

In re: INFOSONICS SECURITIES LITIGATION

Civil Action No. 06-CV-1231-JLS (WMC)

CLASS ACTION

This Document Relates To:

ALL ACTIONS.

JUDGE: Honorable Janis L. Sammartino

CTRM: 6

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION, APPLICATION FOR ATTORNEYS' FEES AND EXPENSES AND FAIRNESS HEARING**

**If you purchased or otherwise acquired InfoSonics Corporation ("InfoSonics") common stock during the period February 6, 2006, through August 9, 2006, you could get a payment from the class action settlement described below.**

**A FEDERAL COURT AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER.**

THIS NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION, APPLICATION FOR ATTORNEYS' FEES AND EXPENSES AND FAIRNESS HEARING (THE "NOTICE") RELATES TO A PROPOSED SETTLEMENT OF CLASS CLAIMS ASSERTED IN AN ACTION ENTITLED *IN RE INFOSONICS SECURITIES LITIGATION*, CASE NO. 06-CV-1231-JLS (WMC) (THE "ACTION"), BROUGHT BY PLAINTIFFS AGAINST INFOSONICS, JOSEPH RAM, JEFFREY KLAUSNER, JOHN J. ALTHOFF, JOSEPH MURGO, AND ABRAHAM ROSLER (COLLECTIVELY, "DEFENDANTS").

THIS NOTICE EXPLAINS IMPORTANT RIGHTS YOU MAY HAVE INCLUDING YOUR POSSIBLE RECEIPT OF CASH CONSIDERATION AS A RESULT OF THE SETTLEMENT AND ALSO CONTAINS A PROOF OF CLAIM AND RELEASE FORM THAT YOU MUST COMPLETE AND SUBMIT POSTMARKED BY JUNE 4, 2009, IF SENT BY FIRST-CLASS MAIL OR BY JUNE 11, 2009, IF SENT BY OTHER MEANS IN ORDER TO BE ELIGIBLE TO SHARE IN THE SETTLEMENT. PLEASE READ IT CAREFULLY!

- The proposed Settlement<sup>1</sup> will provide \$3.8 million in cash (the "Settlement Amount") to pay claims of investors who purchased InfoSonics' publicly traded securities during the period February 6, 2006, through August 9, 2006 (the "Class Period"). The only securities issued by InfoSonics that were publicly traded during the Class Period were its common stock. Plaintiffs estimate that the average recovery per 100 damaged shares of common stock would be approximately \$38.34 before the deduction of attorney, notice, administrative, and tax fees, costs, and expenses, as approved by the Court. The recovery is explained in greater detail below. As is also explained below, the parties do not agree on the average amount of damages that would be recoverable if Plaintiffs prevailed on all claims.
- The proposed Settlement will resolve a lawsuit over whether the Defendants violated federal securities laws as a result of issuing allegedly false and misleading public statements. The Defendants deny all allegations of wrongdoing. Plaintiffs believe that the proposed Settlement is in the best interests of the members of the Class in that it provides a significant benefit now, as compared to the risk that a smaller or no recovery would be achieved after a trial and appeals, possibly years in the future, in connection with which Defendants would have the opportunity to assert substantial defenses to the claims asserted on behalf of the Class.
- Lead Counsel intends to apply for an award of attorneys' fees on behalf of all plaintiffs' counsel (collectively, "Plaintiffs' Counsel") not to exceed 25% of the Settlement Amount. In addition, Lead Counsel intends to apply for reimbursement of expenses paid and incurred by Plaintiffs' Counsel in connection with the prosecution and resolution of this Action in an amount not to exceed \$100,000 and for reimbursement of costs and expenses incurred by the Lead Plaintiff directly related to his representation of the Class in an amount not to exceed \$7,500 (the "Fee and Expense Application"). If Lead Counsel's Fee and Expense Application is approved by the Court, the average recovery per 100 allegedly damaged shares of common stock would be reduced by approximately \$10.67, for an average net recovery per 100 damaged shares of approximately \$27.67. Plaintiffs' Counsel have litigated this Action on a contingent-fee basis and have advanced all of the expenses of litigation with the expectation that if they were successful in recovering money for the Class, they would receive attorneys' fees and be reimbursed for their expenses from the recovery, as is customary in this type of litigation.
- Your legal rights are affected whether you act or do not act, so please read this Notice carefully. If you have any questions concerning any matter contained in this Notice, you may contact any of the Lead Counsel identified below or the Claims Administrator as indicated on Page 8.

**YOUR LEGAL RIGHTS AND OPTIONS CONCERNING THE PROPOSED SETTLEMENT, FEE AND EXPENSE APPLICATION, OR PLAN OF ALLOCATION:**

<b>SUBMIT A PROOF OF CLAIM AND RELEASE FORM</b>	The only way to get a payment.
<b>REQUEST EXCLUSION FROM THE CLASS</b>	Get no payment. Preserve all your rights.
<b>OBJECT</b>	Write to the Court about why you do not like any of the above.
<b>APPEAR AT A HEARING</b>	Ask to speak in Court about any of the above.
<b>DO NOTHING</b>	Get no payment. Give up your rights.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The issuance of this Notice is not intended to be an expression of the Court's opinion on the merits of any claim in the Action, and the Court in charge of this case still has to decide whether to enter a judgment approving the proposed Settlement. Payments will be made if the Court approves the proposed Settlement, after appeals are resolved, and after the completion of all claims processing. Please be patient.

Any questions regarding the proposed Settlement should be directed to the following Lead Counsel: Kurt B. Olsen, Esq., Klafter Olsen & Lesser LLP, 202-261-3553, or Todd S. Collins, Esq., Berger & Montague, P.C., 215-875-3040.

**DO NOT CONTACT THE COURT.**

<sup>1</sup> All capitalized terms not otherwise defined in this document shall have the meaning provided in the Stipulation and Agreement of Settlement ("Settlement Stipulation").

## **WHY DID I GET THIS NOTICE?**

This Notice is provided pursuant to Rule 23 of the Federal Rules of Civil Procedure and pursuant to an Order of the United States District Court for the Southern District of California (the "Court"). The purpose of this Notice is to inform you (1) that the Court has, for settlement purposes only, certified this Action as a class action, on behalf of a class consisting of all persons who purchased InfoSonics' publicly traded securities during the period February 6, 2006, through August 9, 2006, with certain exclusions set forth in the footnote below (the "Class");<sup>2</sup> (2) of the proposed Settlement that has been reached in this class action between Plaintiffs, individually and on behalf of the Class, and Defendants; and (3) of a hearing (the "Fairness Hearing") to be held by the Court to consider the fairness, reasonableness, and adequacy of the proposed Settlement and at which the Court may also consider approval of the Plan of Allocation and the application of Lead Counsel on behalf of all Plaintiffs' Counsel for attorneys' fees and reimbursement of expenses, described below.

Pursuant to an order of the Court dated January 20, 2009 (the "Preliminary Approval Order"), the Fairness Hearing will be held at 3:00 p.m. on April 23, 2009, before the Honorable Janis L. Sammartino in Courtroom 6 of the United States District Court for the Southern District of California, Edward J. Schwartz United States Courthouse, 940 Front Street, San Diego, CA 92101.

**RECEIPT OF THIS NOTICE DOES NOT NECESSARILY MEAN THAT YOU ARE A MEMBER OF THE CLASS ("CLASS MEMBER") OR ARE ENTITLED TO RECEIVE PROCEEDS FROM THE PROPOSED SETTLEMENT. IF YOU WISH TO PARTICIPATE IN THE PROPOSED SETTLEMENT, YOU MUST SUBMIT THE ENCLOSED PROOF OF CLAIM AND RELEASE FORM ("CLAIM FORM") TO THE CLAIMS ADMINISTRATOR POSTMARKED BY JUNE 4, 2009, IF SENT BY FIRST-CLASS MAIL OR BY JUNE 11, 2009, IF SENT BY OTHER MEANS.**

**PLEASE BE ADVISED THAT THE COURT MAY ALTER THIS OR ANY OF THE OTHER DEADLINES SET FORTH IN THIS NOTICE FOR GOOD CAUSE SHOWN.**

## **WHAT RECOVERY DOES THE PROPOSED SETTLEMENT PROVIDE?**

Pursuant to the Settlement described herein, the Defendants have agreed to pay or cause to be paid the Settlement Amount of \$3.8 million for the benefit of the Class. The Settlement Amount, less notice and administration expenses and attorneys' fees and expenses awarded to Plaintiffs' Counsel and the Lead Plaintiff (the "Net Settlement Fund") will be distributed in accordance with a plan of allocation for distributing the Net Settlement Fund to claimants who submit timely and valid Claim Forms ("Authorized Claimants"), which plan is described below (the "Plan of Allocation"). Under the proposed Plan of Allocation, the expected recovery from the proposed Settlement per 100 damaged shares of common stock would be approximately \$38.34. However, your actual recovery from the Net Settlement Fund will depend on a number of variables, including the number of shares of InfoSonics common stock you purchased during the Class Period; whether those shares were held as of the close of the market on June 9, 2006, or August 9, 2006; the total number of shares for which timely and valid Claim Forms have been submitted by Authorized Claimants; and the amount of attorneys' fees and expenses awarded by the Court. Certain Class Members may not be entitled to any recovery depending upon when they purchased and/or sold InfoSonics common stock during the Class Period. See "HOW MUCH WILL MY PAYMENT BE?" on Page 4 below.

## **WHAT MIGHT HAVE HAPPENED IF THE PARTIES HAD NOT AGREED TO THE PROPOSED SETTLEMENT?**

Plaintiffs and Defendants do not agree on the average amount of damages per share of InfoSonics common stock that would be recoverable if Plaintiffs were to have prevailed on the Class's claims asserted in the Action that were not dismissed by the Court. The issues on which the Parties disagree include, among other things, the amount of damage, if any, allegedly caused by the alleged misrepresentations and omissions at issue in this lawsuit. If Plaintiffs failed to establish any essential legal or factual element of their claims, neither they nor the Class would recover anything from Defendants. Also, if Defendants were successful in proving any of their asserted challenges to recoverable damages, Plaintiffs would likely recover substantially less than the Settlement Amount of \$3.8 million or recover nothing.

## **WHAT IS THIS CASE ABOUT? WHAT HAS HAPPENED SO FAR?**

Beginning on June 13, 2006, a number of securities class actions were commenced alleging violations of the federal securities laws on behalf of certain investors in InfoSonics. By Order dated October 23, 2006, pursuant to the Private Securities Litigation Reform Act of 1995 (PSLRA), the Honorable Barry Moskowitz consolidated the complaints under the above caption and appointed a Lead Plaintiff. The Court also approved the Lead Plaintiff's choice of lead counsel, Klafter & Olsen LLP (now, Klafter Olsen & Lesser LLP) and Berger & Montague, P.C. ("Lead Counsel"), and liaison counsel, Hulett Harper Stewart LLP. Lead Plaintiff and additional plaintiffs ("Plaintiffs") filed their Consolidated Amended Class Action Complaint on February 14, 2007 (the "Amended Complaint"). The Amended Complaint alleged that during the Class Period, Defendants (i) made misrepresentations concerning the demand in the U.S. market for InfoSonics' VK Mobile VK530 phone and concealed defect issues with the VK Mobile VK530 that caused InfoSonics to lose its largest U.S. customer, thereby adversely impacting InfoSonics' U.S. sales; and (ii) improperly delayed until Monday, June 12, 2006, the disclosure that InfoSonics' financial statements for the first quarter ended March 31, 2006 ("1Q06"), would need to be restated. The Amended Complaint further alleged that these materially false and misleading statements were made with knowledge of, or in reckless disregard of, the true facts. Plaintiffs asserted in the Amended Complaint that, in connection with this alleged wrongdoing, Defendants violated Sections 10(b) (and Rule 10b-5 promulgated thereunder) and 20(a) of the Securities Exchange Act of 1934 and caused damages to Lead Plaintiffs and the members of the Class. By their Amended Complaint, Plaintiffs sought money damages plus interest, costs, and attorneys' fees from Defendants.

On April 16, 2007, Defendants moved to dismiss the Amended Complaint. Plaintiffs filed their opposition to that motion on May 16, 2007, Defendants filed a reply brief on May 31, 2007, and the Court heard oral argument on Defendants' motion on July 25, 2007. On August 7, 2007, the Court entered an order granting in part and denying in part Defendants' motion to dismiss. The Order provided that Plaintiffs' claims are (1) dismissed without prejudice to the extent they are based on (a) an alleged delay in issuing a statement that the prior financial statements for the first quarter of 2006 would need to be restated and (b) Defendant Klausner's statements during the

<sup>2</sup> Excluded from the Class are the Defendants herein, the directors, officers and employees of InfoSonics, the members of each individual defendant's immediate family, any entity in which any Defendant has a controlling interest, and the legal affiliates, representatives, heirs, controlling persons, successors and predecessors in interest or assigns of any such excluded party, and any person who submits a timely and valid request for exclusion from the Class.

March 8, 2006, conference call; (2) dismissed without prejudice as to Defendant Althoff; and (3) dismissed with prejudice to the extent they are based on Ram's statements during the March 8, 2006, conference call regarding the achievement of "several important milestones," being "pleased with the results that we have achieved in 2005," and "the success that we've had with VK Mobile leading to the extension of the exclusive distribution agreement." The Order denied Defendants' motion to dismiss to the extent Plaintiffs' claims were based on other alleged misrepresentations concerning the VK Mobile VK530 phone and their impact on InfoSonics' U.S. sales.

Plaintiffs filed a Second Consolidated Amended Complaint on September 10, 2007 ("Second Amended Complaint"), by which Plaintiffs sought to address the deficiencies found by the Court in the Amended Complaint. On September 27, 2007, this Action was reassigned to the Honorable Janis L. Sammartino for all further proceedings. Defendants moved to dismiss the Second Amended Complaint on October 1, 2007; Plaintiffs filed their opposition to that motion on November 21, 2007; and Defendants filed a reply brief on November 30, 2007. The Court held oral argument on Defendants' motion on February 15, 2008. On April 28, 2008, the Court entered its Order (1) granting Defendants' motion to dismiss (a) Plaintiffs' claims against Defendant Althoff and (b) Plaintiffs' claims based on InfoSonics' restatement of its 1Q06 financial statements and (2) denying the motion concerning certain statements by Defendant Klausner. The Order denied the motion to the extent the claims were based on Plaintiffs' amended allegations against Defendants Klausner and Ram concerning the March 8, 2006, conference call. The Court further granted Plaintiffs the opportunity to file a Third Amended Class Action Complaint ("Third Amended Complaint"), which Plaintiffs filed on May 23, 2008. The Parties then agreed to engage in settlement negotiations and submitted joint motions on June 3, 2008, and July 16, 2008, granting Defendants additional time in which to respond to the Third Amended Complaint, which were so ordered by the Court on June 5, 2008, and July 21, 2008, respectively.

#### **WHAT LED UP TO THE PROPOSED SETTLEMENT?**

In accordance with the Court's Order dated October 5, 2007, counsel for the Parties engaged in settlement discussions on November 16, 2007, with Magistrate Judge William McCurine, Jr., but were unable to reach agreement, and the case proceeded as described above. As noted above, the Parties made further efforts to reach a settlement after the Third Amended Complaint was filed on May 23, 2008, and reached an agreement-in-principle to settle this Action for the Settlement Amount on July 16, 2008, subject to the negotiation of a definitive stipulation of settlement and releases in forms satisfactory to counsel for all Parties, approval of that stipulation of settlement by the Court, and such approval becoming "Final" (as defined below). The proposed Settlement is also subject to Court approval of the settlement of a derivative action filed on behalf of InfoSonics against the Defendants and certain other parties, known as *In re InfoSonics Derivative Litigation*, Case No. 06-CV-1336 JLS (WMC) (the "Derivative Action"), and Court approval of the settlement of the Derivative Action becoming "Final." With respect to each settlement, "Final" generally means when the judgment entered approving the settlement is no longer subject to appeal or when any appeals have been resolved in favor of the settlement.

The proposed Settlement described herein is the product of extensive arm's-length negotiations between Lead Counsel and Defendants' Counsel.

#### **WHAT ARE THE REASONS FOR THE SETTLEMENT?**

The Lead Plaintiff and Lead Counsel believe that the claims asserted in the Action have merit. However, they recognize and acknowledge the expense and length of continued proceedings necessary to prosecute this Action through trial and appeals and the uncertain outcome of such proceedings. In particular, the Lead Plaintiff and Lead Counsel have considered the likelihood of proving liability and damages on (i) the claim that Defendants improperly delayed disclosing that InfoSonics would need to restate its financial statements for the quarter ended March 31, 2006, which the Court had dismissed twice previously and (ii) the claim that Defendants made misrepresentations concerning the demand in the U.S. market for InfoSonics' VK Mobile VK530 phone and InfoSonics' success in the U.S. market, which the Court allowed to proceed to discovery. Whether or not the Court allowed Plaintiffs to proceed with their claim regarding the delay in announcing the restatement, following extensive discovery, Defendants would have moved for summary judgment, which, if successful, would terminate the Action unless the grant of summary judgment could be reversed on appeal. Lead Plaintiffs and Lead Counsel also took into account the issues which would have to be decided by a jury if summary judgment was denied, including whether any statement made by any of the Defendants was false; whether the Defendants acted with scienter (knowingly or recklessly), a predicate for liability on some of Plaintiffs' claims; whether each of the alleged misrepresentations and omissions were material; and the amount of any damages caused by the alleged misrepresentations and omissions. Although the Court denied Defendants' motion to dismiss Plaintiffs' claims concerning Defendants' misrepresentations about the demand in the U.S. market for InfoSonics' VK Mobile VK530 phone and InfoSonics' success in the U.S. market, Plaintiffs' ability to demonstrate proof of a connection between these misrepresentations and their losses due to InfoSonics' disclosure of its earnings results for the second quarter ending June 30, 2006 ("2Q06") on August 9, 2006, would be problematic, as InfoSonics' disclosure on August 9, 2006, made no mention of the VK Mobile VK530 phone or that U.S. sales had been adversely impacted by defect issues related to the VK Mobile VK530 or the loss of its largest U.S. customer. The Lead Plaintiff and Lead Counsel have also taken into account the uncertain outcome and trial risk in complex actions such as this Action. Based upon consideration of these factors, which could have led to a smaller or no recovery at all after a trial and appeals, possibly years in the future, and balancing them against the certain and significant benefits that the Class will receive as a result of the proposed Settlement, Lead Plaintiff and Lead Counsel determined that the proposed Settlement described herein is fair, reasonable, and adequate and that it is in the best interests of the Class to settle the Action on the terms described herein.

Prior to agreeing to the proposed Settlement, Lead Counsel conducted an extensive investigation and discovery relating to the events and transactions underlying the claims. Lead Counsel also had the benefit of an assessment of the damages caused by the alleged misrepresentations and omissions.

#### **WHY HAVE THE DEFENDANTS AGREED TO THE PROPOSED SETTLEMENT?**

Defendants have denied and expressly continue to deny any wrongdoing, fault, liability, violation of law, or damage alleged in the Amended Complaint, Second Amended Complaint, and Third Amended Complaint and do not admit or concede any wrongdoing, fault, liability, violation of law, or damage in connection with any facts or claims that have been or could have been alleged against them by the Plaintiffs, but consider it desirable for the Action to be settled and dismissed because of the uncertainty and the risk of the outcome of any litigation, especially complex securities litigation, and the difficulties and substantial expense and length of time necessary to defend this proceeding through summary judgment motions, trial, post trial motions, and appeals.

## **HOW MUCH WILL MY PAYMENT BE?**

If the proposed Settlement is approved by the Court and you are entitled to a payment, your share of the Net Settlement Fund will depend on the number of valid Claim Forms that Class Members submit, the number of shares of InfoSonics common stock you purchased, and when you purchased or sold those shares, as described in the Plan of Allocation that is included in this Notice.

By following the Plan of Allocation in this Notice, you can calculate your "Recognized Loss." The Claims Administrator will distribute the Net Settlement Fund according to the Plan of Allocation after all Claim Forms have been processed, the Settlement has been approved by the Court, the settlement of the Derivative Action has been approved by the Court, and both settlements become Final.

## **HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?**

To qualify for a payment out of the Net Settlement Fund, you must complete and sign the Claim Form enclosed with this Notice and mail it by First-Class Mail to In re InfoSonics Securities Litigation, Claims Administrator, c/o A.B. Data, Ltd., PO Box 170500, Milwaukee, WI 53217-8042, postmarked no later than **June 4, 2009**. If a Class Member chooses to return his, her, or its Claim Form in a manner other than by First-Class Mail, then it must be actually received by the Claims Administrator no later than **June 11, 2009**.

Review the Claim Form and read the instructions carefully. The Claim Form must be supported by such documents specified in the Claim Form as are reasonably available to you. The Claim Form includes the Settled Plaintiffs' Claims set forth below. Any Class Member who fails to submit a Claim Form postmarked by June 4, 2009, or received by June 11, 2009, and who does not exclude himself, herself, or itself from the Class, shall be forever barred from receiving any payments pursuant to the proposed Settlement described herein, but in all other respects will be subject to and bound by the provisions of any judgment entered, including but not limited to the Settled Plaintiffs' Claims. This means that if the proposed Settlement is approved by the Court, each Class Member will be deemed to have released the Settled Plaintiffs' Claims against the Released Defendant Parties, as defined below, and will be enjoined and prohibited from filing, prosecuting, or pursuing any of the Settled Plaintiffs' Claims against the Released Defendant Parties regardless of whether or not a Claim Form is submitted. If you have any questions, or need assistance, call the Claims Administrator at 800-983-6533 toll free or send an email to [info@abdataclassaction.com](mailto:info@abdataclassaction.com), and someone will assist you.

## **WHEN WILL I RECEIVE MY PAYMENT?**

The Court will hold a hearing on April 23, 2009, to consider whether to approve the proposed Settlement. The Net Settlement Fund cannot be distributed until after the Court has approved the proposed Settlement and the settlement of the Derivative Action and each settlement becomes Final. The resolution of any appeals could take more than a year. In addition, the review and processing of Claim Forms must be completed by the Claims Administrator before Net Settlement Fund distributions can be made. Claims processing, by itself, is a complicated process and will take many months. Please be patient. You may check on the status of the claims administration process at [klafterolsen.com](http://klafterolsen.com) or [abdataclassaction.com](http://abdataclassaction.com).

## **WHAT RIGHTS AM I GIVING UP TO RECEIVE A PAYMENT?**

If you are a Class Member and if the proposed Settlement is approved by the Court and that approval becomes Final, you, on behalf of yourself, your respective heirs, executors, administrators, trustees, estates, families, spouses, marital communities, successors and assigns, and all persons acting in concert with you, will release all "Settled Plaintiffs' Claims" against all "Released Defendant Parties" as follows:

(a) "Settled Plaintiffs' Claims" means all claims, demands, rights, liabilities and causes of action, known or unknown, asserted by Plaintiffs or Class Members in the Action or that have been asserted by any of them in any forum or could have been asserted by any of them in any forum based upon any violation of state, federal or any country's securities laws, against any of the Defendants, parents, subsidiaries, affiliates, directors, officers, employees, agents, bankers, commercial bankers, lenders, accountants, advisors, consultants, insurers, attorneys, and any past, present or future officers, directors and employees of Defendants, their predecessors, successors, heirs, executors, trustees, estates, families, spouses and marital communities, and their subsidiaries, affiliates and agents, and all similar persons and/or entities, based upon or related to (i) their purchase of InfoSonics securities during the Class Period held at the end of the Class Period or any sales of such securities; and (ii) the facts, transactions, events, occurrences, acts, disclosures, statements, omissions or failures to act which were or could have been alleged in the Action, including without limitation, any misstatement or omission, any breach of duty, any negligence or fraud (or any other alleged wrongdoing or misconduct) relating in any way to the accounting for the 2006 warrants, InfoSonics' public filings and financial results publicly disseminated during the Class Period, InfoSonics' stock split announced in May 2006, the issues with VK Mobile phone manufacturing, approvals, distribution, distribution agreements, distribution arrangements, sales, acceptance, success, or defects alleged or that could have been alleged in the Complaint, and/or any alleged trading by Defendants in InfoSonics stock. With respect to the release of Settled Plaintiffs' Claims, it is the intention of the Plaintiffs and Class Members to expressly waive and relinquish, to the fullest extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code, which provides that:

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

(b) "Released Defendant Parties" means any and all of the Defendants and/or their current or former respective agents, servants, attorneys, auditors, investment advisors, underwriters, bankers, commercial bankers, lenders, accountants, advisors, consultants, insurers, officers, directors, employees, partners, subsidiaries, affiliates, stockholders, heirs, executors, representatives, parents, predecessors, successors, assigns, trusts, benefits committees, related companies or other individual or entity in which any Defendant has a controlling interest or which is related to or affiliated with any of the Defendants, and any past, present or future officers, directors and employees of Defendants, their predecessors, successors, heirs, executors, trustees, estates, families, spouses and marital communities, and their subsidiaries, affiliates and agents.

If the Settlement is approved, the judgment will also release to your benefit all Settled Defendants' Claims against all "Released Plaintiff Parties," as follows:

(a) "Settled Defendants' Claims" means all claims, demands, rights, liabilities and causes of action, known or unknown, asserted or that could have been asserted by any Defendant or any other Released Defendant Party in the Action or in any forum based upon any violation of state, federal or any country's securities laws, against any of the Plaintiffs or Plaintiffs' Counsel arising out of, based upon or related to the institution, prosecution, assertion, settlement or resolution of the Action.

(b) "Released Plaintiff Parties" means any and all of the Plaintiffs, the members of the Class, and their respective heirs, executors, administrators, trustees, estates, families, spouses, marital communities, successors and assigns and all persons acting in concert with any such person, and/or Plaintiffs' Counsel and their respective past, present or future partners, employees, predecessors and successors.

If you are a Class Member, all of the Court's proceedings, rulings, orders, and judgments will apply to you and legally bind you.

#### **CAN I EXCLUDE MYSELF FROM THE CLASS?**

**You will be excluded from the class only upon specific written request as described below.** If you request to be excluded, you will not be entitled to share in any recovery obtained by the Lead Plaintiff by settlement or favorable judgment in the Action, including the Settlement with the Defendants described in this Notice. You also will not be bound by any judgment in favor of either the Plaintiffs or Defendants.

You may request to be excluded from the Class by timely mailing a written Request for Exclusion, **postmarked on or before April 9, 2009**, to In re InfoSonics Securities Litigation, Claims Administrator, EXCLUSIONS, c/o A.B. Data, Ltd., PO Box 170500, Milwaukee, WI 53217-8042.

Your Request for Exclusion should include your name (and the name of any joint owner of InfoSonics common stock), your address, the number of shares of InfoSonics common stock purchased and sold by you during the Class Period, and the date(s) of such purchase(s) and sale(s) and the price(s) paid and received, and it should specifically state that you request to be excluded from the Class in the Action. Each individual requesting exclusion must personally sign a Request for Exclusion. In the case of a corporation or partnership requesting exclusion, an officer of the corporation or general partner must sign a Request for Exclusion.

#### **DO I HAVE A LAWYER IN THIS CASE?**

Yes. The Court appointed Klafter & Olsen LLP (now Klafter Olsen & Lesser LLP) and Berger & Montague, P.C., as Lead Counsel to represent all Class Members in this Action. You will not be charged for these lawyers; however, they will ask the Court to award them a portion of the Settlement Amount as a fee for the services of all Plaintiffs' Counsel and to reimburse them for their expenses in prosecuting this Action. If you want to be represented by your own lawyer, you may hire one at your own expense.

#### **HOW WILL THE LAWYERS BE PAID?**

Lead Counsel will apply, on behalf of all Plaintiffs' Counsel, in one or more applications, to the Court for an award of attorneys' fees of 25% of the Settlement Amount, and reimbursement of expenses no greater than \$100,000. In addition, Lead Counsel will apply, on behalf of the Lead Plaintiff, for an award of costs and expenses incurred by him in connection with his role in the prosecution and resolution of this Action not to exceed \$7,500. If this amount is awarded by the Court, the average recovery per 100 allegedly damaged shares of common stock would be reduced by approximately \$10.67, for an average net recovery per 100 damaged shares of approximately \$27.67. Plaintiffs' Counsel have spent more than two years litigating this Action on an entirely contingent-fee basis and have advanced all of the expenses of litigation with the expectation that if they were successful in recovering money for the Class, they would receive attorneys' fees and be reimbursed for their expenses from any funds recovered on behalf of the Class, as is customary in this type of litigation. Any amounts awarded by the Court will come out of the Settlement Amount.

#### **WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE PROPOSED SETTLEMENT, PLAN OF ALLOCATION, AND THE FEE AND EXPENSE APPLICATION?**

As noted above, the Fairness Hearing will be held on **April 23, 2009, at 3:00 p.m.** in Courtroom 6 of the United States District Court for the Southern District of California, Edward J. Schwartz United States Courthouse, 940 Front Street, San Diego, CA 92101, at which the Court will consider, among other things, whether the proposed Settlement of the Action on the terms and conditions provided in the Settlement Stipulation is fair, reasonable, and adequate and should be approved by the Court; whether the proposed Plan of Allocation of the Net Settlement Fund is fair, reasonable, and adequate and should be approved by the Court; and whether a Final Judgment should be entered in this Action. The Court expressly reserves the right to adjourn the Fairness Hearing from time to time without any further written notice to Class Members, other than notice posted at the courthouse on the date of the Fairness Hearing. At or after the Fairness Hearing, the Court will also consider whether to approve Lead Counsel's Fee and Expense Application and the Plan of Allocation described herein.

#### **WHAT CAN I DO IF I DO NOT LIKE THE PROPOSED SETTLEMENT, THE FEE AND EXPENSE APPLICATION, AND/OR THE PLAN OF ALLOCATION?**

If you are a Class Member, you can object to the Settlement, the Fee and Expense Application, and/or the Plan of Allocation if you do not like any part of them. If you object to the Settlement, the Fee and Expense Application and/or the Plan of Allocation, you can present reasons why you think the Court should not approve any of them. To object, you must send a letter saying what you object to and the reasons for your objection. Be sure to include the case name and number, "*In re InfoSonics Securities Litigation*, Case No. 06-CV-1231-JLS (WMC) (S.D. Ca.)"; your name; current address; telephone number; signature; information concerning your purchase(s) and sale(s) of InfoSonics common stock during the Class Period, including the number of such shares purchased and sold; the dates of purchase and sale; the reason(s) you object to the proposed Settlement, the Fee and Expense Application, and/or the Plan of Allocation; and all legal support you wish to bring to the Court's attention or evidence you have to support your objection. You must mail or deliver copies of your objection and of any papers you would like to present to the Court to all of the people identified below such that they are **received** no later than **April 9, 2009**:

**The Court**

Clerk of the Court  
United States District Court for the Southern  
District of California  
880 Front Street  
San Diego, CA 92101

**Lead Counsel**

Kurt B. Olsen, Esq.  
KLAFTER OLSEN & LESSER LLP  
1250 Connecticut Avenue, NW, Suite 200  
Washington, D.C. 20036  
Todd S. Collins, Esq.  
BERGER & MONTAGUE, P.C.  
1622 Locust Street  
Philadelphia, PA 19103

**Defendants' Counsel**

Peter H. Benzian, Esq.  
LATHAM & WATKINS LLP  
600 West Broadway, Suite 1800  
San Diego, CA 92101

Any objection may be filed and served on your own or through an attorney hired at your own expense. If you file and serve an objection, you may, but are not required to, appear at the Fairness Hearing, either in person or through an attorney hired at your own expense. If you hire an attorney to represent you at the Fairness Hearing, the attorney must file a notice of appearance with the Clerk of the Court and deliver a copy of that notice to Lead Counsel and Defendants' Counsel at the addresses set forth above, so that they are **received** no later than **April 9, 2009**.

ANY CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED ABOVE WILL BE DEEMED TO HAVE WAIVED ANY OBJECTION AND SHALL BE FOREVER FORECLOSED FROM MAKING ANY OBJECTION TO THE PROPOSED SETTLEMENT, THE FEE AND EXPENSE APPLICATION, AND/OR THE PROPOSED PLAN OF ALLOCATION, UNLESS THE COURT ORDERS OTHERWISE.

Class Members who do not object to the Settlement, Fee and Expense Application, and Plan of Allocation need not appear at the Fairness Hearing.

**WHAT IS THE DIFFERENCE BETWEEN OBJECTING AND REQUESTING EXCLUSION?**

Objecting is telling the Court that you do not like something about the Settlement, Plan of Allocation, or the Fee and Expense Application. You can object only if you are a Class Member. If you submit a Request for Exclusion, that informs the Court that you do not want to be a Class Member, and therefore, you cannot object because the Action no longer affects you.

**WHAT WILL HAPPEN IF I DO NOTHING AT ALL?**

If you fail to submit a timely Claim Form in response to this Notice, you will not get any money from this Settlement. Whether or not you submit a timely Claim Form, if you are a Class Member, you will not ever be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against any Defendant or other Released Defendant Party asserting any of the Settled Plaintiffs' Claims, as described above.

**WHAT IS THE PLAN OF ALLOCATION?**

The Plan of Allocation is the method by which the Net Settlement Fund will be allocated among Class Members who submit timely, valid, and signed Claim Forms. It is the product of Lead Counsel's investigation and discovery and the applicable law governing the recoverability of damages in a securities action such as this.

Shortly before the commencement of this Action, the United States Supreme Court issued a decision concerning the ability of purchasers of securities to recover losses in a securities fraud action such as this. The Supreme Court held that to recover damages, a plaintiff must show a connection between the alleged misrepresentations and the loss. Since this decision, appellate courts have interpreted it to bar a recovery of losses absent a showing that any losses were caused by a public disclosure concerning the alleged fraud. Here, the first disclosure allegedly causing damages to shareholders was before the open of the stock market on Monday, June 12, 2006, when InfoSonics announced that it would restate its previously filed financial results for 1Q06 because it had improperly accounted for warrants issued during 1Q06. Upon that announcement, shares of InfoSonics fell more than 28% on June 12—from a close of \$24.22 on Friday, June 9, 2006, to a close of \$17.38 on June 12, 2006, for a decline of \$6.84. Plaintiffs have alleged that Defendants had a duty to disclose that its 1Q06 financial statements would need to be restated by May 26, 2006. On June 19, 2006, InfoSonics common stock split 2 for 1, as previously announced. The calculations described below reflect post-split prices for InfoSonics common stock.

The second disclosure allegedly causing damages to shareholders was made when InfoSonics disclosed its financial results for 2Q06 after the close of the market on August 9, 2006. Those results fell below analysts' earnings expectations. In addition, InfoSonics disclosed that its U.S. sales continued to be much lower as a percentage of its total revenues when compared to the end of the fourth quarter, December 31, 2005. Plaintiffs alleged that this was contrary to Defendants' prior representations commencing on February 6, 2006, that the falloff in U.S. sales reported in 1Q06 was due to a temporary manufacturing delay and of the success of the VK Mobile VK530 phone in the U.S. market. Upon that announcement, shares of InfoSonics fell more than 26%—from a close of \$8.51 on August 9, 2006, to a close of \$6.25 on August 10, 2006, for a decline of \$2.26.

Based on these factors, each Authorized Claimant's "Recognized Loss" will be calculated for purposes of the proposed Settlement as follows:

- (a) For shares of InfoSonics common stock **that were purchased during the period May 26, 2006, through June 9, 2006, inclusive, and still held as of the close of the market on June 9, 2006, but sold before the close of the market on August 9, 2006**, the Recognized Loss per share shall be **the smallest of** (1) \$3.42 (on a split-adjusted basis); (2) the difference between (x) the purchase price paid and (y) the sales price; **and** (3) the difference between (x) the purchase price paid and (z) \$8.69 (the split-adjusted closing price on June 12, 2006).
- (b) For shares of InfoSonics common stock **that were purchased during the period May 26, 2006, through June 9, 2006, inclusive, and still held as of the close of the market on August 9, 2006**, the Recognized Loss per share shall be **the smaller of** (1) \$2.26 plus the **lesser** of \$3.42 **and** the difference between (x) the purchase price paid and (y) \$8.69; **and** (2) the difference between (x) the purchase price paid and (z) \$6.25 (the closing price on August 10, 2006).
- (c) For shares of InfoSonics common stock **that were purchased during the period February 6, 2006, through August 9, 2006 (except for those shares purchased between May 26 2006, and June 9, 2006, inclusive), and still held as of the close of the market on August 9, 2006**, the Recognized Loss per share shall be **the smaller of** (1) \$2.26; **and** (2) the difference between (x)

the purchase price paid and (y) \$6.25 (the closing price on August 10, 2006). If you purchased your InfoSonics shares at a price less than \$6.25 during the period from February 6, 2006, through August 9, 2006, and still held these shares as of the close of the market on August 9, 2006, then the Recognized Loss per share on such shares shall be \$0.00.

- (d) For shares of InfoSonics common stock **that were purchased during the period February 6, 2006, through June 9, 2006, inclusive, and sold during the same period**, the Recognized Loss per share shall be \$0.00 because both the purchase and sale occurred during a period when there was no public disclosure of InfoSonics' need to restate its 1Q06 financial results or any adverse issues relating to the VK Mobile VK530 phone or the negative impact of those adverse issues on InfoSonics' U.S. sales. As a result, any losses on such transactions are not compensable pursuant to the federal securities law claims asserted in this Action.
- (e) For shares of InfoSonics common stock **that were purchased during the period February 6, 2006, through May 25, 2006, inclusive, and sold during the period June 12, 2006, through August 9, 2006, inclusive**, the Recognized Loss per share shall be \$0.00 because the purchase occurred before there was allegedly any duty on the part of Defendants to disclose InfoSonics' need to restate its 1Q06 financial results and the sale occurred during a period when there was no public disclosure of any adverse issues relating to the VK Mobile VK530 phone or the negative impact of those adverse issues on InfoSonics' U.S. sales. As a result, any losses on such transactions are not compensable pursuant to the federal securities law claims asserted in this Action.
- (f) For shares of InfoSonics common stock **that were purchased during the period June 12, 2006, and August 9, 2006, inclusive, and sold during the same period**, the Recognized Loss per share shall be \$0.00 because both the purchase and sale occurred during a period when there was no public disclosure of any adverse issues relating to the VK Mobile VK530 phone or its negative impact on InfoSonics' U.S. sales. As a result, any losses on such transactions are not compensable pursuant to the federal securities law claims asserted in this Action.

The date of purchase or sale is the "contract" or "trade" date as distinguished from the "settlement" date. The determination of the price received per share and the price paid per share shall be exclusive of commissions, taxes, fees, and charges.

For purposes of calculating the Recognized Loss of an Authorized Claimant, the first in, first out (FIFO) method will be used. This means that sales of InfoSonics common stock will be first matched with any pre-Class Period holdings and then with purchases during the Class Period in chronological order. If at any time more shares of InfoSonics common stock are sold than have been purchased during the Class Period, an initial balance of a corresponding number of shares will be imputed unless it is indicated on the Claim Form.

All profits on any transactions within the criteria specified in (a) through (c) above, as determined on a FIFO basis, shall be subtracted from the total of all Recognized Losses, determined on a FIFO basis, to calculate the overall Recognized Loss of the Authorized Claimant, if any.

Any person or entity who sold InfoSonics common stock "short" shall have no Recognized Loss with respect to any purchase during the Class Period to cover such short sale.

To the extent there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to the Authorized Claimant's Recognized Loss. If, however, the amount in the Net Settlement Fund is not sufficient to permit payment of the total Recognized Loss of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage that each Authorized Claimant's Recognized Loss bears to the total of the Recognized Losses of all Authorized Claimants. As such, each Authorized Claimant will receive a *pro rata* share of the Net Settlement Fund. The Court has reserved jurisdiction to allow, disallow, or adjust the Recognized Loss of any Class Member on equitable grounds.

**Please note that the term "Recognized Loss" is used solely for calculating the amount of participation by Authorized Claimants in the Net Settlement Fund and does not reflect the actual amount an Authorized Claimant can expect to recover.**

In the interest of economy, no payment will be made to any Authorized Claimant whose share of the Net Settlement Fund would be less than \$10.00 based on the allocation of the Net Settlement Fund to all Authorized Claimants.

No Authorized Claimant will have any claim against any Plaintiff, Plaintiffs' Counsel, the Claims Administrator, or any other person designated by Lead Counsel, based on distributions made substantially in accordance with this Plan of Allocation or further orders of the Court. No Authorized Claimant or any other person shall have any claim against Defendants or Defendants' Counsel based on the amounts of any distributions from the Net Settlement Fund, any determinations regarding that person's eligibility to receive a distribution from the Net Settlement Fund, or any rejection of that person's claim to receive a distribution from the Net Settlement Fund.

#### **SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES**

If you hold InfoSonics common stock that was purchased during the Class Period as nominee for a beneficial owner, then within ten days after you receive this Notice, you must either (a) mail copies of this Notice and the accompanying Claim Form by First-Class Mail to each such beneficial owner or (b) send a list of the names and addresses of such beneficial owners to the Claims Administrator at the following address:

**IN RE INFOSONICS SECURITIES LITIGATION  
CLAIMS ADMINISTRATOR  
ATTENTION: FULFILLMENT DEPARTMENT  
C/O A.B. DATA, LTD.  
3410 WEST HOPKINS STREET  
PO BOX 170500  
MILWAUKEE, WI 53217-8042  
866-561-6065  
fax 414-961-7499  
[fulfillment@abdata.com](mailto:fulfillment@abdata.com)**

**ARE THERE MORE DETAILS ABOUT THE SETTLEMENT? WHO SHOULD I CONTACT IF I HAVE QUESTIONS?**

This Notice summarizes the proposed Settlement. More details are contained in the formal Settlement Stipulation, which has been filed with the Court. In addition, Plaintiffs' submissions in support of the proposed Settlement, the Plan of Allocation and Lead Counsel's Fee and Expense Application will be on file with the Court on April 16, 2009. If you want a copy of the Settlement Stipulation, Plaintiffs' submissions in support of the proposed Settlement, the Plan of Allocation, or Lead Counsel's Fee and Expense Application, or if you have any questions about these matters, you may write to Lead Counsel at one of the addresses set forth above; write to the Claims Administrator at In re InfoSonics Securities Litigation, Claims Administrator, c/o A.B. Data, Ltd., PO Box 170500, Milwaukee, WI 53217-8042 or call 800-983-6533 toll free.

**PLEASE DIRECT YOUR QUESTIONS TO THE CLAIMS ADMINISTRATOR OR TO LEAD COUNSEL. DO NOT CONTACT THE COURT OR DEFENDANTS' COUNSEL WITH QUESTIONS.**

DATE: FEBRUARY 9, 2009

BY ORDER OF THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF CALIFORNIA