

Jonathan Ernst

Mon site Web personnel

« [HP Suisse me rembourse 600 CHF de logiciels](#)
[Déchiffrer son dossier personnel lors de l'identification avec pam-mount](#) »

HP refunds 520\$ for unused software

This is a translation of my latest article ([original in French](#)).

After [my previous successes](#) with *Dell* and *Lenovo* (was IBM), I just finished a (long) process of reimbursement with the leading PC manufacturer: Hewlett-Packard.

Introduction

At the end of 2008, I acquired two HP laptops for friends for whom I installed [Ubuntu Linux](#). As usual, the models of interest were not available without the operating system and pre-installed software.

First attempts

Upon reception of the first model, I called HP support for laptops where I was told to call support for HP professional laptops where they asked me to call customer service where they told me to call the sales department, this department then asked me to contact the claims department by e-mail because they could not help me!

After numerous e-mails and phone calls with the claims department, I had still not received the amount due in repayment of licenses for software that I did not agree with. Worse, they told me they were not aware that a End User License Agreement (EULA) is displayed when you first start their PCs (if this is not bad faith, I don't know what is) and they asked me to send them a copy of the terms in question:

From: Jonathan Ernst
To: xxx.xx@hp.com
Subject: Attention Mr. S.
Date: Friday, 21 November 2008

Dear Sir,

Thank you for your phone call.

Here are excerpts from your own license contract displayed at startup of each computer running Windows you sell:

[...] If you do not accept the terms of the agreement, click the button indicating your rejection and do not copy, download or use the software in any way. You can get the full refund of unused software [...]

And here is the extract from the second license (Microsoft Windows) which is also displayed at startup:

[...] Using the software, you accept these terms.
If you do not agree, do not use the software.
Contact the manufacturer or installer to determine their procedures for return of goods to get your money back.

I am surprised that HP does not know the existence of these End User License Agreement (EULA), since these licenses are displayed on all your computers.

In addition, your company has already made several repayments (willingly or by force) in the past. You have been condemned last year in Italy to pay 2300 euros (140 euros in software)

<http://www.zdnet.fr/blogs/2007/10/29/hp-condamne-a-rembourser-un-microsoft-windows-en-italie/>

I also invite you to educate yourself on this issue by visiting:
<http://www.racketware.info/>

The software I want to get the refund for includes:

- Microsoft Windows Vista Home Basic OEM
- WinDVD
- Roxio
- Mc Afee (2 months subscription)
- MS Office 2007 ready

Note that you can probably get repaid these amounts from the publishers of such software.

Yours sincerely

I then decided to start sending regular letters (I sent an invoice for each computer, then, when expired, threats of prosecution). I finally received a [written response](#) (in English even though we had always communicated in French). According to them, their return policy is in line with industry best practices (even though I have pointed out repeatedly that their two biggest competitors had accessed to my previous requests, and that they had recently been [convicted for similar facts in Italy](#)).

Here is my answer:

From: Jonathan Ernst
To: xxx.xx@hp.com
Subject: Your letter
Date: Friday, 09 January 2009

Hello,

I acknowledge receipt of your reply in English to my letter in French (you obviously have the resources to translate the End User License Agreement that you do not respect in French, but not enough to communicate with your clients in the language in which they write and buy your products).

As explained in my previous request for refund (for which I am still waiting for the payment), I don't care about your arguments.

First your refund policy is not in line with best industry practices as you write because IBM and Dell, your two biggest competitors, have refunded software not used in a similar case after my previous purchases: <http://ernstfamily.ch/jonathan/tag/tax/>

Second, even if it did, it doesn't matter because the EULA explicitly gives me the right to a refund in the event I do not accept the terms of the license. I remind you once again that you have recently been convicted in Italy on this subject: <http://www.zdnet.fr/blogs/2007/10/29/hp-condamne-a-rembourser-un-microsoft-windows-en-italie/>

You can continue as long as you like to hide behind your legal

department, but this won't prevent me from, if you fail to comply with my requests, prosecuting your management as stated in my last letter sent to your headquarters and Mr. P. and B.

You will also find attached to this e-mail a draft of the prosecution (in french "requisition de poursuite") that I will send, if by the end of this month I don't have any satisfactory answer from you.

All rights reserved.

Legal proceedings against HP Switzerland and some members of its management

Hewlett-Packard Switzerland and several members of its management did not respond to my last notice before prosecution sent by registered letter (sent to the address of the company and their personal addresses). Therefore I sent the legal proceedings form to the competent offices.

Finally a response!

In February 2009 (two months after the last notice before prosecution) my debtors received their payment order from the legal proceedings office. Mr B., manager of HP Switzerland finally granted me with an e-mail (this shows how far you have to go to make those companies reply to your letters):

From: Mr B. <xxx@hp.com>
To: Jonathan Ernst
Cc: yyy@hp.com
Subject: Legal proceedings
Date: Wednesday, 19 February 2009 17:28:29

Sir,

Referring to your letter of 17 December 2008 and your payment order (No. xxxxxx) that I received this week, I state my opposition.

I respect the fact that you insist on your rights as a principle, which is quite legitimate. However, I did personally never sell or charge any HP product and I condone the fact that you took legal action against me on a private level for a refund of software licenses pre-installed on HP products.

However, I can confirm that the accounting department will pay you tomorrow an amount of CHF 600 on your account XX-XXXXXX-X to cover your expenses. Therefore, we urge you to withdraw the prosecution against Mr P. and Mr B.

I leave you to your opinions and your principles, as well as your undignified pride to have recovered the license fees charged for our HP products, and for the fees you also racked “willingly or by force” from other manufacturers such as Dell, Lenovo and IBM to use your own quotations.

Sincerely yours,

Mr. B.

The man almost made me shed a tear, here is my answer after having received the promised sum:

From: Jonathan Ernst
To: Mr B. <xxx@hp.com>
Cc: yyy@hp.com
Subject: Re: Legal proceedings
Date: Wednesday, February 26 2009 19:39:46 0100

Sir,

On Thursday, Mr. B. 2009-02-19 says:

> Sir,
>
> Referring to your letter of 17 December 2008 and your payment order (No. xxxxxx) that I received this week, I state my opposition.
>
> I respect the fact that you insist on principle to your rights, which is quite legitimate. However, I did personally never sold or charged any HP product and I condone the fact that you took legal action against me in private for a refund of software licenses pre-installed on HP products.
>

I regret that my approach has caused you harm, but what is even more unfortunate is that I had to go this far in order to get back what was due by contract.

Furthermore, I find it somewhat inappropriate to play the surprise and indignation when you acknowledge yourself earlier to have been informed of my approach by registered letter in December. Perhaps you could have taken the necessary actions to avoid this situation at

that time?

As a manager you will certainly ensure that the various telephone services from Hewlett Packard in Switzerland and your company's complaint service are more aware of your customers rights so that this situation never happens again. I am also at your disposal if you want to learn more about the real uphill battle that forced me to take this kind of actions.

It is clear to me that the current policy (ignoring letters, claiming that the licensing contracts do not exist, etc..) of your company is intended to discourage customers from exercising their rights which is unacceptable for a company like yours. Therefore, I will not hesitate to assist any interested person to assert their rights as long as a simple and transparent refund process (or, better yet, a purchasing process that does not force the tying) is not implemented by manufacturers of personal computers.

> However, I can confirm that the accounting department will pay you
> tomorrow an amount of CHF 600 on your account XX-XXXXXX-X to
cover your
> expenses. Therefore, we urge you to withdraw the prosecution
against Mr
> P. and Mr B.
>

I took the necessary steps to undo these actions (including the one against your headquarters) and acknowledge receipt of your payment.

> I leave you to your opinions and your principles and undignified
pride
> to have recovered the license fees charged for our HP products, and
for
> the fees you also racked "willingly or by force" with other
> manufacturers such as Dell, Lenovo and IBM to use your own
quotations.

These fees are in no way "racked" to manufacturers as you seem to think. It is simply a reimbursement proposed by the publishers of the software when the accompanying license agreement is not accepted by the end user.

Therefore it does not cost anything to the manufacturers that you mention. Of course, if, on your side, you do not want to make the necessary arrangement to be refunded from your vendors, that is your

problem.

As for my pride, please note that this was solely done because of principles and not to get money. To enforce my rights and not pay 20-30% of the price of a computer for software I do not intend to use. Who knows, one day you may allow your customers to choose the software they want pre-installed (opt-in instead of opt-out) on your computers and make this whole process and the inconvenience caused by it to manufacturers and their customers unnecessary.

Best regards.

Conclusion

This time, I really thought that Hewlett-Packard was going to turn a deaf ear until the court. Nevertheless, as it had already been the case with one of my first experiences on the subject, the threat (in the case of Dell) or the actual stake in pursuits again provoked a reaction and in forced the debtors to pay off to me what was due to me.

It is unfortunate to notice how difficult it is to assert ones' rights in IT tax removal. I dare to hope that this kind of initiatives as well as those relayed by the project "detaxe" from swisslinux, the racketiciel.info site at the French level and racketware.info at the international level, will allow everyone not to pay pointless expenses of licenses for software of no use (whether they do not wish to use them, or because they already possess them) whatever their choice of equipment. A clear display of the prices of this " inclusive software " as well as their optionality would be to the advantage of the consumers and the computers makers.

In order to multiply these procedures and to encourage the makers to change their dishonest practices, do not hesitate to let know your procedures (successful or not) against these groups quoted previously as well as to request for coaching.

Appendices

Here is a non exhaustive list of documents sent and received to/from Hewlett-Packard:

[2008-12-17 first invoice sent to HP](#) (french)

[2008-22-12 invoice for the second HP computer](#) (french)

[2008-17-12 dernier avis avant poursuites](#) (without appendices, a similar letter has been sent to two others members of HP management, french)

[2009-01-08 HP response](#) (english)

[2009-05-02 réquisition de poursuite](#) (without appendices, a similar form has been sent to the cantons where are living both HP management members targeted by my pursuit, german)

Tags: [détaxe](#), [Hewlett-Packard](#), [HP](#), [linux](#), [racketiciel](#), [tax](#), [ubuntu](#), [windows](#)

Cet article a été publié le Mercredi 18 mars 2009 à 10:00. Vous pouvez en suivre les commentaires par le biais du flux [RSS 2.0](#). Vous pouvez [laisser un commentaire](#), ou [faire un trackback](#) depuis votre propre site.

30 commentaires pour “HP refunds 520\$ for unused software”

1.  *Michaël* dit :
[18 mars 2009 à 10:45](#)

Congratulations on that final reply - very polite and graceful - hopefully also very effective.

2.  *xir* dit :
[18 mars 2009 à 10:58](#)

Contrgatulations on you victory.

I have a question, why not go for a linux computer vendor instead of all this though. Surely they deserve the money more?

3.  *jernst* dit :
[18 mars 2009 à 11:04](#)

@xir


Unfortunately there are virtually no such vendors in Switzerland (anyone feel free to correct me if I'm wrong). You can find some Lenovo laptops with Opensuse but they are more expensive than their Windows countrepart. Then you have the fact that one of those computer needed to cost no more than ~ 450\$ which reduces even more the choices you have.

4.  *Jan Ask* dit :
[18 mars 2009 à 11:05](#)

Well done on sticking to your principles. I have bought many computers, paying the obligatory Microsoft Tax without ever installing windows.

Having read your story, I won't give up without a fight on my next purchase. The only way we consumers can get anything through is to vote with our wallets. I hope others will follow your example.

Oh, and it is sad to see any company chickening out on EULAs covering their own products. Shame on you HP.

5.  [CombatWombat](#) dit :
[18 mars 2009 à 11:09](#)

Bravo! It is a shame more people don't read the EULA, but blindly click through it...perhaps because they have been conditioned to do so... and so do not even think that there may be an alternative. My motto at the moment: "Question everything, hold on to what is good."

6.  [ericthefish](#) dit :
[18 mars 2009 à 11:49](#)

Well done! I admire your patience. Seriously, well done for sticking it out till the end. I hope that experience makes somebody at HP think a bit.

7.  [Martin](#) dit :
[18 mars 2009 à 13:34](#)

BRAVO! I really think people like you make a difference.

8.  [Pablog](#) dit :
[18 mars 2009 à 15:14](#)

Enhorabuena

9. [HP devuelve 520\\$ a un usuario « mdotg@wordpress.com:~ #](#) dit :
[18 mars 2009 à 15:32](#)

[...] <http://ernstfamily.ch/jonathan/2009/03/hp-refunds-520-of-software/> [...]

10.  [anon](#) dit :
[18 mars 2009 à 15:59](#)

IBM != Lenovo.

Lenovo bought the IBM trademark to put on their computers. I believe the deal runs out in 2009, so there won't be any IBM branded consumer

hardware in future.

11.  [Jakub Steiner](#) dit :
[18 mars 2009 à 19:53](#)

Well fought. Thanks for sticking it to the man.


12. [open tabs | Views on Life](#) dit :
[19 mars 2009 à 0:36](#)

[...] And finally - have YOU ever demanded a refund for that unused windows crap software you bought with your hardware? You Should! [...]

13.  [Thomas](#) dit :
[19 mars 2009 à 1:06](#)

Congratulations and respect for your undertaking! It takes people like you to get the wheel rolling and help the hardware manufacturers to realizes that we the customers have rights and some of us don't want to be forced into paying a tax for something we will never use.

Keep rocking !!!

14.  [Faisal Yousuf](#) dit :
[20 mars 2009 à 0:20](#)

I applaud your patience and sticking to your principals. Congratulations on obtaining the refund for software you don't use. I wish more people do the same.

15.  [Bruce](#) dit :
[20 mars 2009 à 2:46](#)

I also have purchased various computers with MS Windows and other software that was never used as I am a Linux user. Unfortunately the best "hardware" pricing and selection is almost always available only for computers which include Windows. Clearly Microsoft has inappropriate control of the hardware market. Shame on our spineless governments for not enforcing the anti-competitive rules. Should I purchase another Windows pre-installed computer I will certainly follow your example and take what ever actions are needed to receive the appropriate refund. Thanks for sharing your experience on this matter.

16.  [rich3800](#) dit :
[20 mars 2009 à 5:17](#)

Being a shareholder of HP, Dell, IBM, I was hoping that their management would lend a closer ear to my requests to have Linux preinstalled on their computers. Now, I'm not so sure if they even listen to their shareholders. May CEOs will listen when their bonuses are on the line... The carrot and the stick...

17.  [xir](#) dit :
[20 mars 2009 à 10:27](#)

@jernst

Sounds like an open market to me ;-).

i am going to keep this post in mind just in case i cant find a good linux vendor in the uk. Very nice

18.  [rich3800](#) dit :
[20 mars 2009 à 11:50](#)

A legal fund could be created for cases like this, in which computer buyers could tap into.

19.  [john](#) dit :
[20 mars 2009 à 12:08](#)

this is only a problem if you want a laptop,

if you want a desktop or server then it's cheaper & smarter to build your own.

there's more crap to worry about than the o.s.

you have no idea about the motherboard, psu or graphics card quality etc when you buy a pre-built machine.

20.  [TripleII](#) dit :
[20 mars 2009 à 19:02](#)

Lodge a complaint with the appropriate body? Congratulations BTW, very inspiring. The solution, the real solution, (it will only happen outside North America first) is simply the EU (or starting with just a single country) mandates that "Any computer sold must have the option of being sold

without an operating system". Nowhere should it be tied to any OS, and the process made this onerous. As a line item, the purchaser must opt in for what OS they want pre-installed. There is nothing wrong with pre-installed, the problem is mandatory pre-installed. The biggest and most successful marketing scheme Microsoft has accomplished and enforced through "tying" is the idea that "Windows comes free". Look to MS to spend billions and billions to prevent ANY country from opening their markets to true competition.

Tous les meilleurs

TripleII

P.S. I hope the above means "All the best" as opposed to just calling you a "dog face" 😊

21.  [jernst](#) dit :
[20 mars 2009 à 19:33](#)

@TripleII

Thank for your input. I wholeheartedly agree with what you said.

As for "Tous les meilleurs", that means something like "They are all the best"; "Tout de bon" or "Tout le meilleur" would be more correct 😊 Thanks by the way and all the best to you!

22. [NãO Quero Imposto M\\$! » HP Suíça devolve 392€ de Imposto Microsoft](#) dit :
[21 mars 2009 à 0:22](#)

[...] Suíça conseguiu-se obter a devolução de Imposto Microsoft sobre um portátil da Hewlett-Packard totalizando 600 francos suíços, cerca de [...]

23. [Boycott Novell » Links 20/03/2009: New Compiz and New GNU/Linux in the Philippines](#) dit :
[21 mars 2009 à 0:53](#)

[...] HP refunds 520\$ for unused software It is unfortunate to notice how difficult it is to assert ones' rights in IT tax removal. I dare to hope that this kind of initiatives as well as those relayed by the project "detaxe" from swisslinux, the racketiciel.info site at the French level and racketware.info at the international level, will allow everyone not to pay pointless expenses of licenses for software of no use (whether they do not wish to use them, or because they already possess them) whatever their choice of equipment. A clear display of the prices of this " inclusive software " as well as their optionality would be to the advantage of the consumers and the computers

makers. [...]


24.  [Fajar](#) dit :
[23 mars 2009 à 3:58](#)

Salut!

Your struggle was hard but you managed to overcome it.
Shame on HP and all those OEM!

25. [Procedure: How to get a refund from HP - India Broadband Forum](#) dit :
[10 avril 2009 à 8:11](#)

[...] to get a refund from HP See HP refunds 520\$ for unused software | Jonathan Ernst _____ "Thou shalt not follow the null pointer for at its end madness and chaos [...]

26.  [haha](#) dit :
[19 avril 2009 à 14:49](#)

This is a JOKE.

Laptops are so cheap as they are. Its useless brats like you who drive the prices up and who make customer service a hassle.

Whine about which language they sent a letter in more why don't you?
would you like some fromage with that wine?

27.  [jernst](#) dit :
[19 avril 2009 à 16:20](#)

@haha

Laptops are so cheap as they are.

Hmm... wouldn't they be even cheaper if they weren't pre-filled with useless software?

If you need those, you are free to pay the extra money (for licences, installation, testing, support).

Its useless brats like you who drive the prices up and who make customer service a hassle.

Nope, it's the management failure to understand their customers need and their denial of the laws that makes customer service a hassle.

Whine about which language they sent a letter in more why don't you?
would you like some fromage with that wine?

When you write a letter to a company based in your country in your country's language do you really expect to receive a reply in another language?

Are you a customer service employee, an HP shareholder or just a troll?

28.  *Uncle B* dit :
[19 avril 2009 à 20:25](#)

Wall Mart in the U.S.A. sells computers with Linux (Ubuntu) systems pre-loaded. I hope this becomes a trend, i hope they start selling bigger, more up-market models, I hope they kick anybodies ass's to gain market share on give "Joe the Consumer" a fair priced, whack at the ball, unfettered by Microsoft's illegal and UnAmerican "tax by monopoly" on computing hobbies in general.

29.  *Robert* dit :
[23 avril 2009 à 0:51](#)

Lol what a fucking waste of everyone's time, if you don't want the product THEN DON'T FUCKING BUY IT! went you decided to get that computer then you agreed to buy the software too, weather you knew it or not. Its stupid people like you that tie up the legal system with trivial bullshit like this. FUCK YOU, you should have built a computer from scratch

30.  *jernst* dit :
[23 avril 2009 à 6:11](#)

@Robert

I'm against censorship and thus approved your message anyway, but please watch your language when writing here.

Now to your "points":

went you decided to get that computer then you agreed to buy the software too, weather you knew it or not.

Nope, the licence agreement is not presented when buying the computer and there is no way to refuse it beforehand. So I didn't agreed to anything.

Its stupid people like you that tie up the legal system with trivial bullshit like this.

Again you are mistaken. If companies like HP were following the law and stopped to forcefully tie their products (computer) with a service (software usage licence), all this could be avoided.

you should have built a computer from scratch

Yeah right, now that you tell me it, building a **LAPTOP** from scratch does make a lot of sense, does it?

Laisser un commentaire

Nom (obligatoire)

Adresse e-mail (ne sera pas publié) (obligatoire)

Site Web

Dites-le !

Notifiez-moi des prochains commentaires par e-mail






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[windows](#)

• Commentaires récents

-  [TheHappyFerret](#): Toujours dans l'optique d'améliorer ton script, il n'y aurait pas moyen...
-  [bouhhh](#): Merci pour tes précisions ^^ Je me sens vraiment con lol...j'ai même pas pensé à regarder à...
-  [jernst](#): @bouhhh Il s'agit des dépôts medibuntu, wine et google. Pour la liste des logiciels, il suffit de...
-  [bouhhh](#): Bonjour, ce script a l'air intéressant..par contre je voudrais bien savoir à quoi correspondent les dépôts...
-  [Beware](#): @loke : oui et non. apt-get fait partie de l'outil APT de gestion de paquet debian comme l'est...

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