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5 Attorneys for Plaintiff
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10 Attorneys for Defendant
APPLIED MICRO CIRCUITS CORPORATION

11
12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF ALAMEDA

15
16 MICHAEL DIPIRRO,

17 Plaintiff,

18 v.

19 APPLIED MICRO CIRCUITS CORPORATION,
20 INC.; and DOES 1 through 150, inclusive,

21 Defendants.

Case No.

**[PROPOSED] CONSENT
JUDGMENT**

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment (also referred to herein as “Agreement”) is entered into by and
4 between plaintiff, Michael DiPirro (“Plaintiff” or “DiPirro”), and defendant Applied Micro Circuits
5 Corporation (“AMCC” or “Defendant”), with DiPirro and Defendant together being referred to as the
6 “Parties.”

7 **1.2 Plaintiff**

8 DiPirro is an individual residing in San Francisco County in the State of California who seeks
9 to promote awareness of exposure to toxic chemicals and improve human health by reducing or
10 eliminating hazardous substances contained in various consumer and commercial products.

11 **1.3 Defendant**

12 Defendant employs ten or more persons and is a person in the course of doing business for
13 purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety
14 Code §§ 25249.6 et seq. (“Proposition 65”).

15 **1.4 General Allegations**

16 Plaintiff alleges that Defendant has manufactured, distributed, and/or sold products with
17 solder containing lead in the State of California without providing the requisite warnings for lead
18 exposure required by Proposition 65. Lead is a substance listed pursuant to Proposition 65 as known
19 to the State of California to cause birth defects and other reproductive harm.¹ Lead is referred to
20 herein as the “Listed Chemical.”

21 **1.5 Product Description**

22 The products that are covered by this Consent Judgment are defined as follows: (a) controller
23 cards with lead-containing solder, (b) evaluation boards with lead-containing solder, (c) switchboards
24 with lead-containing solder, and (d) integrated circuits with lead-containing solder (referred to herein
25 collectively as “Products”). Examples of forms of solder include, but are not limited to, solder,

26 ¹ Lead is also listed as a Proposition 65 carcinogen; however, the State has adopted a safe harbor
27 exposure level for lead as a carcinogen (15 ug/day) that is significantly higher than the level it has identified
28 for lead as a reproductive toxicant under Proposition 65 (.5 ug/day), such that Parties are in agreement that
only Proposition 65’s requirements regarding reproductive toxicity are potentially relevant here.

1 solder balls, solder spheres, solder paste, wave solder, solder joints, die bumps, and flip-chip bumps.
2 All of the Products are sold by AMCC individually and, with the exception of integrated circuits, are
3 not sold by AMCC as a component integrated into another Product.

4 **1.6 Notices of Violation**

5 On June 26, 2007, DiPirro served AMCC and all public enforcers entitled to receive it
6 pursuant to Health & Safety Code § 25249.7(d), with a document entitled “60-Day Notice of
7 Violation” (“Notice”) that provided Defendant and such public enforcers with notice that Plaintiff
8 intended to file and prosecute a lawsuit at the expiration of the 60-day notice period alleging that
9 AMCC was in violation of California Health & Safety Code § 25249.6 for failing to warn consumers,
10 workers and others that controller cards that AMCC sold exposed users in California to the Listed
11 Chemical. Within fifteen (15) days following his execution of this Consent Judgment, DiPirro will
12 have served AMCC and the required public enforcement agencies with documents entitled
13 “Supplemental Notice of Violation” (“Supplemental Notice”) expressly alleging that AMCC is in
14 violation of Health & Safety Code § 25249.6 with respect to exposures to the Listed Chemical arising
15 from various evaluation boards, switching boards, and integrated circuits. AMCC shall use its best
16 efforts to provide DiPirro with information necessary for him to issue it a Supplemental Notice and
17 support a Certificate of Merit related thereto.

18 **1.7 Complaint**

19 On _____, 2007, in the absence of public prosecutor action, DiPirro, who is acting in the
20 interest of the general public in California, filed a complaint (“Complaint” or “Action”) in the
21 Superior Court in and for the County of Alameda a against AMCC, and Does 1 through 150,
22 *DiPirro v. Applied Micro Circuits Corporation; and DOES 1 through 150, inclusive*, Alameda
23 County Superior Court Case No. _____, alleging violations of California Health & Safety
24 Code § 25249.6, based on the alleged exposures to the Listed Chemical contained in the Products
25 AMCC sold or distributed. The Complaint shall be deemed amended by this Consent Judgment to
26 include the allegations in the Supplemental Notice on the sixty-sixth (66th) day following the issuance
27 of the Supplemental Notice if an authorized public prosecutor has not, prior to that date, filed a
28 Proposition 65 enforcement action as to the Listed Chemical in the additional Products addressed in

1 the Supplemental Notice; the definitions of Products under this Consent Judgment shall also not be
2 deemed to include the additional Products addressed in the Supplemental Notice until that time.

3 **1.8 No Admission**

4 AMCC denies the material factual and legal allegations contained in DiPirro's Notice and
5 Complaint and maintains that all products that they have sold in and/or distributed for sale or use in
6 California have been and are in compliance with all laws. Nothing in this Consent Judgment shall be
7 construed as an admission by AMCC of any fact, finding, issue of law, or violation of law, nor shall
8 compliance with this Consent Judgment constitute or be construed as an admission by AMCC of any
9 fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by AMCC.
10 However, this Paragraph shall not diminish or otherwise affect AMCC's obligations, responsibilities
11 and duties under this Consent Judgment.

12 **1.9 Consent to Jurisdiction**

13 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
14 jurisdiction over AMCC as to the allegations contained in the Complaint, that venue is proper in the
15 County of Alameda and that this Court has jurisdiction to enter and enforce the provisions of this
16 Consent Judgment.

17 **1.10 Effective Date**

18 For purposes of this Settlement Agreement, the term "Effective Date" shall mean March 31,
19 2008.

20 **2. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION**

21 After the Effective Date, Defendant shall not sell, ship, or offer to be shipped for sale, in
22 California, Products containing the Listed Chemical, unless such Products are sold or shipped with
23 the clear and reasonable warning set out in this Section 2.1, comply with the "Reformulation
24 Standards" set forth in Section 2.3, or are otherwise exempted pursuant to Section 2.2.

25 **2.1 Product Warnings**

26 (a) Any warning issued for Products pursuant to this Section 2.1 shall be
27 prominently placed with such conspicuousness as compared with other words, statements, designs, or
28 devices as to render it likely to be read and understood by an ordinary individual under customary

1 conditions before purchase or, for Products shipped directly to an individual in California or used in
2 the workplace in California, before use. Any warning issued pursuant to this Section 2.1 shall be
3 provided in a manner such that the consumer or user understands to which specific Product the
4 warning applies, so as to minimize if not eliminate the chance that an over warning situation will
5 arise.

6 **(b) Package Insert or Label Warning.** Where required under this Consent
7 Judgment, AMCC may satisfy its Proposition 65 warning obligations for Products that are sold by
8 telephone, direct sale or sales to distributors who are California residents or businesses by providing a
9 warning with the product when it is shipped to an address in California. For the sales of all such
10 Products, a warning may be provided with the Product when it is shipped directly to an individual or
11 business in California by either: (i) affixing the following warning language to the packaging,
12 labeling, or directly to a specific Product; (ii) inserting a warning card measuring at least 4" x 6" in
13 the shipping carton which contains the following warning language; or (ii) placing the following
14 warning statement on a written price quotation or the packing slip or customer invoice on the line
15 directly below the description of the Product on the price quotation, packing slip or customer invoice:

16 **WARNING:** The solder used in this product contains lead, a chemical
17 known to the State of California to cause birth defects and
18 other reproductive harm. Please wash hands after
handling and avoid inhalation of fumes if heating the
solder.

19 Alternatively, AMCC may place the following language on the price quotation, order
20 acknowledgment, packing slip or invoice and specifically identify the Product in lettering of the same
21 size or larger as the description of the Product:

22 **WARNING:** The solder used in the following product(s) contain lead,
23 a chemical known to the State of California to cause birth
24 defects or other reproductive harm. Please wash hands
after handling and avoid inhalation of fumes if heating the
solder.

25 *[list products for which warning is given].*

26 Defendant shall, in either of these instances, in conjunction with providing the warning (except where
27 it has been provided by on a written price quotation or order acknowledgment), also inform the
28 customer, in a conspicuous manner, that he or she may return the Product for a full refund (including

1 shipping costs for both the receipt and the return of the product) within fifteen (15) days of his or her
2 receipt of the Product, provided that the reason for the return is the Product's lead content.

3 **(c) Sales to Known Integrators**

4 Where defendant sells products to individuals or entities it knows to be in the business of
5 integrating its products into computer systems for resale ("integrators"), defendant shall notify the
6 integrator that the product's solder contains lead, and that the integrator should comply with the
7 warning requirements of Proposition 65 prior to the resale of the integrated product. Defendant shall
8 maintain a record that defendant provided each integrator with the above-mentioned written
9 instructions and shall make said record concerning a particular integrator available for DiPirro's
10 inspections upon request, but only if the following conditions have been met: i) DiPirro or his counsel
11 have independently identified the integrator as having sold a product that has integrated defendant's
12 product; ii) DiPirro or his counsel have a good faith belief that the integrator has failed to comply
13 with the warning requirements of Proposition 65; and iii) the integrator has verified in writing that it
14 obtained the products in question from defendant or that, in the alternative, DiPirro can independently
15 verify that the serial number and/or identifying mark on the products in question evidence that those
16 products were obtained from defendant.

17 **2.2 Exceptions To Warning Requirements**

18 The warning requirements set forth in Section 2.1 shall not apply to:

- 19 (i) Subject to implementation of Section 2.5 below, any Product received in inventory
20 before March 31, 2008;
- 21 (ii) Reformulated Products (as defined in Section 2.3 below) ; or
- 22 (iii) Any Product in which the only possible point of exposure to the Listed Chemical is
23 embedded in a manner that a consumer or worker would not come into contact with
24 the Listed Chemical under any reasonably anticipated use, such as Products which are
25 not expected to be serviced by employees or users other than those with specialized
26 information technology and related occupational health and safety training, including
27 servers, storage or storage and array systems, port replicators, and network
28 infrastructure equipment for switching, signaling and transmission as well as network

1 management for telecommunications that serve a business's internal non-consumer
2 market.

3 **2.3 Reformulated Products**

4 "Reformulated Products" are defined as follows: any Product containing less than or equal to
5 one-tenth of one percent (0.1%) lead by weight in each solder material, including all forms of solder
6 as identified in Section 1.5, unless that material is embedded in a manner that a consumer or worker
7 ordinarily would not come into contact with the lead under any reasonably anticipated use.² The
8 warnings required pursuant to Section 2.1 above shall not be required for Reformulated Products.

9 **2.4 Reformulation Commitment**

10 AMCC hereby commits that all controller cards that it offers for sale in California after the
11 Effective Date shall qualify as Reformulated Products pursuant to Section 2.3 or be exempt from the
12 warning requirements of Section 2.1 pursuant to Section 2.2. Further, as of the Effective Date,
13 AMCC commits to use its commercially reasonable efforts to reformulate all other products so that
14 they qualify as Reformulated Products pursuant to Section 2.3, except for (i) products exempted
15 pursuant to Section 2.2(i) or (iii) above, or (ii) products purchased by customers who specifically
16 require products containing lead, as to which products warnings will be issued pursuant to Section
17 2.1.

18 **2.5 Public Information Commitment**

19 In a good faith effort to inform consumers about the risk of exposure to lead in AMCC's
20 Products received in inventory before the Effective Date and which are not otherwise exempted
21

22
23 ² Consistent with the European Union's Reduction of Hazardous Substances regulations ("RoHS"),
24 the lead by weight standard set forth above shall not apply to specialty solders used in a Product, including
25 specialty solders used with glass and ceramic microcomponents, lead in high melting temperature type solders,
26 solders used in pin connector systems or to form connections between the pins and the package of processors,
27 solders used to complete a viable electrical connection between a semiconductor die and carrier within an
28 integrated circuit flip chip package, solders used for the soldering to machined through hole discoidal and
planar array ceramic multilayer capacitors, and/or solder used for transducers used in high-powered
loudspeakers, provided that such solders: (a) are embedded or otherwise used in a Product such that a
consumer or worker (other than specially trained service provider) would not come into contact with them
under any reasonably anticipated use, or (b) constitute no more than five percent (5%) of the total amount of
all non-embedded solder used in the Product in question.

1 pursuant to Section 2.2 above, AMCC hereby commits to provide the following on a web page
2 addressing environmental/regulatory issues on its website for a period of three years:

3 Certain controller cards, evaluation boards, switchboards, and
4 integrated circuits sold in California contain lead solder. Lead is a
5 chemical known to the State of California to cause birth defects and
6 other reproductive harm. Please wash hands after handling and avoid
7 inhalation of fumes if heating solder.

8 **3. MONETARY PAYMENTS**

9 **3.1 Penalties Pursuant to Health & Safety Code § 25249.7(b)**

10 Pursuant to Health & Safety Code § 25249.7(b), the total civil penalty assessed shall be
11 \$50,000 which shall be apportioned and paid as follows:

- 12 (a) Defendant shall receive a credit of \$20,000 against this amount in light of its
13 prompt cooperation with DiPirro in resolving this matter and its commitment
14 to sell reformulated (or otherwise exempted) Products in California pursuant to
15 Section 2.4 above;
- 16 (b) Defendant shall pay \$15,000 in civil penalties by sending payment via certified
17 mail to the address provided below on or before December 31, 2007; and
- 18 (c) Defendant shall pay \$15,000 in civil penalties on or before March 1, 2008.
19 This payment will be waived provided that Defendant complies with the public
20 information commitment on or before February 1, 2008, as set forth in Section
21 2.5.

22 All payments made pursuant to this Section 3.1 shall be payable to the “HIRST &
23 CHANLER LLP in Trust For Michael DiPirro” and shall be delivered to Plaintiff’s counsel at the
24 following address:

25 HIRST & CHANLER LLP
26 Attn: Proposition 65 Controller
27 2560 Ninth Street
28 Parker Plaza, Suite 214
Berkeley, CA 94710-2565

1 **3.2 Apportionment of Penalties Received**

2 All penalty monies received shall be apportioned by DiPirro in accordance with Health &
3 Safety Code § 25192, with 75% of these funds remitted by DiPirro to the State of California’s Office
4 of Environmental Health Hazard Assessment and the remaining 25% of these penalty monies retained
5 by DiPirro as provided by Health & Safety Code § 25249.12(d). DiPirro shall bear all responsibility
6 for apportioning and paying to the State of California the appropriate civil penalties paid in
7 accordance with this Section.

8 **4. REIMBURSEMENT OF FEES AND COSTS**

9 The Parties acknowledge that DiPirro and his counsel offered to resolve this dispute
10 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this
11 fee issue to be resolved after the material terms of the agreement had been settled. Defendant then
12 expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been
13 finalized. The Parties then reached an accord on the compensation due to DiPirro and his counsel
14 under the private attorney general doctrine codified at California Code of Civil Procedure § 1021.5
15 for all work performed through the Court’s approval of this agreement. Under the private attorney
16 general doctrine, Defendant shall reimburse DiPirro and his counsel for fees and costs incurred as a
17 result of investigating, bringing this matter to Defendant’s attention, litigating, and negotiating a
18 settlement in the public interest and seeking the Court’s approval of the settlement agreement.
19 Defendant shall pay DiPirro and his counsel \$40,000 for all attorneys’ fees, expert and investigation
20 fees, litigation and related costs. The payment shall be made payable to HIRST & CHANLER LLP
21 and shall be delivered to Plaintiff’s counsel on or before December 31, 2007, at the following
22 address:

23 HIRST & CHANLER LLP
24 Attn: Proposition 65 Controller
25 2560 Ninth Street
26 Parker Plaza, Suite 214
27 Berkeley, CA 94710-2565

1 **5. RELEASE OF ALL CLAIMS**

2 **5.1 Release of Defendant and Downstream Customers**

3 In further consideration of the promises and agreements herein contained, and for the
4 payments to be made pursuant to Sections 3 and 4, DiPirro, on behalf of himself, his past and current
5 agents, attorneys, successors, and/or assignees, and not acting in a representative capacity on behalf
6 of the general public, hereby waives all rights to institute or participate in, directly or indirectly, any
7 form of legal action and releases all claims, including, without limitation, all actions, and causes of
8 action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties,
9 losses, or expenses (including, but not limited to, investigation fees, expert fees, and attorneys' fees)
10 of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "claims"),
11 against AMCC and each of its downstream distributors, wholesalers, licensors, licensees, auctioneers,
12 retailers, franchisees, dealers, customers, owners, purchasers, users, parent companies, corporate
13 affiliates, subsidiaries, successors and assigns, and their respective officers, directors, attorneys,
14 representatives, shareholders, agents, and employees, sister and parent entities, and, with respect to
15 Products sold in AMCC's own brand names, original equipment manufacturers and distributors
16 (collectively "releasees"). This release is limited to those claims that arise under Proposition 65, as
17 such claims relate to AMCC's alleged failure to warn about exposures to the Listed Chemical
18 contained in the Products.

19 The Parties further understand and agree that, except as provided for above, this release shall
20 not extend upstream to any entities that manufactured the Products or any component parts thereof, or
21 any distributors or suppliers who sold the Products or any component parts thereof to Defendant. The
22 foregoing is not, however, intended to limit any release set forth in, or direct or indirect effect of,
23 prior settlements or judgments Plaintiff or other enforcers of Proposition 65 have entered into with
24 such upstream entities in terms of their application to any claims that have been or which may in the
25 future be alleged against any Defendant with respect to the Listed Chemical in any Products sold by
26 such upstream entities to Defendant. This Agreement also does not release any downstream party
27 (including integrators and retailers) that either caused exposure to the Listed Chemical from Products
28 not supplied by Defendant or, as to the future, alters a Product purchased from Defendant in such a

1 way as to cause it to violate the Reformulation Standards or fails to transmit the requisite warnings
2 provided by Defendant in the manner set forth in Section 2.1 of in this Agreement.

3 This Consent Judgment is also a full, final and binding resolution between Plaintiff, acting on
4 behalf of the public interest pursuant to California Health & Safety Code § 25249.7(d), and AMCC
5 and its releasees, on the other hand, of any violation of Proposition 65 and of all claims made or
6 which could have been made in the Notice, Supplemental Notice, and/or Complaint based on the
7 facts asserted therein for AMCC's alleged failure to provide warnings for exposure to the Listed
8 Chemical in the Products (as defined in Paragraph 1.5 above). Compliance by AMCC with the terms
9 of this Consent Judgment resolves any issue, now and in the future, concerning compliance by
10 AMCC and its releasees, with the requirements of Proposition 65 as to warnings for exposure to the
11 Listed Chemical in the Products (as defined in Paragraph 1.5 above).

12 **5.2 Defendant's Release of DiPirro**

13 Defendant waives any and all claims against DiPirro, his attorneys, and other representatives
14 for any and all actions taken or statements made (or those that could have been taken or made) by
15 DiPirro and his attorneys and other representatives, whether in the course of investigating claims or
16 otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the
17 Products.

18 **6. COURT APPROVAL**

19 This Agreement is not effective until it is approved and entered by the Court and shall be null
20 and void if, for any reason, it is not approved and entered by the Court within one year after it has
21 been fully executed by all Parties, in which event any monies that have been provided to Plaintiff or
22 his counsel, pursuant to Section 3 and/or Section 4 above, shall be refunded within fifteen (15) days
23 after receiving written notice from Defendant that the one-year period has expired.

24 **7. SEVERABILITY**

25 If, subsequent to court approval of this Agreement, any of the provisions of this Agreement
26 are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not
27 be adversely affected.

1 **8. ATTORNEYS' FEES**

2 In the event that a dispute arises with respect to any provision of this Agreement, the
3 prevailing party shall, except as otherwise provided herein, be entitled to recover reasonable costs
4 and attorneys' fees incurred in connection with such dispute.

5 **9. GOVERNING LAW**

6 The terms of this Agreement shall be governed by the laws of the State of California and
7 apply within the State of California. In the event that Proposition 65 is repealed or is otherwise
8 rendered inapplicable by reason of law generally, or as to the products, then Defendant shall provide
9 written notice to DiPirro of any asserted change in the law, and shall have no further obligations
10 pursuant to this Agreement with respect to, and to the extent that, the Products are so affected.

11 **10. NOTICES**

12 Unless specified herein, all correspondence and notices required to be provided pursuant to
13 this Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class,
14 (registered or certified mail) return receipt requested; or (ii) overnight courier on any Party by the
15 other Party at the following addresses:

16 To DiPirro:

17 Proposition 65 Coordinator
18 HIRST & CHANLER LLP
19 2560 Ninth Street
20 Parker Plaza, Suite 214
21 Berkeley, CA 94710-2565

22 To AMCC:

23 Cindi Moreland, Esq.
24 Vice President and General Counsel
25 Applied Micro Circuits Corporation
26 215 Moffett Parks Drive
27 Sunnyvale, CA 94089

28 And an email copy to: efh@procopio.com

Any Party, from time to time, may specify in writing to the other Party a change of address to which
all notices and other communications shall be sent.

1 **11. COUNTERPARTS; FACSIMILE SIGNATURES**

2 This Agreement may be executed in counterparts and by facsimile, each of which shall be
3 deemed an original, and all of which, when taken together, shall constitute one and the same
4 document.

5 **12. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

6 DiPirro agrees to comply with the reporting form requirements referenced in Health & Safety
7 Code § 25249.7(f).

8 **13. ADDITIONAL POST EXECUTION ACTIVITIES**

9 DiPirro and AMCC agree to mutually employ their best efforts to support the entry of this
10 Agreement as a Consent Judgment and obtain approval of it by the Court in a timely manner. The
11 Parties acknowledge that, pursuant to Health & Safety Code § 25249.7, a noticed motion is required
12 to obtain judicial approval of this Agreement. Accordingly, the Parties agree to file a Motion to
13 Approve the Agreement (the “motion”), which shall be prepared by Plaintiff’s counsel and reviewed
14 by AMCC’s counsel prior to filing with the Court. AMCC shall have no additional responsibility to
15 Plaintiff’s counsel pursuant to Code of Civil Procedure § 1021.5 or otherwise with regard to
16 reimbursement of any fees and costs incurred with respect to the preparation and filing of the motion
17 or with regard to Plaintiff’s counsel appearing for a hearing thereon.

18 **14. MODIFICATION**


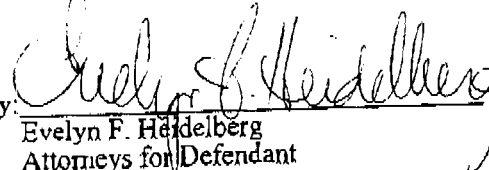
19 This Agreement may be modified only: (1) by written agreement of the Parties and upon
20 entry of a modified Settlement Agreement by the Court thereon; or (2) upon a successful motion of
21 any Party and entry of a modified Settlement Agreement by the Court. The Attorney General shall be
22 served with notice of any proposed modification to this Agreement at least fifteen (15) days in
23 advance of its consideration by the Court.

24 **15. AUTHORIZATION**

25 The undersigned are authorized to execute this Agreement on behalf of their respective Parties
26 and have read, understood, and agree to all of the terms and conditions of this Agreement.
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| <p align="center">AGREED TO:</p> <p>Date: _____</p> <p>By: _____ Plaintiff, MICHAEL DiPIRRO</p> | <p align="center">AGREED TO:</p> <p>Date: _____</p> <p>By: _____ Defendant, APPLIED MICRO CIRCUITS CORPORATION</p> |
| <p align="center">APPROVED AS TO FORM:</p> <p>Date: <u>12/26/07</u></p> <p>HIRST & CHANLER LLP</p> <p>By:  Christopher M. Martin Attorneys for Plaintiff MICHAEL DiPIRRO</p> | <p align="center">APPROVED AS TO FORM:</p> <p>Date: <u>1/2/08</u></p> <p>PROCOPIO, CORY, HARGREAVES & SAVITCH LLP</p> <p>By:  Evelyn F. Heidelberg Attorneys for Defendant APPLIED MICRO CIRCUITS CORPORATION</p> |

IT IS SO ORDERED.

Date: _____ JUDGE OF THE SUPERIOR COURT

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| <p style="text-align: center;">AGREED TO:</p> <p>Date: <u>12/26/07</u></p> <p>By: <u><i>Michael DiPirro</i></u> Plaintiff, MICHAEL DiPIRRO</p> | <p style="text-align: center;">AGREED TO:</p> <p>Date: <u>12/21/07</u></p> <p>By: <u><i>Carther J Moreland</i></u> Defendant, APPLIED MICRO CIRCUITS CORPORATION <i>VP General Counsel</i></p> |
| <p style="text-align: center;">APPROVED AS TO FORM:</p> <p>Date: _____</p> <p>HIRST & CHANLER LLP</p> <p>By: _____ Christopher M. Martin Attorneys for Plaintiff MICHAEL DiPIRRO</p> | <p style="text-align: center;">APPROVED AS TO FORM:</p> <p>Date: _____</p> <p>PROCOPIO, CORY, HARGREAVES & SAVITCH LLP</p> <p>By: _____ Evelyn F. Heidelberg Attorneys for Defendant APPLIED MICRO CIRCUITS CORPORATION</p> |

IT IS SO ORDERED.

Date: _____ JUDGE OF THE SUPERIOR COURT