

## **PRESS CUTTING**

### **The Times Law Central**

**30 November 2012**

#### **Will Autonomy be lost in USA?**

[Edward Fennell](#) November 30 2012 12:11PM

Figures are figures whatever the language or location, one might think. Sadly that is not the case as controversies such as the one currently devouring Hewlett-Packard regarding its take-over of Autonomy) demonstrate all too well. Accounting conventions vary widely so that the value of a business can appear very different depending on how – and where – it is viewed.

This is paralleled by the much better understood differences between one legal jurisdiction to another. That is why the practical outcome of the Autonomy valuation dispute will hinge on where the case might be heard (assuming it gets that far). Aggrieved parties are likely to achieve a better result if they can get before an American court.

“In the USA the courts often make penal awards where they consider the defendant was at fault so commercial litigants may make considerably more money if they win,” says

Jonathan Thornton, Partner at Russell-Cooke Solicitors. “In England the courts only recompense a claimant for their actual loss, and will not usually make a penal award. Showing “loss” can often be difficult even if something was clearly done incorrectly. What’s more, in England a case called “Caparo” limits the liability of auditors to third parties. So a company’s shareholders or a buyer of the company have limited scope to sue the auditors if they invest or buy in reliance on the audit and it subsequently proves inadequate.”

In this country, moreover, it is difficult to bring an action against directors of a company personally unless they have given a personal guarantee or been fraudulent. By contrast in America there is a greater willingness to hold individual directors personally to account.

Looks like this case is heading west.