

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PRAKASH MOHANTY, Individually and on)	Case No. 1:16-cv-12336-IT
Behalf of All Others Similarly Situated,)	
)	
Plaintiff,)	
)	CLASS ACTION
vs.)	
)	
AVID TECHNOLOGY, INC., LOUIS)	
HERNANDEZ, JR., and ILAN SIDI,)	
)	
Defendants.)	
)	
_____)	

**LEAD PLAINTIFF’S MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT, APPROVAL OF THE
PLAN OF ALLOCATION, AND FINAL CERTIFICATION OF THE CLASS FOR
SETTLEMENT PURPOSES**

Lead Plaintiff David Wayne Hammond (“Lead Plaintiff”) hereby moves the Court, pursuant to Federal Rule of Civil Procedure 23(e), for an order: (i) granting final approval of the proposed Settlement which provides for the payment of \$1,325,000.00 in cash to resolve this securities class action against Defendants,¹ and which the Court preliminarily approved on January 12, 2018 (Dkt. 55, the “Notice Order”); (ii) approving the proposed Plan of Allocation; (iii) finding that notice to the Class satisfied due process; and (iv) granting final certification of the Class for settlement purposes.

In support of his motion, Lead Plaintiff relies on the (1) Stipulation, and all exhibits annexed thereto; (2) Notice Order, and all exhibits annexed thereto; (3) Memorandum of Law in Support of Lead Plaintiff’s Motion for Final Approval of Class Action Settlement, Approval of the Plan of Allocation, and Final Certification of the Class for Settlement Purposes; (4) Memorandum of Law in Support of Lead Counsel’s Motion for an Award of Attorneys’ Fees, Payment of Expenses, and an Award to Lead Plaintiff Pursuant to 15 U.S.C. §78u-4(a)(4); and (5) Declaration of Michael I. Fistel, Jr. in Support of (1) Lead Plaintiff’s Motion for Final Approval of Class Action Settlement, Approval of the Plan of Allocation, and Final Certification of the Class for Settlement Purposes; and (2) Lead Counsel’s Motion for an Award of Attorneys’ Fees, Payment of Expenses, and an Award to Lead Plaintiff Pursuant to 15 U.S.C. §78u-4(a)(4), and all exhibits annexed thereto.

A [Proposed] Final Judgment and Order of Dismissal with Prejudice, which was submitted previously as Exhibit B to the Stipulation, and a [Proposed] Order Approving the Plan of

¹ Unless otherwise defined herein, all capitalized terms used herein are defined in the Stipulation and Agreement of Settlement, dated November 30, 2017 (the “Stipulation”) (Dkt. No. 50-2).

Allocation of Settlement Proceeds are submitted herewith. Defendants have indicated that they will not be opposing this Motion.

Respectfully submitted,

DATED: February 23, 2018

JOHNSON FISTEL, LLP
MICHAEL I. FISTEL, JR.

s/ Michael I. Fistel, Jr.

MICHAEL I. FISTEL, JR.

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Liaison Counsel for Lead Plaintiff

CERTIFICATE OF COMPLAINE WITH LOCAL RULE 7.1(a)(2)

I hereby certify that counsel for the parties have conferred in a good faith and attempted to resolve or narrow the issues described in this motion, and counsel for defendants indicated that defendants will not be opposing this motion.

s/ Michael I. Fistel, Jr.

MICHAEL I. FISTEL, JR.

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CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 23, 2018.

s/ Michael I. Fistel, Jr.

MICHAEL I. FISTEL, JR.

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AVID TECHNOLOGY, INC., LOUIS)
HERNANDEZ, JR, and ILAN SIDI,)
)
Defendants.)
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[PROPOSED] FINAL JUDGMENT AND ORDER OF DISMISSAL WITH PREJUDICE

This matter came before the Court pursuant to the Order Preliminarily Approving Settlement and Providing for Notice (“Notice Order”) dated January 12, 2018, on the application of the parties for approval of the Settlement set forth in the Stipulation and Agreement of Settlement dated November 30, 2017 (the “Stipulation”). Due and adequate notice having been given to the Class as required in said Notice Order, and the Court having considered all papers filed and proceedings had herein, and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

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

2. This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Class Members.

3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby certifies, for purposes of settlement only, a Class defined as all Persons and entities who purchased or otherwise acquired the common stock of Avid Technology, Inc. (“Avid” or the “Company”) between August 4, 2016 and November 9, 2016, inclusive (the “Class Period”). Excluded from the Settlement Class are:

(a) Persons or entities who submitted valid and timely requests for exclusion from the Class (identified in Exhibit 1 hereto) and who did not subsequently retract such request for exclusion; and

(b) Defendants, members of the immediate family of any such Defendant, any Person, firm, trust, corporation, officer, director or other individual or entity in which any Defendant has or had a controlling interest during the Class Period; the officers and

directors of Avid during the Class Period; and legal representatives, agents, executors, heirs, successors, or assigns of any such excluded Person. The Defendants or any entity in which any of the Defendants has or had a controlling interest (for purposes of this paragraph, together a “Defendant-Controlled Entity”) are excluded from the Class only to the extent that such Defendant-Controlled Entity itself purchased a proprietary (*i.e.* for its own account) interest in the Company’s common stock. To the extent that a Defendant-Controlled Entity purchased Avid stock in a fiduciary capacity or otherwise on behalf of any third-party client, account, fund, trust, or employee-benefit plan that otherwise falls within the Class, neither such Defendant-Controlled Entity nor the third-party client, account, fund, trust, or employee-benefit plan shall be excluded from the Class with respect to such Avid stock.

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

5. Pursuant to Federal Rule of Civil Procedure 23, the Court hereby approves the Settlement set forth in the Stipulation and finds that:

(a) said Stipulation and the Settlement contained therein, are, in all respects, fair, reasonable, and adequate, and in the best interest of the Class;

(b) there was no collusion in connection with the Stipulation or the Settlement;

(c) the Stipulation was the product of informed, arm's-length negotiations among competent, able counsel; and

(d) the litigation has sufficiently progressed to have enabled Lead Plaintiff and Defendants to have adequately evaluated and considered their positions.

6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court finds that the Stipulation and Settlement are fair, reasonable, and adequate as to each of the Settling Parties, and that the Stipulation and Settlement are hereby finally approved in all respects, and the Settling Parties are hereby directed to perform its terms.

7. Accordingly, the Court authorizes and directs implementation and performance of all the terms and provisions of the Stipulation, as well as the terms and provisions hereof. Except as to any individual claim of those Persons (identified in Exhibit 1 attached hereto) who have validly and timely requested exclusion from the Class, the Court hereby dismisses the Action and all claims asserted therein with prejudice. The Settling Parties are to bear their own costs, except as and to the extent provided in the Stipulation and herein.

8. Upon the Effective Date, and as provided in the Stipulation, Plaintiff, and each of the Class Members, other than those listed on Exhibit 1 hereto, and anyone claiming through or on behalf of them, including, but not limited to, their predecessors, successors, agents, representatives, attorneys, and affiliates, and the heirs, executors, administrators, successors, and

assigns of each of them, in their capacities as such, shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims (including, without limitation, Unknown Claims and claims arising out of, relating to, or in connection with the defense, settlement, or resolution of the Action except claims related to the enforcement of the Stipulation), against the Released Persons, whether or not such Class Member executes and delivers the Proof of Claim and Release form or shares in the Net Settlement Fund. Claims to enforce the terms of the Stipulation are not released.

9. Upon the Effective Date, and as provided in the Stipulation, all Class Members, other than those listed on Exhibit 1 hereto, and anyone claiming through or on behalf of any of them, including, but not limited to, their predecessors, successors, agents, representatives, attorneys, and affiliates, and the heirs, executors, administrators, successors, and assigns of each of them, in their capacities as such, shall be deemed to be, and by operation of this Judgment will be, forever barred and enjoined from commencing, instituting, asserting, prosecuting, or continuing to prosecute, and/or enforcing any action or other proceeding in any court of law or equity, arbitration tribunal, or administrative forum, asserting the Released Claims (including, without limitation, Unknown Claims and claims arising out of the defense, conduct, settlement, or resolution of the Action) against any of the Released Persons, whether or not such Class Member executes and delivers the Proof of Claim and Release form or shares in the Net Settlement Fund.

10. Upon the Effective Date, and as provided in the Stipulation, each of the Released Persons shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged Plaintiff, each and all of the Class Members, and Plaintiff's Counsel from all claims and causes of action of every nature and description (including, without limitation, Unknown Claims), whether arising under federal, state, common, or foreign

law, that arise out of, or relate in any way to, the institution, prosecution, assertion, settlement, or resolution of the claims against Defendants in this Action, except for claims relating to the enforcement of the Settlement, which are not released.

11. The Notice of Pendency and Proposed Settlement of Class Action given to the Class was the best notice practicable under the circumstances, including the individual notice to all Class Members who could be identified through reasonable effort. Said notice provided the best notice practicable under the circumstances of those proceedings and of the matters set forth therein, including the proposed Settlement set forth in the Stipulation, to all Persons entitled to such notice, and said notice fully satisfied the requirements of Federal Rule of Civil Procedure 23, all other applicable laws and rules, and the requirements of due process.

12. Any Plan of Allocation submitted by Lead Counsel or any order entered regarding any attorneys' fees, costs, and expenses application shall in no way disturb or affect this Judgment and shall be considered separate from this Judgment.

13. Neither the Stipulation nor the Settlement contained therein, nor any of the negotiations, discussions, proceedings connected with them, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement is, or may be deemed to be used as, an admission or evidence of (a) the validity of any of the allegations in the Action or the validity of any of Released Claim, (b) any wrongdoing or liability of the Defendants or their respective Related Persons, or (c) any fault of omission of any of the Defendants or their respective Related Persons, whether in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Released Persons, Plaintiff, Class Members, and Plaintiff's Counsel may file the Stipulation and/or the Judgment in any other action that may be brought against them in order to support a defense or counterclaim based on principles of *res*

judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim, including, without limitation, specific performance of the Settlement embodied in the Stipulation as injunctive relief. The Settling Parties may file the Stipulation and/or the Judgment in any proceeding that may be necessary to consummate or enforce the Stipulation, the Settlement, or the Judgment.

14. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and determining applications for attorneys' fees, costs, expenses, and interest in the Action; and (d) all parties herein for the purpose of construing, enforcing, and administering the Stipulation.

15. The Court finds that during the course of the Action, the Settling Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11.

16. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation, the Effective Date does not occur, or the Settlement Fund, or any portion thereof, is returned to the Defendants or their insurers, then this Judgment shall be rendered null and void to the extent provided by, and in accordance with, the Stipulation and shall be vacated, and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by, and in accordance with, the Stipulation, and the Settling Parties shall revert to their respective positions in the Action as of October 13, 2017, as provided in the Stipulation.

17. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

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

IT IS SO ORDERED.

DATED:

THE HONORABLE INDIRA TALWANI
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
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)
Defendants.)
)
_____)

**[PROPOSED] ORDER APPROVING THE PLAN OF ALLOCATION OF
SETTLEMENT PROCEEDS**

THIS MATTER having come before the Court on April 30, 2018, Lead Plaintiff's Motion for Final Approval of Class Action Settlement, Approval of the Plan of Allocation, and Final Certification of the Class for Settlement Purposes ("Final Approval Motion"), the Court, having considered all papers filed and proceedings conducted herein, having found the Settlement of this class action (the "Action") to be fair, reasonable, and adequate and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. All of the capitalized terms used herein shall have the same meanings as set forth in the Stipulation and Agreement of Settlement, dated November 30, 2017 (the "Stipulation") (Dkt. No. 50-2).

2. Pursuant to and in full compliance with Rule 23 of the Federal Rules of Civil Procedure, the Private Securities Litigation Reform Act of 1995, and due process, this Court hereby finds and concludes that due and adequate notice was directed to Class Members advising them of the Plan for Allocation of the Net Settlement Fund, and of the right to object thereto, and a full and fair opportunity was accorded to all Class Members to be heard with respect to the Plan of Allocation.

3. The Court hereby finds and concludes that the process by which the Net Settlement Fund will be distributed to Authorized Claimants, which is set forth in the Notice sent to Class Members, provides a fair and reasonable basis upon which to allocate the proceeds of the Net Settlement Fund established by the Stipulation among Class Members, with due consideration having been given to administrative convenience and necessity.

4. The Court hereby finds and concludes that the Plan of Allocation set forth in the Notice is in all respects fair and reasonable and the Court hereby approves the Plan of Allocation.

IT IS SO ORDERED.

DATED:

THE HONORABLE INDIRA TALWANI
UNITED STATES DISTRICT JUDGE