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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 PRELIMINARILY**  
) **APPROVING SETTLEMENT,**  
) **CERTIFYING SETTLEMENT**  
) **CLASS AND PROVIDING FOR**  
) **NOTICE OF SETTLEMENT**

1           WHEREAS, Court-appointed lead plaintiff the Employees’ Pension Plan of  
2 the City of Clearwater (“Lead Plaintiff”), on behalf of itself and all members of the  
3 putative class, have entered into a Stipulation of Settlement, dated October 6, 2014  
4 (the “Stipulation”), with defendants Maxwell Technologies, Inc. (“Maxwell”),  
5 David J. Schramm (“Schramm”), Kevin S. Royal (“Royal”), and Van M.  
6 Andrews (“Andrews”) (collectively, “Defendants”), setting forth the terms of a  
7 proposed settlement (the “Settlement”) of this consolidated securities class action  
8 (the “Litigation”);<sup>1</sup>

9           WHEREAS, pursuant to Federal Rule of Civil Procedure 23(e), Lead  
10 Plaintiff has applied for an order granting preliminary approval to the Settlement in  
11 accordance with the Stipulation, provisionally certifying a class of Maxwell  
12 shareholders for settlement purposes only, and approving the manner of giving  
13 notice to such class; and

14           WHEREAS, the Court has read and considered the Stipulation, the exhibits  
15 annexed thereto, and the submissions relating thereto, and finds that substantial and  
16 sufficient grounds exist for entering this order.

17           NOW, THEREFORE, IT IS HEREBY ORDERED:

18           1. Pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil  
19 Procedure, preliminarily and for purposes of the Settlement only, the Court  
20 certifies a class (the “Settlement Class”) consisting of all persons or entities who  
21 purchased or otherwise acquired shares of Maxwell common stock from April 29,  
22 2011 through March 19, 2013, inclusive (the “Settlement Class Period”), and who  
23 were allegedly damaged thereby (“Settlement Class Members”). Excluded from  
24 the Settlement Class are Defendants and all officers and directors of Maxwell, and  
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27 <sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings assigned  
28 to them in the Stipulation.

1 all such excluded persons' immediate family members, legal representatives, heirs,  
2 predecessors, successors and assigns, and any entity in which any excluded person  
3 has or had a controlling interest. Also excluded from the Settlement Class are  
4 persons who file valid and timely requests for exclusion in accordance with this  
5 order.

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

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

22 4. The Court hereby preliminarily approves the Settlement, as embodied  
23 in the Stipulation, as being fair, reasonable and adequate to the Settlement Class,  
24 subject to further consideration at the Settlement Hearing to be conducted as  
25 described below.

26 5. A hearing (the "Settlement Hearing") shall be held before this Court  
27 on February 5, 2014, at 9:00 a.m., at the Edward J. Schwartz U.S. Courthouse, the  
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1 United States District Court, Southern District of California, 221 West Broadway,  
2 San Diego, California 92101, Courtroom 5A, to determine whether the Settlement  
3 on the terms and conditions provided for in the Stipulation is fair, reasonable and  
4 adequate to Settlement Class Members and should be approved by the Court; to  
5 determine whether the proposed Order and Final Judgment (the “Judgment”) as  
6 provided in paragraph 1.7 of the Stipulation should be entered; to determine  
7 whether the proposed plan of allocation (the “Plan of Allocation”) for distributing  
8 the Settlement proceeds among Settlement Class Members should be approved; to  
9 determine the amount of attorneys’ fees and expenses that should be awarded to  
10 Settlement Class Counsel; to determine the amount that Lead Plaintiff should be  
11 reimbursed for their time and expenses; to consider any Settlement Class  
12 Members’ objections to the Settlement; and to rule upon such other matters as the  
13 Court may deem appropriate. Notice of the Settlement and the Settlement Hearing  
14 shall be given to Settlement Class Members as set forth in paragraph 7 of this  
15 Order.

16         6. The Court may adjourn the Settlement Hearing without further notice  
17 to Settlement Class Members. The Court may enter the Judgment approving the  
18 Settlement and dismissing the Litigation on the merits and with prejudice even if  
19 the Court has not approved the Plan of Allocation, the application for attorneys’  
20 fees and expenses, or the application for reimbursement of Lead Plaintiff’s  
21 expenses. The Court may also approve the Settlement with such modifications as  
22 may be agreed upon or consented to by Lead Plaintiff and Defendants without  
23 further notice to the Settlement Class where doing so would not impair Settlement  
24 Class Members’ rights in a manner inconsistent with Rule 23 and due process of  
25 law.

26         7. The Court hereby approves, as to form and content, the Notice of  
27 Proposed Settlement of Class Action (the “Notice”), the Proof of Claim Form and  
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1 Release (the “Proof of Claim”), and the Summary Notice, which are annexed as  
2 Exhibits A-1, A-2 and A-3 hereto, and finds that the mailing and distribution of the  
3 Notice and publishing of the Summary Notice substantially in the manner set forth  
4 in paragraphs 8 and 9 of this Order meet the requirements of Federal Rule of Civil  
5 Procedure 23 and due process, satisfy Section 21D(a)(7) of the Securities  
6 Exchange Act of 1934, 15 U.S.C. 78u-4(a)(7), as amended by the Private  
7 Securities Litigation Reform Act of 1995; is the best notice practicable under the  
8 circumstances; and constitutes due and sufficient notice to all persons entitled  
9 thereto. No Settlement Class Member shall be relieved or excused from the terms  
10 of the Settlement, including the releases of claims provided for therein, based upon  
11 the contention or proof that such Settlement Class Member failed to receive actual  
12 or adequate notice. The date and time of the Settlement Hearing shall be included  
13 in the Notice and Summary Notice before they are mailed and published,  
14 respectively.

15 8. The Court hereby appoints Epiq Systems, Inc. (the “Claims  
16 Administrator”) to supervise and administer the notice procedures and the  
17 processing of claims, as more fully set forth below:

18 (a) Not later than November 24, 2014, the Claims Administrator  
19 shall cause the Notice and the Proof of Claim, substantially in the forms annexed  
20 as Exhibits A-1 and A-2 hereto, to be mailed by first class mail to all Settlement  
21 Class Members who can be identified with reasonable effort;

22 (b) Contemporaneously with the mailing of the Notice Packet, the  
23 Claims Administrator shall cause copies of the ACC, Stipulation, Notice and the  
24 Proof of Claim Form to be posted on a website to be developed for the Settlement,  
25 from which Settlement Class Members may download copies of the Notice and  
26 Proof of Claim Form;

1 (c) Not later than November 24<sup>e</sup>, 2014, the Claims Administrator  
2 shall cause the Summary Notice to be published once in *Investor's Business Daily*  
3 and posted on *Business Wire*; and

4 (d) Not later than seven (7) calendar days prior to the Settlement  
5 Hearing, Lead Plaintiff's Counsel shall serve on Defendants' counsel and file with  
6 the Court proof, by affidavit or declaration, of the mailing and publication of notice  
7 to Settlement Class Members as set forth above.

8 9. Any nominee that purchased Maxwell common stock during the  
9 Settlement Class Period on behalf of a Settlement Class Member shall send the  
10 Notice and the Proof of Claim to all such Settlement Class Members within ten  
11 (10) calendar days after receipt thereof, or send a list of the names and addresses of  
12 such Settlement Class Members to the Claims Administrator within ten (10) days  
13 of receipt thereof, in which event the Claims Administrator shall promptly mail the  
14 Notice and Proof of Claim to such Settlement Class Members. Settlement Class  
15 Counsel shall, if requested, reimburse out of the Settlement proceeds banks,  
16 brokerage houses, or other nominees that produce acceptable proof of reasonable  
17 out-of-pocket expenses incurred in providing notice to Settlement Class Members,  
18 which expenses would not have been incurred except for the sending of such  
19 notice, subject to further order of this Court with respect to any dispute concerning  
20 such compensation.

21 10. All Settlement Class Members who do not timely exclude themselves  
22 from the Settlement Class as provided for herein (a) shall be deemed to have  
23 waived his, her or its right to be excluded from the Settlement Class; (b) shall be  
24 forever barred from requesting exclusion from the Settlement Class in this or any  
25 other proceeding; (c) shall be bound by the provisions of the Stipulation and  
26 Settlement and all proceedings, determinations, orders and judgments in the  
27 Action, including, but not limited to, the Judgment and the releases provided for  
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1 therein, whether favorable or unfavorable to the Settlement Class; and (d) will be  
2 barred from commencing, maintaining or prosecuting any of the Released Claims  
3 against any of the Defendants and the other Defendants' Releasees, as more fully  
4 described in the Stipulation and Notice.

5 11. Any member of the Settlement Class who wishes to exclude himself,  
6 herself or itself from the Settlement Class must request exclusion in writing within  
7 the time and in the manner set forth in the Notice, which shall provide: (a) that any  
8 such request for exclusion from the Settlement Class must be mailed or delivered  
9 such that it is received no later than twenty-one (21) calendar days prior to the  
10 Settlement Hearing, to *In re: Maxwell Technologies, Inc. Securities Litigation*,  
11 EXCLUSIONS, c/o Epiq Systems, Inc., P.O. Box 4028, Portland, OR 97208-2876,  
12 and (b) that each request for exclusion must (i) state the name, address and  
13 telephone number of the person or entity requesting exclusion, and in the case of  
14 entities the name and telephone number of the appropriate contact person; (ii) state  
15 that such person or entity "requests exclusion from the Settlement Class in *In re:*  
16 *Maxwell Technologies, Inc. Securities Litigation*, Docket No. 3:13-cv-00580-BEN-  
17 RBB"; (iii) state the number of shares of publicly traded Maxwell common stock  
18 that the person or entity requesting exclusion purchased/acquired and/or sold  
19 during the Settlement Class Period, as well as the dates and prices of each such  
20 purchase/acquisition and sale; and (iv) be signed by the person or entity requesting  
21 exclusion or an authorized representative. Within ten (10) calendar days from the  
22 last date for receipt of requests for exclusion, the Claims Administrator shall  
23 provide each party's counsel a summary of all requests for exclusion, together with  
24 copies of each request for exclusion. A request for exclusion shall not be effective  
25 unless it provides all the required information and is received within the time stated  
26 above, or is otherwise accepted by the Court.

1           12. Any person or entity who or which timely and validly requests  
2 exclusion in compliance with the terms stated in this Order and is excluded from  
3 the Settlement Class shall not be a Settlement Class Member, shall not be bound by  
4 the terms of the Settlement or any orders or judgments in the Litigation and shall  
5 not receive any payment out of the Net Settlement Fund.

6           13. Settlement Class Members who wish to participate in the Settlement  
7 shall complete and submit Proofs of Claim in accordance with the instructions  
8 contained therein. Unless the Court orders otherwise, all Proofs of Claim must be  
9 submitted no later than ninety (90) days from the date of publication of the  
10 Summary Notice provided for in paragraph 8(b) above. Any Settlement Class  
11 Member who does not timely submit a valid Proof of Claim within the time  
12 provided for shall be barred from sharing in the distribution of the proceeds of the  
13 Settlement but shall nonetheless be bound by the terms of the Judgment, unless  
14 otherwise ordered by the Court. Notwithstanding the foregoing, Settlement Class  
15 Counsel may, in its discretion, accept for processing late-submitted claims so long  
16 as the distribution of the Net Settlement Fund to Authorized Claimants is not  
17 materially delayed. Each Settlement Class Member shall be deemed to have  
18 submitted to the jurisdiction of the Court with respect to any determinations or  
19 calculations concerning his, her, or its Proof of Claim. Defendants shall have no  
20 responsibility to make any determinations or calculations with respect to any  
21 Proofs of Claim.

22           14. Any Settlement Class Member may enter an appearance in the  
23 Litigation, at his, her or its own expense, individually or through counsel of his,  
24 her or its own choice by filing with the Clerk of Court and delivering a notice of  
25 appearance to Lead Plaintiff's Counsel and Defendants' counsel, at the addresses  
26 set forth in paragraph 15 below, such that it is received no later than twenty-one  
27 (21) calendar days before the Settlement Hearing. If a Settlement Class Member  
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1 does not enter an appearance, he, she or it will be represented by Settlement Class  
2 Counsel.

3 15. Any Settlement Class Member may object to the Settlement, the  
4 Judgment, the Plan of Allocation, the application for attorneys' fees and expenses,  
5 and/or the application for reimbursement of Lead Plaintiff's expenses, and may  
6 appear at the Settlement Hearing to raise such objection, provided that such  
7 Settlement Class Member submits (a) a written statement identifying the  
8 Settlement Class Member's name, address, and telephone number, and, if  
9 represented by counsel, his, her or its counsel; (b) proof of ownership of Maxwell  
10 common stock during the Settlement Class Period, including the number of  
11 Maxwell shares and the date or dates of purchase; (c) a statement of the Settlement  
12 Class Member's objection and the grounds therefore; and (d) any supporting  
13 documentation. If the Settlement Class Member wishes to appear at the Settlement  
14 Hearing, he, she or it must also include with the foregoing materials a statement of  
15 intention to appear at the Settlement Hearing. Such materials must be filed with  
16 the Clerk of the United States District Court for the Southern District of California  
17 and sent by first class mail to the following addresses not later than twenty-one  
18 (21) calendar days before the Settlement Hearing:

19  
20 Lester R. Hooker  
21 Saxena White P.A.  
22 5200 Town Center Circle,  
Suite 601  
Boca Raton, FL 33486

Jerome F. Birn, Jr.  
Wilson Sonsini Goodrich & Rosati  
Professional Corporation  
650 Page Mill Road  
Palo Alto, CA 94304-1050

23 *Settlement Class Counsel*

*Counsel for Defendants Maxwell,  
Schramm and Royal*

24  
25 Roy K. McDonald  
26 DLA Piper LLP (US)  
27 555 Mission Street, Suite 2400  
28 San Francisco, CA 94105-2933

*Counsel for Defendant Andrews*

1           16. Any Settlement Class Member who does not raise an objection in the  
2 manner provided herein shall be deemed to have waived such objection and shall  
3 forever be foreclosed from raising any objection concerning the Settlement, the  
4 Judgment, the Plan of Allocation, the attorneys' fees and expenses, and the  
5 reimbursement of Lead Plaintiff's expenses, unless otherwise ordered by the Court.

6           17. All proceedings in the Litigation are stayed until further order of the  
7 Court, except as may be necessary to consummate the Settlement or comply with  
8 the terms of the Stipulation. All Settlement Class Members, and each of them, and  
9 anyone acting or purporting to act for any of them, is hereby enjoined from  
10 prosecuting, attempting to prosecute, or assisting others in the prosecution of, any  
11 Released Claims.

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

16           19. All papers in support of the Settlement, the Plan of Allocation, the  
17 application for attorneys' fees and expenses, and/or the application for  
18 reimbursement of Lead Plaintiff's expenses shall be filed and served at least thirty-  
19 five (35) calendar days before the Settlement Hearing. Reply papers, if any, shall  
20 be filed and served at least seven (7) calendar days before the Settlement Hearing.

21           20. Neither Defendants nor Defendants' counsel shall have any  
22 responsibility for, or liability with respect to, the Plan of Allocation, the attorneys'  
23 fees and expenses, or the reimbursement of Lead Plaintiff's expenses, and all such  
24 matters will be considered separately from the fairness, reasonableness, and  
25 adequacy of the Settlement.

26           21. At or after the Settlement Hearing, the Court shall determine whether  
27 to approve the Plan of Allocation, the application for attorneys' fees and expenses,  
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1 and the application for reimbursement of Lead Plaintiff's time and expenses. The  
2 Court's decision with respect to such matters shall have no effect on the Court's  
3 approval of the Settlement or the finality of the Judgment.

4 22. All reasonable expenses incurred in identifying and notifying  
5 Settlement Class Members and in administering the Settlement shall be paid as set  
6 forth in the Stipulation.

7 23. Settlement Class Counsel and the Claims Administrator are authorized  
8 and directed to prepare any tax returns and any other tax reporting form for or in  
9 respect of the Settlement Fund, to pay from the Settlement Fund any Taxes owed  
10 with respect to the Settlement Fund, and to otherwise perform all obligations with  
11 respect to Taxes and any reporting or filings in respect thereof without further  
12 order of the Court in a manner consistent with the provisions of the Stipulation.

13 24. Neither this Order, the Stipulation (whether or not consummated),  
14 including the exhibits thereto and the Plan of Allocation contained therein (or any  
15 other plan of allocation that may be approved by the Court), the negotiations  
16 leading to the execution of the Stipulation, nor any proceedings taken pursuant to  
17 or in connection with the Stipulation and/or approval of the Settlement (including  
18 any arguments proffered in connection therewith): (a) shall be offered against any  
19 of the Defendants or any of the other Defendants' Releasees as evidence of, or  
20 construed as, or deemed to be evidence of any presumption, concession, or  
21 admission by any of the Defendants or any of the other Defendants' Releasees with  
22 respect to the truth of any fact alleged by Plaintiffs or the validity of any claim that  
23 was or could have been asserted or the deficiency of any defense that has been or  
24 could have been asserted in this action or in any other litigation, or of any liability,  
25 negligence, fault, or other wrongdoing of any kind of any of the Defendants or any  
26 of the other Defendants' Releasees or in any way referred to for any other reason  
27 as against any of the Defendants or any of the other Defendants' Releasees, in any  
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1 civil, criminal or administrative action or proceeding, other than such proceedings  
2 as may be necessary to effectuate the provisions of this Stipulation; (b) shall be  
3 offered against Plaintiff, as evidence of, or construed as, or deemed to be evidence  
4 of any presumption, concession or admission by Plaintiff that any of their claims  
5 are without merit, that any of the Defendants or any of the other Defendants'  
6 Releasees had meritorious defenses, or that damages recoverable under the  
7 Complaint would not have exceeded the Settlement Amount or with respect to any  
8 liability, negligence, fault or wrongdoing of any kind, or in any way referred to for  
9 any other reason as against Plaintiff, in any civil, criminal or administrative action  
10 or proceeding, other than such proceedings as may be necessary to effectuate the  
11 provisions of the Stipulation; or (c) shall be construed against any of Releasees as  
12 an admission, concession, or presumption that the consideration to be given under  
13 the Settlement represents the amount which could be or would have been  
14 recovered after trial; *provided, however*, that if the Stipulation is approved by the  
15 Court, the Settling Parties and the Releasees and their respective counsel may refer  
16 to it to effectuate the protections from liability granted thereunder or otherwise to  
17 enforce the terms of the Settlement.

18         25. In the event the Settlement is not consummated pursuant to its terms,  
19 the Stipulation (except as otherwise provided therein or in any amendment(s)  
20 thereto, or in this order) shall be null and void, of no further force or effect, and  
21 without prejudice to Lead Plaintiff or Defendants, and may not be introduced as  
22 evidence or referred to in any action or proceedings by any person or entity, and  
23 each party shall be restored to his, her or its respective position as it existed before  
24 the execution of the Stipulation, except as otherwise provided for in the  
25 Stipulation.

26         26. The Court retains jurisdiction to consider all further matters arising  
27 out of or connected to the Settlement.  
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IT IS SO ORDERED.

DATED: October 30, 2014



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HONORABLE ROGER T. BENITEZ  
UNITED STATES DISTRICT JUDGE

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