⁴ Another headline reads "HP introduces WEX for monitoring endpoints and automating tasks."¹⁵

42. HP—a highly sophisticated company with in-house legal teams and approximately \$53.7 billion in annual revenue—adopted its use of the "WEX" brand, and HP Development applied for the WEX trademark, either knowingly or in reckless disregard of WEX's incontestable trademark rights.

¹⁴ *Hewlett Packard (HPQ) Unveils Solutions for Its Partners*, Yahoo! Finance, (Mar. 8, 2024), <https://finance.yahoo.com/news/hewlett-packard-hpq-unveils-solutions-173200795.html>.

¹⁵ Berry Zwets, *HP Introduces WEX for Monitoring Endpoints and Automating Tasks*, Techzine (Mar. 7, 2024), <https://www.techzine.eu/news/devices/117411/hp-introduces-wex-for-monitoring-endpoints-and-automating-tasks/>.

43. HP’s infringing “WEX” offering does not appear to target any specific type of industry or consumer, and is likely to appeal to a wide variety of businesses interested in creating employee efficiencies within its IT framework—especially those with hybrid or remote work environments, an incredibly common occurrence since 2020. The potential customers of WEX’s products and services are the same as, or similar to, the potential customers for HP’s infringing “WEX” product. These include businesses seeking workforce and other data services and solutions to create employee and business efficiencies.

44. The overlap of customers is not merely speculative. HP has identified global companies, with a world-wide presence including Volkswagen, Commerzbank, Saipem, Atomic Cartoons, and Bekaert, as early “collaborators” on its infringing WEX-branded platform.¹⁶ WEX has existing customers and partners with business in these exact same industries: automotive companies, financial institutions, major oil companies, and others. Bekaert in particular is an existing WEX customer.

45. Both HP and WEX also maintain customer contracts with state and local governments. According to its website, HP currently has contracts with the State of Maine for varying products and services, as does WEX.¹⁷ Given the extensive overlap in services being offered to overlapping customers under exactly identical marks, even sophisticated consumers would likely be confused when presented with HP’s misappropriation of the WEX trademark.

46. Much like WEX, HP also relies on partner channels to get its products and services into the hands of consumers. HP also distributes its products and services through

¹⁶ See Ex. D at 2, *One Platform to Transform IT for Your Workforce*, HP WEX, <https://www.hpwx.com> (last visited Apr. 10, 2024).

¹⁷ *State of Maine Contracts*, HP, <https://h20429.www2.hp.com/HP2B/landingpages/contract/sled/stateofmaine.html> (last visited Apr. 10, 2024).

authorized resellers and service centers. Some of these include: Maine Document Solutions, LLC, Maine Technical Source Inc.; New England Communications, Inc.; All Computer Solutions Inc.; Higgins Office Products, Inc.; and larger retailers like Staples and Target. HP's website also connects potential business customers with account managers and sales managers in their local area, including in Maine.¹⁸

47. HP has a world-wide presence. HP markets its products on its websites, on social media, on television, and at trade shows. HP's media campaigns have generally reached a world-wide audience, with HP itself being named to the Global Fortune 500 list of companies, and generally recognized to be one of the top Silicon Valley technology companies, among the likes of Apple and Google. HP's launch of "WEX" has already been covered by media in the U.S. and internationally, including in Europe, Australia, and Africa.¹⁹

48. HP's launch of its "WEX" platform is touted as an "expansion of its vision to deliver exceptional employee experiences."²⁰ HP is promoting its "WEX" product with much of the same marketing messaging as WEX. Both companies focus on promoting their software as

¹⁸ See *State of Maine Contacts*, HP, <https://hp2b.hp.com/webapp/wcs/stores/servlet/en-US/hp2bfd/mecontactinfo> (last visited Apr. 10, 2024) (listing the contact information for State of Maine Contacts, including account managers, contract sales managers, and customer support).

¹⁹ See, e.g., Berry Zwets, *HP Introduces WEX for Monitoring Endpoints and Automating Tasks*, Techzine (Mar. 7, 2024), <https://www.techzine.eu/news/devices/117411/hp-introduces-wex-for-monitoring-endpoints-and-automating-tasks/>; Sean Mitchell, *HP Introduces Innovative Suite of AI-Enabled Platforms & Services*, ITBrief Australia (Mar. 8, 2024), <https://itbrief.com.au/story/hp-introduces-innovative-suite-of-ai-enabled-platforms-services>; Mamsi Nkosi, *HP Introduces New Services & Software to Turbocharge Productivity* (Mar. 8, 2024), <https://www.itnewsafrika.com/2024/03/hp-introduces-new-services-software-to-turbocharge-productivity/>.

²⁰ Ex. A at 5.

being customer-driven, providing data, assisting in fleet management, increasing productivity, utilizing AI, and reducing friction.

49. HP is advertising its new “WEX” platform through its hpwex.com website, as well as the HP Inc. website and blog. HP is also advertising its “WEX” product on LinkedIn, YouTube, HP Inc.’s blogs, and HP conferences—many of the same advertising methods that WEX uses. Consumers are notably vocal about HP on social media, leaving negative comments on the HP pages regarding poor customer service, problems they are experiencing with HP products and services, or boycotts of the company.

50. Given the similarities between the software, fleet and data management, and employee solutions offered by WEX on the one hand, and the “WEX”-branded software, fleet and data management, and employee solutions offered by HP on the other, combined with the overlapping worldwide footprint of the companies, confusion between the two WEX offerings is inevitable—and has already materialized.

51. In the short time since HP announced its launch of the infringing WEX product, improper associations between WEX and HP that are the hallmark of actionable trademark confusion have already appeared. For example, Investing.com—a global financial portal that provides news, analysis, quotes, charts, technical data and financial tools about the global financial market and ranked among the top three financial websites worldwide—wrote an article about the launch of HP’s infringing WEX platform.²¹ However, the media outlet reported that “HP’s WEX” platform was associated with “NYSE:WEX”—the stock ticker for WEX, not HP. Even more problematic, this article had earlier identified HP Inc. by its “NYSE:HPQ” stock

²¹ See Ex. E at 2-3, Brando Bricchi, *HP Launches New AI-Powered Digital Platform*, Investing.com (Mar. 7, 2024, 1:29 PM), <https://www.investing.com/news/stock-market-news/hp-launches-new-ai-powered-digital-platform-93CH-3329390>.

ticker. The later reference to WEX’s stock ticker alongside HP’s “WEX” product directly suggests to readers that HP had acquired or was partnering with WEX. This mistaken information will lead to investor confusion about the affiliation between two identically named products by two completely different companies—and might well alter their behavior as a result of that confusion.

52. HP’s infringing use of “WEX” in connection with its new workforce technology platform is creating a likelihood of confusion with WEX’s original WEX software and management services, and the family of WEX Marks generally. As HP expands its offerings and as its use of “WEX” becomes more widespread, the initial confusion highlighted above will only be exacerbated. Businesses, consumers, and investors will be conditioned to believe that HP’s “WEX”-branded platform is the latest offering under the WEX Marks—or vice versa, that the WEX Marks now belong to HP. Given that HP’s “WEX” platform is being advertised by HP as “the future of digital employee experience” that “provides a unified platform to support and optimize the digital experiences of your employees,” it is inevitable that consumers will think that WEX’s programs and solutions are now just part of HP’s “unified platform.”²²

53. If HP is not enjoined from further infringement of the WEX Marks, WEX will suffer irreparable harm, and the goodwill that WEX has spent decades cultivating will be unacceptably eroded.

COUNT ONE
(Registered Trademark Infringement
Under Section 32 of the Lanham Act, 15 U.S.C. § 1114)

54. WEX repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

²² See Ex. D at 3.

55. WEX is the owner of the WEX Marks, certain of which are registered with the USPTO and are valid, subsisting, used in commerce, and inherently distinctive (the “Registered WEX Marks”).

56. HP’s “WEX” mark is the same and/or confusingly similar to the Registered WEX Marks. HP’s “WEX” mark is used in connection with advertising and offering products and services that are overlapping and related to the products and services offered by WEX. HP Development has applied to register the trademark WEX in the same classes and for similar goods and services as the Registered WEX Marks.

57. HP’s uses of “WEX” are therefore likely to cause confusion, or to cause mistake, or to deceive as to the source, origin, sponsorship or affiliation of HP’s products and services, and are likely to cause consumers to believe, incorrectly, that HP’s products and services originate from, or have been authorized, sponsored, approved, or endorsed by WEX, or that HP’s businesses are otherwise connected to, sponsored by, or affiliated with WEX in some way; whereas, in fact, WEX does not approve of HP’s appropriation of its trademarks for HP’s products, services, or businesses.

58. Given the worldwide recognition and relative reach of the HP brand, HP’s use of the “WEX” mark is also likely to cause reverse confusion, or to cause mistake, or to deceive as to the source, origin, sponsorship or affiliation of WEX’s products and services, and is likely to cause consumers to believe, incorrectly, that WEX’s products and services originate from, or have been authorized, sponsored, approved, or endorsed by HP, or that WEX’s businesses are otherwise connected to, sponsored by, or affiliated with HP in some way; whereas, in fact, HP does not and does not need to approve of WEX’s use of its own trademarks for WEX products, services, and businesses.

59. HP's uses of "WEX" are likely to cause irreparable injury to the reputation of WEX as well as the goodwill developed by WEX for its services and the WEX brand. The extent of this harm cannot be ascertained at this time, leaving WEX without any adequate remedy at law.

60. The foregoing acts by HP constitute trademark infringement of WEX's federally registered trademarks in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

61. By reason of the foregoing, WEX is entitled to injunctive relief against HP, restraining HP from further acts of infringement of the Registered WEX Marks and, after trial, recovery of any damages (to the extent calculable) proven to have been caused by reason of HP's aforesaid acts.

COUNT TWO
(Common Law Trademark Infringement Under Maine Common Law)

62. WEX repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

63. WEX is the common law owner of the WEX Marks, which are strong, distinctive, valid, and enforceable trademarks at common law.

64. HP's promotion, advertising, offering for sale, and sale of its services in connection with the "WEX" mark is likely to cause confusion, to cause mistake, and/or to deceive as to affiliation, connection, or association between WEX and HP, and is likely to cause members of the public to believe, incorrectly, that HP's products and services originate from, or have been authorized, sponsored, approved, or endorsed by WEX, or that HP's businesses are otherwise connected to, sponsored by, or affiliated with WEX in some way; whereas, in fact, WEX does not approve of HP Inc.'s appropriation of its trademarks for HP's products, services, or businesses.

65. Given the worldwide recognition and relative reach of the HP brand, HP's use of the "WEX" mark is also likely to cause reverse confusion, or to cause mistake, or to deceive as to the source, origin, sponsorship, or affiliation of WEX's products and services, and is likely to cause consumers to believe, incorrectly, that WEX's products and services originate from, or have been authorized, sponsored, approved, or endorsed by HP, or that WEX's businesses are otherwise connected to, sponsored by, or affiliated with HP in some way; whereas, in fact, HP does not and does not need to approve of WEX's use of its own trademarks for WEX products, services, and businesses.

66. HP's use of the identical and confusingly similar "WEX" mark is likely to cause irreparable injury to the reputation of WEX, as well as the goodwill developed by WEX for its services and the WEX Marks.

67. The above described acts and practices constitute infringement of WEX's valid and enforceable common law trademarks.

68. By reason of the foregoing, WEX is entitled to injunctive relief against HP, restraining HP from further acts of infringement of the Registered WEX Marks and, recovery of any damages (to the extent calculable) proven to have been caused by reason of HP's aforesaid acts.

COUNT THREE
(Unfair Competition Under 15 U.S.C. § 1125)

69. WEX repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

70. WEX is the owner of the WEX Marks, which are strong, distinctive, valid, and enforceable trademarks both under federal and common law.

71. The WEX Marks are distinct and significant, and have been used in commerce prior to Defendant, such that the use of the name “WEX” identifies WEX. WEX has an established reputation which is capable of protection.

72. HP’s unfair use of the “WEX” mark is likely to deceive consumers, and has in fact actually deceived, in that it is likely to cause members of the public to believe, incorrectly, that HP’s products and services originate from, or have been authorized, sponsored, approved, or endorsed by WEX, or that HP’s businesses are otherwise connected to, sponsored by, or affiliated with WEX in some way; whereas, in fact, WEX does not approve of HP’s appropriation of its trademarks for HP’s products, services, or businesses.

73. The above described acts and practices constitute actionable unfair competition under 15 U.S.C. § 1125 (a) and have damaged WEX.

74. WEX has invested significant time and resources into developing the goodwill associated with the WEX Marks. The goodwill of the marks is of substantial value to WEX, and WEX has and will continue to suffer irreparable harm should unfair competition in the form of HP’s use of the “WEX” mark be allowed to continue.

75. By reason of the foregoing, WEX is entitled to injunctive relief against HP, restraining HP from further acts of infringement of WEX’s trademark rights and, after trial, recovery of any damages (to the extent calculable) proven to have been caused by reason of HP’s aforesaid acts.

COUNT FOUR
(Violation of Maine Uniform Deceptive Trade Practices Act,
ME. REV. STAT. ANN. tit. 10, § 1212,)

76. WEX repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

77. WEX is the owner of the WEX Marks, which are strong, distinctive, valid, and enforceable trademarks at federal and common law.

78. HP's promotion, advertising, offering for sale, and sale of its services in connection with the "WEX" mark is likely to cause confusion, to cause mistake, and/or to deceive as to affiliation, connection, or association between WEX and HP, and is likely to cause members of the public to believe, incorrectly, that HP's products and services originate from, or have been authorized, sponsored, approved, or endorsed by WEX, or that HP Inc.'s businesses are otherwise connected to, sponsored by, or affiliated with WEX in some way; whereas, in fact, WEX does not approve of HP Inc.'s appropriation of its trademarks for HP's products, services, or businesses.

79. HP's use of the "WEX" mark is likely to cause confusion or misunderstanding as to the source, sponsorship, approval or certification of its goods and services and/or the affiliation, connection, or association with, or certification of WEX.

80. HP's use of the same and confusingly similar "WEX" mark is likely to cause irreparable injury to the reputation of WEX, as well as the goodwill developed by WEX for its services and the WEX Marks.

81. The above described acts and practices constitute infringement of WEX's valid and enforceable trademarks.

82. By reason of the foregoing, WEX is entitled to injunctive relief against HP, restraining HP from further acts of infringement of WEX's trademarks.

COUNT FIVE
(Cancellation of Defendant's Pending Trademark Application Under 15 U.S.C. § 1119)

83. WEX repeats and realleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

84. WEX is the owner of the WEX Marks, certain of which are registered with the USPTO and are valid, subsisting, used in commerce, and inherently distinctive.

85. HP Development's applied-for "WEX" mark, which upon information and belief was undertaken for the benefit of HP Inc. and to enable use of the "WEX" mark by HP Inc., is the same and/or confusingly similar to the Registered WEX Marks. HP's "WEX" mark is applied for in connection with products and services that are overlapping and related to the products and services covered by trademark registrations owned by WEX.

86. HP's registration of "WEX" would therefore likely cause confusion, or to cause mistake, or to deceive as to the source, origin, sponsorship, or affiliation of HP's products and services, and are likely to cause consumers to believe, incorrectly, that HP's products and services originate from, or have been authorized, sponsored, approved, or endorsed by WEX, or that HP's businesses are otherwise connected to, sponsored by, or affiliated with WEX in some way; whereas, in fact, WEX does not approve of HP's appropriation of its trademarks for HP's products, services, or businesses.

87. Section 2(d) of the Lanham Act bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties. *See* 15 U.S.C. §1052(d).

88. Section 37 of the Lanham Act gives a federal district court the power to determine the right to registration, order cancelation of registrations, and otherwise rectify the trademark register, including the power to invalidate pending trademark applications. *See* 15 U.S.C. § 1119.

89. By reason of the foregoing, WEX is entitled to injunctive relief against HP, restraining HP from further acts seeking to register its infringing WEX mark, and precluding the USPTO from registering the infringing WEX mark.

PRAYER FOR RELIEF

WHEREFORE, WEX respectfully demands judgment:

1. That HP and all those in active concert or participation with HP (including, but not limited to, its officers, directors, agents, servants, wholesalers, distributors, retailers, employees, representatives, attorneys, subsidiaries, related companies, successors, assigns, and contracting parties) be temporarily, preliminarily, and then permanently enjoined and restrained from:

- i. using and registering the “WEX” mark, or any other logo, device, design, or word mark that is a colorable imitation of, or is similar to, the WEX Marks, or any of them, in connection with the advertising, distribution, marketing, offering for sale, or sale of any product or service neither originating from nor authorized by WEX;
- ii. representing in any manner or by any method whatsoever, that goods, services or other products provided by HP are sponsored, approved, authorized by or originate from WEX or otherwise taking any action likely to cause confusion, mistake or deception as to the origin, approval, sponsorship, or certification of such goods, products, or services;

2. That HP and all those in active concert or participation with HP (including, but not limited to, its officers, directors, agents, servants, wholesalers, distributors, retailers, employees, representatives, attorneys, subsidiaries, related companies, successors, assigns, and contracting parties) take affirmative steps to dispel such false impressions that heretofore have been created by HP’s use of the WEX mark, including, but not limited to, recalling from any and

all channels of distribution any and all advertising, marketing, or promotional material and the like, bearing or distributed under the WEX mark, or any confusingly similar variations thereof; and undertaking corrective advertising to remedy such false impressions as have heretofore been created by HP's use of the WEX mark.

3. That HP, within thirty days after service of judgment with notice of entry thereof upon them, be required to file with the Court and serve upon WEX's attorneys a written report under oath setting forth in detail the manner in which HP has complied with the above-mentioned paragraphs 1 through 2.

4. That HP account to WEX for its profits and any damages sustained by WEX, to the extent calculable, arising from the foregoing acts of trademark infringement, false designation of origin, unfair competition and deceptive acts and practices.

5. That, in accordance with such accounting, WEX be awarded judgment for three times such profits or damages (whichever is greater), pursuant to 15 U.S.C. § 1117.

6. That WEX be awarded its reasonable costs and attorneys' fees and disbursements.

7. That the USPTO be directed to deny and invalidate HP Development's application to register the infringing WEX mark.

8. That WEX have such other and further relief as the Court may deem equitable.

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JURY DEMAND

WEX hereby demands a trial by jury on all issues so triable.

Dated: April 11, 2024
Respectfully submitted,

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