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and the Proposed Class*

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

KEVIN NYGREN, On Behalf of Himself and
All Others Similarly Situated,

Plaintiff,

vs.

APPLIED MICRO CIRCUITS
CORPORATION, CESAR CESARATTO,
PAUL R. GRAY, FRED SHLAPAK,
ROBERT F. SPROULL, DUSTON
WILLIAMS, PARAMESH GOPI, and
CHRISTOPHER ZEPF,

Defendants.

Case No. 3:16-cv-7400

CLASS ACTION

**COMPLAINT FOR
VIOLATION OF THE
FEDERAL SECURITIES LAWS**

JURY TRIAL DEMANDED

Plaintiff Kevin Nygren (“Plaintiff”), by his undersigned attorneys, alleges the following on information and belief, except as to the allegations specifically pertaining to Plaintiff, which are based on personal knowledge.

NATURE AND SUMMARY OF THE ACTION

1. Plaintiff brings this action as a public stockholder of Applied Micro Circuits Corporation (“AppliedMicro” or the “Company”) against the members of AppliedMicro’s

1 Board of Directors (the “Board” or the “Individual Defendants”) and AppliedMicro for their
2 violations of Section 14(d)(4), and Rule 14D-9 promulgated thereunder by the U.S. Securities
3 and Exchange Commission (the “SEC”), and Sections 14(e) and 20(a). Specifically,
4 Defendants solicit the tendering of stockholder shares to approve of the sale of the Company
5 to MACOM Technology Solutions Holdings, Inc. (together, “MACOM” or “Parent”) through
6 MACOM’s wholly owned subsidiary Montana Merger Sub I, Inc. (“Merger Sub”) (the
7 “Proposed Transaction”) through a recommendation statement that omits material facts
8 necessary to make the statements therein not false or misleading. Stockholders need this
9 material information to decide whether to tender their shares or pursue their appraisal rights.

10 2. On November 21, 2016, the Company announced that it had entered into a
11 definitive agreement (the “Merger Agreement”) by which MACOM, through its wholly
12 owned subsidiary, Merger Sub, would commence a tender offer (the “Tender Offer”) to
13 acquire all of the outstanding shares of AppliedMicro in exchange for \$3.25 in cash and
14 0.1089 MACOM shares per share of AppliedMicro (the “Proposed Transaction”). The
15 Proposed Transaction is valued at approximately \$770 million.

16 3. On December 21, 2016, MACOM commenced the Tender Offer, which is set
17 to expire at 12:00 midnight, Eastern Time, at the end of January 25, 2017 (the “Expiration
18 Date”). The Tender Offer provides that the number of shares of AppliedMicro common
19 stock that have to be validly tendered, together with the shares beneficially owned by
20 MACOM and Merger Sub, if any, must represent at least one share more than one-half of the
21 total number of outstanding shares of AppliedMicro common stock as of the Expiration Date.
22 The Tender Offer is not subject to any financing condition.

23 4. In connection with the commencement of the Tender Offer, on December 21,
24 2016, the Company filed a Recommendation Statement on Schedule 14D-9 (the
25 “Recommendation Statement”) with the SEC. The Recommendation Statement is materially
26 deficient and misleading because, *inter alia*, it fails to disclose material information about the
27 process leading to the Merger Agreement. Without all material information AppliedMicro
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1 stockholders cannot make an informed decision to exchange their shares in the Tender Offer.
2 The failure to adequately disclose such material information constitutes a violation of §§
3 14(d)(4), 14(e) and 20(a) of the Exchange Act as stockholders need such information in order
4 to make a fully-informed decision regarding tendering their shares in connection with the
5 Proposed Transaction about whether to tender their shares.

6 5. For these reasons and as set forth in detail herein, the Individual Defendants
7 have violated federal securities laws. Accordingly, Plaintiff seeks to enjoin the Proposed
8 Transaction or, in the event the Proposed Transaction is consummated, recover damages
9 resulting from the Individual Defendants' violations of these laws. Judicial intervention is
10 warranted here to rectify existing and future irreparable harm to the Company's stockholders.

11 **JURISDICTION AND VENUE**

12 6. The claims asserted herein arise under §§ 14(d), 14(e), and 20(a) of the
13 Exchange Act, 15 U.S.C. § 78aa. The Court has subject matter jurisdiction pursuant to § 27 of
14 the Exchange Act, 15 U.S.C. §78aa, and 28 U.S.C. § 1331 (federal question jurisdiction).

15 7. The Court has personal jurisdiction over all of the defendants because each is
16 either a corporation that conducts business in and maintains operations in this District, or is
17 an individual who is either present in this District for jurisdictional purposes or has sufficient
18 minimum contacts with this District so as to render the exercise of jurisdiction by this Court
19 permissible under traditional notions of fair play and substantial justice.

20 8. Venue is proper in this District under § 27 of the Exchange Act, 15 U.S.C.
21 §78aa, as well as pursuant to 28 U.S.C. § 1391, because: (i) the conduct at issue took place
22 and had an effect in this District; (ii) AppliedMicro maintains its principal place of business
23 in this District and each of the Individual Defendants, and Company officers or directors,
24 either resides in this District or has extensive contacts within this District; (iii) a substantial
25 portion of the transactions and wrongs complained of herein, occurred in this District; (iv)
26 most of the relevant documents pertaining to Plaintiff's claims are stored (electronically and
27 otherwise), and evidence exists, in this District; and (v) defendants have received substantial
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1 compensation in this District by doing business here and engaging in numerous activities that
2 had an effect in this District.

3 **THE PARTIES**

4 9. Plaintiff is, and has been at all times relevant hereto, a stockholder of
5 AppliedMicro.

6 10. Defendant Cesar Cesaratto (“Cesaratto”) is AppliedMicro’s Chairman of the
7 Board and has served as a director of the Company since April 2002.

8 11. Defendant Paul R. Gray (“Gray”) has served as a director since 2009.

9 12. Defendant Fred Shlapak (“Shlapak”) has served as a director since 2006.

10 13. Defendant Robert F. Sproull (“Sproull”) has served as a director since 2011.

11 14. Defendant Duston Williams (“Williams”) has served as a director since 2013).

12 15. Defendant Paramesh Gopi (“Gopi”) has served as the President and Chief
13 Executive Officer of AppliedMicro since May 2009, and a Director of the Company since
14 April 2009.

15 16. Defendant Christopher Zepf (“Zepf”) has served as a Director of the Company
16 since May 14, 2015. Defendant Zepf is Managing Principal and Portfolio Manager of
17 Kingdom Ridge Capital, LLC (Kingdom Ridge), a hedge fund that currently controls
18 approximately 9% of the Company’s common stock.

19 17. Defendants Cesaratto, Gray, Shlapak, Sproull, Williams, Gopi, and Zepf are
20 collectively referred to herein as the “Individual Defendants,” and the Individual Defendants
21 are sometimes collectively referred to herein as the “Board.”

22 18. Defendant AppliedMicro is a corporation organized and existing under the
23 laws of the State of Delaware. It maintains its principal executive offices at 4555 Great
24 America Parkway, Suite 601, Santa Clara, California, 95054. Common stock in
25 AppliedMicro is publicly traded on the NASDAQ under the ticker symbol “AMCC.”
26 AppliedMicro is named as a defendant herein solely for the purpose of providing full and
27 complete relief.
28

1 19. Defendants AppliedMicro and the Individual Defendants are collectively
2 referred to as the “Defendants.”

3 20. MACOM, a non-party, is a developer and producer of radio, microwave, and
4 millimeter wave semiconductor devices and components. MACOM is headquartered in
5 Lowell, Massachusetts.

6 21. Non-party Merger Sub is a Delaware corporation, a wholly-owned subsidiary
7 of MACOM, and a party to the Merger Agreement.

8 **CLASS ACTION ALLEGATIONS**

9 22. Plaintiff brings his claims against the Individual Defendants as a class action
10 pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of all persons and
11 entities that own AppliedMicro common stock (the “Class”). Excluded from the Class are
12 defendants and their affiliates, immediate families, legal representatives, heirs, successors or
13 assigns and any entity in which defendants have or had a controlling interest.

14 23. Plaintiff’s claim is properly maintainable as a class action under Rule 23 of the
15 Federal Rules of Civil Procedure.

16 24. The Class is so numerous that joinder of all members is impracticable. While
17 the exact number of Class members is unknown to Plaintiff at this time and can only be
18 ascertained through discovery, Plaintiff believes that there are thousands of members in the
19 Class. As of December 15, 2016, there were 87,641,177 shares of Company common stock
20 issued and outstanding. All members of the Class may be identified from records maintained
21 by AppliedMicro or its transfer agent and may be notified of the pendency of this action by
22 mail, using forms of notice similar to that customarily used in securities class actions.

23 25. Questions of law and fact are common to the Class and predominate over
24 questions affecting any individual Class member, including, among inter alia:

25 (a) Have the Defendants solicited stockholder approval of the Proposed
26 Transaction with a materially false, misleading and/or incomplete recommendation statement;

27 (b) Is the Class entitled to injunctive relief or damages as a result of
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1 Defendants' wrongful conduct; and

2 (c) Whether Plaintiff and the other members of the Class would be
3 irreparably harmed were the transactions complained of herein consummated.

4 26. Plaintiff will fairly and adequately protect the interests of the Class, and has no
5 interests contrary to or in conflict with those of the Class that Plaintiff seeks to represent.
6 Plaintiff has retained competent counsel experienced in litigation of this nature.

7 27. A class action is superior to all other available methods for the fair and
8 efficient adjudication of this controversy. Plaintiff knows of no difficulty to be encountered in
9 the management of this action that would preclude its maintenance as a class action.

10 28. Defendants have acted on grounds generally applicable to the Class with
11 respect to the matters complained of herein, thereby making appropriate the relief sought
12 herein with respect to the Class as a whole.

13 **SUBSTANTIVE ALLEGATIONS**

14 **Background of the Company**

15 29. AppliedMicro develops and produces computing and connectivity solutions
16 for cloud infrastructure and data centers, including an array of connectivity and embedded
17 computing products. The Company is a leader in 64-bit custom ARM-based processors,
18 mixed-signal design and high speed signal processing, Internet protocol, OTN and Ethernet
19 packet processing, and embedded processor System-on-Chip ("SoC") design. AppliedMicro
20 was founded in 1995 and has corporate headquarters in Sunnyvale, California.

21 30. In a press release dated November 21, 2016, the Company announced that it
22 had entered into the Merger Agreement with MACOM and Merger Sub, pursuant to which
23 the Company will be acquired by MACOM in a tender offer in which AppliedMicro
24 stockholders will receive \$3.25 in cash and 0.1089 MACOM shares in exchange for each
25 share of AppliedMicro common stock. This represents a total equity value of approximately
26 \$770 million.

27 31. In relevant part, the press release reads:
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1 LOWELL, Mass., November 21, 2016 - MACOM Technology Solutions
2 Holdings, Inc. (NASDAQ: MTSI) ("MACOM"), a leading supplier of high-
3 performance analog RF, microwave, millimeterwave and photonic
4 semiconductor products, today announced it has entered into a definitive
5 agreement to acquire Applied Micro Circuits Corporation (NASDAQ:AMCC)
6 ("AppliedMicro"), a global leader in Connectivity and Computing solutions for
7 next-generation cloud infrastructure and Data Centers, for approximately \$8.36
per share, consisting of \$3.25 in cash and 0.1089 MACOM shares per share of
AppliedMicro. This price for each share of AppliedMicro represented a 15.4%
premium over the company's closing price of \$7.25 on Friday, November 18th.
MACOM intends to divest the well-positioned but non-strategic Compute
business within the first 100 days of closing.

8 Commenting on the transaction, John Croteau, President and Chief Executive
9 Officer, stated, "This transaction will accelerate and expand MACOM's
10 breakout opportunity in Enterprise and Cloud Data Centers. MACOM will now
11 be able to provide all the requisite semiconductor content for optical networks -
12 analog, photonic and PHY - from the switch to fiber for long haul, metro,
access, backhaul and Data Center. AppliedMicro's 100G to 400G single-lambda
PAM4 platform should perfectly complement MACOM's leadership in analog
and photonic components for Data Centers.

13 Notably, the IEEE recently recommended the adoption of AppliedMicro's
14 single lambda PAM4 solution to be an industry standard for enterprise and Data
15 Center connectivity, positioning this technology as the solution of choice going
16 forward. Additionally, AppliedMicro's Connectivity business aligns well with
17 MACOM's differentiated, high-growth business model, offering non-GAAP
gross margins well in excess of MACOM's long term target operating model,
long product life cycles, and sticky customer relationships."

18 "AppliedMicro also provides value-added technologies including SerDes, high
19 speed analog-to-digital and digital-to-analog converters with industry-leading
20 engineering competencies and long product lifecycles. Importantly, we expect
21 that this transaction will establish MACOM with an incumbent position
supplying strategic components and enterprise and cloud Data Center
customers."

22 MACOM intends to divest AppliedMicro's well-positioned Compute business
23 within 100 days from closing the transaction, as the business does not
24 strategically align with MACOM's long-term focus. AppliedMicro has been
25 exploring strategic options for the Compute business and there is known
strategic interest among several potential buyers and investors. MACOM will
continue to support Compute customers and partners during this transition.

26 "This is an exciting day for AppliedMicro, and we are pleased to be joining
27 forces with MACOM. The transaction affirms the value that our employees
28 have created and provides a strong path forward for our Connectivity business
while delivering AppliedMicro stockholders a robust premium," said Paramesh

1 Gopi, President and CEO, AppliedMicro. “This transaction will create an
2 industry powerhouse with the scale, deep customer relationships, innovative
3 technology, and enabling products that will help deliver explosive growth in
4 Enterprise and Cloud Data Centers. In addition, this agreement provides a
5 promising path forward for the Compute business, which is in the process of
6 bringing AppliedMicro’s highly-competitive third-generation X-Gene processor
7 to market. X-Gene is well-positioned to address the large opportunity for
8 mainstream server processors with its proven high performance cores, scalable
9 interconnect and high per socket memory capabilities.”

10 MACOM intends to commence a tender offer to purchase each outstanding
11 common share of AppliedMicro for approximately \$8.36 per share, consisting
12 of \$3.25 in cash and 0.1089 MACOM shares per share of AppliedMicro.
13 MACOM will assume certain equity awards held by AppliedMicro employees.
14 The transaction value is approximately \$770 million in diluted equity value, or
15 approximately \$688 million net of AppliedMicro’s cash position of
16 approximately \$82 million as of September 30, 2016. The transaction is
17 expected to be accretive to MACOM’s non-GAAP gross margin, non-GAAP
18 operating margin and non-GAAP EPS in fiscal year 2017, excluding the
19 Compute business. AppliedMicro stockholders are expected to own
20 approximately 15% of the combined company on a pro forma basis. MACOM
21 expects to pay the cash portion of the acquisition price from cash on hand. The
22 boards of directors of both companies have approved the transaction, which is
23 subject to customary closing conditions and regulatory approvals. MACOM
24 currently expects the transaction to close in the first calendar quarter of 2017.

25 **The Process Preceding the Execution of the Proposed Transaction**

26 32. On May 14, 2015, the Company announced that it had invited Defendant Zepf
27 to join the Board at the same time it increased the size of the Board from six to seven
28 members. At the time of this announcement, Defendant Zepf’s Kingdom Ridge fund had
accumulated 9.9% of the Company’s outstanding shares of common stock.

31 33. Analysts following the stock noted that the appointment of Defendant Zepf
32 likely signaled a new openness to being acquired. In an article published on TheDeal.com on
33 June 15, 2015, reporter Jaewon Kang noted that “While Kingdom Ridge is a traditional, non-
34 activist growth investor, Zepf will focus on getting Applied Micro to achieve its highest
35 possible valuation either organically or through a sale, this person said, adding that the latter
36 is a more likely scenario.”

37 34. Kang quoted Cody Acree, senior research analyst at Ascendant Capital
38 Markets: “AMCC is a very unique vehicle. It’s two to three years ahead of everybody else

1 in a market that's in high demand,' Acree explained. 'That's why it's ripe for acquisition.'
2 Applied Micro could attract a price tag of between \$800 million to \$1 billion, according to
3 Acree."

4 35. Indeed, the Board had determined in late 2014 that it should begin exploring
5 AppliedMicro's strategic alternatives. In February 2015, the Company engaged Morgan
6 Stanley & Co. LLC ("Morgan Stanley") to provide financial advisory and placement agent
7 services for a potential private investment in public equity ("PIPE") transaction in order to
8 enable new development. In May 2015, the Board formed a Strategy Committee of
9 Defendants Cesaratto, Shlapak, Williams, and Zepf to investigate, review, consider, and make
10 recommendations to the Board with respect to strategic alternatives.

11 36. On January 21, 2016, the Strategy Committee considered expanding its
12 potential strategic alternatives to include a potential merger or acquisition of AMCC or its
13 ARM-based Compute business. During this meeting, Morgan Stanley presented on the
14 current strategic landscape and a strategic process. After Morgan Stanley left, the Strategy
15 Committee identified two other investment banks to interview for the advisory role in the
16 strategic process.

17 37. After interviewing two other investment banks, the Strategy Committee
18 determined that Morgan Stanley would be best qualified to serve as its financial advisor.

19 38. On February 3, 2016, the Board met and approved the Strategy Committee's
20 recommendations on the commencement of a process to find an acquirer of the entire
21 Company or its ARM-based Compute business and approved the engagement of Morgan
22 Stanley as financial advisor. Morgan Stanley and the Company entered into an engagement
23 letter and indemnity agreement on February 24, 2016.

24 39. Morgan Stanley contacted six entities regarding a potential strategic
25 transaction between March 9 and March 16, 2016. Between March 22, 2016 and April 26,
26 2016, AppliedMicro management and Morgan Stanley contacted another nine entities.

27 40. On April 26, 2016, the Strategy Committee met to receive updates on the
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1 process. Six of the seventeen entities had declined to pursue discussions, and four entities
2 had received management presentations. The Strategy Committee directed management and
3 Morgan Stanley to contact potential partners in China as well.

4 41. On May 26, 2016, Defendant Cesaratto and Company management met with
5 Company A to discuss its potential interest in a strategic transaction. On June 6, 2016,
6 Company management met with Company B to discuss a potential strategic investment. On
7 June 15, 2016, Morgan Stanley met with the financial advisor to Company C to discuss
8 Company C's interest in a potential strategic transaction.

9 42. On June 20, 2016 the Strategy Committee met and received an update from
10 Company management and Morgan Stanley on the strategic process. The Strategy
11 Committee discussed Company C's interest in the Company's Connectivity business. They
12 also discussed reaching out to seven additional entities including MACOM and Company D
13 regarding an acquisition of either the whole Company or the Connectivity business. They
14 also discussed approaching potential financial sponsors in the United States and China. In
15 line with this approach, the Strategy Committee discussed a potential PIPE transaction with
16 Company B,

17 43. On June 27, 2016, Morgan Stanley met with Company C and its financial
18 advisor to discuss possible interest in a strategic transaction. The next day, Morgan Stanley
19 and Company management discussed a potential PIPE transaction with Company B, and the
20 parties held a financial due diligence telephone call on July 7, 2016.

21 44. Between July 13, 2016 and July 22, 2016, Morgan Stanley contacted five more
22 entities including Company D. On July 18, Morgan Stanley contacted MACOM's president
23 and chief executive officer regarding a potential acquisition. On July 27, 2016, MACOM and
24 the Company entered into a non-disclosure agreement.

25 45. On August 2, 2016, the Strategy Committee held a meeting with Company
26 management and Morgan Stanley to discuss the ongoing process and possible strategic
27 alternatives including a sale of the entire company to Company A, Company C, and
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1 MACOM, a sale of the Connectivity business to Company C, Company D, and MACOM,
2 and a PIPE transaction led by Company B.

3 46. On August 22, 2016, the Strategy Committee held another meeting to discuss
4 the process in pursuing strategic alternatives to continuing as a standalone company. On
5 August 30, 2016, Morgan Stanley sent letters describing the process for submitting
6 indications of interest to five parties, including Company A, Company D, and MACOM.
7 These letters stated a deadline of September 13, 2016 for submitting indications of interest.

8 47. On August 30, 2016, Company B submitted a draft term sheet for a proposed
9 PIPE transaction for the issuance of up to \$300 million in senior secured preferred stock.
10 Morgan Stanley discussed this proposal with Company management on September 1, 2016.

11 48. On September 2, 2016, Company C submitted a written indication of interest
12 for the purchase of the Connectivity business for \$300 million.

13 49. The Board met on September 6, 2016 to discuss and review Company B's
14 PIPE proposal. After discussion and advice, the Board decided not to pursue further
15 discussion because the terms were not standard and/or were onerous to AppliedMicro and its
16 stockholders. The Board also evaluated Company C's offer and found it to be below the
17 minimum enterprise value attributable to the Connectivity business and elected to reject the
18 proposal.

19 50. During this meeting, the Board discussed the need to obtain additional
20 disclosure from Morgan Stanley on potential conflicts with the parties expected to make
21 proposals in the process. It then requested such disclosures by letter.

22 51. On September 12, 2016, Company A sent the Company a written indication of
23 interest regarding a purchase of the entire Company for \$670 million. On September 13,
24 2016, Company D submitted a written indication of interest to purchase the Connectivity
25 business for between \$475 and \$525 million. The same day, MACOM submitted an
26 indication of interest to purchase the entire Company for \$645 million.

27 52. The Strategy Committee met on September 14, 2016 to consider the five
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1 proposals the Company had received. Although Company A's proposal was higher than the
2 proposal from MACOM, the Strategy Committee directed Company management and
3 Morgan Stanley to ask Company A to submit a separate indication of interest to acquire only
4 the Compute business, or substantially improve its bid because of other unusual or risky
5 terms. The Strategy Committee agreed with the Board that the PIPE proposal from Company
6 B was not attractive, and found Company C's proposal to purchase the Connectivity business
7 for \$300 million to pale in comparison to Company D's proposal of \$475 to \$525 million.

8 53. Between September 20 and September 26, 2016, Morgan Stanley
9 communicated with MACOM regarding its indication of interest. Evercore represented that
10 MACOM would be willing to increase its price to a 10% premium over AppliedMicro's
11 closing trading price, subject to additional diligence.

12 54. Morgan Stanley and Company management continued to reach out to potential
13 counterparties and negotiate with existing interested parties. Company D made its offer
14 contingent on the Company identifying a purchaser for its Compute business on September
15 28, 2016.

16 55. On October 17, 2016, Company A submitted a proposal to acquire the
17 Compute business for \$100 million in cash paid at closing and up to \$140 million payable
18 over three years subject to annual performance milestones.

19 56. The Board met later that day to discuss the status of the strategic review
20 process. They noted that the MACOM offer of a 10% premium to AppliedMicro's closing
21 price represented a decline from its initial indication of interest due to fluctuations in
22 AppliedMicro's stock price. As of October 17, 2016, the price would have been \$6.81 per
23 share. The Board suggested that instead of a premium to the price at closing, MACOM might
24 pay a premium on AppliedMicro's volume weighted average price ("VWAP") as a way to
25 smooth price fluctuations and pricing risk. The Board also reviewed Company A's proposal,
26 and was concerned with Company A's apparent lack of seriousness and the requirement that
27 the full Compute management team continue following any acquisition.
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1 57. Morgan Stanley discussed a VWAP pricing with MACOM's financial advisor
2 on October 19, 2016. On October 21, 2016, MACOM's financial advisor communicated a
3 counteroffer of \$7.20 per share to Morgan Stanley.

4 58. The Board met on October 22, 2016 and reviewed the current status of the
5 process. The Board directed Morgan Stanley to revert to MACOM with the proposed 10%
6 premium to the 90-day VWAP of AppliedMicro's stock price, approximately \$7.50. Later
7 that day, Morgan Stanley communicated this response to MACOM's financial advisor.

8 59. The next day, MACOM's financial advisor made an oral counteroffer to
9 Morgan Stanley of a 10% premium to 90-day VWAP for AppliedMicro's common stock as
10 of the signing of a definitive merger agreement. Morgan Stanley believed that this was
11 MACOM's best and final offer on price. MACOM also sought an exclusivity agreement to
12 negotiate other terms of the merger agreement.

13 60. The Board met later that day and reviewed all of the outstanding proposals for
14 strategic alternatives, including those for purchases of either the Compute or Connectivity
15 businesses, and the possibility of continuing as a standalone company. After review, the
16 Board determined that MACOM's proposal was likely the best possible price the Company
17 would receive, and authorized negotiation of an exclusivity agreement with MACOM.

18 61. On October 28, 2016 the Board met to review the status of negotiations. After
19 discussion, the Board agreed to an exclusivity agreement until November 15, 2016 with an
20 automatically renewing 14-day extension.

21 62. On November 9, 2016, AppliedMicro entered into an engagement letter with
22 Needham & Company, LLC to provide a second fairness opinion.

23 63. On November 10, 2016, the Board met by telephone and concluded that due to
24 changes in the market price for the Company's and MACOM's stock, a price increase was
25 appropriate. Morgan Stanley communicated this conclusion to MACOM, and MACOM
26 rejected such an increase. The Board did nothing to follow-up on this rejection.

27 64. Negotiations continued over the next two weeks, with the Board reviewing
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1 progress. On November 20, 2016, the Board met again to review the final Merger agreement.
2 Both Morgan Stanley and Needham reviewed their financial analysis and provided fairness
3 opinions on the Proposed Transaction. Following this review, the Board unanimously voted
4 to approve the Merger Agreement.

5 65. On the morning of November 21, 2016 before the opening of the market, the
6 parties executed the Merger Agreement and issued press releases announcing the Proposed
7 Transaction.

8 **The Recommendation Statement Fails to Disclose Material Information**

9 66. Defendants filed the Recommendation Statement with the SEC in connection
10 with the Proposed Transaction. As alleged below and elsewhere herein, the Recommendation
11 Statement omits material information that must be disclosed to AppliedMicro's stockholders
12 to enable them to render an informed decision with respect to the Proposed Transaction.

13 67. The Recommendation Statement omits material information with respect to
14 the process and events leading up to the Proposed Transaction, as well as the opinions and
15 analyses of AppliedMicro's financial advisors. This omitted information, if disclosed, would
16 significantly alter the total mix of information available to AppliedMicro's stockholders.

17 68. In the Recommendation Statement, the Company describes the fairness
18 opinions provided by Merrill Lynch and Goldman Sachs and the various valuation analyses
19 performed in support of these opinions.

20 69. However, the Recommendation Statement indicates that Morgan Stanley and
21 Needham & Co. relied on certain internal projections for fiscal years 2016-2020 in rendering
22 their fairness opinions, as well as Company Management's guidance in extrapolating public
23 forecasts for the years 2016-2018. The Recommendation Statement discloses Revenue,
24 Operating Income, Adjusted EBITDA, Net Income, and Earnings Per Share. However, the
25 Proxy omits the Company's internal projections for the following items: (i) free cash flows
26 and the terminal values thereof for the "Company Street Case" and "Management Case" used
27 in Morgan Stanley's *Discounted Cash Flow Analysis*; (ii) line items used by Morgan Stanley
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1 to calculate free cash flows, including net interest expense, income tax expense, stock-based
2 compensation, and capital expenditures; (iii) unlevered free cash flows as used in Needham &
3 Co.'s *Discounted Cash Flow Analysis* (iv) terminal year enterprise values used in Needham
4 & Co.'s *Discounted Cash Flow Analysis*; and (v) the definition of unlevered free cash flow
5 used by Needham & Co. Without this information, as described below, AppliedMicro's
6 public stockholders are unable to fully understand the analyses and, thus, are unable to
7 determine what weight, if any, to place on the fairness opinion rendered in support of the
8 Proposed Transaction.

9 70. These omissions of material fact represent selective disclosures made by
10 Defendants in the Registration Statement that significantly alter the total mix of information
11 that Defendants used to market the Proposed Transaction. Defendants misled investors into
12 believing the Proposed Transaction is fair while refusing to disclose the full picture provided
13 to the board of AppliedMicro by its financial advisors.

14 71. Accordingly, Plaintiff seeks injunctive and other equitable relief to prevent the
15 irreparable injury that Company stockholders will continue to suffer absent judicial
16 intervention

17 CLAIMS FOR RELIEF

18 COUNT I

19 **Claims Against All Defendants for Violations of § 14(e) of the 20 Securities Exchange Act of 1934**

21 72. Plaintiff incorporates each and every allegation set forth above as if fully set
22 forth herein.

23 73. Section 14(e) of the Exchange Act provides that it is unlawful "for any person
24 to make any untrue statement of a material fact or omit to state any material fact necessary in
25 order to make the statements made, in the light of the circumstances under which they are
26 made, not misleading..." 15 U.S.C. § 78n(e).
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1 74. As discussed above, AppliedMicro filed and delivered the Recommendation
2 Statement to its stockholders, which defendants knew or recklessly disregarded contained
3 material omissions and misstatements as set forth above.

4 75. Defendants violated § 14(e) of the Exchange Act by issuing the
5 Recommendation Statement in which they made untrue statements of material facts or failed
6 to state all material facts necessary in order to make the statements made, in the light of the
7 circumstances under which they are made, not misleading, or engaged in deceptive or
8 manipulative acts or practices, in connection with the tender offer commenced in conjunction
9 with the Proposed Transaction. Defendants knew or recklessly disregarded that the
10 Recommendation Statement failed to disclose material facts necessary in order to make the
11 statements made, in light of the circumstances under which they were made, not misleading.

12 76. The Recommendation Statement was prepared, reviewed and/or disseminated
13 by defendants. It misrepresented and/or omitted material facts, including material information
14 about the consideration offered to stockholders via the tender offer, the intrinsic value of the
15 Company, and potential conflicts of interest faced by certain Individual Defendants.

16 77. In so doing, defendants made untrue statements of material facts and omitted
17 material facts necessary to make the statements that were made not misleading in violation of
18 § 14(e) of the Exchange Act. By virtue of their positions within the Company and/or roles in
19 the process and in the preparation of the Recommendation Statement, defendants were aware
20 of this information and their obligation to disclose this information in the Recommendation
21 Statement.

22 78. The omissions and incomplete and misleading statements in the
23 Recommendation Statement are material in that a reasonable stockholder would consider them
24 important in deciding whether to tender their shares or seek appraisal. In addition, a
25 reasonable investor would view the information identified above which has been omitted from
26 the Recommendation Statement as altering the “total mix” of information made available to
27 stockholders.

1 Recommendation Statement, rendering certain portions of the Recommendation Statement
2 materially incomplete and therefore misleading.

3 86. The misrepresentations and omissions in the Recommendation Statement are
4 material to Plaintiff, and Plaintiff will be deprived of their entitlement to make a fully
5 informed decision if such misrepresentations and omissions are not corrected prior to the
6 expiration of the tender offer.

7 87. The misrepresentations and omissions in the Recommendation Statement are
8 material to Plaintiff, and Plaintiff will be deprived of their entitlement to make a fully
9 informed decision if such misrepresentations and omissions are not corrected prior to the
10 expiration of the tender offer.

11 **COUNT III**

12 **Claims Against All Defendants for Violations of § 20(a) of the
13 1934 Act Against the Individual Defendants**

14 88. Plaintiff repeats and realleges the preceding allegations as if fully set forth
15 herein.

16 89. The Individual Defendants acted as controlling persons of AppliedMicro
17 within the meaning of Section 20(a) of the 1934 Act as alleged herein. By virtue of their
18 positions as officers and/or directors of AppliedMicro and participation in and/or awareness of
19 the Company's operations and/or intimate knowledge of the false statements contained in the
20 Definitive Proxy, they had the power to influence and control and did influence and control,
21 directly or indirectly, the decision making of the Company, including the content and
22 dissemination of the various statements that plaintiff contends are false and misleading.

23 90. Each of the Individual Defendants was provided with or had unlimited access
24 to copies of the Definitive Proxy alleged by Plaintiff to be misleading prior to and/or shortly
25 after these statements were issued and had the ability to prevent the issuance of the statements
26 or cause them to be corrected.

27 91. In particular, each of the Individual Defendants had direct and supervisory
28 involvement in the day-to-day operations of the Company, and, therefore, is presumed to have

1 had the power to control and influence the particular transactions giving rise to the violations
2 as alleged herein, and exercised the same. The Definitive Proxy contains the unanimous
3 recommendation of the Individual Defendants to approve the Proposed Transaction. They
4 were thus directly in the making of the Definitive Proxy.

5 92. By virtue of the foregoing, the Individual Defendants violated Section 20(a) of
6 the 1934 Act.

7 93. As set forth above, the Individual Defendants had the ability to exercise control
8 over and did control a person or persons who have each violated Section 14(a) of the 1934 Act
9 and Rule 14a-9, by their acts and omissions as alleged herein. By virtue of their positions as
10 controlling persons, these defendants are liable pursuant to Section 20(a) of the 1934 Act. As
11 a direct and proximate result of defendants' conduct, Plaintiff is threatened with irreparable
12 harm.

13 **PRAYER FOR RELIEF**

14 **WHEREFORE**, Plaintiff demands judgment against defendants jointly and severally, as
15 follows:

- 16 (A) declaring this action to be a class action and certifying Plaintiff as the Class
17 representatives and her counsel as Class counsel;
- 18 (B) declaring that the Recommendation Statement is materially false or misleading;
- 19 (C) enjoining, preliminarily and permanently, the Proposed Transaction;
- 20 (D) in the event that the transaction is consummated before the entry of this Court's
21 final judgment, rescinding it or awarding Plaintiff and the Class rescissory damages;
- 22 (E) directing that Defendants account to Plaintiff and the other members of the Class
23 for all damages caused by them and account for all profits and any special benefits
24 obtained as a result of their breaches of their fiduciary duties.
- 25 (F) awarding Plaintiff the costs of this action, including a reasonable allowance for
26 the fees and expenses of Plaintiff's attorneys and experts; and
- 27
28

1 (G) granting Plaintiff and the other members of the Class such further relief as the
2 Court deems just and proper.

3 **JURY DEMAND**

4 Plaintiff demands a trial by jury.

5 Dated: December 29, 2016

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