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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE MAXWELL TECHNOLOGIES
INC., SECURITIES LITIGATION

Case No.: 3:13-cv-00580-BEN-RBB

**ORDER AND FINAL
JUDGMENT OF DISMISSAL
WITH PREJUDICE**

1 This matter came before the Court to determine whether a proposed
2 settlement (the “Settlement”) as set forth in a Stipulation of Settlement, dated
3 October 6, 2014 (the “Stipulation”), entered into, on the one hand, by the Court-
4 appointed Lead Plaintiff in this action, The Employees’ Pension Plan of the City of
5 Clearwater (“Lead Plaintiff”), on behalf of itself and all members of the putative
6 class, and, on the other hand, defendants Maxwell Technologies, Inc. (“Maxwell”),
7 David J. Schramm (“Schramm”), Kevin S. Royal (“Royal”), and Van M. Andrews
8 (“Andrews”) (collectively, “Defendants”), should be finally approved as fair,
9 reasonable and adequate pursuant to Rule 23 of the Federal Rules of Civil
10 Procedure. Having considered all papers filed and proceedings held herein,
11 including a hearing (the “Settlement Hearing”) held on February 5, 2015, and good
12 cause appearing therefor, the Court has determined that the Settlement as set forth
13 in the Stipulation should be approved as fair, reasonable and adequate. The Court
14 hereby enters this Order And Final Judgment Of Dismissal With Prejudice (the
15 “Judgment”) dismissing the Litigation as to all claims and all Defendants with
16 prejudice and on the merits.¹

17 NOW, THEREFORE, IT IS HEREBY ORDERED that:

18 1. The Court has jurisdiction over the subject matter of the Litigation
19 and over Defendants, Lead Plaintiff and all members of a class (the “Settlement
20 Class”) of all persons or entities who purchased or otherwise acquired shares of
21 Maxwell common stock from April 29, 2011 through March 19, 2013, inclusive
22 (the “Settlement Class Period”), and who were allegedly damaged thereby
23 (“Settlement Class Members”). Excluded from the Settlement Class are
24 Defendants and all officers and directors of Maxwell, and all such excluded
25 persons’ Immediate Family members, legal representatives, heirs, predecessors,
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28 ¹ Capitalized terms not otherwise defined herein have the meanings assigned to
them in the Stipulation.

1 successors and assigns, and any entity in which any excluded person has or had a
2 controlling interest.

3 2. For purposes of the Settlement only, the Court finds that the
4 Settlement Class satisfies the prerequisites for a class action under Rule 23(a) and
5 (b)(3) of the Federal Rules of Civil Procedure in that: (a) the number of Settlement
6 Class Members is so numerous that joinder of all members is impracticable; (b)
7 there are questions of law and fact common to Settlement Class Members; (c) Lead
8 Plaintiff's claims are typical of the claims of the Settlement Class that they seek to
9 represent; (d) Lead Plaintiff will fairly and adequately represent the interests of the
10 Settlement Class with respect to the claims asserted against Defendants; (e) the
11 questions of law and fact common to Settlement Class Members predominate over
12 any questions affecting only individual Settlement Class Members; and (f) a class
13 action is superior to other available methods for the fair and efficient adjudication
14 of the claims asserted against the Defendants.

15 3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, for
16 purposes of the Settlement only, Lead Plaintiff is certified as Settlement Class
17 Representative and Lead Plaintiff's Counsel, Saxena White P.A., is certified as
18 Settlement Class Counsel.

19 4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court
20 hereby approves the Settlement set forth in the Stipulation and finds that the
21 Settlement is, in all respects, fair, reasonable, and adequate to, and in the best
22 interests of, Lead Plaintiff, the Settlement Class, and each of the Settlement Class
23 Members. The Court further finds that the Settlement set forth in the Stipulation is
24 the result of arms'-length negotiations between experienced counsel representing
25 the interests of Lead Plaintiff, Settlement Class Members and Defendants.
26 Accordingly, the Settlement set forth in the Stipulation is hereby approved in all
27 respects, and Lead Plaintiff and Defendants are hereby directed to consummate the
28 Settlement in accordance with the terms of the Stipulation.

1 5. The Litigation and all claims contained therein, including all of the
2 Released Claims, are hereby dismissed with prejudice as against each and all of the
3 Released Persons. The parties are to bear their own fees and costs, except as
4 otherwise provided for in the Stipulation.

5 6. Lead Plaintiff and all Settlement Class Members, on behalf of
6 themselves, their current and future heirs, executors, administrators, successors,
7 attorneys, insurers, agents, representatives, and assigns, and any person they
8 represent, hereby fully, finally and forever release, relinquish and discharge any
9 and all Released Claims against any and all Released Persons, whether or not such
10 Lead Plaintiff or Settlement Class Member executes the Proof of Claim and
11 Release Form.

12 7. Lead Plaintiff and all Settlement Class Members, on behalf of
13 themselves, their current and future heirs, executors, administrators, successors,
14 attorneys, insurers, agents, representatives, and assigns, and any person they
15 represent, waive and relinquish, to the fullest extent permitted by law, the
16 provisions, rights, and benefits of California Civil Code § 1542, which provides:

17 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
18 **WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO**
19 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING**
20 **THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST**
 HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT
 WITH THE DEBTOR.

21 Lead Plaintiff and all Settlement Class Members, on behalf of themselves, their
22 current and future heirs, executors, administrators, successors, attorneys, insurers,
23 agents, representatives, and assigns, and any person they represent, waive and
24 relinquish, to the fullest extent permitted by law, any and all provisions, rights, and
25 benefits conferred by any law of any state or territory of the United States, or
26 principle of common law or international or foreign law, which is similar,
27 comparable, or equivalent to California Civil Code § 1542. Lead Plaintiff and
28 Settlement Class Members may hereafter discover facts in addition to or different

1 from those which he, she or it now knows or believes to be true with respect to the
2 subject matter of the Released Claims, but Lead Plaintiff and each Settlement Class
3 Member fully, finally, and forever settles and releases any and all Released Claims,
4 known or unknown, suspected or unsuspected, contingent or non-contingent,
5 whether or not concealed or hidden, which now exist, or heretofore have existed,
6 upon any theory of law or equity now existing or coming into existence in the
7 future, including, but not limited to, conduct which is negligent, intentional, with
8 or without malice, or a breach of any duty, law or rule, without regard to the
9 subsequent discovery or existence of such different or additional facts.

10 8. Each of the Released Persons fully, finally, and forever releases,
11 relinquishes, and discharges Lead Plaintiff, all Settlement Class Members and
12 Settlement Class Counsel from all claims arising out of, relating to, or in
13 connection with, the institution, prosecution, assertion, settlement, or resolution of
14 the Litigation or the Released Claims.

15 9. Lead Plaintiff and all Settlement Class Members, on behalf of
16 themselves, their current and future heirs, executors, administrators, successors,
17 attorneys, insurers, agents, representatives, and assigns, and any person they
18 represent, are forever barred and enjoined from commencing, instituting,
19 prosecuting or continuing to prosecute any action or other proceeding in any court
20 of law or equity, arbitration tribunal, or administrative forum asserting, any and all
21 Released Claims against any and all Released Persons, whether or not such Lead
22 Plaintiff or Settlement Class Member executes the Proof of Claim and Release
23 Form.

24 10. Nothing in this Judgment shall in any way impair or restrict the rights
25 of Lead Plaintiff or Defendants to enforce the terms of the Stipulation.

26 11. The Court finds that the manner of providing notice of the Settlement
27 to the Settlement Class meets the requirements of Federal Rule of Civil Procedure
28 23 and due process, satisfies Section 21D(a)(7) of the Securities Exchange Act of

1 1934, 15 U.S.C. 78u-4(a)(7), as amended by the Private Securities Litigation
2 Reform Act of 1995; is the best notice practicable under the circumstances; and
3 constitutes due and sufficient notice to all persons entitled thereto. No Settlement
4 Class Member shall be relieved or excused from the terms of the Settlement,
5 including the releases of claims provided for thereunder, based upon the contention
6 or proof that such Settlement Class Member failed to receive actual or adequate
7 notice. The Court finds that a full opportunity has been afforded to Settlement
8 Class Members to object to the Settlement and/or to participate in the Settlement
9 Hearing. It is therefore determined that all Settlement Class Members are bound
10 by this Judgment.

11 12. The Court finds that the Plan of Allocation is a fair and reasonable
12 method to distribute the Settlement Fund to the Settlement Class.

13 13. The Escrow Agent shall continue to serve as such for the Settlement
14 Fund, until such time as all funds in the Settlement Fund are distributed pursuant to
15 the terms of the Stipulation or further order of the Court.

16 14. Neither the Stipulation nor the Settlement, whether or not
17 consummated, nor any negotiations, discussions, proceedings, acts performed or
18 documents executed pursuant to or in furtherance of the Stipulation or the
19 Settlement, is or may be:

20 (a) deemed to be, or used as, an admission of, or evidence of, the
21 validity or lack thereof of any Released Claim, or of any wrongdoing or
22 liability of any Defendant;

23 (b) offered or received against any Defendant as evidence of a
24 presumption, concession, admission of any fault, misrepresentation, or
25 omission with respect to any statement or written document approved or
26 made by any Defendant, or against Lead Plaintiff or any Settlement Class
27 Member as evidence of any infirmity in the claims of Lead Plaintiff and the
28 Settlement Class;

1 (c) deemed to be, or used as, an admission of, or evidence of, any
2 fault or omission of any Defendant in any civil, criminal, or administrative
3 action or proceeding in any court, administrative agency, or other tribunal,
4 other than such proceedings as may be necessary to effectuate the provisions
5 of the Stipulation, including the releases therein; or

6 (d) construed against Defendants, Lead Plaintiff or the Settlement
7 Class as an admission or concession that the consideration provided for in
8 the Stipulation represents the amount that could be or would have been
9 recovered after trial.

10 15. Without affecting the finality of this Judgment in any way, the Court
11 hereby retains continuing jurisdiction over (a) implementation of the Settlement
12 and any award or distribution of the Settlement Fund, including interest earned
13 thereon; (b) disposition of the Settlement Fund; and (c) all parties hereto for the
14 purpose of construing, enforcing, and administering the Stipulation.

15 16. The Court finds that an award of attorneys' fees to Settlement Class
16 Counsel in the amount of \$1,074,969.28 and litigation expenses of \$74,769.65 is
17 fair and reasonable. In addition, the Court grants the amount of \$5,000 to Lead
18 Plaintiff as reimbursement of its reasonable time, costs and expenses directly
19 relating to its representation of the Settlement Class. The foregoing amounts shall
20 be paid from the Settlement Fund in accordance with the terms of the Stipulation.
21 Any appeal from the portion of this Judgment that relates solely to the fees and
22 expenses granted hereunder shall have no effect on the finality of this Judgment or
23 the Effective Date as provided for in the Stipulation.

24 17. Without further approval from the Court, Lead Plaintiff and
25 Defendants are hereby authorized to agree to and adopt such amendments or
26 modifications of the Stipulation or any exhibits attached thereto to effectuate the
27 Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do
28 not materially limit the rights of Settlement Class Members in connection with the

1 Settlement. Without further order of the Court, Lead Plaintiff and Defendants may
2 agree to reasonable extensions of time to carry out any provisions of the
3 Settlement.

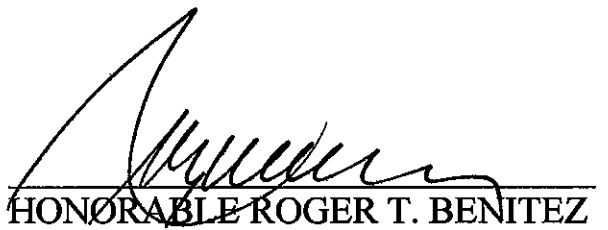
4 18. In the event that the Settlement does not become Effective in
5 accordance with the terms of the Stipulation, this Judgment shall be rendered null
6 and void to the extent provided by and in accordance with the Stipulation and shall
7 be vacated and, in such event, all orders entered and releases delivered in
8 connection therewith shall be null and void to the extent provided by and in
9 accordance with the Stipulation.

10 19. The Court finds that Lead Plaintiff and Defendants and their
11 respective counsel complied at all times with the requirements of Federal Rule of
12 Civil Procedure 11 during the course of this Litigation.

13 20. There is no just reason for delay in the entry of this Judgment and
14 immediate entry by the Clerk of the Court is directed pursuant to Rule 54(b) of the
15 Federal Rules of Civil Procedure.

16 IT IS SO ORDERED.

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18 DATED: 2/16/15

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21 HONORABLE ROGER T. BENITEZ
22 UNITED STATES DISTRICT JUDGE
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