

# **EXHIBIT 1**

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

SAISRAVAN BHARADWAJ KARRI,  
Individually and on Behalf of All Others  
Similarly Situated,

Plaintiff,

v.

OCLARO, INC., MARISSA PETERSON,  
EDWARD COLLINS, GREG  
DOUGHERTY, KENDALL COWAN,  
DENISE HAYLOR, IAN SMALL, BILL  
SMITH, and JOEL A. SMITH III,

Defendants.

Case No. 3:18-cv-03435-JD

Hon. James Donato

CLASS ACTION

**STIPULATION OF SETTLEMENT**

1 This Stipulation of Settlement, dated March 16, 2023 (the “Stipulation”), is made and  
2 entered into by and among the following Settling Parties to the above-captioned litigation (the  
3 “Action” or “Litigation”): (i) Lead Plaintiff Saisravan Bharadwaj Karri (“Lead Plaintiff”), by  
4 and through his counsel of record in the Litigation; and (ii) Oclaro, Inc. (“Oclaro” or the  
5 “Company”), Greg Dougherty, Marissa Peterson, Edward Collins, Kendall Cowan, Denise  
6 Haylor, Ian Small, Bill Smith, and Joel A. Smith III (the “Individual Defendants,” and, together  
7 with Oclaro, “Defendants”), by and through their counsel of record in the Litigation. The  
8 Stipulation is intended by the Settling Parties to fully, finally, and forever resolve, discharge,  
9 relinquish, release, waive, dismiss with prejudice and settle the Released Claims (as defined  
10 below), upon and subject to the terms and conditions hereof and subject to the approval of the  
11 United States District Court for the Northern District of California (the “Court”).

## 12 I. THE LITIGATION

13 On March 11, 2018 Oclaro, Lumentum Holdings Inc. (“Lumentum”), Protia Merger Sub,  
14 Inc., a wholly owned subsidiary of Lumentum (“Merger Sub”), and Protia Merger, LLC, a  
15 wholly owned subsidiary of Lumentum (“Merger Sub LLC”), entered into an Agreement and  
16 Plan of Merger (the “Merger Agreement”), pursuant to which Lumentum would acquire Oclaro  
17 in a two-step merger transaction (the “Merger”). On March 12, 2018, Oclaro and Lumentum  
18 issued a joint press release announcing the execution of the Merger Agreement.

19 On June 1, 2018, Oclaro filed a Schedule 14A Definitive Proxy Statement (“Proxy”)  
20 with the U.S. Securities and Exchange Commission (the “SEC”).

21 Plaintiff commenced this action on June 9, 2018, with the filing of a Class Action  
22 Complaint.

23 On July 10, 2018, Oclaro stockholders voted to approve the Merger, and on December  
24 10, 2018, the Merger was completed.

25 Subsequently, Plaintiff moved for appointment as lead plaintiff pursuant to the Private  
26 Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. § 78u-4(a)(3)(B), and sought  
27 approval of his selection of Monteverde & Associates, PC as Lead Counsel. On January 15,  
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1 2019, the Court granted Plaintiff's appointment as lead plaintiff, and approval of his selection  
2 of lead counsel.

3 On April 15, 2019, Lead Plaintiff filed an Amended Class Action Complaint (the  
4 "Amended Complaint"). In response, Defendants filed a Motion to Dismiss on June 20, 2019.  
5 Lead Plaintiff responded with his Opposition to Defendants' Motion to Dismiss on July 29,  
6 2019. Defendants filed a Reply in Support of the Motion to Dismiss on August 28, 2019. The  
7 Court held a hearing regarding the Motion to Dismiss on December 5, 2019.

8 On October 8, 2020, the Court issued an Order granting in part and denying in part  
9 Defendants' Motion to Dismiss. Defendants filed their Answer to the Amended Complaint on  
10 December 1, 2020. On December 23, 2020, Defendants filed a Motion for Reconsideration of  
11 the Court's October 8 Order granting in part and denying in part Defendants' Motion to  
12 Dismiss, which was denied thereafter by Order of the Court dated January 29, 2021.

13 The parties entered into a Stipulated Protective Order ("Protective Order") governing  
14 the exchange of confidential discovery materials, which the Court entered on January 4, 2021,  
15 and the parties proceeded to negotiate discovery parameters. Thereafter, voluminous document  
16 discovery ensued and after substantial production the parties engaged in preliminary settlement  
17 discussions.

18 On August 3, 2021 the parties attended a mediation with Mediator Michelle M. Yoshida,  
19 Esq. of Phillips ADR Enterprises. After a full-day mediation the parties were not able to reach  
20 a settlement.

21 On September 17, 2021, Plaintiff filed a Second Amended Complaint ("SAC")  
22 including information designated confidential under the Protective Order. Defendants filed a  
23 Motion to Stay Discovery pending disposition of forthcoming motions to dismiss the SAC on  
24 September 24, 2021. On October 8, 2021, Lead Plaintiff filed an Opposition to Defendants'  
25 Motion to Stay Discovery.

26 Defendants filed their Motions to Dismiss the SAC on October 25, 2021. By Order  
27 dated November 2, 2021, the Court granted Defendants' Motion to Stay Discovery, staying  
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1 further discovery pending the Court's ruling on the Motions to Dismiss the SAC. Plaintiff filed  
2 an Opposition to Defendants' Motions to Dismiss the SAC on November 24, 2021. On January  
3 11, 2022, the Court issued an Order striking the SAC as untimely, terminating Defendants'  
4 Motions to Dismiss the SAC as moot, ordering that the case proceed on the claims sustained in  
5 the Amended Complaint, and lifting the stay of discovery. Following the Court's January 11  
6 ruling, discovery resumed in the Litigation.

7 On February 18, 2022, Oclaro filed a Motion for Judgment on the Pleadings under Fed.  
8 R. Civ. P. 12(c), to which Lead Plaintiff filed a response in opposition on March 4, 2022. The  
9 motion was denied by the Court by Order dated April 15, 2022.

10 During the course of the litigation, the parties engaged in extensive discovery including  
11 the production of more than 400,000 pages of documents from Defendants and third parties.  
12 Thereafter, the parties conducted 11 fact witness depositions. Plaintiff also obtained an affidavit  
13 from Ford Tamer, CEO of Inphi, a bidder in the sales process referred to as Company D in the  
14 Proxy. Moreover, Plaintiff prepared and mailed surveys to approximately 2,000 potential class  
15 members regarding the importance of the facts at issue in the case to the average reasonable  
16 investor.

17 In addition, the parties engaged their respective experts. Lead Plaintiff retained William  
18 Jeffers, CFA of The Griffing Group and Prof. Stephen J. Lubben, and Defendants engaged Prof.  
19 Steven Davidoff Solomon, Prof. Andrea Eisfeldt and Prof. Wayne D. Hoyer. Each of the five  
20 experts were deposed.

21 On August 16, 2022, Lead Plaintiff filed a Motion for Class Certification. Defendants  
22 filed their response in opposition on August 30, 2022 and a hearing before the Court was  
23 scheduled for November 17, 2022. On November 14, 2022, at the request of the parties, the  
24 hearing was rescheduled for February 16, 2023 to allow the parties to focus on settlement  
25 efforts.

1 On January 10, 2023, the parties attended a second full-day mediation with Mediator  
2 Yoshida. After a nearly 14-hour mediation session, the parties reached a settlement agreement  
3 in principle, subject to Court approval.

4 **II. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

5 This Stipulation constitutes a compromise of matters that are in dispute between the  
6 Settling Parties. All of the Defendants have denied and continue to deny any wrongdoing by  
7 or liability against them arising out of any of the conduct, statements, acts, or omissions alleged,  
8 or that could have been alleged, in the Litigation. Defendants expressly deny that Lead Plaintiff  
9 has asserted any valid claims as to any of them, and expressly deny any and all allegations of  
10 fault, liability, wrongdoing, or damages whatsoever and maintain that their conduct was at all  
11 times proper and in compliance with all applicable provisions of law. In addition, Defendants  
12 maintain that they have meritorious defenses to all claims alleged in the Litigation.

13 This Stipulation shall in no event be construed or deemed to be evidence of an admission  
14 or concession on the part of any Defendant, or any of Defendants' Released Persons (as defined  
15 below), with respect to any claim or of any fault, liability, wrongdoing, negligence, omission,  
16 or damage whatsoever, or any infirmity in the defenses that Defendants have asserted.  
17 Defendants' decision to settle the Litigation is based on the conclusion that further conduct of  
18 the Litigation could be protracted and expensive, that it is desirable that the Litigation be fully  
19 and finally settled, and that it would be beneficial to avoid the uncertainty and risks inherent in  
20 any litigation.

21 **III. CLAIMS OF LEAD PLAINTIFF AND BENEFITS OF SETTLEMENT**

22 Lead Plaintiff and Lead Counsel believe that the claims asserted in the Litigation have  
23 merit and that the evidence developed to date supports those claims. Lead Plaintiff and Lead  
24 Counsel, however, recognize and acknowledge the expense and length of continued  
25 proceedings necessary to prosecute the Litigation against Defendants through trial, potential  
26 post-trial proceedings sought by Defendants, and appeals. Lead Plaintiff and Lead Counsel  
27 also have taken into account the uncertain outcome and the risk of any litigation, as well as the  
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1 difficulties and delays inherent in any litigation. Lead Plaintiff and Lead Counsel also are  
2 mindful of the inherent problems of proof and possible defenses to the claims asserted in the  
3 Litigation. Lead Plaintiff and Lead Counsel believe that the Settlement set forth in this  
4 Stipulation confers substantial benefits upon the Settlement Class (as defined below). Based  
5 on their evaluation, Lead Plaintiff and Lead Counsel have determined that the Settlement set  
6 forth in this Stipulation is in the best interests of the Settlement Class, and that the Settlement  
7 provided for herein is fair, reasonable, and adequate.

8 **IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

9 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among  
10 Lead Plaintiff (for himself and on behalf of the Settlement Class Members (as defined below))  
11 and the Defendants, by and through their respective counsel of record, that, subject to the  
12 approval of the Court and the other conditions set forth below, pursuant to Rule 23(e) of the  
13 Federal Rules of Civil Procedure and the PSLRA, the Litigation and the Released Claims shall  
14 be finally, fully and forever resolved, discharged, relinquished, released, waived, settled, and  
15 dismissed with prejudice, upon and subject to the terms and conditions of the Stipulation, as  
16 follows:

17 **1. Definitions**

18 As used in the Stipulation the following terms have the meanings specified below:

19 1.1 “Authorized Claimant” means any Settlement Class Member whose claim for  
20 recovery has been allowed pursuant to the terms of the Plan of Allocation ultimately approved  
21 by the Court.

22 1.2 “Claim Form” or “Proof of Claim Form” or “Proof of Claim and Release” means  
23 the document, substantially in the form attached hereto as Exhibit A-2.

24 1.3 “Claimant” means a person or entity who or which submits a Claim Form to the  
25 Claims Administrator.

26 1.4 “Claims Administrator” means the firm of RG/2 Claims Administration LLC.  
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1 1.5 “Court” means the United States District Court for the Northern District of  
2 California.

3 1.6 “Defendants” means Oclaro, Marissa Peterson, Edward Collins, Greg Dougherty,  
4 Kendall Cowan, Denise Haylor, Ian Small, Bill Smith and Joel A. Smith III.

5 1.7 “Defendants’ Counsel” means the undersigned counsel for Defendants.

6 1.8 “Defendants’ Released Claims” means any and all claims, rights and causes of  
7 action, duties, obligations, demands, actions, debts, sums of money, suits, contracts,  
8 agreements, promises, damages and liabilities, whether known or unknown, contingent or non-  
9 contingent, or suspected or unsuspected, including any claims arising under federal or state  
10 statutory or common law or any other law, rule or regulation, whether foreign or domestic, that  
11 arise out of or relate in any way to the institution, prosecution, or settlement of the claims against  
12 the Defendants; provided, however, that it is understood that “Defendants’ Released Claims”  
13 and any release provided by this Settlement shall not include: (a) any claims relating to the  
14 enforcement of the Settlement, or (b) any claims by Defendants or any other insured to enforce  
15 their rights under any contract or policy of insurance.

16 1.9 “Effective Date” means the first date by which all of the events and conditions  
17 specified in ¶ 7.1 of the Stipulation have been met and have occurred or have been waived in  
18 writing by the Settling Parties.

19 1.10 “Escrow Account” means the account described in ¶ 2.1 through ¶ 2.4 hereof.

20 1.11 “Escrow Agent” means Monteverde & Associates PC or its successor(s) or  
21 authorized agents.

22 1.12 “Final” means when the last of the following with respect to the Order and Final  
23 Judgment, substantially in the form attached hereto as Exhibit B, shall occur: (i) the expiration  
24 of three (3) business days after the time for the filing of any motion to alter or amend the Order  
25 and Final Judgment under Federal Rule of Civil Procedure 59(e) without any such motion  
26 having been filed; (ii) the expiration of the time for the filing or noticing of any appeal from the  
27 Order and Final Judgment without any appeal having been filed; and (iii) if such motion to alter  
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1 or amend is filed or if an appeal is filed or noticed, then immediately after the determination of  
2 that motion or appeal so that the Order and Final Judgment is no longer subject to any further  
3 judicial review or appeal whatsoever, whether by reason of affirmance by court of last resort,  
4 lapse of time, voluntary dismissal of the appeal or otherwise. For purposes of this paragraph,  
5 an appeal shall include any petition for panel rehearing, petition for rehearing *en banc*, petition  
6 for a writ of certiorari or other writ that may be filed in connection with the approval or  
7 disapproval of this Settlement, but shall not include any appeal that concerns only the issue of  
8 attorneys' fees and expenses, payment of Lead Plaintiff's time and expenses or the Plan of  
9 Allocation of the Settlement Fund. Any proceeding or order, or any appeal or petition for panel  
10 rehearing, petition for rehearing *en banc*, or petition for a writ of certiorari pertaining solely to  
11 any plan of distribution and/or application for attorneys' fees, costs, or expenses and/or Lead  
12 Plaintiff's request for payment of time and expenses, shall not in any way delay or preclude the  
13 Order and Final Judgment from becoming Final.

14 1.13 "Final Approval Hearing" means the hearing to determine whether the proposed  
15 Settlement embodied by this Stipulation is fair, reasonable, and adequate to the Settlement  
16 Class, and whether the Court should: (1) enter the Order and Final Judgment approving the  
17 proposed Settlement; (2) approve the Plan of Allocation of settlement proceeds; and (3) assess  
18 Lead Counsel's petition for attorneys' fees and expenses and Lead Plaintiff's request for  
19 payment of time and expenses.

20 1.14 "Individual Defendants" means Marissa Peterson, Edward Collins, Greg  
21 Dougherty, Kendall Cowan, Denise Haylor, Ian Small, Bill Smith and Joel A. Smith III.

22 1.15 "Lead Counsel" means Monteverde & Associates PC.

23 1.16 "Lead Plaintiff" means Saisravan Bharadwaj Karri.

24 1.17 "Litigation" or "Action" means the above-captioned action, *Karri v. Oclaro, Inc.*  
25 *et al*, Case No. 3:18-cv-03435-JD in the United States District Court for the Northern District  
26 of California.

1 1.18 “Notice” means the Notice of Pendency and Proposed Settlement of Class Action  
2 defined in ¶ 3.1 hereof.

3 1.19 “Notice and Administration Costs” means the costs defined in ¶ 2.7 hereof.

4 1.20 “Oclaro” or the “Company” means Oclaro, Inc.

5 1.21 “Order and Final Judgment” means the judgment to be rendered by the Court,  
6 substantially in the form attached hereto as Exhibit B.

7 1.22 “Person” means a natural person, individual, corporation, limited liability  
8 corporation, professional corporation, limited liability partnership, partnership, limited  
9 partnership, limited liability company, association, joint stock company, estate, legal  
10 representative, trust, unincorporated association, government or any political subdivision or  
11 agency thereof, and any business or legal entity and all of their respective spouses, heirs,  
12 beneficiaries, executors, administrators, predecessors, successors, representatives, or assignees.

13 1.23 “Plaintiff’s Counsel” means any counsel who have appeared for Lead Plaintiff in  
14 the Litigation, specifically: Lead Counsel or their successors. No other law firm is included  
15 within the definition of Plaintiff’s Counsel.

16 1.24 “Plan of Allocation” means a plan or formula of allocation of the Settlement Fund  
17 whereby the Settlement Fund shall be distributed to Authorized Claimants after payment of  
18 expenses of notice and administration of the Settlement, Taxes and Tax Expenses, and such  
19 attorneys’ fees, costs, expenses (including time and expenses awarded by the Court to Lead  
20 Plaintiff), and interest as may be awarded by the Court. Any Plan of Allocation, including  
21 Exhibit A-2 attached hereto, is not part of the Stipulation, and Defendants and Defendants’  
22 Released Persons shall have no responsibility or liability with respect thereto.

23 1.25 “Preliminary Approval Order” means the order described in ¶ 3.1 hereof,  
24 substantially in the form attached hereto as Exhibit A.

25 1.26 “Released Claims” means any and all claims, rights and causes of action, duties,  
26 obligations, demands, actions, debts, sums of money, suits, contracts, agreements, promises,  
27 damages and liabilities, whether known or unknown, contingent or non-contingent, derivative  
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1 or direct, or suspected or unsuspected, including any claims arising under federal or state  
2 statutory or common law or any other law, rule or regulation, whether foreign or domestic, that  
3 have been asserted, could have been asserted, or could be asserted in the future against  
4 Defendant Oclaro and the Individual Defendants, and any and all of their related parties,  
5 including, without limitation, any and all of their current or former parents, subsidiaries,  
6 predecessors, successors, divisions, investment funds, joint ventures and general or limited  
7 partnerships, and each of their respective current or former officers, directors, trustees, partners,  
8 members, contractors, auditors, principals, agents, managing agents, employees, attorneys,  
9 accountants, investment bankers, underwriters, insurers in their capacity as such, as well as each  
10 of the Individual Defendants' immediate family members, heirs, executors, personal or legal  
11 representatives, estates, beneficiaries, predecessors, successors and assigns (collectively,  
12 "Defendants' Released Persons"), that arise out of or relate in any way to: (i) the Action; (ii)  
13 the Merger; and (iii) the Preliminary and Definitive Proxy Statements issued by Oclaro in  
14 connection with the Merger (the "Proxy") or any other disclosures related to the Merger.  
15 Notwithstanding the aforementioned, the following claims are explicitly excluded: all claims  
16 (1) related to the enforcement of this Settlement; and (2) between Defendants or any of  
17 Defendants' Released Persons, on the one hand, and their respective insurers, on the other hand.

18 1.27 "Settlement" means the settlement of the Litigation as set forth in this Stipulation.

19 1.28 "Settlement Amount" means the principal amount of Fifteen Million Two  
20 Hundred Fifty Thousand Dollars (\$15,250,000.00), that the Company shall pay or cause to be  
21 paid pursuant to ¶ 2.1 of this Stipulation. The Individual Defendants and their Released Persons  
22 are not responsible for paying or causing to be paid any portion of the Settlement Amount.  
23 Neither Defendants nor Defendants' Released Persons shall have any obligation whatsoever to  
24 pay or cause to be paid any amount over and above the principal amount of Fifteen Million Two  
25 Hundred Fifty Thousand Dollars (\$15,250,000.00). Such amount is to be paid as consideration  
26 for full and complete settlement of all the Released Claims.  
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1           1.29 “Settlement Class” means: all record and beneficial holders of common stock of  
2 Oclaro who held such stock during the period from and including May 15, 2018, the record date  
3 for voting on the Merger of Oclaro and Lumentum, through and including December 10, 2018,  
4 the date the Merger closed, including any and all of their respective predecessors, successors,  
5 trustees, executors, administrators, estates, legal representatives, heirs, assigns and transferees.  
6 Excluded from the Settlement Class are (i) Defendants and members of their immediate  
7 families; (ii) the officers and directors of the Company and members of their immediate  
8 families; (iii) any entity in which Defendants have or had a controlling interest or are controlled  
9 by (including Lumentum and Merger Sub, LLC); (iv) the legal representatives, heirs, successors  
10 or assigns of each Defendant and each officer and director of the Company; and (v) any persons  
11 or entities who properly exclude themselves through a valid and timely request for exclusion.

12           1.30 “Settlement Class Member” or “Member of the Settlement Class” means any  
13 Person who falls within the definition of the Settlement Class as set forth in ¶ 1.29 of the  
14 Stipulation.

15           1.31 “Settlement Class Period” means the period commencing on May 15, 2018, and  
16 ending on December 10, 2018, inclusive.

17           1.32 “Settlement Fund” means the Settlement Amount plus all interest and accretions  
18 thereto after being transferred to an account controlled by the Escrow Agent, and which may  
19 be reduced by payments or deductions as provided for herein or by court order.

20           1.33 “Settling Parties” or “Parties” means, collectively, each of the Defendants and  
21 Lead Plaintiff on behalf of himself and each of the Settlement Class Members.

22           1.34 “Stipulation” means this Stipulation of Settlement, including the recitals and  
23 Exhibits thereto.

24           1.35 “Taxes” means all taxes (including any estimated taxes, interest or penalties)  
25 arising with respect to the income earned by the Settlement Fund as described in ¶ 2.8.

26           1.36 “Tax Expenses” means expenses and costs incurred in connection with the  
27 calculation and payment of taxes or the preparation of tax returns and related documents,  
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1 including, without limitation, expenses of tax attorneys and/or accountants and mailing and  
2 distribution costs relating to filing (or failing to file) the returns described in ¶ 2.8.

3 1.37 “Unknown Claims” means (i) any of the Released Claims which Lead Plaintiff or  
4 any Settlement Class Member, or any of their agents or attorneys, does not know or suspect to  
5 exist in such Person’s favor at the time of the release of the Released Claims, and (ii) any of the  
6 Defendants’ Released Claims that the Defendants’ Released Persons do not know or suspect to  
7 exist in his, her or its favor at the time of the release of the Defendants’ Released Claims, which,  
8 in the case of both (i) and (ii), if known by such Person, might have affected such Person’s  
9 decision with respect to this Settlement, including, without limitation, such Person’s decision  
10 not to object to this Settlement or not to exclude himself, herself or itself from the Settlement  
11 Class. Unknown Claims include those Released Claims and Defendants’ Released Claims in  
12 which some or all of the facts comprising the claim may be suspected, or even undisclosed or  
13 hidden. With respect to any and all Released Claims and Defendants’ Released Claims, upon  
14 the Effective Date, Lead Plaintiff and Defendants shall expressly, and each of the Settlement  
15 Class Members and Defendants’ Released Persons shall be deemed to have, and by operation  
16 of the Order and Final Judgment shall have, expressly waived to the fullest extent permitted by  
17 law, the provisions, rights, and benefits of California Civil Code § 1542, which provides:

18 A general release does not extend to claims that the creditor or releasing party does  
19 not know or suspect to exist in his or her favor at the time of executing the release,  
20 and that, if known by him or her, would have materially affected his or her  
21 settlement with the debtor or released party.

22 Lead Plaintiff and Defendants shall expressly, and each of the Settlement Class Members and  
23 Defendants’ Released Persons shall be deemed to have, and by operation of the Order and Final  
24 Judgment, shall have expressly waived any and all provisions, rights, and benefits conferred by  
25 any law of any state or territory of the United States, or principle of common law, which is  
26 similar, comparable or equivalent to California Civil Code § 1542. Lead Plaintiff, Settlement  
27 Class Members, and the Defendants’ Released Persons may hereafter discover facts in addition  
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1 to or different from those which such party now knows or believes to be true with respect to the  
2 subject matter of the Released Claims and Defendants' Released Claims, but Lead Plaintiff and  
3 Defendants shall expressly, and each Settlement Class Member and Defendants' Released  
4 Persons, upon the Effective Date, shall be deemed to have, and by operation of the Order and  
5 Final Judgment shall have fully, finally, and forever settled and released any and all Released  
6 Claims or Defendants' Released Claims, as the case may be, known or unknown, suspected or  
7 unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now  
8 exist, or heretofore have existed, upon any theory of law or equity now existing or coming into  
9 existence in the future, including, but not limited to, conduct that is negligent, reckless,  
10 intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the  
11 subsequent discovery or existence of such different or additional facts, whether or not  
12 previously or currently asserted in any action. Lead Plaintiff and Defendants acknowledge, and  
13 the Settlement Class Members and Defendants' Released Persons, shall be deemed by operation  
14 of the Order and Final Judgment to have acknowledged, that the foregoing waiver was  
15 separately bargained for and a key element of the Settlement of which this release is a part.

16 **2. The Settlement**

17 **a. The Settlement Fund**

18 2.1 In consideration of the terms of this Stipulation, Oclaro shall pay or cause to be  
19 paid, on behalf of all Defendants, the Settlement Amount of the sum of Fifteen Million Two  
20 Hundred Fifty Thousand Dollars (\$15,250,000.00) into an interest-bearing settlement Escrow  
21 Account. There will be no responsibility on the part of the Individual Defendants or their  
22 Released Persons to pay or cause to be paid any portion of the Settlement Amount. Payment  
23 of the Settlement Amount shall be made into the Escrow Account within ten (10) business days  
24 of the later of (1) final judicial approval of the Settlement, and (2) receipt by Oclaro of each of  
25 (a) a copy of the final approval order as entered by the Court (which will be transmitted by  
26 Defendants' counsel on the day received), (b) a W-9 for the Escrow Account, and (c) wire or  
27 mailing instructions for delivery to the Escrow Account. The Settlement Amount shall include  
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1 all attorneys' fees, administration costs, expenses, class member benefits, as well as any other  
2 costs, expenses, or fees of any kind whatsoever associated with the resolution of this matter.  
3 Defendants and their Insurers shall have no obligation to pay or cause to be paid any additional  
4 amounts beyond the Settlement Amount.

5 **b. The Escrow Agent**

6 2.2 The Escrow Agent will invest the Settlement Fund created pursuant to ¶ 2.1 hereof  
7 only in instruments backed by the full faith and credit of the United States Government or fully  
8 insured by the United States Government or an agency thereof, and will reinvest the proceeds  
9 of these instruments as they mature in similar instruments at their then-current market rates.  
10 All costs and risks related to the investment of the Settlement Fund in accordance with the  
11 guidelines set forth in this paragraph shall be borne by the Settlement Fund and neither  
12 Defendants nor Defendants' Released Persons shall have any responsibility for, interest in, or  
13 liability whatsoever with respect to the funds held in the Escrow Account, including with  
14 respect to investment decisions, distribution of the Settlement Fund, or the actions of the Escrow  
15 Agent, or any transactions executed by the Escrow Agent.

16 2.3 The Escrow Agent shall not disburse the Settlement Fund except as provided by:  
17 (i) the Stipulation; (ii) an order of the Court; or (iii) prior written agreement of Defendants'  
18 Counsel.

19 2.4 Subject to further order(s) and/or directions as may be made by the Court, or as  
20 provided in the Stipulation, the Escrow Agent is authorized to execute such transactions on  
21 behalf of the Settlement Class Members as are consistent with the terms of the Stipulation.  
22 Neither Defendants nor Defendants' Released Persons shall have any responsibility for, interest  
23 in, or liability whatsoever with respect to, the actions of the Escrow Agent, or any transaction  
24 executed by the Escrow Agent.

25 2.6 All funds held by the Escrow Agent shall be deemed and considered to be in  
26 *custodia legis* of the Court and shall remain subject to the jurisdiction of the Court, until such  
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1 time as such funds shall be distributed or returned pursuant to the Stipulation and/or further  
2 order(s) of the Court.

3           2.7 If requested by Lead Plaintiff, Defendants and/or its insurers agree to advance  
4 payment for the costs and expenses reasonably incurred, but not exceeding \$300,000, in  
5 connection with providing notice to Members of the Settlement Class, mailing the Notice and  
6 Proof of Claim and Release and publishing notice (such amount shall include, the actual costs  
7 of publication, printing and mailing the Notice, and reimbursement to nominee owners for  
8 forwarding notice to their beneficial owners), assisting with the filing of claims, processing  
9 Proofs of Claim and Releases, and paying escrow fees and costs, if any, and the administrative  
10 expenses incurred and fees charged by the Claims Administrator in connection with the Notice  
11 and processing the submitted claims (“Notice and Administration Costs”). Any advanced  
12 payment for the Notice and Administration Cost shall be credited against the Settlement  
13 Amount. In the event that the Settlement is not finally approved by the Court or otherwise  
14 consummated, money paid or incurred for the purposes set forth in this ¶ 2.7, shall not be repaid  
15 or returned by anyone.

16           **c. Taxes**

17           2.8 (a) The Settling Parties and the Escrow Agent agree that the Settlement Fund  
18 is intended to be and should be treated as being at all times a “qualified settlement fund” within  
19 the meaning of Treas. Reg. § 1.468B-1. In addition, the Escrow Agent shall timely make such  
20 elections as necessary or advisable to carry out the provisions of this ¶ 2.8, including the  
21 “relation-back election” (as defined in Treas. Reg. § 1.468B-1(j)(2)) back to the earliest  
22 permitted date. Such elections shall be made in compliance with the procedures and  
23 requirements contained in such Treasury regulations promulgated under § 1.468B of the  
24 Internal Revenue Code of 1986, as amended (the “Code”). It shall be the responsibility of the  
25 Escrow Agent to timely and properly prepare and deliver the necessary documentation for  
26 signature by all necessary parties, and thereafter to cause the appropriate filing to occur.



1 (b) For the purpose of § 1.468B of the Code and the Treasury regulations  
2 promulgated thereunder, the Escrow Agent shall be designated as the “administrator” of the  
3 Settlement Fund. The Escrow Agent shall timely and properly prepare and file all informational  
4 and other tax returns necessary or advisable with respect to the Settlement Fund (including,  
5 without limitation, the returns described in Treas. Reg. § 1.468B-2(k)). Such returns (as well  
6 as the election described in ¶ 2.8(a) hereof) shall be consistent with this ¶ 2.8 and in all events  
7 shall reflect that all Taxes as defined in ¶ 1.35 hereof (including any estimated Taxes, interest,  
8 or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement  
9 Fund as provided in ¶ 2.8(c) hereof.

10 (c) All: (a) Taxes (including any estimated Taxes, interest, or penalties) arising with  
11 respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that  
12 may be imposed upon Defendants or Defendants’ Released Persons with respect to any income  
13 earned by the Settlement Fund for any period during which the Settlement Fund does not qualify  
14 as a “qualified settlement fund” for federal or state income tax purposes; and (b) Tax Expenses,  
15 and costs incurred in connection with the operation and implementation of this ¶ 2.8 (including,  
16 without limitation, expenses of tax attorneys and/or accountants and mailing and distribution  
17 costs and expenses relating to filing (or failing to file) the returns described in this ¶ 2.8), shall  
18 be paid out of the Settlement Fund. In no event shall Defendants or Defendants’ Released  
19 Persons have any responsibility for or liability with respect to the Taxes or the Tax Expenses.  
20 Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of  
21 administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the  
22 Settlement Fund without prior order from the Court, and the Escrow Agent shall be obligated  
23 (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized  
24 Claimants any funds necessary to pay such amount, including the establishment of adequate  
25 reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be  
26 withheld under Treas. Reg. § 1.468B-2(1)(2)); neither Defendants nor Defendants’ Released  
27 Persons are responsible therefor, nor shall they have any liability with respect thereto, and shall  
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1 have no responsibility or liability for the acts or omissions of Lead Counsel or their agents with  
2 respect to the payment of Taxes, as described herein. The Settling Parties hereto agree to  
3 cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the  
4 extent reasonably necessary to carry out the provisions of this ¶ 2.8.

5 (d) Neither Defendants nor Defendants' Released Persons are responsible for Taxes,  
6 Tax Expenses, or Notice and Administration Costs, nor shall they be liable for any claims with  
7 respect thereto.

#### 8 **d. Termination**

9 2.9 The Settlement is subject to final approval by the Court. If the Court does not  
10 grant final approval of the releases set forth herein, or the Settlement otherwise does not become  
11 final or effective: (i) the Parties shall revert to their pre-mediation litigation positions, and (ii)  
12 any amount funded or caused to be funded by Oclaro under ¶ 2.1 that has not actually been paid  
13 or accrued for notice and tax expenses as permitted in ¶¶ 2.7 and 2.8 shall be returned in full,  
14 plus interest actually earned with respect to such amount, no later than ten (10) business days  
15 following the termination event or as otherwise agreed upon in writing by counsel for  
16 Defendants. Notwithstanding any of the foregoing, it is not a condition of this Stipulation, the  
17 Settlement, or the Order and Final Judgment that the Court award any attorneys' fees and/or  
18 expenses to Plaintiff's Counsel, and any order or proceeding relating to the Fee and Expense  
19 Award, or any appeal from any order relating thereto or reversal or modification thereof, shall  
20 not (i) operate to cancel the Stipulation, (ii) operate as a termination of the Settlement, or (iii)  
21 affect or delay the Order and Final Judgment from becoming Final or dismissal of the Action.

### 22 **3. Preliminary Approval Order and Final Approval Hearing**

23 3.1 Promptly after execution of the Stipulation, Lead Plaintiff shall submit the  
24 Stipulation together with its Exhibits to the Court and Lead Counsel shall apply for entry of an  
25 order, substantially in the form and content of Exhibit A attached hereto (the "Preliminary  
26 Approval Order"), requesting, *inter alia*, the preliminary approval of the Settlement set forth in  
27 the Stipulation, approval for the mailing of the Notice of Pendency and Proposed Settlement of  
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1 Class Action (the “Notice”) and the Proof of Claim and Release, substantially in the forms of  
2 Exhibits A-1 and A-2 attached hereto, and approval of the publication of a Summary Notice,  
3 substantially in the form of Exhibit A-3 attached hereto, or such other substantially similar form  
4 agreed to by the Settling Parties.

5 3.2 Defendants shall comply with the Class Action Fairness Act, 28 U.S.C. §§ 1711  
6 *et seq.* (“CAFA”). At least ten (10) calendar days prior to the Final Approval Hearing,  
7 Defendants’ counsel shall file with the Court an appropriate affidavit or declaration regarding  
8 their compliance with CAFA.

9 3.3 Lead Plaintiff will request that the Court hold the Final Approval Hearing and  
10 finally approve the Settlement of the Litigation as set forth herein. At or after the Final  
11 Approval Hearing, Lead Counsel also will request that the Court approve the proposed Plan of  
12 Allocation and the Fee and Expense Application.

13 **4. Releases**

14 4.1 Upon the Effective Date, as defined in ¶ 1.9 hereof, without further action by  
15 anyone, Lead Plaintiff, on behalf of himself and all Settlement Class Members, in his, her or its  
16 capacity as a holder of Oclaro stock, and anyone claiming through or on behalf of any of them,  
17 shall be deemed to have, and by operation of the Order and Final Judgment, shall have, fully,  
18 finally, and forever resolved, discharged, relinquished, released, waived, settled, and dismissed  
19 with prejudice any and all of the Released Claims (including, without limitation, Unknown  
20 Claims) against Defendants and each and all of Defendants’ Released Persons, regardless of  
21 whether a Settlement Class Member executes and delivers a Proof of Claim and Release.

22 4.2 Upon the Effective Date, as defined in ¶ 1.9 hereof, without further action by  
23 anyone, Lead Plaintiff, on behalf of himself and all Settlement Class Members, in his, her or its  
24 capacity as a holder of Oclaro stock, and anyone claiming through or on behalf of any of them,  
25 shall be forever barred and enjoined from commencing, instituting, asserting, maintaining,  
26 enforcing, aiding, prosecuting, or continuing to prosecute any action or proceeding in any forum  
27 (including, but not limited to, any state or federal court of law or equity, any arbitral forum, any  
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1 tribunal, administrative forum, or the court of any foreign jurisdiction, or any other forum of  
2 any kind), any and all of the Released Claims (including, without limitation, Unknown Claims),  
3 against Defendants and each and all of Defendants' Released Persons, regardless of whether  
4 such Settlement Class Member executes and delivers a Proof of Claim and Release.

5 4.3 Upon the Effective Date, as defined in ¶ 1.9 hereof, without further action by  
6 anyone, Lead Plaintiff, on behalf of himself and each and every Settlement Class Member, in  
7 his, her or its capacity as a holder of Oclaro stock, and anyone claiming through or on behalf of  
8 any of them, shall covenant or be deemed to have covenanted not to sue any of Defendants and  
9 Defendants' Released Persons with respect to any and all Released Claims (including, without  
10 limitation, Unknown Claims).

11 4.4 In addition to, and not in limitation of, the matters set forth in ¶¶ 4.1, 4.2, and 4.3,  
12 the Proof of Claim and Release to be executed by Settlement Class Members shall release any  
13 and all Released Claims against Defendants and each and all of Defendants' Released Persons  
14 and shall be substantially in the form contained in Exhibit A-2 attached hereto.

15 4.5 Upon the Effective Date, as defined in ¶ 1.9 hereof, without further action by  
16 anyone, Defendants shall be deemed to have, and by operation of the Order and Final Judgment  
17 shall have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiff, each  
18 and all of the Settlement Class Members, and Plaintiff's Counsel from all Defendants' Released  
19 Claims (including, without limitation, Unknown Claims), and shall forever be enjoined from  
20 prosecuting such claims.

21 4.6 In accordance with the PSLRA as codified at 15 U.S.C. § 78u-4(f)(7)(A), (a) all  
22 obligations to any Settlement Class Member of any Defendant or Defendants' Released Person  
23 arising out of the Litigation are discharged, and (b) any and all claims for contribution arising  
24 out of the Litigation or any of the Released Claims (i) by any person or entity against any of the  
25 Defendants' Released Persons, and (ii) by any of Defendants' Released Persons against any  
26 person or entity, other than as set out in 15 U.S.C. § 78u-4(f)(7)(A)(ii), are hereby permanently  
27 barred, extinguished, discharged, satisfied and unenforceable.  
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1           4.7 For the avoidance of doubt, nothing in this Stipulation is intended to, nor shall it  
2 be deemed to, release any claim that Defendants have against any of Defendants' insurers.

3           **5. Administration and Calculation of Claims, Final Awards, and Supervision**  
4           **and Distribution of Settlement Fund**

5           5.1 The Claims Administrator, subject to such supervision and direction of the Court  
6 and/or Lead Counsel as may be necessary or as circumstances may require, shall administer  
7 and calculate the claims submitted by Settlement Class Members and shall oversee distribution  
8 of the Net Settlement Fund (defined below) to Authorized Claimants. Except for the  
9 Company's obligation to pay or cause payment of the Settlement Amount as set forth herein,  
10 Defendants and Defendants' Released Persons shall have no responsibility for, interest in, or  
11 liability whatsoever with respect to the investment or distribution of the Settlement Fund, the  
12 Plan of Allocation, the determination, administration, or calculation of claims, the payment or  
13 withholding of Taxes or Tax Expenses, or any losses incurred in connection therewith.

14           5.2 The Settlement Fund shall be applied as follows: (a) to pay all Notice and  
15 Administration Costs; (b) to pay the Taxes and Tax Expenses; (c) to pay Plaintiff's Counsel's  
16 attorneys' fees and expenses with interest thereon (the "Fee and Expense Award"), if and to the  
17 extent awarded by the Court, and Lead Plaintiff's time and expenses pursuant to 15 U.S.C.  
18 § 78u-4(a)(4), if and to the extent awarded by the Court; and (d) after the Effective Date, to  
19 distribute the balance of the Settlement Fund (the "Net Settlement Fund") to Authorized  
20 Claimants as allowed by the Stipulation, the Plan of Allocation, or the Court.

21           5.3 Upon the Effective Date and thereafter, and in accordance with the terms of the  
22 Stipulation, the Plan of Allocation, or such further approval and further order(s) of the Court as  
23 may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed  
24 to Authorized Claimants, subject to and in accordance with the following:

- 25           (a) Each Settlement Class Member shall be required to submit a Proof of  
26 Claim and Release, substantially in a form approved by the Court,  
27 supported by such documents as are designated therein, including proof of  
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1 the transactions claimed, or such other documents or proof as the Claims  
2 Administrator, in its discretion, may deem acceptable;

3 (b) All Proofs of Claim and Releases must be submitted by the date specified  
4 in the Notice unless such period is extended by Court order. Any  
5 Settlement Class Member who fails to submit a Proof of Claim and  
6 Release by such date, or timely submits a Proof of Claim and Release that  
7 is ultimately and finally disallowed or rejected by the Claims  
8 Administrator, shall be forever barred from receiving any payment  
9 pursuant to this Stipulation, but shall in all other respects be bound by all  
10 of the terms of this Stipulation and the Settlement, including the terms of  
11 the Order and Final Judgment to be entered in the Litigation and the  
12 releases provided for herein, and will be barred from bringing any action  
13 against Defendants and Defendants' Released Persons concerning the  
14 Released Claims. A Proof of Claim and Release shall be deemed to have  
15 been submitted when posted, if received with a postmark indicated on the  
16 envelope and if mailed by first-class mail and addressed in accordance  
17 with the instructions thereon. In all other cases, the Proof of Claim and  
18 Release shall be deemed to have been submitted when actually received  
19 by the Claims Administrator. Notwithstanding the foregoing, Lead  
20 Counsel shall have the discretion (but not the obligation) to accept for  
21 processing late submitted claims so long as the distribution of the Net  
22 Settlement Fund to Authorized Claimants is not materially delayed  
23 thereby. No Person shall have any claim against Lead Plaintiff, Lead  
24 Counsel or the Claims Administrator by reason of the decision to exercise  
25 or not exercise such discretion;

26 (c) Each Proof of Claim and Release shall be submitted to and reviewed by  
27 the Claims Administrator, who shall determine in accordance with this  
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1 Stipulation and the approved Plan of Allocation the extent, if any, to which  
2 each claim shall be allowed, subject to review by the Court pursuant to  
3 subparagraph (e) below;

4 (d) Proofs of Claim and Releases that do not meet the submission  
5 requirements may be rejected;

6 (e) Prior to rejection of a Proof of Claim and Release, the Claims  
7 Administrator shall communicate with the Claimant in order to attempt to  
8 remedy the curable deficiencies. The Claims Administrator shall notify,  
9 in a timely fashion and in writing, all Claimants whose Proofs of Claim  
10 and Releases it proposes to reject in whole or in part, setting forth the  
11 reasons therefor, and shall indicate in such notice that the Claimant whose  
12 claim is to be rejected has the right to a review by the Court if the Claimant  
13 so desires and complies with the requirements of subparagraph (f) below;

14 (f) If any Claimant whose claim has been rejected in whole or in part desires  
15 to contest such rejection, the Claimant must, within twenty (20) days after  
16 the date of mailing of the notice required in subparagraph (e) above, serve  
17 upon the Claims Administrator a notice and statement of reasons  
18 indicating the Claimant's grounds for contesting the rejection, along with  
19 any supporting documentation, and requesting a review thereof by the  
20 Court. If a dispute concerning a claim cannot be otherwise resolved, Lead  
21 Counsel shall thereafter present the request for review to the Court;

22 (g) Each Claimant who submits a Proof of Claim and Release shall be deemed  
23 to have submitted to the jurisdiction of the Court with respect to the  
24 Claimant's claim, including, but not limited to, all releases provided for  
25 herein and in the Order and Final Judgment, and the claim will be subject  
26 to investigation and discovery under the Federal Rules of Civil Procedure,  
27 provided that such investigation and discovery shall be limited to the  
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1 Claimant's status as a Settlement Class Member and the validity and  
2 amount of the Claimant's claim. In connection with processing the Proofs  
3 of Claim and Releases, no discovery shall be allowed on the merits of the  
4 Litigation or the Settlement; and

5 (h) The Claims Administrator shall calculate the claims of Authorized  
6 Claimants in accordance with the Plan of Allocation. Following the  
7 Effective Date, the Claims Administrator shall send to each Authorized  
8 Claimant his, her or its pro rata share of the Net Settlement Fund. No  
9 distributions will be made to Authorized Claimants who would otherwise  
10 receive a distribution of less than \$10.00.

11 5.4 Defendants and Defendants' Released Persons shall have no responsibility for,  
12 interest in, or liability whatsoever with respect to the investment or distribution of the  
13 Settlement Fund, the Plan of Allocation, the determination, administration, or calculation of  
14 claims, the payment or withholding of Taxes or Tax Expenses, or any losses incurred in  
15 connection therewith.

16 5.5 No Person shall have any claim of any kind against the Defendants, Defendants'  
17 Released Persons, or Defendants' Counsel with respect to the matters set forth in this Section  
18 5.

19 5.6 No Person shall have any claim against Lead Plaintiff, the Escrow Agent,  
20 Plaintiff's Counsel, Defendants or any of Defendants' Released Persons or their counsel, or any  
21 claims administrator based on distributions made substantially in accordance with this  
22 Stipulation and the Settlement contained herein, the Plan of Allocation, or further order(s) of  
23 the Court.

24 5.7 Defendants shall not have a reversionary interest in the Net Settlement Fund. The  
25 Net Settlement Fund shall be distributed to the Authorized Claimants in accordance with the  
26 Plan of Allocation set forth in the Notice and approved by the Court. The Claims Administrator  
27 will make reasonable and diligent efforts to have Settlement Class Members who are entitled  
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1 to participate in the distribution of the Net Settlement Fund cash their distributions. If there is  
2 any balance remaining in the Net Settlement Fund after a reasonable period of time after the  
3 initial distribution of the Net Settlement Fund (whether by reason of tax refunds, uncashed  
4 checks, or otherwise), Lead Counsel, shall, if feasible, reallocate on a pro rata basis among  
5 Authorized Claimants who negotiated the checks sent to them in the initial distribution and who  
6 would receive a minimum of \$10.00. These reallocations shall be repeated until the balance  
7 remaining in the Net Settlement Fund is *de minimis* and any remainder shall thereafter be  
8 donated to ACLU Foundation of Northern California.

9         5.8 It is understood and agreed by the Settling Parties that any proposed Plan of  
10 Allocation of the Net Settlement Fund, including, but not limited to, any adjustments to an  
11 Authorized Claimant's claim set forth therein, is not a part of this Stipulation and is to be  
12 considered by the Court separately from the Court's consideration of the fairness,  
13 reasonableness, and adequacy of the Settlement set forth in the Stipulation, and any order or  
14 proceeding relating to the Plan of Allocation shall not operate to terminate or cancel the  
15 Stipulation or affect the finality of the Court's Order and Final Judgment approving the  
16 Stipulation and the Settlement set forth therein, or any other orders entered pursuant to the  
17 Stipulation.

18         5.9 Lead Plaintiff, Settlement Class Members, and Defendants shall be bound by the  
19 terms of this Stipulation, irrespective of whether the Court disapproves or modifies the Plan of  
20 Allocation. The time to appeal from approval of the Settlement shall commence upon the  
21 Court's entry of the Order and Final Judgment regardless of whether a Plan of Allocation has  
22 been approved.

## 23         **6. Lead Counsel's Attorneys' Fees and Expenses**

24         6.1 Lead Counsel may submit an application (the "Fee and Expense Application")  
25 for: (a) an award of attorneys' fees up to 1/3 of the Settlement Fund; (b) payment of expenses  
26 in connection with prosecuting the Litigation; and (c) any interest on such attorneys' fees and  
27 expenses at the same rate and for the same periods as earned by the Settlement Fund (until  
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1 paid). Any and all such fees, expenses, charges and costs awarded by the Court shall be payable  
2 solely out of the Settlement Fund. In addition, Lead Plaintiff may seek payment from the  
3 Settlement Fund pursuant to 15 U.S.C. § 78u4(a)(4) for time and expenses incurred in  
4 representing the Settlement Class. Defendants shall take no position with respect to the Fee  
5 and Expense Application or any application for payment from the Settlement Fund to Lead  
6 Plaintiff pursuant to 15 U.S.C. § 78u4(a)(4).

7 6.2 The Fee and Expense Award, as awarded by the Court, shall be paid to Lead  
8 Counsel from the Settlement Fund, as ordered, immediately upon payment being made pursuant  
9 to ¶ 2.1 and final approval of the Settlement by the Court and the Court's execution of an order  
10 awarding such fees and expenses, notwithstanding the existence of any timely filed objection  
11 thereto, any appeal or potential for appeal therefrom, or collateral attack on the Settlement, any  
12 part thereof, or the Fee and Expense Award.

13 6.3 In the event that the Effective Date does not occur, or the Order and Final  
14 Judgment or Fee and Expense Award is reversed or modified, or the Stipulation is canceled or  
15 terminated for any other reason, and such reversal, modification, cancellation or termination  
16 becomes final and not subject to review, and in the event that the Fee and Expense Award has  
17 been paid to any extent, then such of Plaintiff's Counsel who have received any portion of the  
18 Fee and Expense Award shall within ten (10) business days from receiving notice from the  
19 Defendants' Counsel or from a court of appropriate jurisdiction, refund to the Settlement Fund  
20 such fees and expenses previously paid to them from the Settlement Fund plus the interest  
21 earned thereon at the same rate as earned on the Settlement Fund consistent with such reversal  
22 or modification. Any refunds required pursuant to this ¶ 6.3 shall be the several obligations of  
23 Plaintiff's Counsel receiving fees or expenses to make appropriate refunds or repayments to the  
24 Settlement Fund. Each such Plaintiff's Counsel's law firm receiving fees and expenses, as a  
25 condition of receiving such fees and expenses, on behalf of itself and each partner and/or  
26 shareholder of it, agrees that the law firm and its partners and/or shareholders are subject to the  
27 jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph.  
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- 1 (d) the Defendants have not exercised their option to terminate the Stipulation  
2 pursuant to ¶ 7.4 hereof;
- 3 (e) the Court has approved this Stipulation, following notice to the Settlement  
4 Class Members and the Final Approval Hearing, as prescribed by Rule 23  
5 of the Federal Rules of Civil Procedure;
- 6 (f) the Court has entered the Order and Final Judgment in the form of Exhibit  
7 B attached hereto;
- 8 (g) the Order and Final Judgment has become Final, as defined in ¶ 1.12  
9 hereof; and
- 10 (h) the Action is dismissed with prejudice.

11 7.2 This is not a claims-made settlement. As of the Effective Date, no Defendant or  
12 other Person shall have any right to the return of the Settlement Fund or any portion thereof for  
13 any reason. Upon the occurrence of all of the events referenced in ¶ 7.1 above, any and all  
14 remaining interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely  
15 and forever extinguished. If all of the conditions specified in ¶ 7.1 hereof are not met, then this  
16 Stipulation shall be cancelled and terminated subject to ¶ 7.5 below unless Lead Counsel and  
17 Defendants' Counsel mutually agree in writing to proceed with the Settlement.

18 7.3 The Settling Parties shall have the right to terminate the Settlement and this  
19 Stipulation by providing written notice of their election to do so ("Termination Notice") to all  
20 other parties hereto within thirty (30) days of: (a) the Court's declining to enter a Preliminary  
21 Approval Order substantially identical to the Preliminary Approval Order submitted by the  
22 Parties; (b) the Court's refusal to approve this Stipulation or a substantially identical  
23 Stipulation; (c) the Court's declining to enter the Order and Final Judgment, or a substantially  
24 identical document; (d) the Order and Final Judgment being modified or reversed by the United  
25 States Court of Appeals for the Ninth Circuit or the Supreme Court of the United States in any  
26 manner that results in a document that is not substantially identical to the document submitted  
27 by the Settling Parties; (e) the occurrence of any condition set forth in the Settling Parties'

1 Supplemental Agreement, as provided in ¶ 7.4 below; or (f) the Effective Date not otherwise  
2 occurring. No order of the Court or modification or reversal on appeal of any order of the Court  
3 concerning the Plan of Allocation, or Exhibit A-2 to this Stipulation, or the amount of any  
4 attorneys' fees, costs, expenses, and interest awarded by the Court to Plaintiffs' Counsel or  
5 Lead Plaintiff, shall constitute grounds for cancellation or termination of the Settlement.

6 7.4 Notwithstanding any other provision or paragraph of this Stipulation, Defendants  
7 shall have the option to terminate the Settlement in the event that a portion of the Settlement  
8 Class, equal or greater than the portion specified in the separate supplemental agreement  
9 between Lead Counsel and Defendants' Counsel (the "Supplemental Agreement") delivers  
10 timely and valid requests for exclusion from the Settlement Class. The Supplemental  
11 Agreement, which is being executed concurrently herewith, will not be filed with the Court  
12 unless requested by the Court or unless a dispute among the Settling Parties concerning its  
13 interpretation or application arises, and in that event, the Settling Parties will use their  
14 reasonable best efforts to file the Supplemental Agreement for the Court's *in camera* review  
15 and/or under seal.

16 7.5 In the event that the Stipulation is not approved by the Court or the Settlement set  
17 forth in the Stipulation is terminated or fails to become effective in accordance with its terms:  
18 (i) the Parties shall revert to their pre-mediation litigation positions as of January 10, 2023; and  
19 (ii) any amount funded or caused to be funded by Oclaro under ¶ 2.1 that has not actually been  
20 paid or accrued for notice and tax expenses shall be returned in full, plus interest actually earned  
21 with respect to such amount. In such event, the terms and provisions of the Stipulation, with  
22 the exception of ¶¶ 2.6, 2.9, 6.3, 7.5-7.6, 8.1-8.3, and 10.4-10.5 hereof, shall have no further  
23 force and effect with respect to the Settling Parties and shall not be used in the Litigation or in  
24 any other proceeding for any purpose, and any judgment or order entered by the Court in  
25 accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*. No  
26 order of the Court or modification or reversal on appeal of any order of the Court concerning  
27 the Plan of Allocation, or Exhibit A-2, or the amount of any attorneys' fees, costs, expenses,  
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1 and interest awarded by the Court to Plaintiff's Counsel shall constitute grounds for cancellation  
2 or termination of the Stipulation.

3 7.6 If the Effective Date does not occur, or if the Stipulation is terminated pursuant to  
4 its terms, neither Lead Plaintiff nor Plaintiff's Counsel shall have any obligation to repay any  
5 amounts actually and properly disbursed from the Settlement Fund for the Notice and  
6 Administration Costs of the Settlement pursuant to ¶ 2.7 hereof. In addition, any expenses  
7 already incurred and properly chargeable to the Settlement Fund for the Notice and  
8 Administration Costs of the Settlement pursuant to ¶ 2.7 hereof at the time of such termination  
9 or cancellation, but which have not been paid, shall be paid by the Escrow Agent in accordance  
10 with the terms of the Stipulation prior to the balance being refunded in accordance with ¶ 2.9  
11 hereof.

12 **8. No Admission of Wrongdoing**

13 8.1 Lead Plaintiff's execution of this Stipulation does not constitute an admission by  
14 Lead Plaintiff: (i) of the lack of any wrongdoing, violation of law, or liability on behalf of any  
15 Defendant whatsoever; or (ii) that recovery could not be had should the action not be settled.

16 8.2 Defendants' execution of this Stipulation does not constitute an admission by any  
17 Defendant or any of Defendants' Released Persons: (i) of any wrongdoing, violation of law, or  
18 liability whatsoever; or (ii) that recovery could be had in any amount should the action not be  
19 settled. Defendants expressly deny that Lead Plaintiff has asserted any valid claims as to any  
20 of them, and expressly deny any and all allegations of fault, damages, wrongdoing and liability,  
21 and maintain that their conduct at all times was legal and proper.

22 8.3 Neither the Stipulation nor the Settlement, whether or not they are consummated,  
23 nor any act performed or document executed pursuant to or in furtherance of the Stipulation or  
24 the Settlement shall be offered against any of the Defendants or Defendants' Released Persons  
25 as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or  
26 admission with respect to the truth of any fact alleged by Lead Plaintiff, the validity of any  
27 claim that was or could have been asserted, or the deficiency of any defense that has been or  
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1 could have been asserted in this Litigation or in any other litigation, or of any liability,  
2 negligence, fault, or other wrongdoing of any kind or in any way referred to for any other reason  
3 as against any of Defendants or Defendants' Released Persons, in any civil, criminal or  
4 administrative action or proceeding, other than such proceedings as may be necessary to  
5 effectuate the provisions of this Stipulation. The Defendants and Defendants' Released Persons  
6 may file this Stipulation and/or the Order and Final Judgment in any action that has been or  
7 may be brought against them in order to support a claim or defense based on principles of *res*  
8 *judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any  
9 other theory of claim preclusion or issue preclusion or similar defense or counterclaim or in  
10 connection with any insurance litigation.

11 **9. Stipulation to Certification of the Settlement Class for Settlement Purposes**  
12 **Only**

13 9.1 For purposes of this Settlement only, the Settlement Class comprises all Members  
14 of the Settlement Class, as defined in ¶ 1.29 above. Nothing in this Stipulation shall serve in  
15 any fashion, either directly or indirectly, as evidence or support for certification of a class other  
16 than for settlement purposes, and the Settling Parties intend that the provisions herein  
17 concerning certification of the Settlement Class shall have no effect whatsoever in the event the  
18 Settlement does not become Final, as defined in ¶ 1.12 above.

19 9.2 The Settling Parties therefore stipulate to: (i) certification, for settlement purposes  
20 only, of the Settlement Class (as defined above), pursuant to Rules 23(a) and (b)(3) of the  
21 Federal Rules of Civil Procedure; (ii) appointment of Lead Plaintiff as the class representative;  
22 and (iii) appointment of Lead Counsel as class counsel. Certification of the Settlement Class  
23 shall be binding only with respect to the Settlement and only if the Order and Final Judgment  
24 contemplated by this Stipulation becomes Final and the Effective Date occurs.

25 **10. Miscellaneous Provisions**

26 10.1 The Settling Parties (a) acknowledge that it is their intent to consummate this  
27 Settlement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and  
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1 implement all terms and conditions of the Stipulation, including in seeking Court approval of  
2 the Preliminary Approval Order, and to exercise their best efforts to accomplish the foregoing  
3 terms and conditions of the Stipulation expeditiously and to obtain final approval by the Court  
4 of the Settlement. Oclaro agrees to obtain and to provide to the Claims Administrator a  
5 shareholder list and securities position report for Oclaro containing the information necessary  
6 to provide reasonable and adequate notice to the Settlement Class.

7 10.2 This Stipulation, the Exhibits attached hereto, and the Supplemental Agreement  
8 constitute the entire agreement between the Settling Parties as to the subject matter hereof and  
9 supersede any prior or contemporaneous written or oral agreements or understandings between  
10 the Settling Parties. No representations, warranties, or inducements have been made to any  
11 party concerning the Stipulation, its Exhibits, or the Supplemental Agreement other than the  
12 representations, warranties, and covenants contained and memorialized in such documents.

13 10.3 Except as otherwise provided for herein, each party shall bear his, her or its own  
14 costs.

15 10.4 The Settling Parties intend this Settlement to be a final and complete resolution  
16 of all disputes between them with respect to the Litigation. The Settlement compromises all  
17 claims that were contested in the Litigation and that could have been asserted in the Litigation  
18 and shall not be deemed an admission by any Settling Party as to the merits of any claim or  
19 defense. Pursuant to 15 U.S.C. § 78u-4(c)(1), the Settling Parties agree and the Order and Final  
20 Judgment will contain a statement that, during the course of the Litigation, the Settling Parties  
21 and their respective counsel at all times complied with the requirements of Federal Rule of Civil  
22 Procedure 11. The Settling Parties agree that the amount paid to the Settlement Fund and the  
23 other terms of the Settlement were negotiated in good faith by the Settling Parties, and reflect  
24 a settlement that was reached voluntarily after consultation with competent legal counsel.  
25 Whether or not the Stipulation is approved by the Court and whether or not the Stipulation is  
26 consummated, or the Effective Date occurs, the Settling Parties and their counsel shall use their  
27 best efforts to keep all settlement negotiations, settlement discussions and draft documents  
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1 confidential; provided, however, that this paragraph ¶ 10.4 (i) shall not prevent the Settling  
2 Parties from making disclosures to their insurers, auditors, attorneys, officers, directors or  
3 associates, or disclosures to others as may be required by law or regulation, and (ii) shall not  
4 limit the materials or evidence that may be offered or referred to by the Settling Parties in  
5 disputes, actions, or proceedings arising with any insurer. The Settling Parties reserve their  
6 right to rebut, in a manner that such party determines to be appropriate, any contention made in  
7 any public forum that the Litigation was brought or defended in bad faith or without a  
8 reasonable basis.

9 10.5 Except as otherwise provided for herein, all agreements made and orders entered  
10 during the course of the Litigation relating to the confidentiality of information shall survive  
11 this Stipulation.

12 10.6 The Settling Parties agree to take no action in connection with the Settlement that  
13 is intended to, or that would reasonably be expected to, harm the reputation of any of the Settling  
14 Parties (including a party's officers, directors, employees, agents, or attorneys), or that would  
15 reasonably be expected to lead to unfavorable publicity for any of the Settling Parties.

16 10.7 This Stipulation shall be construed and interpreted to effectuate the intent of the  
17 Settling Parties, which is to resolve completely those claims and disputes, including in this  
18 Litigation, and as more fully described herein. If any provision of this Stipulation shall be  
19 determined to be invalid, void, or illegal, such provision shall be construed and amended in a  
20 manner that would permit its enforcement, but in no event shall such provision affect, impair,  
21 or invalidate any other provision hereof.

22 10.8 All of the Exhibits to the Stipulation are material and integral parts hereof and are  
23 fully incorporated herein by this reference.

24 10.9 The Stipulation may be amended or modified only by a written instrument signed  
25 by or on behalf of all Settling Parties or their respective successors-in-interest.

26 10.10 Neither the Lead Plaintiff nor Defendants shall be bound by the Stipulation if the  
27 Court substantively modifies any terms thereof, provided, however, that it shall not be a basis  
28

1 for Lead Plaintiff to terminate the Settlement if the Court modifies any proposed Plan of  
2 Allocation or criteria for allocation of the Net Settlement Fund amongst Authorized Claimants,  
3 or Exhibit A-2 hereto, or if the Plan of Allocation is modified on appeal. Nor shall it be a basis  
4 to terminate the Stipulation if the Court disapproves of or modifies the terms of this Stipulation  
5 with respect to attorneys' fees or expenses, or time or expenses awarded by the Court to Lead  
6 Plaintiff, or interest as may be awarded by the Court, or the distribution of the Net Settlement  
7 Fund. Notwithstanding any such modification of the terms or Plan of Allocation of the  
8 Stipulation with respect to attorneys' fees or expenses, Defendants and Defendants' insurers  
9 shall be entitled to all benefits of the Settlement and shall not, under any circumstances, be  
10 called upon to contribute additional funds to the Settlement Fund.

11 10.11 Lead Plaintiff and Lead Counsel represent and warrant that none of the Lead  
12 Plaintiff's claims or causes of action referred to in this Litigation or this Stipulation has been  
13 assigned, encumbered, or in any manner transferred in whole or in part.

14 10.12 Each counsel or other Person executing the Stipulation or any of its Exhibits on  
15 behalf of any party hereto hereby warrants that such Person has the full authority to do so.

16 10.13 All notices, requests, demands, claims, and other communications hereunder  
17 between Lead Plaintiff and Defendants, by and through their respective counsel, shall be in  
18 writing and shall be deemed duly given: (i) when delivered to the recipient by email at the  
19 addresses set forth below; (ii) five (5) business days after being sent to the recipient by reputable  
20 overnight courier service (charges prepaid); or (iii) eight (8) business days after being mailed  
21 to the recipient by certified or registered mail, return receipt requested, and postage prepaid,  
22 and addressed to the intended recipient as set forth below:

23 ***If to Lead Plaintiff or to Plaintiff's Counsel:***

24 Juan E. Monteverde  
25 **Monteverde & Associates PC**  
26 The Empire State Building  
27 350 Fifth Avenue, Suite 4405  
28 New York, New York 10118  
Tel: (212) 971-1341

1 jmonteverde@monteverdelaw.com

2 ***If to Defendants or to Defendants' Counsel:***

3 David J. Berger

4 Catherine E. Moreno

5 Shannon E. German

6 Malavika F. Lobo

7 **Wilson Sonsini Goodrich & Rosati**

8 **Professional Corporation**

9 650 Page Mill Road

10 Palo Alto, CA 94304-1050

11 Tel: (650) 493-9300

12 (650) 565-5100

13 Email: dberger@wsgr.com

14 cmoreno@wsgr.com

15 sgerman@wsgr.com

16 mlobo@wsgr.com

17 -and-

18 Stephen D. Hibbard

19 Nathaniel P. Garrett

20 Dennis F. Murphy, Jr.

21 **Jones Day**

22 555 California Street, 26th Floor

23 San Francisco, CA 94104

24 Tel: (415) 626-3939

25 (415) 875-5700

26 Email: sdhibbard@jonesday.com

27 ngarrett@jonesday.com

28 dennismurphy@jonesday.com

10.14 The Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court. Signatures sent by facsimile or PDF via email shall be deemed originals.

10.15 The Stipulation shall be binding upon, and inure to the benefit of, the heirs, administrators, successors and assigns of the Settling Parties.

10.16 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Stipulation, and the Settling Parties submit to the jurisdiction

1 of the Court for purposes of implementing and enforcing the Settlement embodied in the  
2 Stipulation.

3 10.17 The waiver by any Settling Party of any breach of this Stipulation by any other  
4 Settling Party shall not be deemed a waiver by any other Settling Party or a waiver of any other  
5 prior or subsequent breach of this Stipulation.

6 10.18 Pending approval of the Court of the Stipulation and its Exhibits, all proceedings  
7 in this Litigation shall be stayed and all Settlement Class Members shall be barred and enjoined  
8 from prosecuting any of the Released Claims against Defendants and Defendants' Released  
9 Persons.

10 10.19 The Stipulation and the Exhibits attached hereto and the Supplemental Agreement  
11 shall be considered to have been negotiated, executed, and delivered, and to be wholly  
12 performed, in the State of California, and the rights and obligations of the Settling Parties to the  
13 Stipulation shall be construed and enforced in accordance with, and governed by, the internal,  
14 substantive laws of the State of California without giving effect to that State's choice-of-law  
15 principles.

16 10.20 The headings herein are used for the purpose of convenience only and are not  
17 meant to have legal effect.

18 10.21 This Stipulation shall not be construed more strictly against one Settling Party  
19 than another merely by virtue of the fact that it, or any part of it, may have been prepared by  
20 counsel for one of the Settling Parties, it being recognized that it is the result of arm's-length  
21 negotiations between the Settling Parties and each of the Settling Parties have contributed  
22 substantially and materially to the preparation of this Stipulation.

23 IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be  
24 executed, by their duly authorized attorneys, dated March 16, 2023.

**MONTEVERDE & ASSOCIATES PC**

Juan E. Monteverde  
(admitted pro hac vice, NY Reg. No.  
4467882)  
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*Lead Counsel for Lead Plaintiff*

**WILSON SONSINI GOODRICH &  
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Professional Corporation**

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*Counsel for Defendant Oclaro, Inc.*

**MONTEVERDE & ASSOCIATES PC**

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*Lead Counsel for Lead Plaintiff*

**WILSON SONSINI GOODRICH &  
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*Counsel for Defendant Oclaro, Inc.*

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**JONES DAY**



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Stephen D. Hibbard (SBN 177865)  
Nathaniel P. Garrett (SBN 248211)  
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*Counsel for Defendants Marissa Peterson,  
Edward Collins, Greg Dougherty, Kendall  
Cowan, Denise Haylor, Ian Small, Bill  
Smith, and Joel A. Smith III*

# **EXHIBIT A**



1 David E. Bower (SBN 119546)  
2 **MONTEVERDE & ASSOCIATES PC**  
3 600 Corporate Pointe, Suite 1170  
4 Culver City, CA 90230  
5 Tel: (213) 446-6652  
6 dbower@monteverdelaw.com

7 *Counsel for Lead Plaintiff and*  
8 *Lead Counsel for the Putative Class*

9  
10  
11 **UNITED STATES DISTRICT COURT**  
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
13 **SAN FRANCISCO DIVISION**

14 SAISRAVAN BHARADWAJ KARRI,  
15 Individually and on Behalf of All Others  
16 Similarly Situated,

17 Plaintiff,

18 v.

19 OCLARO, INC., MARISSA PETERSON,  
20 EDWARD COLLINS, GREG  
21 DOUGHERTY, KENDALL COWAN,  
22 DENISE HAYLOR, IAN SMALL, BILL  
23 SMITH, and JOEL A. SMITH III,

24 Defendants.

Case No. 3:18-cv-03435-JD

Hon. James Donato

CLASS ACTION

25  
26  
27  
28  
**[PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT**  
**AND PROVIDING FOR NOTICE**

1 WHEREAS, an action pending before this Court is styled *Karri v. Oclaro, Inc., et al*, Case  
2 No. 3:18-cv-03435-JD (the “Litigation”);

3 WHEREAS, the Court-appointed Lead Plaintiff Saisravan Bharadwaj Karri (“Lead  
4 Plaintiff”) has made a motion, pursuant to Federal Rule of Civil Procedure 23(e), for an order  
5 preliminarily approving the Settlement of this Litigation, in accordance with a Stipulation of  
6 Settlement dated March 16, 2023 (the “Stipulation”), which, together with the Exhibits annexed  
7 thereto, sets forth the terms and conditions for a proposed Settlement of the Litigation between  
8 the Settling Parties and for dismissal with prejudice of the Litigation against Defendants and of  
9 the Released Claims against Defendants and Defendants’ Released Persons upon the terms and  
10 conditions set forth therein;

11 WHEREAS, the Court having read and considered the Stipulation and the Exhibits  
12 annexed thereto;

13 WHEREAS, the Settling Parties to the Stipulation having consented to entry of this Order;  
14 and

15 WHEREAS, unless otherwise defined, all terms used herein have the same meanings as  
16 set forth in the Stipulation.

17 NOW, THEREFORE, IT IS HEREBY ORDERED:

18 1. **Preliminary Approval of Settlement:** The Court has reviewed the Stipulation,  
19 finds that the Stipulation resulted from arm’s length negotiations, and does hereby preliminarily  
20 approve the Stipulation and Settlement set forth therein as being fair, reasonable and adequate to  
21 Settlement Class Members subject to further consideration at the hearing described in ¶2 below.

22 (a) Pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, and for  
23 purposes of this Settlement only, the Litigation is hereby preliminarily certified as a  
24 class action on behalf of all record and beneficial holders of common stock of Oclaro,  
25 Inc. (“Oclaro”) who held such stock during the period from and including May 15,  
26 2018, the record date for voting on the merger (“Merger”) of Oclaro and Lumentum  
27 Holdings, Inc. (“Lumentum”) through and including December 10, 2018, the date the  
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1 Merger closed, including any and all of their respective predecessors, successors,  
 2 trustees, executors, administrators, estates, legal representatives, heirs, assigns and  
 3 transferees (the “Settlement Class”). Excluded from the Settlement Class are (i)  
 4 Defendants and members of their immediate families; (ii) the officers and directors of  
 5 the Company and members of their immediate families; (iii) any entity in which  
 6 Defendants have or had a controlling interest or are controlled by (including  
 7 Lumentum and Prota Merger, LLC (“Merger Sub, LLC”)); (iv) the legal  
 8 representatives, heirs, successors or assigns of each Defendant and each officer and  
 9 director of the Company; and (v) any persons or entities who properly exclude  
 10 themselves by filing a valid and timely request for exclusion.

11 (b) The Court finds, for the purposes of the Settlement only, that the prerequisites for a  
 12 class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have  
 13 been satisfied in that: (a) the number of Settlement Class Members is so numerous that  
 14 joinder of all members is impracticable; (b) there are questions of law and fact  
 15 common to the Settlement Class; (c) the claims of Lead Plaintiff are typical of the  
 16 claims of the Settlement Class he seeks to represent; (d) Lead Plaintiff and Lead  
 17 Counsel have and will fairly and adequately represent the interests of the Settlement  
 18 Class; (e) the questions of law and fact common to the Settlement Class Members  
 19 predominate over any questions affecting only individual Settlement Class Members;  
 20 and (f) a class action is superior to other available methods for the fair and efficient  
 21 adjudication of the controversy.

22 (c) Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for the purposes of  
 23 the Settlement only, Lead Plaintiff is preliminarily certified as the class representative  
 24 and Monteverde & Associates PC is preliminarily certified as Lead Counsel.

25 2. **Settlement Hearing:** A hearing shall be held before this Court on  
 26 \_\_\_\_\_, 2023, at \_\_\_\_\_ .m. (a date that is at least 120 calendar days from the date of  
 27 this Order) (the “Final Approval Hearing”). Settlement Class Members should check the  
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1 Settlement Class website in advance of the Final Approval Hearing to determine whether that  
2 hearing will occur in person at the United States District Court for the Northern District of  
3 California, 450 Golden Gate Avenue, San Francisco, CA 94102 or via a remote link. At the Final  
4 Approval Hearing the Court will (a) determine whether the proposed Settlement is fair, reasonable,  
5 and adequate to the Settlement Class and should be approved by the Court; (b) determine whether  
6 an Order and Final Judgment as defined in ¶1.21 of the Stipulation should be entered; (c) determine  
7 whether the proposed Plan of Allocation should be approved; (d) determine the amount of  
8 attorneys' fees and expenses that should be awarded to Lead Counsel; (e) determine any award to  
9 Lead Plaintiff pursuant to 15 U.S.C. § 78u-4(a)(4); (f) hear any objections by Settlement Class  
10 Members to: (i) the Settlement or Plan of Allocation; (ii) certification of the Settlement Class, Lead  
11 Plaintiff, and Lead Counsel; (iii) any award to Lead Plaintiff; and/or (iv) the award of attorneys'  
12 fees and expenses to Lead Counsel; and (g) consider such other matters the Court deems  
13 appropriate. The Court may adjourn the Final Approval Hearing without further notice to the  
14 Settlement Class Members.

15 3. The Court approves the form, substance, and requirements of the Notice of  
16 Pendency and Proposed Settlement of Class Action ("Notice") and Proof of Claim and Release,  
17 substantially in the forms annexed hereto as Exhibits A-1 and A-2, respectively.

18 4. The Court approves the form of the Summary Notice, substantially in the form  
19 annexed hereto as Exhibit A-3.

20 5. Defendants shall comply with the Class Action Fairness Act, 28 U.S.C. §§ 1711 *et*  
21 *seq* ("CAFA"). At least ten (10) calendar days prior to the Final Approval Hearing, Defendants'  
22 counsel shall file with the Court an appropriate affidavit or declaration regarding compliance with  
23 CAFA.

24 6. **Retention of Claims Administrator and Method of Giving Notice:** The firm of  
25 RG/2 Claims Administrator LLC (the "Claims Administrator") is hereby appointed to supervise  
26 and administer the notice procedure as well as the processing of claims as more fully set forth  
27 below.

1 (a) Lead Counsel, through the Claims Administrator, shall cause the Stipulation and its  
2 exhibits, this Order, and a copy of the Notice and Proof of Claim and Release to be  
3 posted on the Claims Administrator’s website at [www.oclarosecuritieslitigation.com](http://www.oclarosecuritieslitigation.com).

4 (b) The Claims Administrator shall make reasonable efforts to identify all Settlement  
5 Class Members. After the Court signs and enters this Order (the “Notice Date”), the  
6 Claims Administrator shall cause a copy of the Notice and Proof of Claim and Release,  
7 substantially in the forms annexed hereto, to be emailed to the Settlement Class  
8 Members for whom an email address exists in Oclaro’s shareholder list, mailed by  
9 First-Class Mail to all Settlement Class Members who can be identified with  
10 reasonable effort, and posted on its website identified above.

11 (c) Monteverde & Associates PC shall cause the Summary Notice to be published in  
12 *PRNewswire*.

13 (d) Lead Counsel shall serve on Defendants’ Counsel and file with the Court proof, by  
14 affidavit or declaration, of such mailing and publishing referenced in 6(a)-(c).

15 (e) Nominees who held Oclaro common stock for the benefit of another Person during the  
16 Settlement Class Period shall be requested to send the Notice and Proof of Claim and  
17 Release to such beneficial owners of Oclaro common stock within fifteen (15)  
18 calendar days after receipt thereof, or, send a list of the names and addresses of such  
19 beneficial owners to the Claims Administrator within fifteen (15) calendar days of  
20 receipt thereof, in which event the Claims Administrator shall promptly mail the  
21 Notice and Proof of Claim and Release to such beneficial owners.

22 7. The form and content of the notice program described herein and the methods set  
23 forth herein for notifying the Settlement Class of the Settlement and its terms and conditions, the  
24 Fee and Expense Application, and the Plan of Allocation: (a) meet the requirements of Federal  
25 Rule of Civil Procedure 23, the United States Constitution (including the Due Process Clause), the  
26 Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(a)(7), 15 U.S.C. § 77z-1(a)(7)  
27 (the “PSLRA”), and any other applicable law, and is the best notice practicable under the  
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1 circumstances; (b) constitutes notice that is reasonably calculated, under the circumstances, to  
 2 apprise the Settlement Class Members of the pendency of the Litigation, the effect of the proposed  
 3 Settlement (including the releases contained therein), and of their right to object to the proposed  
 4 Settlement, exclude themselves from the Settlement Class, and/or appear at the Final Approval  
 5 Hearing; and (c) constitutes due, adequate, and sufficient notice to all Persons entitled thereto. The  
 6 date and time of the Final Approval Hearing shall be included in the Notice and Summary Notice  
 7 before they are mailed and published, respectively. All fees, costs, and expenses incurred in  
 8 notifying Settlement Class Members shall be paid from the Settlement Fund and in no event shall  
 9 any of the Defendants or Defendants’ Released Persons bear any responsibility for such fees, costs  
 10 or expenses. All Settlement Class Members (except Persons who request exclusion pursuant to  
 11 ¶11 below) shall be bound by all determinations and judgments in the Litigation concerning the  
 12 Settlement, including, but not limited to, the releases provided for therein, whether favorable or  
 13 unfavorable to the Settlement Class, regardless of whether such Persons seek or obtain by any  
 14 means, including, without limitation, by submitting a Proof of Claim and Release or any similar  
 15 document, any distribution from the Settlement Fund or the Net Settlement Fund.

16 8. **Schedule and Next Steps for Final Approval:** The Court sets the following  
 17 schedule:

18 Notice emailed and mailed to the Settlement Class	_____, 2023 (a date that is 14 calendar days after the Notice Date)
19 Summary Notice published	_____, 2023 (a date that is 3 calendar days after the Notice Date)
20 Deadline for filing brief in support of Lead Counsel’s request for an award of attorneys’ fees and expenses and any service award to Lead Plaintiff	_____, 2023 (a date that is 77 calendar days prior to the Final Approval Hearing)
21 Last day for submitting Proof of Claim and Release forms	_____, 2023 (a date that is 42 calendar days prior to the Final Approval Hearing)
22 Deadline for requesting exclusion from the Settlement Class and objecting to the Settlement, Plan of Allocation, or request for an award of attorneys’ fees and expenses	_____, 2023 (a date that is 42 calendar days prior to the Final Approval Hearing)

1 2	Deadline for filing brief in support of the Settlement, certification of the Settlement Class and Plan of Allocation	_____, 2023 (a date that is 35 calendar days prior to the Final Approval Hearing)
3 4	File declaration confirming mailing and publishing Notice and Summary Notice	_____, 2023 (a date that is 7 calendar days prior to the Final Approval Hearing)
5 6	Reply papers in support of the Settlement, Plan of Allocation, or request for an award of attorneys' fees and expenses	_____, 2023 (a date that is 7 calendar days prior to the Final Approval Hearing)
7	Final Approval Hearing	_____, 2023 (at the Court's convenience, but no less than 120 calendar days after the Notice Date)

8           9. Pending final determination by the Court as to whether the Settlement, as set forth  
9 in the Stipulation, is fair, reasonable and adequate and should be finally approved and whether the  
10 Order and Final Judgment dismissing the action with prejudice should be approved, neither Lead  
11 Plaintiff nor any Settlement Class Member, either directly, representatively or in any other  
12 capacity, shall assert, commence, aid or prosecute against any of the Released Claims against any  
13 of the Defendants or Defendants' Released Persons in this Litigation or in any other proceeding,  
14 arbitration, or forum. This injunction is necessary to protect and effectuate the Settlement, this  
15 Order, and the Court's flexibility and authority to effectuate the Settlement and to enter judgment  
16 when appropriate, and is ordered in aid of the Court's jurisdiction and to protect its judgments.

17           10. **Settlement Class Members' Participation in the Settlement:** Settlement Class  
18 Members who wish to participate in the Settlement shall complete and submit the Proof of Claim  
19 and Release in accordance with the instructions contained therein. Unless the Court orders  
20 otherwise, all Proofs of Claim and Releases must be postmarked or submitted electronically no  
21 later than the date set forth in ¶8 herein. Any Settlement Class Member who fails to submit a Proof  
22 of Claim and Release within the time provided, or whose Proof of Claim and Release is otherwise  
23 not approved, shall in all other respects be bound by all of the terms of the Stipulation and the  
24 Settlement, including the terms of the Order and Final Judgment and the releases provided for  
25 therein, and will be barred from asserting any Released Claims against any of the Defendants or  
26 Defendants' Released Persons. Notwithstanding the foregoing, Lead Counsel shall have the  
27

1 discretion (but not the obligation) to accept late-submitted claims for processing by the Claims  
2 Administrator so long as distribution of the Net Settlement Fund is not materially delayed thereby.  
3 No person shall have any claim against Lead Plaintiff, Lead Counsel or the Claims Administrator  
4 by reason of the decision to exercise or not exercise such discretion.

5 (a) The Proof of Claim and Release submitted by each Settlement Class Member must,  
6 unless otherwise ordered by the Court: (i) be properly completed, signed and submitted  
7 in a timely manner in accordance with the provisions of the preceding paragraph; (ii)  
8 be accompanied by adequate supporting documentation for the transactions reported  
9 therein, in the form of broker confirmation slips, broker account statements, an  
10 authorized statement from the broker containing the transactional information found in  
11 a broker confirmation slip, or such other documentation deemed adequate by Lead  
12 Counsel or the Claims Administrator; (iii) include in the Proof of Claim and Release a  
13 certification of current authority to act on behalf of the Settlement Class Member if the  
14 person executing the Proof of Claim and Release is acting in a representative capacity;  
15 (iv) be complete and contain no material deletions or modifications of any of the printed  
16 matter contained therein; and (v) be signed under penalty of perjury.

17 (b) By submitting a Proof of Claim, a Settlement Class Member will be deemed to have  
18 submitted to the jurisdiction of this Court with respect to the Settlement Class  
19 Member's claim, including, but not limited to, all releases provided for in the  
20 Stipulation and in the Order and Final Judgment.

21 (c) Any Settlement Class Member may enter an appearance in the Litigation, at his, her,  
22 or its own expense, individually or through counsel of their own choice. If they do not  
23 enter an appearance, they will be represented by Lead Counsel.

24 11. **Exclusion from the Settlement Class:** Any Person falling within the definition of  
25 the Settlement Class may, upon request, be excluded or "opt out" from the Settlement Class. Any  
26 such Person must submit to the Claims Administrator a request for exclusion ("Request for  
27 Exclusion"), by First-Class Mail postmarked no later than the date set forth in ¶8 herein. A  
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1 Request for Exclusion must be signed and state: (a) the name, address, and telephone number of  
 2 the Person requesting exclusion; (b) the number of shares of Oclaro common stock held during  
 3 the Settlement Class Period and the dates held during the Settlement Class Period; and (c) that  
 4 the Person wishes to be excluded from the Settlement Class. All Persons who submit valid and  
 5 timely Requests for Exclusion in the manner set forth in this paragraph shall have no rights under  
 6 the Stipulation, shall not share in the distribution of the Net Settlement Fund, and shall not be  
 7 bound by the Stipulation or any final judgment.

8 Lead Counsel shall cause to be provided to Defendants' Counsel copies of all Requests for  
 9 Exclusion and a list of all Settlement Class Members who have requested exclusion, and any  
 10 written revocation of Requests for Exclusion, as expeditiously as possible and in any event no later  
 11 than \_\_\_\_\_, 2023 (a date fourteen (14) calendar days prior to the Final Approval Hearing).

12 12. **Appearance and Objections at Settlement Hearing:** Any Settlement Class  
 13 Member may appear and object if he, she, or it has any reason why the proposed Settlement of  
 14 the Litigation should not be approved as fair, reasonable and adequate, or why a judgment should  
 15 not be entered thereon, why the Plan of Allocation should not be approved, why the requested  
 16 attorneys' fees and expenses should not be awarded to Lead Counsel, or why any award should  
 17 not be approved for Lead Plaintiff; provided, however, that no Settlement Class Member or any  
 18 other Person shall be heard or entitled to contest the approval of the terms and conditions of the  
 19 proposed Settlement, or, if approved, the Order and Final Judgment to be entered thereon  
 20 approving the same, or the order approving the Plan of Allocation, any attorneys' fees and  
 21 expenses to be awarded to Lead Counsel, or any award to Lead Plaintiff, unless written objections  
 22 and supporting papers are timely submitted to the Court by either filing them electronically or in  
 23 person at any location of the United States District Court for the Northern District of California  
 24 or by mailing them to the Class Action Clerk, United States District Court for the Northern District  
 25 of California, 450 Golden Gate Avenue, San Francisco, CA 94102, by the date set forth in ¶8  
 26 herein. Any such written objection and supporting papers must: (a) clearly identify the case name  
 27 and number; (b) indicate the objector's name, address, and telephone number; (c) specify the  
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1 reason(s) for the objection; (d) identify the date(s), price(s), and number(s) of shares of Oclaro  
2 common stock held, during the Settlement Class Period by the objector; (e) provide documents  
3 demonstrating such holding(s); and (f) be signed by the objector. Any Member of the Settlement  
4 Class who does not make his, her, or its objection in the manner provided for herein shall be  
5 deemed to have waived such objection and shall forever be foreclosed from making any objection  
6 to the fairness, reasonableness, or adequacy of the proposed Settlement as incorporated in the  
7 Stipulation, to the Plan of Allocation, to the award of attorneys' fees and expenses to Lead  
8 Counsel, and to any award to Lead Plaintiff, unless otherwise ordered by the Court. Attendance  
9 at the Final Approval Hearing is not necessary. However, Persons wishing to be heard orally in  
10 opposition to the approval of the Settlement, the Plan of Allocation, and/or the application for an  
11 award of attorneys' fees and expenses are required to indicate in their written objection their  
12 intention to appear at the hearing. Settlement Class Members do not need to appear at the Final  
13 Approval Hearing or take any other action to indicate their approval of the Settlement.

14       13. **Settlement Funds:** All funds held by the Escrow Agent shall be deemed and  
15 considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the  
16 Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further  
17 order(s) of the Court.

18       14. Defendants' Released Persons shall have no responsibility for the Plan of  
19 Allocation, any application for attorneys' fees and expenses submitted by Lead Counsel, or any  
20 award to Lead Plaintiff, and such matters will be considered separately from the fairness,  
21 reasonableness, and adequacy of the Settlement.

22       15. At or after the Final Approval Hearing, the Court shall determine whether the Plan  
23 of Allocation proposed by Lead Counsel, and whether any application for attorneys' fees and  
24 expenses, should be approved.

25       16. **Settlement Administration Fees and Expenses:** All reasonable expenses incurred  
26 in identifying and notifying Settlement Class Members as well as administering the Settlement  
27 Fund shall be paid as set forth in the Stipulation. In the event the Court does not approve the  
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1 Settlement, or it otherwise fails to become effective, neither Lead Plaintiff nor any of their  
2 counsel, including Plaintiff's Counsel, shall have any obligation to repay any amounts actually  
3 and properly incurred or disbursed pursuant to ¶2.7 of the Stipulation.

4 17. **Use of this Order:** Neither the Stipulation, nor any of its terms or provisions, nor  
5 any of the negotiations, discussions, proceedings connected with it, nor any act performed or  
6 document executed pursuant to or in furtherance of the Stipulation or the Settlement may be  
7 construed as an admission, concession, or presumption by or against any of the Defendants or  
8 Defendants' Released Persons of the truth of any of the allegations in the Litigation, or of any  
9 liability, fault, or wrongdoing of any kind; or as a waiver by any of the Parties of any arguments,  
10 defenses, or claims he, she, or it may have in the event the Stipulation is terminated; or offered or  
11 received in evidence, or otherwise used by any person in the Litigation, or in any other action or  
12 proceeding, whether civil, criminal, or administrative, in any court, administrative agency, or  
13 other tribunal, except in connection with any proceeding to enforce the terms of the Stipulation.  
14 The Defendants, Defendants' Released Persons, Lead Plaintiff, Settlement Class Members, and  
15 each of their counsel may file the Stipulation and/or the Order and Final Judgment in any action  
16 that may be brought against them in order to support a defense or counterclaim based on principles  
17 of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction or  
18 any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

19 18. **Stay and Temporary Injunction:** All proceedings in the Litigation are stayed until  
20 further order of this Court, except as may be necessary to implement the Settlement or comply  
21 with the terms of the Stipulation. Pending final determination of whether the Settlement should  
22 be approved, neither Lead Plaintiff nor any Settlement Class Member, either directly,  
23 representatively, or in any other capacity shall commence or prosecute any of the Released Claims  
24 against any of the Defendants or Defendants' Released Persons in any action or proceeding in  
25 any court or tribunal.

26 19. The Court reserves the right to alter the time or the date of the Final Approval  
27 Hearing without further notice to the Settlement Class Members, provided that the time or the  
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1 date of the Final Approval Hearing shall not be set at a time or date earlier than the time and date  
2 set forth in ¶2 above, and retains jurisdiction to consider all further applications arising out of or  
3 connected with the proposed Settlement. The Court may approve the Settlement, with such  
4 modifications as may be agreed to by the Settling Parties, if appropriate, without further notice to  
5 the Settlement Class.

6       20. **Termination of Settlement:** If the Settlement fails to become effective as defined  
7 in the Stipulation or is terminated, then, in any such event, the Stipulation, including any  
8 amendment(s) thereof, except as expressly provided in the Stipulation, and this Order shall be  
9 null and void, of no further force or effect, and without prejudice to any Settling Party, and may  
10 not be introduced as evidence or used in any actions or proceedings by any person or entity against  
11 the Settling Parties, and they shall be deemed to have reverted to their respective positions in the  
12 Litigation as of January 10, 2023, prior to mediation.

13 IT IS SO ORDERED.

14  
15 DATED: \_\_\_\_\_

\_\_\_\_\_ THE HONORABLE JAMES DONATO  
UNITED STATES DISTRICT JUDGE

# **EXHIBIT A-1**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

SAISRAVAN BHARADWAJ KARRI,  
Individually and on Behalf of All Others  
Similarly Situated,

Plaintiff,

v.

OCLARO, INC., MARISSA PETERSON,  
EDWARD COLLINS, GREG  
DOUGHERTY, KENDALL COWAN,  
DENISE HAYLOR, IAN SMALL, BILL  
SMITH, and JOEL A. SMITH III,

Defendants.

Case No. 3:18-cv-03435-JD

Hon. James Donato

CLASS ACTION

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION**

**TO: ALL RECORD AND BENEFICIAL HOLDERS OF COMMON STOCK OF OCLARO, INC. (“OCLARO” OR THE “COMPANY”) WHO HELD SUCH STOCK DURING THE PERIOD FROM AND INCLUDING MAY 15, 2018, THE RECORD DATE FOR VOTING ON THE MERGER OF OCLARO AND LUMENTUM HOLDINGS INC. (“LUMENTUM”), THROUGH AND INCLUDING DECEMBER 10, 2018, THE DATE THE MERGER CLOSED, INCLUDING ANY AND ALL OF THEIR RESPECTIVE PREDECESSORS, SUCCESSORS, TRUSTEES, EXECUTORS, ADMINISTRATORS, ESTATES, LEGAL REPRESENTATIVES, HEIRS, ASSIGNS AND TRANSFEREES (THE “SETTLEMENT CLASS”).**

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS LITIGATION. PLEASE NOTE THAT IF YOU ARE A SETTLEMENT CLASS MEMBER, YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE OF THE SETTLEMENT PROCEEDS, YOU MUST SUBMIT A VALID PROOF OF CLAIM AND RELEASE FORM (“PROOF OF CLAIM”) **POSTMARKED OR SUBMITTED ONLINE ON OR BEFORE [INSERT DATE].**

This Notice of Pendency and Proposed Settlement of Class Action (“Notice”) has been sent to you pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Northern District of California (the “Court”). The purpose of this Notice is to inform you of the proposed settlement of the above-captioned Litigation (the “Settlement”) and of the hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the Settlement, final certification of the Settlement Class, the proposed Plan of Allocation of the settlement proceeds, and Lead Counsel’s application for attorneys’ fees and expenses. This Notice describes the rights you may have as a Settlement Class Member and what steps you may take in relation to the

Settlement and this Litigation, or, alternatively, what steps you must take if you wish to be excluded from the Settlement Class and this Litigation.<sup>1</sup>

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A PROOF OF CLAIM</b>	The only way to receive a payment. Proofs of Claim must be postmarked or submitted online on or before [Insert Date].
<b>EXCLUDE YOURSELF</b>	Receive no payment. This is the only option that allows you to ever bring a lawsuit against Defendants concerning the legal claims at issue in this case. Exclusions must be postmarked or received no later than [Insert Date].
<b>OBJECT</b>	Write to the Court about why you oppose the Settlement, the Plan of Allocation, the request for Plaintiff's Counsel's attorneys' fees, and/or the expenses of Lead Plaintiff. You will still be a Member of the Settlement Class. Objections must be received by the Court or postmarked on or before [Insert Date].
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Settlement. Requests to speak must be received by the Court on or before [Insert Date]. You are not required to attend the hearing.
<b>DO NOTHING</b>	Receive no payment from the Settlement. Members of the Settlement Class who do nothing remain bound by the terms of the Settlement.

#### SUMMARY OF THIS NOTICE

##### **Statement of Settlement Class Recovery**

Pursuant to the Settlement described herein, the Settlement Amount is for \$15.25 million. A Settlement Class Member's actual recovery will be a proportion of the Net Settlement Fund determined by that Claimant's claim as compared to the total claims of all Settlement Class Members who submit acceptable Proofs of Claim. An individual Settlement Class Member may receive more or less than the estimated average amount provided below depending on the number of claims submitted. *See* Plan of Allocation as set forth at pages 11-12 below for more information on your claim.

##### **Statement of Potential Outcome of Litigation**

The Settling Parties disagree on both liability and damages and do not agree on the amount of damages per share of Oclaro common stock that would be recoverable if the Settlement Class prevailed on each claim alleged. The Defendants deny that they are liable to the Settlement Class and deny that the Settlement Class has suffered any damages.

##### **Reasons for the Settlement**

The principal reason for the Settlement is the benefit to be provided to the Settlement Class now. This benefit must be compared to the risk that no recovery might be achieved after a contested trial and likely appeals, possibly years into the future.

##### **Statement of Attorneys' Fees and Expenses Sought**

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<sup>1</sup> All capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings provided in the Stipulation of Settlement, which, along with other important documents, is available on the Settlement website, [www.oclarosecuritieslitigation.com](http://www.oclarosecuritieslitigation.com).

Lead Counsel have not received any payment for their services in conducting this Litigation on behalf of the Settlement Class, nor have they been paid for their litigation expenses. If the Settlement is approved by the Court, Lead Counsel will apply to the Court for an award of attorneys' fees not to exceed one-third of the Settlement Fund, plus expenses not to exceed \$400,000 in connection with the Litigation. Since the Litigation's inception in June of 2018, Lead Counsel have expended a considerable amount of time and effort in the prosecution of this Litigation on a contingent fee basis and advanced the expenses of the Litigation in the expectation that if they were successful in obtaining a recovery for the Class they would be paid from such recovery. In this type of litigation, it is customary for counsel to be awarded a percentage of the common fund recovery as their attorneys' fees. In addition, Lead Plaintiff has expended time and resources in this Litigation. Accordingly, and as part of Lead Counsel's application for an award of fees and expenses, Lead Plaintiff may seek up to \$5,000 in accordance with 15 U.S.C. §78u-4(a)(4) for his time and expenses in connection with his representation of the Class. The requested fee amount is approximately \$0.03 per damaged share, but the average cost per damaged share will vary depending on the number of valid and timely Proofs of Claim submitted.

## BASIC INFORMATION

### 1. Why did I get this Notice package?

You or someone in your family may have held Oclaro common stock during the time period from and including May 15, 2018 and through and including December 10, 2018 ("Settlement Class Period").

The Court directed that this Notice be sent to Settlement Class Members because they have a right to know about the proposed Settlement of this class action lawsuit, and about all of their options, before the Court decides whether to approve the Settlement.

This Notice explains the class action lawsuit, the Settlement, Settlement Class Members' legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the Litigation is the United States District Court for the Northern District of California, and the case is known as *Karri v. Oclaro, Inc., et al*, Case No. 3:18-cv-03435. The case has been assigned to the Honorable James Donato. Saisravan Bharadwaj Karri has been appointed by the Court as lead plaintiff (referred to as "Lead Plaintiff" in this Notice), and the parties who were sued and who have now settled are called the "Defendants."

### 2. What is this lawsuit about?

On March 11, 2018 Oclaro, Lumentum, Prota Merger Sub, Inc., a wholly owned subsidiary of Lumentum ("Merger Sub"), and Prota Merger, LLC, a wholly owned subsidiary of Lumentum ("Merger Sub LLC"), entered into an Agreement and Plan of Merger (the "Merger Agreement"), pursuant to which Lumentum would acquire Oclaro in a two-step merger transaction (the "Merger"). On March 12, 2018, Oclaro and Lumentum issued a joint press release announcing the execution of the Merger Agreement.

On June 1, 2018, Oclaro filed a Schedule 14A Definitive Proxy Statement ("Proxy") with the U.S. Securities and Exchange Commission (the "SEC").

Plaintiff commenced this action on June 9, 2018, with the filing of a Class Action Complaint.

On July 10, 2018, Oclaro stockholders voted to approve the Merger, and on December 10, 2018, the Merger was completed.

Subsequently, Plaintiff moved for appointment as lead plaintiff pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA"), 15 U.S.C. § 78u-4(a)(3)(B), and sought approval of his selection of Monteverde & Associates, PC as Lead Counsel. On January 15, 2019, the Court granted Plaintiff's appointment as lead plaintiff, and approval of his selection of lead counsel.



On April 15, 2019, Lead Plaintiff filed an Amended Class Action Complaint (the “Amended Complaint”). In response, Defendants filed a Motion to Dismiss on June 20, 2019. Lead Plaintiff responded with his Opposition to Defendants’ Motion to Dismiss on July 29, 2019. Defendants filed a Reply in Support of the Motion to Dismiss on August 28, 2019. The Court held a hearing regarding the Motion to Dismiss on December 5, 2019.

On October 8, 2020, the Court issued an Order granting in part and denying in part Defendants’ Motion to Dismiss. Defendants filed their Answer to the Amended Complaint on December 1, 2020. On December 23, 2020, Defendants filed a Motion for Reconsideration of the Court’s October 8 Order granting in part and denying in part Defendants’ Motion to Dismiss, which was denied thereafter by Order of the Court dated January 29, 2021.

The parties entered into a Stipulated Protective Order (“Protective Order”) governing the exchange of confidential discovery materials, which the Court entered on January 4, 2021, and the parties proceeded to negotiate discovery parameters. Thereafter, voluminous document discovery ensued and after substantial production the parties engaged in preliminary settlement discussions.

On August 3, 2021 the parties attended a mediation with Mediator Michelle M. Yoshida, Esq. of Phillips ADR Enterprises. After a full-day mediation the parties were not able to reach a settlement.

On September 17, 2021, Plaintiff filed a Second Amended Complaint (“SAC”) including information designated confidential under the Protective Order. Defendants filed a Motion to Stay Discovery pending disposition of forthcoming motions to dismiss the SAC on September 24, 2021. On October 8, 2021, Lead Plaintiff filed an Opposition to Defendants’ Motion to Stay Discovery.

Defendants filed their Motions to Dismiss the SAC on October 25, 2021. By Order dated November 2, 2021, the Court granted Defendants’ Motion to Stay Discovery, staying further discovery pending the Court’s ruling on the Motions to Dismiss the SAC. Plaintiff filed an Opposition to Defendants’ Motions to Dismiss the SAC on November 24, 2021. On January 11, 2022, the Court issued an Order striking the SAC as untimely, terminating Defendants’ Motions to Dismiss the SAC as moot, ordering that the case proceed on the claims sustained in the Amended Complaint, and lifting the stay of discovery. Following the Court’s January 11 ruling, discovery resumed in the Litigation.

On February 18, 2022, Oclaro filed a Motion for Judgment on the Pleadings under Fed. R. Civ. P. 12(c), to which Lead Plaintiff filed a response in opposition on March 4, 2022. The motion was denied by the Court by Order dated April 15, 2022.

During the course of the litigation, the parties engaged in extensive discovery including the production of more than 400,000 pages of documents from Defendants and third parties. Thereafter, the parties conducted 11 fact witness depositions. Plaintiff also obtained an affidavit from Ford Tamer, CEO of Inphi, a bidder in the sales process referred to as Company D in the Proxy. Moreover, Plaintiff prepared and mailed surveys to approximately 2,000 potential class members regarding the importance of the facts at issue in the case to the average reasonable investor.

In addition, the parties engaged their respective experts. Lead Plaintiff retained William Jeffers, CFA of The Griffing Group and Prof. Stephen J. Lubben, and Defendants engaged Prof. Steven Davidoff Solomon, Prof. Andrea Eisfeldt and Prof. Wayne D. Hoyer. Each of the five experts were deposed.

On August 16, 2022, Lead Plaintiff filed a Motion for Class Certification. Defendants filed their response in opposition on August 30, 2022, and a hearing before the Court was scheduled for November 17, 2022. On November 14, 2022, at the request of the parties, the hearing was rescheduled for February 16, 2023 to allow the parties to focus on settlement efforts.

On January 10, 2023, the parties attended a second full-day mediation with Mediator Yoshida. After a nearly 14-hour mediation session, the parties reached a settlement agreement in principle, subject to Court approval.

Each of the Defendants have denied and continue to deny any wrongdoing by or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Litigation.

Defendants expressly deny that Lead Plaintiff has asserted any valid claims as to any of them, and expressly deny any and all allegations of fault, liability, wrongdoing, or damages whatsoever and maintain that their conduct was at all times proper and in compliance with all applicable provisions of law. In addition, Defendants maintain that they have meritorious defenses to all claims alleged in the Litigation.

**3. Why is this a class action?**

In a class action, one or more people called a plaintiff sues on behalf of people who have similar claims. All of the people with similar claims are referred to as a class or class members. One court resolves the issues for all class members, except for those class members who exclude themselves from the class.

**4. Why is there a settlement?**

The Court has not decided in favor of or against the Defendants or the Settlement Class. Instead, both sides agreed to the Settlement to avoid the costs and risks of further litigation, including trial and post-trial appeals. Lead Plaintiff agreed to the Settlement because Lead Plaintiff (advised by Lead Counsel) considered the Settlement amount to be a favorable recovery compared to the risk-adjusted possibility of recovery after trial and any appeals, in light of Defendants' legal argument that the statements at issue were not actionable at all by the Settlement Class, and its factual arguments that Defendants believed the Company was complying with all applicable laws, and that the Settlement Class had not sustained any damages. Lead Plaintiff and Lead Counsel believe the Settlement is in the best interest of all Settlement Class Members in light of the real possibility that continued litigation could result in no recovery at all.

**WHO IS IN THE SETTLEMENT?**

To see if you will get money from this Settlement, you first must be a Settlement Class Member.

**5. How do I know if I am part of the Settlement?**

The Court directed that everyone who fits this description is a Settlement Class Member: all record and beneficial holders of common stock of Oclaro who held such stock during the period from and including May 15, 2018, the record date for voting on the Merger of Oclaro and Lumentum, through and including December 10, 2018, the date the Merger closed, including any and all of their respective predecessors, successors, trustees, executors, administrators, estates, legal representatives, heirs, assigns and transferees. Under the Plan of Allocation proposed by Plaintiff's Counsel and described below, only Settlement Class Members who were holders of record of Oclaro common stock at the close of business on May 15, 2018, and were thus holders of record entitled to vote on the Merger and held Oclaro shares through the close of the Merger on December 10, 2018, who submit a valid Proof of Claim to the Claims Administrator, may share in the recovery, pro rata with their stock holdings. Certain persons are excluded from the Settlement Class, as described below.

**6. Are there exceptions to being included?**

Excluded from the Settlement Class are (i) Defendants and members of their immediate families; (ii) the officers and directors of the Company and members of their immediate families; (iii) any entity in which Defendants have or had a controlling interest or are controlled by (including Lumentum and Merger Sub, LLC); (iv) the legal representatives, heirs, successors or assigns of each Defendant and each officer and director of the Company; and (v) any persons or entities who properly exclude themselves by filing a valid and timely request for exclusion.

**7. What if I am still not sure if I am included?**

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator toll-free at 1-866-742-4955, via email at [info@rg2claims.com](mailto:info@rg2claims.com) or visit the Settlement website [www.oclarosecuritieslitigation.com](http://www.oclarosecuritieslitigation.com), or you can fill out and return the Proof of Claim enclosed with this Notice package, to see if you qualify.

## THE SETTLEMENT BENEFITS – WHAT YOU GET

### 8. What does the Settlement provide?

In exchange for the Settlement and the release of the Released Claims (defined below) as well as dismissal of the Litigation, Defendants have agreed that a payment of \$15.25 million will be made by Defendants (or on their behalf) to be distributed, after taxes, fees, and expenses, among all Authorized Claimants.

### 9. How much will my payment be?

Pursuant to the Settlement described herein, the Settlement Amount is \$15,250,000.00. Under the Plan of Allocation proposed by Plaintiff's Counsel, only Settlement Class Members who were holders of record of Oclaro common stock at the close of business on May 15, 2018, and were thus holders of record entitled to vote on the Merger and held Oclaro shares through the close of the Merger on December 10, 2018, who submit a valid Proof of Claim to the Claims Administrator, may share in the recovery, pro rata with their stock holdings (the proposed "Plan of Allocation"). Your actual recovery will be a proportion of the Net Settlement Fund determined by your claim as compared to the total claims of all eligible Settlement Class Members who submit acceptable Proofs of Claim. You may receive more or less than the estimated average amount provided below depending on the number of claims submitted. Lead Plaintiff estimates that approximately 167.5 million shares of Oclaro common stock are in the Settlement Class. Assuming 100% of the shares in the Settlement Class submit a valid proof of claim the average distribution will be approximately \$0.09 per share, before payment of expenses of notice and administration of the Settlement, Taxes and Tax Expenses, and such attorneys' fees, and expenses (including time and expenses awarded by the Court to Lead Plaintiff) described in Question 17 below (estimated to be approximately \$0.03 per share), and interest as may be awarded by the Court (the "Net Settlement Fund"). Historically, fewer than all eligible investors submit claims, resulting in higher average distributions per share.

The Net Settlement Fund will be distributed to Settlement Class Members who submit valid, timely Proof of Claim forms ("Claimants") on a pro rata basis. However, no distributions will be made to Claimants who would otherwise receive a distribution of less than \$10.00.

Defendants expressly deny that any damages were suffered by Lead Plaintiff or the Settlement Class.

Payments shall be conclusive against all Claimants. No Person shall have any claim against Plaintiff's Counsel, Lead Counsel, Lead Plaintiff, the Claims Administrator, Defendants and Defendants' Released Persons, or any Person designated by Lead Counsel based on distributions made substantially in accordance with the Stipulation and the Settlement contained therein, or further order(s) of the Court. No Settlement Class Member shall have any claim against Defendants for any Released Claims. All Settlement Class Members who fail to complete and submit a valid and timely Proof of Claim shall be barred from participating in distributions from the Net Settlement Fund (unless otherwise ordered by the Court), but otherwise shall be bound by all of the terms of the Stipulation, including the terms of any judgment entered and the releases given.

## HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM

### 10. How can I receive a payment?

To qualify for a payment, you must submit a Proof of Claim. A Proof of Claim is enclosed with this Notice or it may be downloaded at [www.oclarosecuritieslitigation.com](http://www.oclarosecuritieslitigation.com). Read the instructions carefully, fill out the Proof of Claim, include all the documents the form asks for, sign it, and return it so that it is postmarked, if mailed, or received, if submitted online, no later than \_\_\_\_\_, 2023. Pursuant to its directions, The Proof of Claim may also be submitted online at [www.oclarosecuritieslitigation.com](http://www.oclarosecuritieslitigation.com).

### 11. When would I receive my payment?

The Court will hold a Final Approval Hearing on \_\_\_\_\_, 2023, to decide whether to approve the Settlement. Settlement Class Members should check the Settlement Class website or the Court's PACER site in advance of the

Final Approval Hearing to determine whether that hearing will occur in person or via a remote link, and whether the date has changed. The Final Approval Hearing date may change without further notice to the Class. If the Court approves the Settlement, there might be appeals. It is always uncertain how appeals would be resolved by the appellate court, and resolving them can take time, perhaps more than a year. It also takes time for all the Proofs of Claim to be processed. Please be patient.

<b>12. What am I giving up to receive a payment or to stay in the Settlement Class?</b>
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Unless you timely and validly exclude yourself, you are staying in the Settlement Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against Defendants' Released Persons about the Released Claims in this case. It also means that all of the Court's orders will apply to you and legally bind you and you will release your claims in this case against Defendants' Released Persons. The terms of the release are included in the enclosed Proof of Claim form and are also set forth below:

- "Defendants' Released Claims" means any and all claims, rights and causes of action, duties, obligations, demands, actions, debts, sums of money, suits, contracts, agreements, promises, damages and liabilities, whether known or unknown, contingent or non-contingent, or suspected or unsuspected, including any claims arising under federal or state statutory or common law or any other law, rule or regulation, whether foreign or domestic, that arise out of or relate in any way to the institution, prosecution, or settlement of the claims against the Defendants; provided, however, that it is understood that "Defendants' Released Claims" and any release provided by this Settlement shall not include: (a) any claims relating to the enforcement of the Settlement, or (b) any claims by Defendants or any other insured to enforce their rights under any contract or policy of insurance.
- "Released Claims" means any and all claims, rights and causes of action, duties, obligations, demands, actions, debts, sums of money, suits, contracts, agreements, promises, damages and liabilities, whether known or unknown, contingent or non-contingent, derivative or direct, or suspected or unsuspected, including any claims arising under federal or state statutory or common law or any other law, rule or regulation, whether foreign or domestic, that have been asserted, could have been asserted, or could be asserted in the future against Defendant Oclaro and the Individual Defendants, and any and all of their related parties, including, without limitation, any and all of their current or former parents, subsidiaries, predecessors, successors, divisions, investment funds, joint ventures and general or limited partnerships, and each of their respective current or former officers, directors, trustees, partners, members, contractors, auditors, principals, agents, managing agents, employees, attorneys, accountants, investment bankers, underwriters, insurers in their capacity as such, as well as each of the Individual Defendants' immediate family members, heirs, executors, personal or legal representatives, estates, beneficiaries, predecessors, successors and assigns (collectively, "Defendants' Released Persons"), that arise out of or relate in any way to: (i) the Action; (ii) the Merger; and (iii) the Preliminary and Definitive Proxy Statements issued by Oclaro in connection with the Merger (the "Proxy") or any other disclosures related to the Merger. Notwithstanding the aforementioned, the following claims are explicitly excluded: all claims (1) related to the enforcement of this Settlement; and (2) between Defendant or any of Defendants' Released Persons, on the one hand, and their respective insurers, on the other hand.
- "Unknown Claims" means (i) any of the Released Claims which Lead Plaintiff or any Settlement Class Member, or any of their agents or attorneys, does not know or suspect to exist in such Person's favor at the time of the release of the Released Claims, and (ii) any of the Defendants' Released Claims that the Defendants' Released Persons do not know or suspect to exist in his, her or its favor at the time of the release of the Defendants' Released Claims, which, in the case of both (i) and (ii), if known by such Person, might have affected such Person's decision with respect to this Settlement, including, without limitation, such Person's decision not to object to this Settlement or not to exclude himself, herself or itself from the Settlement Class. Unknown Claims include those Released Claims and Defendants' Released Claims in which some or all of the facts comprising the claim may be suspected, or even undisclosed or hidden. With respect to any and all Released Claims and Defendants' Released Claims, upon the Effective Date, Lead Plaintiff and Defendants shall expressly, and each of the Settlement Class Members and Defendants' Released Persons shall be deemed to have, and by operation of the Order and

Final Judgment shall have, expressly waived to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code § 1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Lead Plaintiff and Defendants shall expressly, and each of the Settlement Class Members and Defendants' Released Persons shall be deemed to have, and by operation of the Order and Final Judgment, shall have expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code § 1542. Lead Plaintiff, Settlement Class Members, and the Defendants' Released Persons may hereafter discover facts in addition to or different from those which such party now knows or believes to be true with respect to the subject matter of the Released Claims and Defendants' Released Claims, but Lead Plaintiff and Defendants shall expressly, and each Settlement Class Member and Defendants' Released Persons, upon the Effective Date, shall be deemed to have, and by operation of the Order and Final Judgment shall have fully, finally, and forever settled and released any and all Released Claims or Defendants' Released Claims, as the case may be, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts, whether or not previously or currently asserted in any action. Lead Plaintiff and Defendants acknowledge, and the Settlement Class Members and Defendants' Released Persons, shall be deemed by operation of the Order and Final Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

You may maintain your own lawsuit only if you exclude yourself from the Settlement.

#### **EXCLUDING YOURSELF FROM THE SETTLEMENT CLASS**

If you do not want a payment from this Settlement, and you want to keep the right to sue the Defendants and Defendants' Released Persons, on your own, about the legal issues in this Litigation, then you must take steps to remove yourself from the Settlement. This is called excluding yourself.

#### **13. How do I get out of the Proposed Settlement?**

To exclude yourself from the Settlement, you must send a letter by mail saying that you want to be excluded from the Settlement Class in *Karri v. Oclaro, Inc., et al*, Case No. 3:18-cv-03435-JD. You must provide the following information: (a) name; (b) address; (c) telephone number; (d) amount of Oclaro common stock held during the period from and including May 15, 2018 through and including December 10, 2018; and (e) a statement that you wish to be excluded from the Settlement Class. You must mail your exclusion request postmarked no later than \_\_\_\_\_ to:

*Oclaro, Inc. Securities Litigation*  
c/o RG/2 Claims Administration LLC  
P.O. Box 59479  
Philadelphia, PA 19102-9479

You cannot exclude yourself on the phone or by e-mail. If you ask to be excluded, you will not receive any settlement payment, and you may not object to the Settlement. You will not be legally bound by anything that happens in this Litigation.

**14. If I do not exclude myself, can I sue the Defendants and the other Defendants' Released Persons for the same thing later?**

No. Unless you exclude yourself, you give up any rights to sue the Defendants and the other Defendants' Released Persons for any and all Released Claims. If you have a pending lawsuit against the Defendants' Released Persons regarding any Released Claims, speak to your lawyer in that case immediately. You must exclude yourself from this Litigation to continue your own lawsuit. Remember, the exclusion deadline is \_\_\_\_\_, 2023.

**15. If I exclude myself, can I get money from the proposed Settlement?**

No. If you exclude yourself, you may not send in a Proof of Claim to ask for any money.

**THE LAWYERS REPRESENTING YOU**

**16. Do I have a lawyer in this case?**

Yes. The Court appointed Monteverde & Associates PC to lead the litigation, which the Lead Plaintiff brought on behalf of himself and all other Settlement Class Members. These lawyers are called Lead Counsel. You will not be charged directly for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**17. How will the lawyers be paid?**

This Action has been pending since 2018. Lead Counsel have not been paid for their services on behalf of Lead Plaintiff and the Settlement Class, nor for their substantial expenses. The fee requested is to compensate Lead Counsel for their work investigating the facts, litigating the case from inception in 2018 and negotiating the Settlement.

Lead Counsel will request the Court to award attorneys' fees not to exceed one-third of the Settlement Amount, plus expenses not to exceed \$400,000 in connection with the Litigation, plus interest on such fees and expenses at the same rate as earned by the Settlement Fund. Such sums as may be approved by the Court will be paid from the Settlement Fund.

**OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with the Settlement or any part of it.

**18. How do I tell the Court that I object to the proposed Settlement?**

You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no Settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number (*Karri v. Oclaro, Inc., et al*, Case No. 3:18-cv-03435-JD), (b) include your name, address, telephone number, and your signature, (c) identify the date(s), price(s), and number(s) of shares of Oclaro common stock you held during the Settlement Class Period, and state the reasons why you object, and (d) you must also include copies of documents demonstrating such holding(s). Your objection and supporting papers must be submitted to the Court either by filing them electronically or in person at any location of the United States District Court for the Northern District of California on or before [INSERT DATE] or by mailing them, postmarked on or before [INSERT DATE], to the following address:

Class Action Clerk  
United States District Court  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102

**19. What is the difference between objecting and excluding myself?**

Objecting is simply telling the Court that you do not like something about the proposed Settlement, the Plan of Allocation, the award of fees and expenses to Lead Counsel, or any award to Lead Plaintiff. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class.

**THE COURT'S SETTLEMENT HEARING**

The Court will hold a hearing to decide whether to approve the proposed Settlement. You may attend and you may ask to speak, but you do not have to.

**20. When and where will the Court decide whether to approve the proposed Settlement?**

The Court will hold a Final Approval Hearing at \_\_\_\_ : \_\_\_\_ .m., on \_\_\_\_ day, \_\_\_\_\_, 2023. Settlement Class Members should check the Settlement Class website in advance of the Final Approval Hearing to determine whether that hearing will occur in person at the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA, 94102 or via a remote link. At the hearing the Court will consider whether the Settlement and proposed Plan of Allocation are fair, reasonable, and adequate, the final certification of the Settlement Class, Lead Plaintiff, and Lead Counsel, and whether the award of fees and expenses to Lead Counsel, or any award to Lead Plaintiff should be granted. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. After the Final Approval Hearing, the Court will decide whether to approve the Settlement, the Plan of Allocation, the award of fees and expenses to Lead Counsel, and any award to Lead Plaintiff. We do not know how long these decisions will take. The Court may change the date and time of the Final Approval Hearing without another notice being sent to Settlement Members. If you want to attend the hearing, you may wish to check beforehand with Lead Counsel, the Settlement website or the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov> to be sure that the date and/or time has not changed.

**21. Do I have to come to the hearing?**

No. Lead Counsel will answer questions the Court may have. But, you are welcome to come at your own expense. If you send an objection or statement in support of the Settlement, you are not required to come to Court to discuss it. As long as you filed or mailed your objection on time, the Court will consider it. You may also pay your own lawyer to attend, but you are not required to do so. Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.

**22. May I speak at the hearing?**

If you object to the Settlement, the Plan of Allocation, the award of fees and expenses to Lead Counsel, or any award to Lead Plaintiff, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your objection (see Question 18 above) a statement saying that it is your "Notice of Intention to Appear in the *Oclaro Securities Litigation*." Persons who intend to object to the Settlement, the Plan of Allocation, and/or any attorneys' fees and expenses to be awarded to Lead Counsel (including any award to Lead Plaintiff for his

representation of the Settlement Class) and desire to present evidence at the Final Approval Hearing must include in their written objections the identity of any witnesses they may call to testify and exhibits they intend to introduce into evidence at the Final Approval Hearing.

You cannot speak at the hearing if you exclude yourself.

#### **IF YOU DO NOTHING**

##### **23. What happens if I do nothing at all?**

If you do nothing, you will get no money from this Settlement. But, unless you exclude yourself, you will not be able to start a lawsuit or be part of any other lawsuit against the Defendants or any other Defendants' Released Persons about the issues raised in this case ever again.

#### **GETTING MORE INFORMATION**

##### **24. Are there more details about the proposed Settlement?**

This Notice summarizes the proposed Settlement. For the precise terms of the Settlement, please see the Stipulation available at [www.ocularsecuritieslitigation.com](http://www.ocularsecuritieslitigation.com), contact the Claims Administrator toll-free at 1-866-742-4955 or [info@rg2claims.com](mailto:info@rg2claims.com), or contact Lead Counsel: Juan E. Monteverde, Monteverde & Associates PC, The Empire State Building, 350 Fifth Avenue, Suite 4405, New York, New York 10118, Tel.: (212) 971-1341, [www.monteverdelaw.com](http://www.monteverdelaw.com). You may also access the Court's docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

##### **25. Whom should I contact if I have questions?**

For more information, you can visit [www.ocularsecuritieslitigation.com](http://www.ocularsecuritieslitigation.com) or call toll-free 1-866-742-4955. You can also contact the attorneys for Lead Plaintiff, listed below:

Juan E. Monteverde  
Monteverde & Associates PC  
The Empire State Building  
350 5th Ave, Suite 4405  
New York, NY 10118  
[jmonteverde@monteverdelaw.com](mailto:jmonteverde@monteverdelaw.com)  
(212) 971-1341

#### **PLAN OF ALLOCATION OF NET SETTLEMENT FUND AMONG SETTLEMENT CLASS MEMBERS**

Plaintiff's Counsel have proposed a Plan of Allocation described below in Question 26, which will be submitted for the Court's approval. The Net Settlement Fund (the Settlement Amount plus interest less taxes, tax expenses, Notice and Administration Costs, attorneys' fees and expenses, and Lead Plaintiff's time and expense payment) will be distributed to Settlement Class Members who, in accordance with the terms of the Stipulation, are entitled to a distribution from the Net Settlement Fund pursuant to any plan of allocation or any order of the Court and who submit a valid and timely Proof of Claim under the Plan of Allocation described below.

##### **26. How will by claim be calculated?**



As stated above, the Settlement Amount is \$15,250,000. Under the Plan of Allocation proposed by Plaintiff's Counsel, only Settlement Class Members who were holders of record of Oclaro common stock at the close of business on May 15, 2018, and were thus holders of record entitled to vote on the Merger and held Oclaro shares through the close of the Merger on December 10, 2018, who submit a valid Proof of Claim to the Claims Administrator, may share in the recovery, pro rata with their stock holdings. Your actual recovery will be a proportion of the Net Settlement Fund determined by your claim as compared to the total claims of all eligible Settlement Class Members who submit acceptable Proofs of Claim. You may receive more or less than the estimated average amount provided below depending on the number of claims submitted. The Court may approve this proposed Plan of Allocation, or modify it, without additional notice to the Class. Any order modifying the Plan of Allocation will be posted on the Settlement website, [www.oclarosecuritieslitigation.com](http://www.oclarosecuritieslitigation.com).

At the record date for the Merger, May 15, 2018, 170,656,367 shares of Oclaro common stock were outstanding and entitled to vote. Directors and officers of Oclaro owned 3,199,706 of those shares, leaving the Settlement Class with 167,456,661 shares at the time of the Merger. Assuming that all of the shares outstanding at the time of the Merger participate in this Settlement, Lead Plaintiff's counsel estimates that the average distribution will be approximately \$0.09 per share of Oclaro common stock before the deduction of Court-approved fees and expenses, as described in Question 17 above (estimated to be approximately \$0.03 per share), and the cost of notice and claims administration. Historically, less than all eligible investors submit claims, resulting in higher average distributions per share. The Net Settlement Fund will be distributed to Settlement Class Members who submit valid, timely Proof of Claim forms ("Claimants") on a pro rata basis. However, no distributions will be made to Claimants who would otherwise receive a distribution of less than \$10.00.

Payments shall be conclusive against all Authorized Claimants. No Person shall have any claim against Lead Counsel, Lead Plaintiff, the Claims Administrator, Defendants' Released Persons, or any Person designated by Lead Counsel based on distributions made substantially in accordance with the Stipulation and the Settlement contained therein, or further order(s) of the Court. No Settlement Class Member shall have any claim against Defendants' Released Persons for any Released Claims. All Settlement Class Members who fail to complete and submit a valid and timely Proof of Claim shall be barred from participating in distributions from the Net Settlement Fund (unless otherwise ordered by the Court), but otherwise shall be bound by all of the terms of the Stipulation, including the terms of any judgment entered and the releases given.

**SPECIAL NOTICE TO NOMINEES**

The Court has ordered that if you held any Oclaro common stock at any point in time from May 15, 2018, through December 10, 2018, as nominee for a beneficial owner, then, within fifteen (15) calendar days after you receive this Notice, you must either: (1) send a copy of this Notice by first class mail to all such Persons; or (2) provide a list of the names and addresses of such Persons to the Claims Administrator:

*Oclaro, Inc. Securities Litigation*  
c/o RG/2 Claims Administration LLC  
P.O. Box 59479  
Philadelphia, PA 19102-9479

If you choose to mail the Notice and Proof of Claim and Release yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for or advancement of reasonable administrative costs actually incurred or expected to be incurred in connection with forwarding the Notice and which would not have been incurred but for the obligation to forward the Notice, upon submission of appropriate documentation to the Claims Administrator.

**DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE**

DATED: \_\_\_\_\_

BY ORDER OF THE COURT

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

# **EXHIBIT A-2**

**Deleted & Replaced With  
Revised Exhibit A-2 to  
Addendum to Stipulation  
of Settlement**

# **EXHIBIT A-3**

David E. Bower (SBN 119546)  
**MONTEVERDE & ASSOCIATES PC**  
600 Corporate Pointe, Suite 1170  
Culver City, CA 90230  
Tel: (213) 446-6652  
Fax: (212) 202-7880

*Counsel for Lead Plaintiff and  
Lead Counsel for the Putative Class*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

SAISRAVAN BHARADWAJ KARRI,  
Individually and on Behalf of All Others  
Similarly Situated,

Plaintiff,

v.

OCLARO, INC., MARISSA PETERSON,  
EDWARD COLLINS, GREG  
DOUGHERTY, KENDALL COWAN,  
DENISE HAYLOR, IAN SMALL, BILL  
SMITH, and JOEL A. SMITH III,

Defendants.

Case No. 3:18-cv-03435-JD

Hon. James Donato

CLASS ACTION

**SUMMARY NOTICE**

EXHIBIT A-3

**TO: ALL RECORD AND BENEFICIAL HOLDERS OF COMMON STOCK OF OCLARO, INC. (“OCLARO” OR THE “COMPANY”) WHO HELD SUCH STOCK DURING THE PERIOD FROM AND INCLUDING MAY 15, 2018, THE RECORD DATE FOR VOTING ON THE MERGER OF OCLARO AND LUMENTUM HOLDINGS INC. (“LUMENTUM”), THROUGH AND INCLUDING DECEMBER 10, 2018, THE DATE THE MERGER CLOSED, INCLUDING ANY AND ALL OF THEIR RESPECTIVE PREDECESSORS, SUCCESSORS, TRUSTEES, EXECUTORS, ADMINISTRATORS, ESTATES, LEGAL REPRESENTATIVES, HEIRS, ASSIGNS AND TRANSFEREES (THE “SETTLEMENT CLASS”)**

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the United States District Court for the Northern District of California, that a hearing will be held on \_\_\_\_\_, 2023, at \_\_\_:\_\_\_ \_\_.m., before the Honorable James Donato. Settlement Class Members should check the Settlement Class website in advance of the Final Approval Hearing to determine whether that hearing will occur in person at the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102 or via a remote link. The hearing will be held for the purpose of determining: (1) whether the proposed Settlement of the Litigation for \$15.25 million should be approved by the Court as fair, reasonable, and adequate; (2) whether a Final Judgment and Order of Dismissal with Prejudice should be entered by the Court dismissing the Litigation with prejudice and releasing the Released Claims against Defendants and Defendants’ Released Persons; (3) whether final certification of the Settlement Class should be granted; (4) whether the Plan of Allocation for the Net Settlement Fund is fair, reasonable, and adequate and should be approved; and (5) whether the application of Lead Counsel for the payment of attorneys’ fees and expenses, and any service award to Lead Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4) should be approved.

IF YOU HELD OCLARO COMMON STOCK DURING THE PERIOD FROM AND INCLUDING MAY 15, 2018, THROUGH AND INCLUDING DECEMBER 10, 2018 (THE “SETTLEMENT CLASS PERIOD”), YOUR RIGHTS MAY BE AFFECTED BY THE SETTLEMENT OF THIS LITIGATION, INCLUDING THE RELEASE AND EXTINGUISHMENT OF CLAIMS YOU MAY POSSESS RELATING TO YOUR

1  
2  
3 HOLDING(S) OF OCLARO COMMON STOCK DURING THE SETTLEMENT CLASS  
4 PERIOD. If you have not received a detailed Notice of Pendency and Proposed Settlement of  
5 Class Action (“Notice”) and a copy of the Proof of Claim and Release form, you may obtain copies  
6 by writing to Oclaro, Inc. Securities Litigation, RG/2 Claims Administration LLC, P.O. Box  
7 59479, Philadelphia, PA 19102-9479, or info@rg2claims.com, by telephone at 1-866-742-4955,  
8 or on the Internet at www.oclarosecuritieslitigation.com. If you are a Settlement Class Member,  
9 in order to share in the distribution of the Net Settlement Fund, you must submit a Proof of Claim  
10 and Release by mail, *postmarked no later than* \_\_\_\_\_, **2023**, or online at  
11 www.oclarosecuritieslitigation.com *no later than* \_\_\_\_\_, **2023**, establishing that you are  
entitled to recovery.

12 If you held Oclaro common stock during the Settlement Class Period and you desire to be  
13 excluded from the Settlement Class, you must submit a request for exclusion so that it is  
14 *postmarked no later than* \_\_\_\_\_, in the manner and form explained in the detailed Notice  
15 referred to above. All Members of the Settlement Class who do not timely and validly request  
16 exclusion from the Settlement Class will be bound by any judgment entered in the Litigation  
pursuant to the Stipulation of Settlement.

17 Objections to the Settlement, the Plan of Allocation, Lead Counsel’s request for the  
18 payment of attorneys’ fees and expenses, and any award to Lead Plaintiff must be submitted to the  
19 Court either by filing them electronically or in person at any location of the United States District  
20 Court for the Northern District of California on or before \_\_\_\_\_ or by mailing them to the  
21 Court, postmarked no later than \_\_\_\_\_ to the following address:

22 Class Action Clerk  
23 United States District Court  
24 Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102

1  
2  
3 **PLEASE DO NOT CONTACT THE COURT OR THE COURT’S CLERK’S OFFICE**  
4 **REGARDING THIS NOTICE.** If you have any questions about the Settlement, you may  
5 contact Lead Counsel at the address listed below:

6 *Lead Counsel:*

7 Monteverde & Associates PC  
8 Juan E. Monteverde  
9 The Empire State Building  
10 350 Fifth Avenue, Suite 4405  
11 New York, New York 10118  
12 jmonteverde@monteverdelaw.com  
13 (212) 971-1341

14 Dated: \_\_\_\_\_

15 BY ORDER OF THE COURT  
16 UNITED STATES DISTRICT COURT  
17 NORTHERN DISTRICT OF CALIFORNIA



# **EXHIBIT B**

1 David E. Bower (SBN 119546)  
2 **MONTEVERDE & ASSOCIATES PC**  
3 600 Corporate Pointe, Suite 1170  
4 Culver City, CA 90230  
5 Tel: (213) 446-6652  
6 dbower@monteverdelaw.com

7 *Counsel for Lead Plaintiff and*  
8 *Lead Counsel for the Putative Class*

9  
10  
11 **UNITED STATES DISTRICT COURT**  
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
13 **SAN FRANCISCO DIVISION**

14 SAISRAVAN BHARADWAJ KARRI,  
15 Individually and on Behalf of All Others  
16 Similarly Situated,

17 Plaintiff,

18 v.

19 OCLARO, INC., MARISSA PETERSON,  
20 EDWARD COLLINS, GREG  
21 DOUGHERTY, KENDALL COWAN,  
22 DENISE HAYLOR, IAN SMALL, BILL  
23 SMITH, and JOEL A. SMITH III,

24 Defendants.

Case No. 3:18-cv-03435-JD

Hon. James Donato

CLASS ACTION

25  
26  
27  
28 **[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE**

1 This matter came before the Court for hearing pursuant to the Order Preliminarily  
2 Approving Settlement and Providing for Notice (“Preliminary Approval Order”) dated  
3 \_\_\_\_\_, 2023, on the application of the Settling Parties for approval of the Settlement set  
4 forth in the Stipulation of Settlement dated March 16, 2023 (the “Stipulation”).

5 WHEREAS, this Order of Dismissal is “with prejudice”;

6 WHEREAS, due and adequate notice having been given to the Settlement Class as required  
7 in the Preliminary Approval Order;

8 WHEREAS, the Court conducted a hearing on \_\_\_\_\_, 2023, to consider, among  
9 other things, (i) whether the terms and conditions of the Settlement are fair, reasonable and  
10 adequate and should therefore be approved; and (ii) whether a judgment should be entered  
11 dismissing the Litigation with prejudice as against the Defendants;

12 WHEREAS, the Court having considered all papers filed and proceedings herein and  
13 otherwise being fully informed in the premises and good cause appearing therefore, IT IS  
14 HEREBY ORDERED, ADJUDGED, AND DECREED that:

15 1. This Final Judgment and Order of Dismissal with Prejudice (“Order and Final  
16 Judgment” or “Judgment”) incorporates by reference the definitions in the Stipulation, and all  
17 terms used herein shall have the same meanings as set forth in the Stipulation, unless otherwise set  
18 forth herein.

19 2. This Court has jurisdiction over the subject matter of the Litigation and over all  
20 Settling Parties to the Litigation, including all Settlement Class Members.

21 3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby  
22 affirms its determinations in the Preliminary Approval Order and finally certifies for purposes of  
23 settlement only: (i) a Settlement Class defined as all record and beneficial holders of common  
24 stock of Oclaro who held such stock during the period from and including May 15, 2018, the record  
25 date for voting on the Merger of Oclaro and Lumentum, through and including December 10,  
26 2018, the date the Merger closed, including any and all of their respective predecessors, successors,  
27 trustees, executors, administrators, estates, legal representatives, heirs, assigns and transferees; (ii)

1 Monteverde & Associates PC is certified as Lead Counsel; and (iii) Lead Plaintiff is certified as  
2 the class representative. Excluded from the Settlement Class are (i) Defendants and members of  
3 their immediate families; (ii) the officers and directors of the Company and members of their  
4 immediate families; (iii) any entity in which Defendants have or had a controlling interest or are  
5 controlled by (including Lumentum and Merger Sub, LLC); (iv) the legal representatives, heirs,  
6 successors or assigns of each Defendant and each officer and director of the Company; and (v) any  
7 persons or entities who properly exclude themselves through a valid and timely request for  
8 exclusion.

9         4. For purposes of settlement only, the Court hereby affirms its determinations in the  
10 Preliminary Approval Order and finds that the prerequisites for a class action under Rules 23(a)  
11 and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) Settlement Class  
12 Members are so numerous that joinder of all Settlement Class Members in the class action is  
13 impracticable; (b) there are questions of law and fact common to the Settlement Class which  
14 predominate over any individual question; (c) the claims of the Lead Plaintiff are typical of the  
15 claims of the Settlement Class; (d) Lead Plaintiff and his counsel have fairly and adequately  
16 represented and protected the interests of the Settlement Class Members; and (e) a class action is  
17 superior to other available methods for the fair and efficient adjudication of the controversy,  
18 considering: (i) the interests of the Settlement Class Members in individually controlling the  
19 prosecution of the separate actions, (ii) the extent and nature of any litigation concerning the  
20 controversy already commenced by Settlement Class Members, (iii) the desirability or  
21 undesirability of concentrating the litigation of these claims in this particular forum, and (iv) the  
22 difficulties likely to be encountered in the management of the class action.

23         5. Pursuant to Federal Rule of Civil Procedure 23, this Court hereby approves the  
24 Settlement set forth in the Stipulation and finds that said Settlement is, in all respects, fair,  
25 reasonable, and adequate to the Settlement Class.

26         6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court finds that  
27 the Settlement is fair, reasonable, and adequate as to each of the Settling Parties, and that the  
28

1 Settlement set forth in the Stipulation is hereby finally approved in all respects, and the Settling  
2 Parties are hereby directed to perform its terms.

3           7.       Accordingly, the Court authorizes and directs implementation of the terms and  
4 provisions of the Stipulation, as well as the terms and provisions hereof. The Court hereby  
5 dismisses with prejudice and without costs, the Litigation and all claims contained therein and the  
6 Released Claims, defined as any and all claims, rights and causes of action, duties, obligations,  
7 demands, actions, debts, sums of money, suits, contracts, agreements, promises, damages and  
8 liabilities, whether known or unknown, contingent or non-contingent, derivative or direct, or  
9 suspected or unsuspected, including any claims arising under federal or state statutory or common  
10 law or any other law, rule or regulation, whether foreign or domestic, that have been asserted,  
11 could have been asserted, or could be asserted in the future against Defendant Oclaro and the  
12 Individual Defendants (consisting of Marissa Peterson, Edward Collins, Greg Dougherty, Kendall  
13 Cowan, Denise Haylor, Ian Small, Bill Smith and Joel A. Smith) (all defendants referenced above  
14 are collectively referred to herein as “Defendants”), and any and all of their related parties,  
15 including, without limitation, any and all of their current or former parents, subsidiaries,  
16 predecessors, successors, divisions, investment funds, joint ventures and general or limited  
17 partnerships, and each of their respective current or former officers, directors, trustees, partners,  
18 members, contractors, auditors, principals, agents, managing agents, employees, attorneys,  
19 accountants, investment bankers, underwriters, insurers in their capacity as such, as well as each  
20 of the Individual Defendants’ immediate family members, heirs, executors, personal or legal  
21 representatives, estates, beneficiaries, predecessors, successors and assigns (collectively,  
22 “Defendants’ Released Persons”), that arise out of or relate in any way to: (i) the Action; (ii) the  
23 Merger; and (iii) the Preliminary and Definitive Proxy Statements issued by Oclaro in connection  
24 with the Merger (the “Proxy”) or any other disclosures related to the Merger. Notwithstanding the  
25 aforementioned, the following claims are explicitly excluded: all claims (1) related to the  
26 enforcement of this Settlement; and (2) between Defendants or any of Defendants’ Released  
27 Persons, on the one hand, and their respective insurers, on the other hand.

1           8.       Upon the Effective Date hereof, and as provided in the Stipulation, without further  
2 action by anyone, Lead Plaintiff, on behalf of himself and all Settlement Class Members, in his, her  
3 or its capacity as a holder of Oclaro stock, and anyone claiming through or on behalf of any of them,  
4 shall be deemed to have, and by operation of this Order and Final Judgment, shall have, fully, finally,  
5 and forever resolved, discharged, relinquished, released, waived, settled, and dismissed with prejudice  
6 any and all of the Released Claims (including, without limitation, Unknown Claims) against  
7 Defendants and each and all of Defendants' Released Persons, regardless of whether a Settlement  
8 Class Member executes and delivers a Proof of Claim and Release, except that claims relating to the  
9 enforcement of the Settlement shall not be released.

10           9.       Upon the Effective Date hereof, and as provided in the Stipulation, without further  
11 action by anyone, Defendants shall be deemed to have, and by operation of this Order and Final  
12 Judgment shall have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiff,  
13 each and all of the Settlement Class Members, and Plaintiff's Counsel from all Defendants' Released  
14 Claims (including, without limitation, Unknown Claims), and shall forever be enjoined from  
15 prosecuting such claims.

16           10.      Upon the Effective Date hereof, and as provided in the Stipulation, without further  
17 action by anyone, Lead Plaintiff, on behalf of himself and all Settlement Class Members, in his, her  
18 or its capacity as a holder of Oclaro stock, and anyone claiming through or on behalf of any of them,  
19 shall be forever barred and enjoined from commencing, instituting, asserting, maintaining, enforcing,  
20 aiding, prosecuting, or continuing to prosecute any action or proceeding in any forum (including, but  
21 not limited to, any state or federal court of law or equity, any arbitral forum, any tribunal,  
22 administrative forum, or the court of any foreign jurisdiction, or any other forum of any kind), any  
23 and all of the Released Claims (including, without limitation, Unknown Claims), against Defendants  
24 and each and all of Defendants' Released Persons, regardless of whether such Settlement Class  
25 Member executes and delivers a Proof of Claim and Release, except that claims relating to the  
26 enforcement of the Settlement shall not be released.

1           11.     Upon the Effective Date hereof, and as provided in the Stipulation, without further  
2 action by anyone, Lead Plaintiff, on behalf of himself and each and every Settlement Class  
3 Member, in his, her or its capacity as a holder of Oclaro stock, and anyone claiming through or on  
4 behalf of any of them, shall covenant or be deemed to have covenanted not to sue any of  
5 Defendants and Defendants' Released Persons with respect to any and all Released Claims  
6 (including, without limitation, Unknown Claims).

7           12.     In accordance with the PSLRA as codified at 15 U.S.C. § 78u-4(f)(7)(A), (a) all  
8 obligations to any Settlement Class Member of any Defendant or Defendants' Released Person  
9 arising out of the Litigation are discharged, and (b) any and all claims for contribution arising out  
10 of the Litigation or any of the Released Claims (i) by any person or entity against any of the  
11 Defendants' Released Persons, and (ii) by any of the Defendants' Released Persons against any  
12 person or entity, other than as set out in 15 U.S.C. § 78u-4(f)(7)(A)(ii), are hereby permanently  
13 barred, extinguished, discharged, satisfied and unenforceable.

14           13.     The terms of the Stipulation and of this Order and Final Judgment shall be forever  
15 binding on Lead Plaintiff, all other Settlement Class Members (regardless of whether or not any  
16 individual Settlement Class Member submits a Proof of Claim and Release or seeks or obtains a  
17 distribution from the Net Settlement Fund), and Defendants, as well as their respective, heirs,  
18 executors, administrators, predecessors, successors, and assigns.

19           14.     The Escrow Agent shall maintain the Settlement Fund in accordance with the  
20 requirements set forth in the Stipulation. Defendants and Defendants' Released Persons shall have  
21 no liability, obligation, or responsibility whatsoever for the administration of the Settlement or  
22 disbursement of the Net Settlement Fund.

23           15.     The Notice of Pendency and Proposed Settlement of Class Action given to the  
24 Settlement Class (a) was implemented in accordance with the Preliminary Approval Order entered  
25 on \_\_\_\_\_, 2023 (b) was the best notice practicable under the circumstances, to all Persons  
26 entitled to such notice, of those proceedings and of the matters set forth therein, including the  
27 proposed Settlement set forth in the Stipulation, (c) was reasonably calculated under the  
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1 circumstances to apprise Settlement Class Members of (i) the pendency of the Litigation: (ii) the  
2 effect of the proposed Settlement (including the releases contained therein); and (iii) their right to  
3 object to any aspect of the proposed Settlement, exclude themselves from the Settlement Class,  
4 and/or appear at the Final Approval Hearing; (d) was reasonable and constituted due, adequate,  
5 and sufficient notice to all persons and entities entitled to receive notice of the proposed  
6 Settlement; and (e) fully satisfied the requirements of Federal Rule of Civil Procedure 23, the  
7 requirements of due process, the requirements of the PSLRA, and all other applicable law and  
8 rules. Further, it is determined that all members of the Settlement Class are bound by the Judgment  
9 herein. Defendants served on the United States Attorney General and all State Attorneys General  
10 the notice of the proposed Settlement, pursuant to the Class Action Fairness Act, U.S.C. §§ 1711  
11 *et seq.* (“CAFA”). The form and manner of that CAFA notice is hereby determined to be in full  
12 compliance with CAFA.

13         16. Separate orders shall be entered regarding the proposed Plan of Allocation and Lead  
14 Counsel’s motion for attorneys’ fees and expenses as allowed by the Court. Any plan of allocation  
15 submitted by Lead Counsel or any order entered regarding any attorneys’ fee and expense  
16 application shall in no way disturb or affect this Judgment and shall be considered separate from  
17 this Judgment.

18         17. Neither this Order and Final Judgment, the Stipulation, the Supplemental  
19 Agreement, nor any of their terms or provisions, nor any of the negotiations, discussions,  
20 proceedings connected thereto, nor any act performed or document executed pursuant to or in  
21 furtherance of the Stipulation or the Settlement: (a) is or may be deemed to be or may be used as  
22 an admission of, or evidence of, the validity of any of the allegations in the Litigation or of the  
23 validity of any of the Released Claims, or of any wrongdoing or liability of any Defendants or  
24 Defendants’ Released Persons; or (b) is, or shall be deemed to be, or shall be used as an admission  
25 of any fault or omission of any Defendants or Defendants’ Released Person in any statement,  
26 release, or written documents issued, filed, or made; or (c) is or may be deemed to be or may be  
27 used as an admission of, or evidence of, any fault, liability, wrongdoing, negligence, or omission  
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1 of any Defendants or Defendants' Released Persons in any civil, criminal, or administrative  
2 proceeding in any court, arbitration proceeding, administrative agency, or forum or tribunal in  
3 which any Defendants or Defendants' Released Persons are or become parties; or (d) is or may be  
4 deemed to be or may be used as an admission or evidence that any claims asserted by Lead Plaintiff  
5 were not valid or that the amount recoverable was not greater than the Settlement Amount, in any  
6 civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal.  
7 Defendants, Defendants' Released Persons, Lead Plaintiff, Class Members, and their respective  
8 counsel may file the Stipulation and/or this Judgment in any action that may be brought against  
9 them in order to support a defense or counterclaim based on principles of res judicata, collateral  
10 estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim  
11 preclusion or issue preclusion or similar defense or counterclaim. The Settling Parties may file  
12 the Stipulation and/or this Judgment in any proceedings that may be necessary to consummate or  
13 enforce the Stipulation, the Settlement, or the Judgment.

14 18. Without affecting the finality of this Judgment in any way, this Court hereby retains  
15 continuing exclusive jurisdiction over: (a) implementation of this Settlement and any award or  
16 distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the  
17 Settlement Fund; (c) hearing and determining applications for attorneys' fees and expenses and  
18 interest in the Litigation; and (d) all Settling Parties hereto for the purpose of construing, enforcing,  
19 and administering the Stipulation.

20 19. The Court finds that during the course of the Litigation, the Settling Parties and  
21 their respective counsel at all times complied with the requirements of Federal Rule of Civil  
22 Procedure 11.

23 20. In the event that the Settlement does not become effective in accordance with the  
24 terms of the Stipulation, or the Effective Date does not occur, or in the event that the Settlement  
25 Fund, or any portion thereof, is returned to the Defendants as required under the terms of the  
26 Stipulation, then this Judgment shall be rendered null and void to the extent provided by and in  
27 accordance with the Stipulation and shall be vacated and, in such event, all orders entered and  
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1 releases delivered in connection herewith shall be null and void to the extent provided by and in  
2 accordance with the Stipulation.

3 21. Without further approval from the Court, the parties are hereby authorized to agree and  
4 to adopt such amendments or modifications of the Stipulation or any exhibits attached thereto to  
5 effectuate the Settlement that: (i) are not materially inconsistent with this Order and Final Judgment;  
6 and (ii) do not materially limit the rights of Settlement Class Members in connection with the  
7 Settlement. Without further order of the Court, the Settling Parties may agree to reasonable extensions  
8 of time to carry out any of the provisions of the Stipulation.

9 22. The Court directs immediate entry of this Judgment by the Clerk of the Court.

10 IT IS SO ORDERED.

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12 DATED: \_\_\_\_\_

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THE HONORABLE JAMES DONATO  
UNITED STATES DISTRICT JUDGE

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