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

17
18 IN RE QUALCOMM/BROADCOM
19 MERGER SECURITIES LITIGATION

Case No. 3:18-cv-01208-AJB-MSB

**CONSOLIDATED AMENDED
CLASS ACTION COMPLAINT FOR
VIOLATION OF THE FEDERAL
SECURITIES LAWS**

DEMAND FOR JURY TRIAL

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	Page
I. NATURE OF THE ACTION AND OVERVIEW	2
II. JURISDICTION AND VENUE	10
III. PARTIES AND RELEVANT NON-PARTY.....	11
IV. DEFENDANTS’ FRAUDULENT SCHEME	13
A. Qualcomm—A Beleaguered Technology Business Battered by Legal and Regulatory Woes.....	13
B. Broadcom—A Growing Business, Redomiciling in the United States	15
C. The Press Reports on Broadcom’s Interest in Acquiring Qualcomm and Qualcomm’s Stock Price Jumps	16
D. Broadcom Makes a Formal Proposal to Acquire Qualcomm.....	17
E. Qualcomm Rejects Broadcom’s Offer.....	19
F. Broadcom Launches a Proxy Fight.....	20
G. Qualcomm’s Board Rejects Broadcom’s Independent Nominees and Urges Shareholders to Do the Same	24
H. Unbeknownst to Shareholders, Qualcomm Petitions CFIUS to Kill Broadcom’s Takeover Attempt.....	28
1. The Committee on Foreign Investment in the United States	30
2. The Market Did Not View CFIUS as a Serious Obstacle to the Transaction	33
I. Qualcomm Misleads the Market into Believing Its Board Is Willing to Negotiate around a Fair Price at the Same Time It Was Affirmatively Seeking to Derail Broadcom’s Bid	36
1. Qualcomm Begins Misleading Shareholders on January 29, 2018, Regarding the Affirmative Steps It Took to Lobby for CFIUS Intervention	36
2. Broadcom Ups Its Offer and Qualcomm Claims to Consider It Even Though It was Secretly Advocating to End the Bid.....	37
3. Defendants Continue to Mislead Investors About Qualcomm’s Willingness to Negotiate with Broadcom.....	41
4. Following a Meeting with Broadcom, Qualcomm Falsely Maintains Its Willingness to Negotiate	46

1 5. Broadcom Lowers Its Offer in Response to Qualcomm
 2 Action but Continues to Try to Move the Deal Forward47
 3 6. The Parties Meet Once Again and Qualcomm Continues to
 4 Misrepresent Its Actual Level of Engagement 49
 5 J. The Relevant Truth Is Revealed in a Series of Disclosures 53
 6 V. DEFENDANTS’ MATERIALLY FALSE AND MISLEADING
 7 STATEMENTS AND OMISSIONS OF MATERIAL FACT 61
 8 VI. LOSS CAUSATION/ECONOMIC LOSS..... 79
 9 A. March 5 and March 6, 2018..... 80
 10 B. March 12 and March 13, 2018..... 89
 11 VII. THE STATUTORY SAFE HARBOR AND BESPEAKS CAUTION
 12 DOCTRINE ARE INAPPLICABLE 92
 13 VIII. CONTROLLING PERSON ALLEGATIONS 93
 14 IX. CLASS ACTION ALLEGATIONS 94
 15 X. PLAINTIFFS AND CLASS MEMBERS ARE ENTITLED TO A
 16 PRESUMPTION OF RELIANCE 96
 17 XI. CAUSES OF ACTION 98
 18 XII. PRAYER FOR RELIEF..... 102
 19 XIII. JURY DEMAND 103

18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28

1 This is a class action for violations of the federal securities laws brought by Lead
2 Plaintiff Gatubhai Mistry (“Lead Plaintiff”) and Plaintiff Gerald L. Koenig
3 (collectively, “Plaintiffs”) individually and on behalf of all persons who purchased or
4 otherwise acquired Qualcomm Incorporated (“Qualcomm” or the “Company”)
5 common stock between January 29, 2018 and March 12, 2018, inclusive (the “Class
6 Period”). Plaintiffs allege violations of Sections 10(b) and 20(a) of the Securities
7 Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 promulgated by the Securities
8 and Exchange Commission (“SEC”) thereunder (17 C.F.R. § 240.10b-5), against:
9 (i) Qualcomm; (ii) Qualcomm’s Chief Executive Officer (“CEO”) Steven M.
10 Mollenkopf (“Mollenkopf”); (iii) Qualcomm’s former Executive Chairman and
11 Chairman of Qualcomm’s Board of Directors (the “Board”) Dr. Paul E. Jacobs
12 (“Jacobs”); (iv) Qualcomm’s General Counsel Donald J. Rosenberg (“Rosenberg”);
13 and (v) Qualcomm’s Presiding Director of the Board Thomas W. Horton (“Horton”)
14 (collectively, “Defendants”).

15 Plaintiffs allege the following based upon personal knowledge with respect to
16 Plaintiffs’ own acts and upon information and belief as to all other matters based on
17 the investigation undertaken by Court-appointed Co-Lead Counsel, Kessler Topaz
18 Meltzer & Check, LLP and Robbins Geller Rudman & Dowd LLP, and their agents.
19 Co-Lead Counsel’s investigation includes, among other things, a review and analysis
20 of: (i) public filings by Qualcomm and Broadcom Limited (“Broadcom”) with the
21 SEC; (ii) public reports and news articles; (iii) research reports by securities and
22 financial analysts; (iv) economic analysis of securities movement and pricing data;
23 (v) transcripts of investor calls with Qualcomm and Broadcom senior management;
24 (vi) consultations with consultants; and (vii) other publicly available material and data
25 identified herein. Co-Lead Counsel’s investigation into the factual allegations
26 contained herein is continuing and many of the facts supporting Plaintiffs’ allegations
27 are known only to Defendants or are exclusively within their custody or control.

1 Plaintiffs believe that further substantial evidentiary support will exist for the
2 allegations contained herein after a reasonable opportunity for discovery.

3 **I. NATURE OF THE ACTION AND OVERVIEW**

4 1. This action involves Defendants' materially false and misleading Class
5 Period statements and omissions, undertaken to frustrate Broadcom's attempt to
6 acquire Qualcomm, entrench themselves in their director and executive positions, and
7 ultimately to thwart the will of the Company's shareholders.

8 2. By the fall of 2017, Qualcomm—a semiconductor company based in San
9 Diego—was under intense scrutiny after years of poor performance. The Company
10 was engaged in contentious litigation with one of its biggest customers, Apple
11 Incorporated ("Apple"), over Qualcomm's alleged "illegal business practices," and
12 Apple was threatening to discontinue use of Qualcomm's chips in its iPhones. The
13 Company was also facing multiple suits and investigations by the Federal Trade
14 Commission ("FTC") and numerous antitrust agencies around the world for its alleged
15 anti-competitive practices—which had already resulted in billions of dollars in fines.

16 3. Qualcomm's net income plunged 57% in fiscal year 2017, and while its
17 competitors rode the bull market, with the PHLX Semiconductor Sector Index rising
18 58% over the previous year, the Company's stock price had floundered, plummeting
19 18% over the same period. By November 2017, Qualcomm's common stock was
20 trading around \$54 per share, down from a high of \$81.32 in April 2014. As a
21 Bernstein analyst summed it up: "Qualcomm's stock has been hideous to own over the
22 last few years."

23 4. On November 3, 2017, news leaked that Broadcom was planning a bid to
24 acquire Qualcomm at around \$70 per share, almost 30% over its current market price.
25 Unlike Qualcomm, Broadcom—a semiconductor company domiciled in Singapore—
26 had experienced remarkable success in recent years. In fact, between April 2014 and
27 October 2017, Broadcom's stock price had increased approximately 350%—from
28 \$58.53 to \$263.91. The market's response to news of Broadcom's bid was immediate

1 and positive—Qualcomm’s common stock spiked 13% in a single trading day, closing
2 on November 3 at \$61.81.

3 5. On November 6, 2017, Broadcom made its formal offer to acquire
4 Qualcomm for \$70 per share. A week later, Qualcomm announced that it had rejected
5 Broadcom’s offer, arguing that it “dramatically undervalue[d] Qualcomm.”
6 Qualcomm also cited to unexplained “significant regulatory uncertainty.” Undeterred,
7 Broadcom made clear that it “remain[ed] fully committed” to acquiring Qualcomm and
8 was “encouraged by [shareholder] reaction.”

9 6. The market also remained bullish on the deal, with one analyst reporting:
10 “the probability remains [Broadcom] will up the offer and acquire the asset either via
11 constructive discussions or a proxy battle” to replace Qualcomm’s Board. An
12 Oppenheimer analyst report similarly reported that, “we believe QCOM shareholders
13 would be eager to accept a ~27% premium[.]”

14 7. As a result, the Company’s share price continued to rise throughout
15 November, closing out the month at \$66.34—a 30.5% total increase. As the Motley
16 Fool explained: “Qualcomm’s share price . . . continued to climb throughout
17 November. That could be an indicator that shareholders are eager to replace
18 Qualcomm’s board and allow this acquisition to go through.” A commentator summed
19 up investor sentiment on CNBC’s *Squawk Box* as follows: “[t]here are many
20 shareholders, including me, who think Qualcomm is very poorly managed. I would
21 like adult supervision to come in from Broadcom[.]”

22 8. Broadcom officially kicked off a proxy fight on December 4, 2017,
23 announcing a slate of 11 director nominees to replace Qualcomm’s beleaguered
24 Board—with the vote to take place at Qualcomm’s annual meeting on March 6, 2018
25 (the “Annual Meeting”). Broadcom made clear that its “strong preference” was still to
26 negotiate a deal with the Company and that Qualcomm’s shareholders were also
27 “express[ing] their desire for Qualcomm to engage with us.” The proxy fight would
28

1 therefore “give Qualcomm stockholders an opportunity to voice their disappointment
2 with Qualcomm’s directors and their refusal to engage in discussions with us.”

3 9. On December 22, 2017, Qualcomm officially announced that it would
4 oppose Broadcom’s proxy fight and a few weeks later, on January 5, 2018, the two
5 companies filed competing proxy statements soliciting shareholder votes for their
6 respective slates. The main thrust of Qualcomm’s opposition was that Broadcom’s
7 offer “substantially undervalued” the Company and that its current Board “will deliver
8 far more value than the Broadcom proposal.” Qualcomm also asserted that the deal
9 involved “significant regulatory uncertainty,” including from antitrust regulators and
10 the Committee on Foreign Investment in the United States (“CFIUS” or “the
11 Committee”)—an interagency committee that reviews transactions between foreign
12 and domestic entities for potential national security concerns.

13 10. While market commentators recognized some potential antitrust risk
14 associated with Broadcom’s offer, many ultimately concluded that such risks were
15 minimal. For example, a Canaccord Genuity analyst report concluded that “[w]hile we
16 believe the overlapping WiFi businesses would create some regulatory concerns that
17 could be solved, we do not believe there are material product overlaps in other areas of
18 the businesses.” Analyst Oppenheimer Equity Research echoed that “[w]e believe
19 regulatory/HSR hurdles should be low[.]” As the New York Times explained,
20 although antitrust approval could raise some concern, “[t]he biggest issue may simply
21 be that Qualcomm believes the current offer, worth about \$70 a share, is too low.”

22 11. Nor did the market perceive there to be serious risk that a review by
23 CFIUS would stymie a deal. Indeed, just days before it debuted its bid for Qualcomm,
24 Broadcom announced that it would redomicile to the U.S.—a move that the market
25 understood as removing CFIUS risk, since Broadcom would no longer be a foreign
26 entity. As the New York Times reported, “[a]t least one deal hurdle—Washington’s
27 examination of foreign acquirers—has been pre-empted.” Likewise, analyst
28 Morningstar Equity Research reported that “[w]e foresee U.S. approval, thanks to

1 Broadcom’s shrewd move to redomicile in the U.S.” These predictions were
2 seemingly affirmed in mid-November 2017, when CFIUS approved Broadcom’s
3 acquisition of another U.S. company, Brocade Communications Systems, Inc.
4 (“Brocade”), as a result of Broadcom’s decision to redomicile.

5 12. Thus, in an effort to manufacture doubt about CFIUS review, in December
6 and January proxy solicitations Qualcomm seized on what it characterized as
7 “uncertainty surrounding [Broadcom’s] transition from Singapore to the United
8 States,” noting that “they have not made any further progress on their commitment to
9 become an American company[.]” On January 22, 2018, however, Broadcom put
10 Qualcomm’s speculations to rest, announcing that it had filed preliminary proxy
11 materials with the SEC to approve its redomiciliation to the U.S., and expected to
12 complete the process by May 6, 2018.

13 13. With Qualcomm’s disenchanted shareholder base fleeing to Broadcom’s
14 camp, and Broadcom’s redomiciliation imminent, by the end of January, Defendants
15 saw the writing on the wall. As a result, in a desperate and blatant attempt to thwart
16 the will of the Company’s shareholders and entrench themselves, Defendants secretly
17 filed a notice with CFIUS on January 29, 2018, arguing that the deal raised serious
18 national security concerns and asking the regulator to kill Broadcom’s bid before it had
19 the opportunity to redomicile. Over the next month, Defendants continued to covertly
20 submit additional information to CFIUS in furtherance of their plan to kill the deal.

21 14. During the Class Period, Defendants withheld all of this highly material
22 information from their shareholders. Indeed, while behind the scenes Defendants were
23 doing everything in their power to kill Broadcom’s bid, publicly they were repeatedly
24 misrepresenting to investors that they were negotiating with Broadcom in good faith
25 to reach a deal. For example, on February 5, 2018, Broadcom upped its bid to \$82 per
26 share—a whopping 50% premium over Qualcomm’s pre-bid stock price—and made
27 significant concessions to address Qualcomm’s purported concerns about regulatory
28 risk. Three days later, Qualcomm rejected Broadcom’s improved offer, but

1 misrepresented to shareholders that it was willing to constructively engage with
2 Broadcom: “***Qualcomm has offered to meet with Broadcom to see if it can address***
3 ***the serious deficiencies in value and certainty in its proposal.***”¹

4 15. Throughout the Class Period, Defendants made vague statements about
5 potential regulatory delay, and highlighted the antitrust risks associated with the deal
6 while concealing the steps the Company had taken to scuttle the transaction. For
7 example, the very same day they filed their secret CFIUS notice, Qualcomm
8 highlighted antitrust risks associated with the deal, telling investors that Broadcom’s
9 bid involved “some questions about deal certainty and regulatory approval” and “[w]e
10 believe that [regulatory approval] is probably going to take something in the range of
11 18 months or more even[.]” While speaking directly to potential regulatory delay
12 associated with the deal, however, Defendants purposefully withheld the fact that they
13 had taken affirmative steps to ensure that the deal would never receive regulatory
14 approval.

15 16. In a February 8, 2018 letter to Broadcom filed with the SEC, Defendants
16 laid out the topics for discussion at their proposed meeting with Broadcom, which
17 included, “***Is Broadcom willing to commit to take whatever actions are necessary to***
18 ***ensure the proposed transaction closes?***” (Some emphasis in original.) Defendants’
19 letter explained that Broadcom’s firm commitment to ensure regulatory approval “***is***
20 ***extremely important to value preservation for our shareholders***” and “***[i]f you are not***
21 ***willing to agree to do whatever is necessary to ensure a transaction closes, we will***
22 ***need you to be extremely clear and specific about exactly what actions you would***
23 ***refuse to take, so that we can properly evaluate the risk to Qualcomm’s***
24 ***shareholders.***” While focusing attention on Broadcom’s commitment to ensure deal
25 closure, however, Defendants failed to disclose that they had already argued to
26 regulators that the transaction inherently posed a threat to national security and
27

28 ¹ All emphasis herein is added unless otherwise notated.

1 therefore should never close, regardless of any steps Broadcom agreed to take. By
2 withholding this information from investors, Defendants deprived them of the
3 opportunity to “properly evaluate the risk[s] to Qualcomm shareholders.”

4 17. Because they were in the dark about Qualcomm’s secret defensive
5 measures, analysts reacted positively to Qualcomm’s stated willingness to engage,
6 writing, “we are encouraged to see a potential meeting between AVGO and QCOM
7 and looking forward to incremental updates” and reaffirming a price target of \$80 per
8 share—just below Broadcom’s bid.

9 18. On February 14, 2018, Qualcomm met with Broadcom to discuss the
10 improved proposal. After the meeting, Defendants again misrepresented to the market
11 that the parties were making progress toward a negotiated deal, telling shareholders
12 that “*our Board found the meeting to be constructive,*” that “[w]hile the current
13 Broadcom proposal is unacceptable, *our Board is intensely focused on maximizing*
14 *value for Qualcomm stockholders*, whether through executing on its growth strategy
15 *or by selling the Company,*” and “[o]ur Board is open to further discussions with
16 *Broadcom to see if a proposal that appropriately reflects the true value of Qualcomm*
17 *shares, and ensures an appropriate level of deal certainty, can be obtained.*”
18 Meanwhile, Qualcomm’s shareholders had no idea that rather than trying to negotiate
19 a deal, Defendants were instead actively working to ensure that a Broadcom deal could
20 never happen.

21 19. Over the next week, shareholder support for Broadcom’s bid was further
22 cemented when two of the top proxy advisory services recommended that Qualcomm’s
23 shareholders vote to oust the Company’s Directors. First, on February 16, Institutional
24 Shareholder Services (“ISS”) recommended that the Company’s Board “should
25 negotiate with [Broadcom] in good faith,” noting that “[r]egulatory concerns from [a
26 Broadcom/Qualcomm] merger appear manageable[.]” If Qualcomm’s Board failed to
27 engage, however, ISS recommended that shareholders vote to oust them, explaining
28 that “[t]he election of four Broadcom nominees to the 11-member board seems to offer

1 a reasonable path to a negotiated deal, which is likely to be the most beneficial path for
2 shareholders.” Four days later, Glass, Lewis & Co. (“Glass Lewis”) issued a
3 recommendation that shareholders vote “AGAINST” Qualcomm’s directors and
4 “FOR” all of Broadcom’s nominees at the Annual Meeting.

5 20. In response, Defendants continued to mislead investors that they were
6 seeking a negotiated deal with Broadcom. For instance, on February 20, the Company
7 issued another statement about the February 14 meeting, misrepresenting that “[w]e
8 *entered the meeting with Broadcom in a constructive manner, seeking a price*
9 *increase and engagement on issues related to transaction certainty. However,*
10 *Broadcom did not engage on the topic of price . . . [and] should Broadcom present a*
11 *proposal that delivers superior value and sufficiently protects downside risk to you,*
12 *we will pursue a sale.*”

13 21. To further perpetuate the myth that they were pursuing a negotiated deal,
14 on February 23, Defendants again met with Broadcom regarding its proposal. In a slew
15 of statements issued on February 26, Defendants misrepresented to investors that the
16 companies had made substantial progress addressing Qualcomm’s regulatory concerns,
17 and that the only sticking point was price: “[t]he Qualcomm Board believes *the*
18 *meeting led to further progress toward a possible negotiated transaction on key*
19 *issues other than price.*” Defendants also represented that they would be providing
20 Broadcom with edits to its proposed merger agreement and a non-disclosure
21 agreement, stating that “*the Board encourages Broadcom to enter into mutual due*
22 *diligence and price negotiations*” “*with the goal of determining whether there is a*
23 *mutually beneficial transaction to be done between our two companies.*”

24 22. Market reaction was positive, with commentators noting that Qualcomm
25 “[said] the two sides had made progress on regulatory issues but were yet to agree on
26 the deal value.”

27 23. Defendants’ misleading statements continued unabated on March 1, 2018,
28 when they touted their “*repeated[] and genuine[] attempt[s] to engage with Broadcom*

1 *on issues including price, regulatory and other closing certainties . . . [and their]*
2 *attempts to find a path to a deal[.]’* As suggested by Broadcom, it appeared that
3 “Qualcomm’s sudden request to enter into an NDA is a result of Qualcomm finally
4 beginning to recognize the will of its stockholders.” The reality, of course, was that
5 Qualcomm was actively working to thwart the will of its shareholders and scuttle any
6 chance of a Broadcom bid.

7 24. Then, on March 5 and 6, 2018, Qualcomm revealed that it had secretly
8 submitted a voluntary notice to CFIUS *on January 29, 2018*, requesting that it review
9 Broadcom’s bid. Qualcomm’s notice included arguments as to why the deal would
10 jeopardize national security. As a result, CFIUS ordered Qualcomm to postpone its
11 Annual Meeting—including the vote on Broadcom’s slate of nominees. As Broadcom
12 noted in a March 5 press release, “[t]his was a blatant, desperate act by Qualcomm to
13 entrench its incumbent board of directors and prevent its own stockholders from voting
14 for Broadcom’s independent director nominees.” Moreover, Qualcomm’s actions “can
15 only be seen as an intentional lack of disclosure—both to Broadcom and to its own
16 stockholders.”

17 25. On March 6, 2018, Qualcomm published a letter from the U.S.
18 Department of Treasury that provided further details concerning Qualcomm’s secret
19 Class Period communications with CFIUS and made clear that its decision was the
20 direct result of the unilateral notice and follow-up information submitted by
21 Qualcomm. For example, the letter disclosed that “CFIUS’s assessment thus far
22 includes its review of the information submitted by Qualcomm in its unilateral
23 voluntary notice on January 29, 2018, the parties’ responses to questions posed about
24 the potential transaction during the interim period, and the information provided in our
25 multiple phone calls, emails, and meetings with representatives of both Qualcomm and
26 Broadcom.” As a result of these disclosures, the market also understood that
27 Defendants had never been willing to negotiate with Broadcom in good faith to sell the
28 Company, as they had repeatedly represented. In response to these disclosures, the

1 Company's stock fell 4.02%, from a closing price of \$64.74 on March 2, 2018, to a
2 closing price of \$62.14 on March 6, 2018.

3 26. The following day, rumors began circulating that, in an attempt to salvage
4 its bid, Broadcom was accelerating its efforts to redomicile to the U.S. Then, after the
5 close of business on March 12, 2018, President Donald J. Trump ("President Trump")
6 issued an executive order blocking Broadcom from acquiring Qualcomm. Market
7 commentators again noted that the decision seemed to stem directly from the
8 information provided by Qualcomm: "some of the objections publicly voiced by the
9 committee sound like Qualcomm talking points." In response, the Company's stock
10 price declined 4.95%, to close at \$59.70 per share on March 13, 2018.

11 27. On March 14, 2018, Broadcom announced that it had terminated its offer
12 to acquire Qualcomm. Analysts expressed outrage that Qualcomm's actions had
13 thwarted the will of its shareholders, with a Bernstein analyst reporting that "[b]y
14 invalidating Broadcom's board slate, the US government has effectively revoked the
15 rights of Qualcomm's long-suffering shareholders to vote for change (indeed, it almost
16 feels like Qualcomm shareholders have been asked to effectively subsidize U.S.
17 government policy)." Indeed, numerous news sources reported that, before CFIUS's
18 intervention at Qualcomm's behest, the proxy vote count indicated that Broadcom was
19 on track to win a majority of Qualcomm's Board seats, with defendants Mollenkopf
20 and Jacobs as the lowest votegetters.

21 **II. JURISDICTION AND VENUE**

22 28. The claims asserted herein arise under Sections 10(b) and 20(a) of the
23 Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)), and Rule 10b-5 promulgated
24 thereunder (17 C.F.R. § 240.10b-5).

25 29. This Court has jurisdiction over the subject matter of this action pursuant
26 to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331.

27 30. Venue is proper in this District pursuant to Section 27 of the Exchange
28 Act, 15 U.S.C. § 78aa and 28 U.S.C. § 1391(b). Many of the acts and transactions

1 alleged herein, including the preparation and dissemination of materially false and
2 misleading information, occurred in substantial part in this District. Additionally,
3 Qualcomm’s principal executive offices are located within this District.

4 31. In connection with the acts, transactions, and conduct alleged in this
5 Complaint, Defendants directly and indirectly used the means and instrumentalities of
6 interstate commerce, including the United States mail, interstate telephone
7 communications, and the facilities of a national securities exchange.

8 **III. PARTIES AND RELEVANT NON-PARTY**

9 32. Lead Plaintiff Gatubhai Mistry is an individual investor who purchased
10 Qualcomm common stock, as set forth in the certification attached hereto as Exhibit A,
11 at artificially inflated prices during the Class Period, and suffered damages as a result
12 of the misconduct alleged herein.

13 33. Plaintiff Gerald L. Koenig is an individual investor who purchased
14 Qualcomm common stock, as set forth in the certification attached hereto as Exhibit B,
15 at artificially inflated prices during the Class Period, and suffered damages as a result
16 of the misconduct alleged herein.

17 34. Defendant Qualcomm is a Delaware corporation with its principal
18 executive offices located at 5775 Morehouse Drive, San Diego, California 92121.
19 Qualcomm develops and commercializes “foundational technologies and products”
20 used in mobile devices and other wireless products. According to the Company’s
21 Annual Report Form 10-K, filed with the SEC on November 1, 2017, Qualcomm is “a
22 pioneer in 3G (third generation) and 4G (fourth generation) wireless technologies . . .
23 to empower a new era of intelligent, connected devices.”

24 35. Defendant Steven M. Mollenkopf was, at all relevant times, the
25 Company’s CEO and a member of the Board. Mollenkopf joined Qualcomm in 1994
26 as an engineer. From November 2011 to December 2013, Mollenkopf served as
27 President and Chief Operating Officer of the Company, and from December 2013 to
28 March 2014, he served as CEO-elect and President. Mollenkopf became CEO of

1 Qualcomm in March 2014 and has been a member of the Board since December 2013.
2 During the Class Period, Mollenkopf made materially false and misleading statements
3 in proxy solicitations published to investors on January 29, 2018, February 8, 2018,
4 February 16, 2018, February 22, 2018, February 26, 2018, and March 1, 2018.

5 36. Until his ouster in March 2018, Defendant Dr. Paul E. Jacobs was, at all
6 relevant times, the Company's Executive Chairman and Chairman of the Board. From
7 July 2005 until March 2014, Jacobs served as Qualcomm's CEO. Jacobs' father, Irwin
8 M. Jacobs, co-founded the Company in 1985 and, up until Jacobs' dismissal from the
9 Board in March 2018, a member of the Jacobs family had always served in a top
10 executive role in the Company. During the Class Period, Jacobs made materially false
11 and misleading statements in proxy solicitations published to investors on February 8,
12 2018, February 16, 2018, February 22, 2018, February 26, 2018, and March 1, 2018.

13 37. Defendant Donald J. Rosenberg was, at all relevant times, the Company's
14 Executive Vice President, General Counsel, and Corporate Secretary. Rosenberg
15 reported directly to Mollenkopf and was a member of the Company's Executive
16 Committee. In his role as General Counsel, Rosenberg was responsible for overseeing
17 Qualcomm's worldwide legal affairs including litigation, intellectual property, and
18 corporate matters. Qualcomm's Government Affairs, Internal Audit and Compliance
19 organizations also reported to him. Rosenberg has extensive experience in corporate
20 governance, compliance, law department management, litigation, securities regulation,
21 intellectual property, and competition issues. During the Class Period, Rosenberg
22 made materially false and misleading statements in a proxy solicitation published to
23 investors on January 29, 2018.

24 38. Defendant Thomas W. Horton was, at all relevant times, a member of the
25 Company's Board. Horton became a Qualcomm Director in December 2008. During
26 the relevant period, Horton also served as the Board's Presiding Director (lead
27 independent director) and, in that role, led Qualcomm's negotiations with Broadcom.
28

1 During the Class Period, Horton made materially false and misleading statements in
2 proxy solicitations published to investors on February 22, 2018 and March 1, 2018.

3 39. Defendants Mollenkopf, Jacobs, Rosenberg, and Horton are collectively
4 referred to herein as the “Individual Defendants.” The Individual Defendants, because
5 of their positions with the Company, possessed the power and authority to control the
6 contents of Qualcomm’s reports to the SEC, press releases, and presentations made to
7 securities analysts, money and portfolio managers, and institutional investors, i.e., the
8 market. Each Individual Defendant was provided with copies of the Company’s
9 reports and statements alleged herein to be misleading prior to, or shortly after, their
10 issuance and had the ability and opportunity to prevent their issuance or cause them to
11 be corrected. Because of their positions and access to material non-public information
12 available to them, each of the Individual Defendants knew that the adverse facts
13 specified herein had not been disclosed to and were being concealed from the public,
14 and that the representations which were being made were then materially false and
15 misleading.

16 40. Broadcom was, during the Class Period, a Singapore corporation with its
17 headquarters located at 1 Yishun Avenue 7 in Singapore and at 1320 Ridder Park Drive
18 in San Jose, California. Broadcom is a designer, developer, and global supplier of a
19 broad range of semiconductor devices with a focus on complex digital and mixed signal
20 complementary metal oxide semiconductor (“CMOS”) based devices and analog III-V
21 based products.

22 **IV. DEFENDANTS’ FRAUDULENT SCHEME**

23 **A. Qualcomm—A Beleaguered Technology Business Battered by Legal** 24 **and Regulatory Woes**

25 41. Qualcomm, which is headquartered in San Diego, California, sells
26 technologies and products used in mobile devices and other wireless products,
27 including network equipment, broadband gateway equipment, and consumer electronic
28

1 devices. Qualcomm derives the majority of its revenues from its semiconductor and
2 patent licensing business.

3 42. In the years leading up to Broadcom’s offer for Qualcomm, Qualcomm’s
4 stock price had floundered, collapsing almost 50% between April 2014 (high of
5 \$81.32 per share) and February 2016 (low of \$42.96 per share).

6 43. By 2017, the Company was under siege on multiple fronts. In
7 January 2017, one of Qualcomm’s largest customers—Apple—sued the Company
8 alleging that Defendants were operating an “illegal business model.”

9 44. Meanwhile, the Company was under fire from multiple antitrust agencies
10 around the world. In the United States, the FTC brought suit against Qualcomm in
11 January 2017, alleging that, among other things, it used its monopoly power over
12 cellphone chip supply and its substantial portfolio of patents to extract inflated
13 royalties, including by threatening to withhold chips from smartphone makers who
14 refused to agree to its unfair licensing terms.

15 45. In China, Qualcomm was forced to pay \$975 million to end a probe into
16 its anti-competitive practices. In late December 2016, the Korea Fair Trade
17 Commission fined the Company a record-setting \$854 million for antitrust violations.
18 In 2017, Taiwan’s Fair Trade Commission imposed a fine of \$778 million on
19 Qualcomm for refusing to sell chips to companies that would not agree to its licensing
20 terms.

21 46. By the fall of 2017, Qualcomm’s anti-competitive practices had taken a
22 massive toll on both its bottom line and its stock price. As the Los Angeles Times
23 explained, Qualcomm was fighting “a fierce legal battle with Apple over patent
24 royalties, and it faces hefty fines and lawsuits from antimonopoly regulators in the
25 U.S., South Korea and Taiwan. Those troubles weighed heavily on Qualcomm’s
26 [2017] full fiscal year results[.]”

27 47. Likewise, The Wall Street Journal reported:
28

1 [A] string of hits by regulators, competitors and customers including
2 Apple has left the industry titan in a vulnerable position. Qualcomm’s
3 profit in the fiscal year that ended Sept. 24 [2017] plummeted 57%, and
4 its share price declined 18% in the 12 months through Thursday’s close
5 compared with a 58% rise in the PHLX Semiconductor Sector Index.

6 The New York Times echoed that “Qualcomm, the longtime leader in cellphone chip
7 technology, has been grappling with a sagging stock price and investor wariness that
8 the Apple fight will continue for some time.”

9 **B. Broadcom—A Growing Business, Redomiciling in the United States**

10 48. Broadcom’s semiconductor business began in 1961 as a division of
11 Hewlett-Packard. In 1991, Hewlett-Packard spun off its semiconductor and scientific
12 testing and measuring business into Agilent Technologies, then the largest ever Silicon
13 Valley IPO. In 2005, two American private equity firms—KKR and Silver Lake
14 Partners (“Silver Lake”)—acquired the semiconductor business from Agilent for
15 \$2.6 billion and formed Avago Technologies (“Avago”). Avago went public in 2009,
16 trading on the NASDAQ under the ticker symbol “AVGO.” As of then, Avago was a
17 Singapore domiciled company for tax purposes, although it maintained significant
18 operations in Silicon Valley.

19 49. In the years that followed, Avago’s CEO, Hock Tan (“Tan”), spearheaded
20 a series of ever-bigger deals, expanding the company exponentially. In May 2015,
21 Avago announced that it was buying Broadcom Corporation, a competing chipmaker
22 based in Irvine, California, for \$37 billion. After the deal closed in February 2016, the
23 combined company—with a market value of \$77 billion—was renamed Broadcom
24 Limited but retained the ticker symbol AVGO.

25 50. In the years leading up to its offer to acquire Qualcomm, Broadcom
26 maintained its remarkable streak of mid-double digit growth by successfully
27 integrating new businesses but also growing organically. As Broadcom flourished, so
28 did its stock price; between April 2014 and October 2017, Broadcom’s stock price
increased nearly five-fold, from a low of \$58.53 to a high of \$263.91.

1 51. During the relevant time period, although Broadcom was organized under
2 the laws of Singapore, its nerve center remained in the United States. Broadcom is
3 managed from San Jose, California, its U.S. headquarters, and Broadcom’s board of
4 directors and senior management team, including Broadcom CEO Tan, are nearly all
5 American citizens. Broadcom’s stock is also mostly American-owned; ninety percent
6 of its shareholders are in the U.S. As MarketWatch reported in a March 14, 2018 article
7 entitled, *If Broadcom-Qualcomm deal can’t pass Trump’s test, what can?*, “Broadcom
8 is largely an American company that placed its legal headquarters in Singapore, . . .
9 largely for tax purposes.”

10 52. On November 2, 2017, Broadcom’s CEO Tan announced in a White
11 House press conference alongside President Trump that Broadcom would re-domicile
12 as an American corporation. President Trump hailed the announcement as a sign that
13 the U.S. business climate was improving, explaining that changing Broadcom’s parent
14 from a Singapore company to a U.S. corporation would bring \$20 billion in revenue
15 back to the U.S. President Trump also exalted Broadcom as “one of the really great,
16 great companies,” noting that Broadcom employs more than 7,500 workers across the
17 U.S.

18 **C. The Press Reports on Broadcom’s Interest in Acquiring Qualcomm**
19 **and Qualcomm’s Stock Price Jumps**

20 53. On November 3, 2017, numerous national media sources, including
21 Bloomberg, the New York Times, and Reuters reported that Broadcom was planning
22 a bid for Qualcomm. For example, Reuters reported that “[c]ommunications
23 chipmaker [Broadcom] is planning to unveil a bid for smartphone chip supplier
24 [Qualcomm] by Monday, three sources familiar with the matter said on Friday, an
25 attempt to create a roughly \$200-billion company through the biggest technology
26 acquisition ever.” The article noted that “Broadcom is considering a cash and stock
27 offer of about \$70 a share” and that “[s]hares of Broadcom have rallied this year while
28 Qualcomm has fallen, making the target more vulnerable.”

1 54. In a same-day article Bloomberg reported, “Qualcomm finds itself in a
2 weakened state. A legal battle with Apple is costing revenue and jeopardizing a
3 business model that for years made Qualcomm one of the most successful chipmakers.”
4 Quoting Sanford C. Bernstein & Co. analyst Stacy Rasgon, the article noted, “[a]
5 change of management at Qualcomm might help resolve the dispute with Apple more
6 quickly, and thereby make Qualcomm’s licensing and chip businesses more
7 valuable[.]”

8 55. In response to the news of Broadcom’s bid, Qualcomm’s stock price
9 jumped nearly 13% from a closing price of \$54.84 on November 2, 2017, to a closing
10 price of \$61.81 on November 3, 2017. On November 5, 2017, a Wells Fargo Securities
11 analyst report noted the market excitement at the prospect of a Qualcomm/Broadcom
12 merger, explaining “we think that the news articles suggesting this possibility have
13 created substantial excitement in the investment community which we think was
14 probably a main reason why Qualcomm’s stock price moved up several dollars on the
15 afternoon of Friday 11/3.” Similarly, on November 7, 2017, The Wall Street Journal
16 reported that “news of Broadcom’s interest sent Qualcomm shares up nearly 13% on
17 [November 3].”

18 56. As the increase in Qualcomm’s stock price made clear, investors were
19 bidding up the price of Qualcomm stock based on the prospect of a deal with Broadcom
20 at \$70 per share.

21 **D. Broadcom Makes a Formal Proposal to Acquire Qualcomm**

22 57. On the evening of November 5, 2017, Broadcom’s CEO Tan called
23 Qualcomm’s CEO Mollenkopf to officially inform him that Broadcom would be
24 making an offer to acquire Qualcomm.

25 58. The following day, November 6, 2017, Broadcom made a formal proposal
26 to acquire all outstanding shares of Qualcomm for \$70 per share (\$60 in cash; \$10 in
27 Broadcom shares). Broadcom’s proposal represented a 28% premium over the
28 unaffected price of Qualcomm stock on November 2, 2017, the day before news of the

1 offer leaked, and a 33% premium to the unaffected 30-day volume-weighted average
2 price (“VWAP”) calculated as of November 2.

3 59. The main regulatory concern with Broadcom’s bid, according to multiple
4 news sources, involved its potential antitrust implications. The Chicago Tribune
5 reported on November 7, 2017, that “a transaction between [Broadcom and
6 Qualcomm] would likely raise antitrust concerns[.]” Reuters similarly wrote the same
7 day, “[t]he merger [between Qualcomm and Broadcom] would face a lengthy review
8 from the anti-monopoly unit of China’s commerce ministry, due to strategic concerns,
9 the huge size of the deal and because Qualcomm has come under fire before in the
10 country over competition concerns.”

11 60. Ultimately, however, while noting that antitrust approval could be a
12 concern, many news sources concluded that “[t]he biggest issue may simply be that
13 Qualcomm believes the current offer, worth about \$70 a share, is too low.”²

14 61. Analysts, while offering mixed opinions on whether the premium offered
15 by Broadcom was too low, consistently concluded that the regulatory risks associated
16 with a combination were minimal. For example, a November 6, 2017 Canaccord
17 Genuity analyst report stated, “[w]hile we believe Qualcomm’s Board of Directors
18 would likely reject this initial bid as too low a valuation, we do believe the combination
19 of the two companies could generate strong synergies and create a dominant wireless
20 business and overall powerful global semiconductor leader.” The report further
21 explained that “[w]hile we believe the overlapping WiFi businesses would create some
22 regulatory concerns that could be solved, we do not believe there are material product
23 overlaps in other areas of the businesses.”

24 62. Similarly, while an Oppenheimer Equity Research report from
25 November 6, 2017, took a different view on the adequacy of Broadcom’s offer—

26
27 ² See also Michael J. de la Merced, *Broadcom targets fellow chipmaker in largest-*
28 *ever tech deal*, Boston Herald (Nov. 7, 2017) (noting that while the deal is “expected
to face tough antitrust scrutiny,” for “Qualcomm and its advisers, the biggest issue is
likely to be a simple matter of price”).

1 stating, “we believe QCOM shareholders would be eager to accept a ~27% premium
2 to pre-offer reports as myriad overhangs (Apple, FTC, Korea, etc.) could take years to
3 abate,” it too noted that “[w]e believe regulatory/HSR hurdles should be low given
4 limited product overlap.” A same-day Credit Suisse analyst report explained that
5 “[b]ased on their extensive review of portfolios, [Broadcom] expects regulatory
6 approval in a timely manner and the transaction to be completed within 12 months.”

7 **E. Qualcomm Rejects Broadcom’s Offer**

8 63. On November 12, 2017, Qualcomm’s Board met and unanimously voted
9 to reject Broadcom’s proposal. This was announced the following day in a press
10 release which stated, “[t]he Board and Management are singularly focused on driving
11 value for Qualcomm’s shareholders. After a comprehensive review, conducted in
12 consultation with our financial and legal advisors, the Board has concluded that
13 Broadcom’s proposal dramatically undervalues Qualcomm and comes with significant
14 regulatory uncertainty.”

15 64. Qualcomm’s announcement did not provide any further detail on the
16 “significant regulatory uncertainty,” and news coverage of Qualcomm’s rejection
17 continued to focus on potential antitrust risk as the source of the regulatory uncertainty.
18 For instance, the New York Times reported on November 13, 2017:

19 **Qualcomm has rebuffed a \$105 billion buyout bid from Broadcom,**
20 **setting up two of the world’s biggest chip makers for a potentially**
21 **nasty takeover battle.**

22 The proposal “significantly undervalues” the company, overlooking its
23 reputation in mobile technology and potential for growth, Paul Jacobs,
24 Qualcomm’s board chairman, said in a statement on Monday.

25 Broadcom’s offer, which would amount to the largest deal in the history
26 of the tech industry and have significant implications for smartphone
27 production, could also run afoul of antitrust regulators, Qualcomm said.

28 (Emphasis in original.)

1 65. Later that day, Broadcom issued a press release announcing that it
2 “remains fully committed to pursuing its acquisition of Qualcomm[.]” In the release,
3 Broadcom’s CEO Tan stated:

4 We continue to believe our proposal represents the most attractive, value-
5 enhancing alternative available to Qualcomm stockholders and we are
6 encouraged by their reaction. Many have expressed to us their desire that
7 Qualcomm meet with us to discuss our proposal. It remains our strong
8 preference to engage cooperatively with Qualcomm’s Board of Directors
9 and management team.

10 66. That evening, Broadcom’s CEO Tan reiterated to Qualcomm’s CEO
11 Mollenkopf—through a voicemail and text message—that Broadcom wanted to engage
12 with Qualcomm regarding its offer.

13 67. Notwithstanding Qualcomm’s initial rejection, analysts expressed
14 optimism that Broadcom would ultimately acquire Qualcomm—either via a negotiated
15 deal or by replacing its directors in a proxy fight. For example, a November 13, 2017
16 RBC Capital Markets analyst report stated, “we believe that while the next 3-6 months
17 will be volatile, the probability remains [Broadcom] will up the offer and acquire the
18 asset either via constructive discussions or a proxy battle.”

19 68. On November 16, 2017, Qualcomm filed a Form 8-K with the SEC
20 scheduling its Annual Meeting. Qualcomm reelects its Directors every year at its
21 annual meeting. The deadline to nominate Qualcomm directors for the March 6, 2018
22 Annual Meeting was set for December 8, 2017.

23 **F. Broadcom Launches a Proxy Fight**

24 69. On November 17, 2017, Broadcom’s CEO Tan wrote a public letter to
25 Qualcomm CEO Mollenkopf again asking him to discuss Broadcom’s proposal: “In
26 our recent conversations, many of your stockholders have expressed a clear and strong
27 desire for us to meet in an effort to negotiate a mutually beneficial transaction. I suspect
28 you have heard the same, so I remain hopeful that we can begin productive
discussions.” Qualcomm did not respond.

1 70. On November 22, 2017, Reuters quoted sources as disclosing that
2 “following consultation with several of Qualcomm’s top shareholders,” Broadcom was
3 considering raising its offer to acquire Qualcomm by offering more Broadcom stock
4 and that Broadcom had made “several requests for a meeting with Qualcomm since it
5 unveiled its offer on Nov. 6,” but that “Qualcomm has so far rejected these meeting
6 requests[.]”

7 71. On December 4, 2017, Broadcom issued a press release announcing that
8 it had notified Qualcomm of its intention to nominate a slate of 11 directors to replace
9 the current Qualcomm directors. Broadcom also provided notice of its intention to
10 nominate four alternate nominees in the event that (i) Qualcomm increased the size of
11 the Board, (ii) Qualcomm took action to disqualify Broadcom’s original designees, or
12 (iii) any of Broadcom’s original nominees were unable or unwilling to serve as a
13 director of Qualcomm. In the press release, Broadcom also noted that “[t]o ensure
14 continuity, Broadcom would support a decision by the 11 new directors, upon their
15 election, to increase the size of the Board and reappoint [current Qualcomm directors]
16 Mark D. McLaughlin, Anthony J. ‘Tony’ Vinciguerra and Jeffrey W. Henderson as
17 directors.”

18 72. In the press release, Broadcom’s CEO Tan stated:

19 We have heard from many Qualcomm stockholders who have expressed
20 their desire for Qualcomm to engage with us. We also continue to receive
21 positive feedback from customers and, having had initial meetings with
22 certain relevant antitrust authorities, remain confident that any regulatory
23 requirements necessary to complete a combination will be met in a timely
24 manner. Although we are taking this step, it remains our strong
25 preference to engage in a constructive dialogue with Qualcomm. We
26 have repeatedly attempted to engage with Qualcomm, and despite
27 stockholder and customer support for the transaction, Qualcomm has
28 ignored those opportunities. The nominations give Qualcomm
stockholders an opportunity to voice their disappointment with
Qualcomm’s directors and their refusal to engage in discussions with us.
In light of the significant value our proposal provides for Qualcomm
stockholders, we believe Qualcomm stockholders would be better served
by new independent, highly qualified nominees who are committed to
maximizing value and acting in the best interests of Qualcomm

1 stockholders.

2 73. Later that day, Qualcomm issued a press release in response to
3 Broadcom's announcement. Qualcomm again referenced nonspecific "regulatory
4 issues" and "significant regulatory uncertainty," and without further detail argued that
5 a Broadcom takeover "could not be completed for well over a year, if ever, given the
6 regulatory issues, [and] the absence of commitments by Broadcom to resolve those
7 issues[.]" The press release also cited to "uncertainty surrounding [Broadcom's]
8 transition from Singapore to the United States" as a reason for shareholders to oppose
9 the deal.

10 74. Analysts, however, remained bullish on the deal. For example, a
11 December 4, 2017 Oppenheimer Equity Research analyst report stated, "We see
12 obvious financial/strategic merit in combining QCOM and AVGO's leading back-end
13 and front-end handset portfolios." Qualcomm's stock continued to trade at a premium.

14 75. On December 6, 2017, Broadcom held a conference call regarding its
15 fourth quarter and fiscal year 2017 earnings. During the call, Broadcom addressed
16 Qualcomm's statement that there was "uncertainty" regarding its transition to the U.S.,
17 confirming its commitment to redomicile to the U.S.:

18 On November 2, I think as everybody knows, we announced our intent
19 to initiate a redomiciliation process to change the parent company of the
20 Broadcom corporate group from a Singapore company to a U.S.
21 corporation. The redomiciliation will occur whether or not there is
22 corporate tax reform in the United States. The redomiciliation is subject
23 to a shareholder vote and is expected to be effected in a manner intended
24 to be tax-free to shareholders. We are confident that our shareholders will
25 support this move.

26 76. During the same call, Broadcom reiterated its "strong preference to
27 engage in a constructive dialogue with Qualcomm," and expressed Broadcom's
28 "confiden[ce] that any regulatory requirements necessary to complete a combination
will be met in a timely manner."

1 77. Analysts reacted positively to Broadcom’s reassurances. A December 7,
2 2017 Credit Suisse analyst report noted that “[w]hile AVGO did not address questions
3 on the call, management stated it remains confident that any regulatory requirements
4 necessary to complete the combination will be met in a timely manner.” On the same
5 day, RBC Capital Market analyst report echoed that “AVGO and its advisors have
6 conducted extensive analysis of the regulatory environment, and they are confident
7 about obtaining all necessary approvals in a timely manner.”

8 78. Broadcom also took immediate steps to rebut Qualcomm’s statements that
9 it was not committed to resolving any regulatory uncertainty. On December 11, 2017,
10 Broadcom issued a press release announcing that it filed a premerger notification under
11 the Hart-Scott-Rodino Antitrust Improvements Act of 1976 with the U.S. Department
12 of Justice Antitrust Division and the FTC in connection with its proposed acquisition
13 of Qualcomm. In the press release, Broadcom’s CEO Han reiterated that:

14 Our Board and management team are committed to consummating this
15 transaction as soon as possible. We continue to receive positive feedback
16 from stockholders and customers, and we have made clear to Qualcomm
17 that it remains our strong preference to engage in constructive dialogue
regarding the value-enhancing proposal we put forward more than a
month ago.

18 79. That same day, Broadcom filed a preliminary proxy statement with the
19 SEC on Schedule 14A, again emphasizing that it did not foresee material regulatory
20 issues with its proposed transaction:

21 We and our advisors have conducted extensive analysis of the regulatory
22 approvals that will be required in connection with the proposed
23 transaction, and we are confident that the transaction will receive all
24 necessary approvals in a timely manner. We would not make this offer if
25 we were not confident that our common global customers would embrace
the proposed combination, and we do not anticipate any material antitrust
or other regulatory issues that would extend the normal timetable for
closing a transaction of this nature.

1 **G. Qualcomm’s Board Rejects Broadcom’s Independent Nominees and**
2 **Urges Shareholders to Do the Same**

3 80. On December 20, 2017, Qualcomm’s Board, on the same-day
4 recommendation of its Governance Committee, unanimously voted not to nominate
5 any of Broadcom’s director nominees.

6 81. On December 22, 2017, Qualcomm issued a press release announcing the
7 Board’s decision. That same day, Qualcomm filed its annual meeting proxy statement
8 with the SEC on Schedule 14A.

9 82. A few weeks later, on January 5, 2018, Qualcomm issued its definitive
10 proxy statement for the Annual Meeting, confirming the Annual Meeting for March 6,
11 2018. That same day, Broadcom mailed a competing definitive proxy statement to
12 Qualcomm’s shareholders, a “Blue Card,” soliciting them to elect Broadcom’s
13 11 independent director nominees. Broadcom’s proxy also urged Qualcomm’s
14 shareholders to vote for its proposed amendments to Qualcomm’s bylaws, which
15 would undo any bylaw amendments adopted by Qualcomm’s incumbent Board without
16 shareholder approval up to the date of the March 6, 2018 Annual Meeting.

17 83. Although Broadcom pursued its hostile proxy strategy, it continued to
18 make clear that its preference was to negotiate a transaction with Qualcomm’s Board.
19 According to the Blue Card:

20 On November 13, 2017, Qualcomm’s Board rejected our proposal. Since
21 that time, we have spoken with many Qualcomm stockholders and
22 customers, and we have heard their desire for Qualcomm to engage with
23 us regarding our compelling proposal. It remains our strong preference
24 to engage cooperatively with Qualcomm’s Board and management team,
25 and we are prepared to meet immediately to work toward a mutually
26 acceptable definitive agreement.

27 84. Qualcomm issued a slew of proxy solicitation materials on January 16,
28 2018—including a press release, letter, video, investor presentation, and website
postings—all urging its shareholders to oppose Broadcom’s slate of directors and its
attempt to acquire the Company. Qualcomm chiefly argued that shareholders should
oppose Broadcom’s proposal because it substantially undervalued the Company and

1 sought to take advantage of its recent legal troubles. For example, in a video posted to
2 its dedicated deal website—www.qcomvalue.com—Qualcomm’s CEO Mollenkopf
3 stated:

4 In short, we will deliver far more value than the Broadcom proposal. We
5 recognize the impact of the Apple litigation on our business, but we
6 would encourage you not to make a choice based on that short-term stock
7 price reaction. We believe that we can deliver substantially more value
8 than the Broadcom bid.

8 85. As a secondary concern, Qualcomm noted Broadcom’s proposal involved
9 “significant regulatory uncertainty.” Qualcomm repeatedly highlighted the potential
10 *antitrust* risk associated with the transaction, warning investors that it would require
11 “clearance from at least a dozen antitrust regulators throughout the world[.]” In a video
12 posted to Qualcomm’s deal website, Rosenberg cautioned that “Broadcom has
13 apparently made no effort to address what we expect will be substantial and potentially
14 conflicting requirements imposed by antitrust regulators around the world, posing
15 immense risk to Qualcomm stockholders.”

16 86. Lastly, Qualcomm mentioned, for the first time, regulatory risk associated
17 with review by CFIUS, *if* Broadcom did not move forward with its redomiciliation. In
18 a video posted to Qualcomm’s deal website, Mollenkopf stated, “Broadcom is still a
19 Singapore company—CFIUS *may* be an issue again for them. It seems strange to us
20 that they have not made any further progress on their commitment to become an
21 American company—an announcement that was carefully timed—just days before
22 they announced their hostile bid for Qualcomm.” CFIUS and its process for review is
23 discussed in more detail in Section IV.H.1, *infra*.

24 87. Later that day, Broadcom issued a statement directly responding to
25 Qualcomm’s statements about regulatory risk:

26 Based on the highly complementary nature of the businesses of the two
27 companies, Broadcom’s extensive experience in completing complex,
28 cross-border acquisitions and initial meetings with several relevant
antitrust authorities, Broadcom remains very confident that the regulatory

1 requirements necessary to complete a combination will be met in a timely
2 manner and expects that the proposed transaction would be completed
3 within approximately 12 months following the signing of a definitive
4 agreement. It is important that Qualcomm engage with us so that
Qualcomm stockholders can realize the significant value that Broadcom
is offering.

5 88. Then, on January 19, 2018, Broadcom issued a press release, also filed
6 with the SEC on Form 425, indicating that the regulatory approval process was
7 proceeding smoothly. In particular, Broadcom announced that it received a “second
8 request” for additional information and documentary material from the FTC in
9 connection with its proposed acquisition of Qualcomm, but explained that this “was
10 expected as a normal part of the regulatory approval process. Second Requests are
11 common in similar transactions, and this signifies that Broadcom is moving into the
12 next stage of the U.S. antitrust review process.”

13 89. On January 22, 2018—this time responding to Qualcomm’s January 16,
14 2018 statement concerning CFIUS review—Broadcom announced in a press release
15 that it had filed preliminary proxy materials with the SEC to approve its redomiciliation
16 to the U.S., and expected to complete the process by May 6, 2018. The preliminary
17 proxy materials explained that redomiciling to the U.S. would allow Broadcom to
18 “continu[e] to execute [its] acquisition strategy”:

19 After considering various factors, the Board unanimously determined that
20 restructuring our corporate group to cause the parent company of our
21 group to be an entity incorporated in Delaware is in the best interests of
22 the Company and its shareholders and will best help us accomplish our
23 strategic objectives. Through our existing subsidiaries, we already have a
24 substantial presence in the United States and it is important to note that a
25 majority of Broadcom’s employees and a significant portion of operating
26 assets are in the United States. We believe that the shareholder returns we
can drive by continuing to execute our acquisition strategy far outweigh
the additional income taxes we would expect to pay as a result of this
restructuring, and the incremental tax cost of being based in the U.S. has
decreased materially as a result of corporate tax reform in the United
States.

27 As discussed in Section IV.H.2, *infra*, Broadcom’s redomiciliation to the United States
28 had already proven a successful strategy by which to gain CFIUS approval.

1 90. On January 23, 2018, Qualcomm sent another letter to shareholders, again
2 making its case that Broadcom’s offer significantly undervalued the Company and that
3 antitrust risk remained. The letter also provided Qualcomm’s most detailed statement
4 regarding CFIUS:

5 Broadcom says there will be no issue in obtaining national security
6 clearance from the Committee on Foreign Investment in the United
7 States (CFIUS).

- 8 ○ THE FACTS: Broadcom is a Singapore-domiciled company
9 seeking to effect a hostile takeover of Qualcomm, one of the U.S.’s
10 most critical technology companies.
- 11 ○ Even if Broadcom re-domiciles in the future, the national security
12 issues raised by Broadcom’s attempt to acquire Qualcomm remain.
- 13 ○ Broadcom encountered resistance from the U.S. government
14 national security regulator when it sought to acquire another U.S.
15 technology company that was far less critical to the national
16 infrastructure than Qualcomm.
- We believe the transaction proposed by Broadcom and any
 divestitures that may be required by regulatory authorities will be
 closely scrutinized and may well result in significant national
 security concerns that could potentially block the transaction.
 Therefore, we believe approval by CFIUS is far from assured.

17 Qualcomm did not disclose any intention to initiate a CFIUS review and hasten its
18 intervention.

19 91. Later that day, Broadcom issued a press release reiterating that “[w]e
20 continue to move forward with redomiciling to the U.S.—just yesterday Broadcom
21 filed preliminary proxy materials in connection with a shareholder meeting to approve
22 the redomiciliation. We expect to receive approvals by the end of our fiscal second
23 quarter ending May 6, 2018.” Broadcom also addressed, at length, Qualcomm’s
24 arguments regarding antitrust risk. Broadcom concluded, “[w]e remain confident in
25 our ability to complete a transaction within approximately 12 months following the
26 signing of a definitive agreement.”

1 **H. Unbeknownst to Shareholders, Qualcomm Petitions CFIUS to Kill**
2 **Broadcom’s Takeover Attempt**

3 92. On January 29, 2018, a week after Broadcom announced that it would
4 complete its redomiciliation by May 6, 2018, Defendants secretly filed a unilateral
5 voluntary notice requesting that CFIUS review Broadcom’s takeover attempt. Also
6 unbeknownst to investors (and Broadcom), Defendants submitted information with its
7 unilateral voluntary request to CFIUS designed to convince CFIUS that Broadcom’s
8 hostile takeover attempt constituted a national security risk and should not be allowed
9 to continue.

10 93. Over the next month, while publicly telling investors that they remained
11 hopeful that a satisfactory deal would be negotiated, Defendants continued to covertly
12 submit additional information and argument to CFIUS in an attempt to kill the deal,
13 including in emails, phone calls, and meetings. Defendants’ actions—which they
14 concealed from investors—constituted a brazen effort to kill Broadcom’s takeover
15 attempt, to entrench themselves in their leadership roles, and to surreptitiously
16 disenfranchise the Company’s shareholders.

17 94. Defendants’ defensive measures were unprecedented. As a former CFIUS
18 member later explained, “[t]his is *Halley’s comet unusual*.” Zack’s Investment
19 Research also later reported that “This was *quite an unprecedented move* wherein
20 Qualcomm management approached the CFIUS to block the deal. . . . It shows that
21 all is far from well at Qualcomm where shareholders were in favor of the deal that
22 management and the board opposed.”

23 95. This is because, as discussed in Section IV.H.1, *infra*, CFIUS typically
24 only reviews deals once the parties have entered into an agreement and jointly
25 submitted a voluntary notice requesting CFIUS review. Typically, moreover, CFIUS
26 applications are led by the buyer, not the acquisition target. As The Wall Street Journal
27 later explained in a March 14, 2018 article entitled *Qualcomm Pursued Unusual*
28 *Strategy*, Defendants’ secret and unilateral request for CFIUS to review Broadcom’s

1 takeover attempt constituted “an unusual strategy. Normally both parties in a deal seek
2 approval by making a joint filing before CFIUS, the secretive federal panel that vets
3 foreign purchases of U.S. companies on national-security grounds. And they don’t
4 usually file until there is an actual deal on hand.” Marketwatch, in a March 5, 2018
5 article entitled *Qualcomm was losing in takeover battle with Broadcom, then the*
6 *government stepped in*, reported that CFIUS “rarely reviews mergers before companies
7 have entered into binding agreements[.]” A *DealBook* article dated March 5, 2018
8 stated, “[CFIUS] typically works behind closed doors and reviews deals only after they
9 are announced.”

10 96. In other words, typically once a deal is signed, the two parties to the
11 deal—led by the acquirer—cooperate in obtaining CFIUS clearance for their signed
12 agreement. Here, had Qualcomm and Broadcom jointly submitted voluntary notice to
13 CFIUS after agreeing to a negotiated transaction, CFIUS review likely would have
14 occurred (if ever) only after Broadcom had redomiciled in the United States—which it
15 did on April 4, 2018. Instead, by secretly and unilaterally submitting a request for
16 CFIUS to intervene in the middle of Broadcom’s takeover attempt, Qualcomm
17 accelerated the timetable, initiating CFIUS review before Broadcom was able to
18 redomicile in the United States, and making the case for CFIUS to reject the deal.

19 97. Defendants’ concealment of Qualcomm’s unilateral CFIUS request also
20 provided the Company with a valuable tactical advantage—the deception allowed
21 Defendants to keep Broadcom in the dark about the existence of the review and the
22 content of Qualcomm’s submissions and prevented Broadcom from responding to
23 Qualcomm’s arguments for intervention for more than a month while CFIUS reviewed
24 the application. Indeed, Broadcom stated in its March 5 press release entitled
25 *Broadcom Disappointed Will of Qualcomm Stockholders to be Deferred*, CFIUS’s
26 March 4 Interim Order postponing Qualcomm’s Annual Meeting—including the vote
27 on Broadcom’s slate of nominees—was issued on the same day Broadcom was
28 informed of Qualcomm’s unilateral request for CFIUS to initiate the investigation. In

1 a press release published the next day entitled *Broadcom Reiterates Qualcomm Did*
 2 *Not Inform Its Own Stockholders or Broadcom of Its Secret, Voluntary Unilateral*
 3 *Request Filed on January 29, 2018*, Broadcom reiterated that it was unaware that
 4 Qualcomm had unilaterally initiated CFIUS review, and stated that its communications
 5 with CFIUS were limited to Broadcom's nomination of directors to the Qualcomm
 6 Board:

7 Broadcom reiterates that Qualcomm failed to disclose to its own
 8 stockholders and to Broadcom that it secretly filed a voluntary unilateral
 9 request for CFIUS review on January 29, 2018. Broadcom's only
 10 correspondence with CFIUS was in response to CFIUS inquiries about
 11 Broadcom's nomination of directors to the Qualcomm board of directors,
 and such requests did not reveal that Qualcomm filed to initiate the CFIUS
 review on January 29, 2018.

12 98. Thus, unbeknownst to shareholders and contrary to their public
 13 representations, Defendants were not in fact willing to negotiate with Broadcom at a
 14 price that would deliver value to shareholders, but rather they were secretly working to
 15 kill Broadcom's bid outright. Because Defendants concealed Qualcomm's defensive
 16 move, and its potential repercussions, investors were denied critical information that
 17 was necessary to properly assess the risk that the deal would be completed.

18 **1. The Committee on Foreign Investment in the United States**

19 99. CFIUS is a federal, interagency committee with authority to review
 20 certain foreign investments in U.S. businesses to determine whether such transactions
 21 threaten to impair U.S. national security. The Committee then makes
 22 recommendations regarding such transactions for the President's ultimate
 23 determination.³

24 _____
 25 ³ CFIUS was established by the Foreign Investment and National Security Act of
 26 2007 (Pub. L. No. 110-49, 121 Stat. 246 (2007)), which amended section 721 of the
 27 Defense Production Act of 1950 (50 U.S.C. App. 2170). On August 13, 2018,
 28 President Trump signed into law the Foreign Investment Risk Review Modernization
 Act of 2018 ("FIRRMA"), which expanded the scope of transactions reviewable by
 CFIUS. See Guidance Concerning the National Security Review Conducted by
 CFIUS, 73 Fed. Reg. 74567 (Dec. 8, 2008), <https://www.treasury.gov/resource->

1 100. CFIUS is chaired by the Secretary of the Treasury. Other CFIUS
2 members include representatives from the “[Departments of] State, Defense, Justice,
3 Commerce, Energy, and Homeland Security; the Office of the United States Trade
4 Representative; and the White House Office of Science and Technology Policy. The
5 Office of the Director of National Intelligence is an ex-officio member, and five White
6 House offices are observers.” Additional agencies may also participate, as appropriate.⁴

7 101. Typically, a CFIUS review of a transaction begins when the parties to a
8 transaction jointly file a “voluntary notice” notifying CFIUS of the transaction, and
9 usually *after* the parties have come to an agreement on the terms. See U.S. Dept. of
10 the Treasury, *Process Overview- Voluntary Notice*, [https://www.treasury.gov/
11 resource-center/international/foreign-investment/Pages/cfius-overview.aspx](https://www.treasury.gov/resource-center/international/foreign-investment/Pages/cfius-overview.aspx). CFIUS
12 is also authorized to commence reviews on its own.

13 102. Preparing a voluntary notice is a significant undertaking that requires the
14 filing parties to provide substantial amounts of information. See 31 C.F.R. § 800.402.
15 And, once CFIUS formally accepts a filing, it has 30 days to “review” the transaction
16 and determine whether to commence an investigation. See *id.* § 800.502.⁵ As a result,
17 to provide CFIUS with adequate time to review the filing and identify additional
18 information it may need, parties are explicitly encouraged “to consult with the
19 Committee in advance of filing a notice and, in appropriate cases, to file with the
20 Committee a draft notice or other appropriate documents to aid the Committee’s
21 understanding of the transaction and to provide an opportunity for the Committee to
22 request additional information.” *Id.* § 800.401. CFIUS suggests that “pre-notice

23
24
25 center/international/foreign-investment/Documents/CFIUSGuidance.pdf; 31 C.F.R.
§§ 800.207 & 800.216.

26 ⁴ See CFIUS Annual Report to Congress, at iii (CY 2015), [https://www.treasury.
27 gov/resource-center/international/foreign-investment/Documents/Unclassified%20
CFIUS%20Annual%20Report%20-%20\(report%20period%20CY%202015\).pdf](https://www.treasury.gov/resource-center/international/foreign-investment/Documents/Unclassified%20CFIUS%20Annual%20Report%20-%20(report%20period%20CY%202015).pdf).

28 ⁵ Beginning on October 11, 2018, the “review” period was expanded to 45 days.

1 consultation . . . should be provided, at least five business days before the filing of a
2 voluntary notice.” *Id.*

3 103. CFIUS does not publicly disclose information or documentary material
4 filed in connection with a voluntary request. On the other hand, the rules governing a
5 CFIUS review explicitly state that filing parties are free to disclose such information
6 or material, as well as the fact that they filed a voluntary notice, to the public. *See*
7 31 C.F.R. § 800.702.

8 104. If after review CFIUS decides to commence an “investigation” of the
9 transaction, it has 45 days to complete that investigation. 31 C.F.R. § 800.506. During
10 a review or investigation, the chairperson may invite the parties to attend a meeting
11 with the Committee to “discuss and clarify issues pertaining to the transaction.”
12 *Id.* § 800.501.

13 105. The Committee’s review and investigation center on whether the
14 transaction could result in foreign control of a U.S. business, whether that foreign
15 control could impair national security, and whether any law provides adequate and
16 appropriate authority to protect national security. *See* 31 C.F.R. § 800.501. “CFIUS
17 will clear the transaction to proceed if it determines that the transaction does not pose
18 any national security concerns, that any national security concerns are adequately
19 addressed by other laws, or that mitigation measures agreed or imposed by CFIUS
20 resolve any national security concerns.” *See* CFIUS Annual Report to Congress, *supra*
21 at iii.

22 106. After the end of its investigation, CFIUS may make a formal
23 recommendation to the President to block the transaction. Or, CFIUS may clear the
24 transaction outright or clear it with certain conditions. *See* 31 C.F.R. § 800.506. The
25 President has 15 days to make a determination based on CFIUS’s recommendation.

26 107. Based on the Committee’s most recent Report to Congress, 770 notices of
27 “covered transactions” were filed with CFIUS from 2009 to 2015. Over half of the
28 notices were resolved prior to an investigation, and approximately 3% were withdrawn

1 during the review stage (e.g., notices may be withdrawn to resolve national security
2 concerns or because of material changes to the transaction). Only about 40%
3 proceeded to an investigation. Approximately 7% were withdrawn during the
4 investigation stage.

5 108. Even when CFIUS determines that a transaction could threaten or impair
6 national security, it is still very rare for CFIUS to reject a transaction outright. In many
7 cases, CFIUS will instead negotiate with the parties to adopt mitigation measures to
8 address the perceived risks. From 2013 to 2015, CFIUS concluded about 10% of the
9 transactions it reviewed by adopting mitigation measures. Such measures, which are
10 aimed at constraining the foreign control from a transaction, include:

- 11 • Ensuring that only authorized persons have access to certain
12 technology.
- 13 • Exclusion of certain sensitive assets from the transaction.
- 14 • Providing the [U.S. Government] with the right to review certain
15 business decisions and object if they raise national security
concerns.

16 CFIUS Annual Report to Congress, *supra* at 21-22.

17 109. From 2009 to 2015, only one voluntary notice to CFIUS resulted in a
18 Presidential decision, and Presidential action based on CFIUS's review remains
19 extremely rare. CFIUS Annual Report to Congress, *supra* at 3. Including the proposed
20 Qualcomm acquisition, a U.S. President has only blocked five transactions based on
21 CFIUS objections. See James K. Jackson, *The Committee on Foreign Investment in*
22 *the United States (CFIUS)*, Congressional Research Service (July 3, 2018),
23 <https://fas.org/sgp/crs/natsec/RL33388.pdf>.

24 2. The Market Did Not View CFIUS as a Serious Obstacle to the 25 Transaction

26 110. At the time that Qualcomm was secretly lobbying CFIUS to kill
27 Broadcom's bid, the market did not perceive CFIUS's review of the transaction to be
28 a serious risk to Broadcom's bid for Qualcomm. As discussed above, it is exceedingly

1 rare for a merger to be blocked based on CFIUS objections. Moreover, Broadcom—
2 which operated out of California, was run by a largely American board and senior
3 management team, and was 90% owned by American shareholders—was seeking to
4 redomicile in the United States and CFIUS had already approved Broadcom’s
5 acquisition of a significant U.S. company—Brocade—based on Broadcom’s
6 announced intent to redomicile.

7 111. More specifically, on December 20, 2016, after Broadcom and Brocade
8 finalized their negotiated deal, they disclosed that they had filed a joint voluntary notice
9 with CFIUS. On July 18, 2017, Broadcom and Brocade disclosed that, following
10 discussions with CFIUS, on July 17, 2017, they had agreed to withdraw and re-file
11 their joint notice to CFIUS, to allow more time for review and discussion. After
12 additional discussions with CFIUS, Broadcom and Brocade disclosed on October 3,
13 2017, that they had again re-filed their joint voluntary notice to allow more time for
14 review and discussion.

15 112. As noted in Section IV.B, *supra*, less than a month later, on November 2,
16 2017, Broadcom announced that it would re-domicile as an American corporation, an
17 announcement that was made at the White House and celebrated by President Trump
18 as a success of his administration’s business policies.

19 113. The market perceived Broadcom’s re-domiciliation in the United States
20 as eliminating the risk that CFIUS might fail to ultimately approve the Brocade deal.
21 For example, on November 4, 2017, the Boston Herald reported that “Broadcom’s plan
22 to move its home address to the U.S. from Singapore would free its \$5.5 billion deal
23 for U.S. network provider Brocade Communications Systems from a review by the
24 Committee on Foreign Investment in the United States.”

25 114. Similarly, with respect to Broadcom’s proposed acquisition of
26 Qualcomm, commentators consistently concluded that Broadcom’s move to
27 redomicile to the United States would likely allow it to avoid problems with a CFIUS
28 review. For example, on November 3, 2017, Reuters reported that the “bid comes as

1 Broadcom plans to move its headquarters to the United States from Singapore” and
2 that Broadcom planned to complete re-domiciliation “before completing any
3 Qualcomm deal, avoiding scrutiny by the Committee on Foreign Investment in the
4 United States[.]”

5 115. On November 4, 2017, a New York Times article likewise explained that
6 Broadcom’s “prime motivation” for its redomiciliation was acquiring Qualcomm:
7 “‘This [redomiciliation] is all about freeing up Broadcom to make acquisitions,’ said
8 Romit Shah, an analyst for Nomura Instinet. ‘And Qualcomm has been at the top of
9 Broadcom’s wish list for a long time.’”

10 116. The same day that it made its formal proposal to acquire Qualcomm,
11 Broadcom confirmed the intent behind its redomiciliation. In a same-day Investor
12 Presentation regarding the proposed acquisition of Qualcomm, Broadcom stated that it
13 “[p]reviously announced redomiciliation plan further increases deal certainty” and
14 “[r]egulatory approvals expected in timely manner.”

15 117. And following Broadcom’s formal offer, market commentators again
16 highlighted that Broadcom’s redomiciliation should allow any deal with Qualcomm to
17 avoid issues related to CFIUS review. For instance on November 7, 2017, the New
18 York Times reported that “[a]t least one deal hurdle—Washington’s examination of
19 foreign acquirers—has been pre-empted. The Singapore-domiciled Broadcom will
20 move to the United States, Mr. Tan said last week in a news conference with President
21 Trump.”

22 118. In addition, the New York Times, in a November 6, 2017 article reported
23 that neither Qualcomm nor Broadcom expected CFIUS to be an obstacle to a takeover:

24 But while a deal could face such a [CFIUS] review, neither company
25 believes that it would be the main obstacle to a transaction getting done,
26 according to several people briefed on the bid. Broadcom’s operations
27 are largely in the United States, and its legal base is in Singapore
28 primarily because of that country’s low tax rate.

1 119. On November 17, 2017, Broadcom formally announced that CFIUS had
 2 approved the Brocade acquisition, affirming the market's perception that its proposed
 3 acquisition of Qualcomm was not subject to serious CFIUS risk. Accordingly, a
 4 November 21, 2017 Morningstar Equity Research analyst report predicted that:

5 Qualcomm remains skeptical about regulatory approval, but we think
 6 there's a good chance Broadcom can get the blessing of various
 7 government agencies (especially if NXP is not a part of the mix).^[6] We
 8 foresee U.S. approval, thanks to Broadcom's shrewd move to redomicile
 in the U.S. and enter into the good graces of the U.S. Presidential
 administration.

9 **I. Qualcomm Misleads the Market into Believing Its Board Is Willing**
 10 **to Negotiate around a Fair Price at the Same Time It Was**
 11 **Affirmatively Seeking to Derail Broadcom's Bid**

12 120. Rather than disclose that they were actively petitioning CFIUS to kill the
 13 Broadcom bid on a national security basis, Defendants instead made a series of
 14 misrepresentations and omissions that materially misled investors about:
 15 (i) Defendants' willingness to negotiate with Broadcom on price and cooperate in
 16 obtaining regulatory clearance, and (ii) the increased risk Defendants' strategy had
 17 created of the deal being blocked. Because this critical information was withheld from
 18 the public, Qualcomm's stock price did not reflect the true risk that the deal would not
 go through.

19 **1. Qualcomm Begins Misleading Shareholders on January 29,**
 20 **2018, Regarding the Affirmative Steps It Took to Lobby for**
 21 **CFIUS Intervention**

22 121. On the same day that they filed their unilateral voluntary notice with
 23 CFIUS, Defendants issued a vague statement to shareholders about regulatory risk that
 24 could *delay* the transaction while failing to disclose that they were taking active
 25 measures to accelerate CFIUS intervention and stop the deal. For example, in a video

26 ⁶ On September 29, 2016, Qualcomm announced that it would be pursuing an
 27 acquisition of NXP Semiconductor N.V., a Dutch chipmaker ("NXP"). On October 27,
 28 2016, Qualcomm announced that it had entered into an agreement to acquire NXP via
 a tender offer for \$110 per NXP share.

1 released on January 29, 2018, CEO Mollenkopf told investors that “there are some
2 questions about deal certainty and regulatory approval.” In the same video, General
3 Counsel Rosenberg stated:

4 The Broadcom-proposed acquisition will be subjected to very, very close
5 scrutiny by well over a dozen potential agencies. We believe that this is
6 probably going to take something in the range of 18 months or more even,
7 because of the complexity of the two companies’ businesses, because of
8 the enormous overlap in the two companies’ technologies and
9 businesses, and because of the global nature of our businesses.

8 Having spoken about potential regulatory impediments to the merger, Defendants were
9 obligated to disclose to investors the full and complete truth. Instead, Defendants
10 misled investors about the true risks associated with the deal by concealing that they
11 had taken affirmative steps to prevent regulatory approval by filing a unilateral
12 voluntary notice with CFIUS before Broadcom could redomicile to the U.S.

13 122. Absorbing the information disclosed by Qualcomm, analysts continued to
14 view the deal positively, with a January 31, 2018 Oppenheimer analyst report
15 reiterating that “[w]e hold a favorable view of the potential AVGO/QCOM
16 combination.” This sentiment was also reflected in Qualcomm’s common stock price
17 which continued to trade at an inflated premium that did not reflect the true risk that
18 the merger would not go through. On February 1, 2018, analyst BMO wrote that:
19 “QCOM reported strong December quarter results, but weaker guidance, particularly
20 on the chip side. Regardless, we believe investor sentiment is largely being driven by
21 the pending takeover attempt by Broadcom . . . with the March 6 shareholder vote
22 quickly approaching and that the ‘buyout offer from [Broadcom]’ was a ‘key catalyst’
23 that ‘will overshadow most other catalysts.’”

24 **2. Broadcom Ups Its Offer and Qualcomm Claims to Consider It**
25 **Even Though It was Secretly Advocating to End the Bid**

26 123. On February 2, 2018, Broadcom’s representatives contacted Qualcomm’s
27 representatives to offer the terms of an improved acquisition proposal. More
28 specifically, a representative of Broadcom reached out to a representative of Goldman,

1 Sachs & Co. (“Goldman Sachs”), financial advisor to Qualcomm. Also that day, a
2 representative of Wachtell, Lipton, Rosen & Katz (“Wachtell Lipton”), legal counsel
3 to Broadcom, reached out to a representative of Paul, Weiss, Rifkind, Wharton &
4 Garrison LLP (“Paul Weiss”), legal counsel to Qualcomm, to provide details and terms
5 of an improved proposal, including a substantial increase in the offer consideration and
6 significant regulatory commitments. Finally, a representative of Moelis & Company
7 LLC (“Moelis”), financial advisor to Broadcom, also attempted to contact a
8 representative of Goldman Sachs to provide the details and terms of the improved
9 proposal. The Goldman Sachs representative responded to the Moelis representative
10 that he had received the request and would speak to Qualcomm about it. Qualcomm,
11 Goldman Sachs, and Paul Weiss did not otherwise respond.

12 124. Having heard nothing from Qualcomm about its improved proposal, on
13 February 5, 2018, Broadcom sent a letter to the Qualcomm Board outlining the details
14 and terms of its improved proposal. The improved proposal increased the
15 consideration Broadcom was offering to \$82 per Qualcomm share (\$60 in cash; \$22 in
16 Broadcom stock). Broadcom also issued a same-day press release announcing its
17 improved offer.

18 125. The improved proposal represented a 56% premium to Qualcomm’s 30-
19 day VWAP, and a 50% premium to Qualcomm’s unaffected trading price of \$54.84 on
20 November 2, 2017 (the day before media speculation on the transaction began).
21 According to proxy advisor Glass Lewis, Broadcom’s increased bid ranked among the
22 top decile of premiums paid in announced transactions greater than \$25 billion since
23 2001 (excluding financially distressed targets). Indeed, Qualcomm’s stock has only
24 traded above \$82 per share on three days during over 25 years as a public company.

25 126. Broadcom’s improved proposal also directly addressed Qualcomm’s
26 statements about regulatory risk. First, in response to Qualcomm’s statements that
27 regulatory approval could take 18 months or more, Broadcom included a “ticking fee”
28 that provided for an increase in the cash consideration paid to Qualcomm if the

1 transaction was not consummated one year after executing a definitive agreement.
2 Second, Broadcom's increased proposal included a "reverse termination fee"—a
3 sizable fee that would be paid to Qualcomm stockholders if the transaction was not
4 consummated because of Broadcom's inability to obtain required regulatory approvals.
5 Broadcom also expressed its willingness to agree to a provision whereby both
6 Qualcomm and Broadcom agreed to use their collective best efforts to obtain regulatory
7 approval.

8 127. Finally, Broadcom stated that it was open to inviting Qualcomm
9 Chairman Jacobs and a second Qualcomm director to join the board of the post-
10 transaction entity. Broadcom conditioned its proposal on (i) Qualcomm acquiring
11 NXP on the currently disclosed terms of \$110 per NXP share; and (ii) Qualcomm not
12 delaying or adjourning its Annual Meeting past March 6, 2018. In its letter, Broadcom
13 wrote, "we believe any responsible board would engage with us, without further delay,
14 to turn this proposal into an executed definitive agreement." That same day, Broadcom
15 issued a public letter to its employees stating: "It is clear from our discussions with
16 investors and customers of both Broadcom and Qualcomm that there is overwhelming
17 support for Qualcomm to engage with us immediately regarding this transaction."

18 128. Analysts expressed optimism about Broadcom's improved proposal. For
19 example, in a February 5, 2018 analyst report, Credit Suisse wrote:

20 Importantly, AVGO re-affirmed its confidence around (1) regulatory
21 approval providing a significant "reverse termination fee" and (2) deal
22 timing thru a "ticking fee" which would increase the cash component
23 after 12 months. Even with the increased offer, the transaction would be
24 >20% accretive (ex-NXPI). Most importantly, today's announcement
25 places pressure firmly on QCOM board/shareholders, and for AVGO
26 shareholders provides a path to an end-point and clarity to what has been
27 a cloud of uncertainty[.]

28 129. A same-day Canaccord analyst report similarly reported that "the
increased bid certainly puts more pressure on Qualcomm shareholders to vote in favor
of this acquisition" and "we believe Qualcomm shareholders are considering this
\$82 bid more seriously than the initial \$70 bid, as might Qualcomm's Board of

1 Directors given the longer-term risks in integrating NXP and uncertain outcome from
2 the ongoing Apple disputes and potential declining QCT sales relationship.” Likewise,
3 on CNBC’s *Squawk Box*, Kevin O’Leary stated, “There are many shareholders,
4 including me, who think Qualcomm is very poorly managed. I would like adult
5 supervision to come in from Broadcom.”

6 130. That same day, Broadcom filed a Schedule 14A with the SEC, entitled
7 *Evaluating Qualcomm’s Claims About Closing Risk, A Conversation with Daniel M.*
8 *Wall, Latham & Watkins LLP, Antitrust Counsel to Broadcom Limited*, again
9 addressing Qualcomm’s purported concerns about the Proposed Transaction’s antitrust
10 risks. Among other things, Broadcom stated that in Qualcomm’s January 16, 2018
11 investor presentation, Qualcomm identified:

12 only one [issue] that is a clear-cut antitrust hurdle, and that’s with respect
13 to the Wi-Fi networking processors. But this is not a problem for the
14 transaction because Broadcom has always understood that it would need
15 to sell that part of Qualcomm, and that’s Broadcom’s plan. In fact,
16 Broadcom has already begun advising the antitrust regulators that it
17 intends to divest that business. There shouldn’t be any problem selling it,
because it’s a valuable business and Broadcom is quite experienced in
divesting businesses, so that overlap—the most serious antitrust issue in
this deal—won’t be a problem.

18 131. Later that day, Qualcomm issued a press release confirming that it had
19 received Broadcom’s revised proposal and stating: “Consistent with its fiduciary
20 duties, the Qualcomm Board of Directors, in consultation with its financial and legal
21 advisors, will review the revised proposal to determine the course of action it believes
22 is in the best interests of the Company and its stockholders.” Qualcomm also reiterated
23 that it had rejected Broadcom’s previous proposal because it “comes with significant
24 regulatory uncertainty.” While representing to shareholders that they would review
25 the proposal consistent with their fiduciary duties and act “in the best interests of the
26 Company and its stockholders,” however, Defendants did not disclose that they had
27 already taken defensive measures intended to kill the deal, regardless of price or terms.

1 **3. Defendants Continue to Mislead Investors About Qualcomm’s**
2 **Willingness to Negotiate with Broadcom**

3 132. On February 8, 2018, Qualcomm issued a press release announcing that it
4 had rejected Broadcom’s improved proposal. The press release explained that “[t]he
5 Qualcomm Board, assisted by its financial and legal advisors, determined that the
6 Broadcom proposal materially undervalues Qualcomm and falls well short of the firm
7 regulatory commitment the Board would demand given the significant downside risk
8 of a failed transaction.” The release noted, however, that “Qualcomm has offered to
9 meet with Broadcom to see if it can address the serious deficiencies in value and
10 certainty in its proposal.”

11 133. That same day, Qualcomm’s Chairman Jacobs sent a letter to Broadcom,
12 which it also filed with the SEC on Schedule 14A, stating:

13 The Board has unanimously determined that your amended offer
14 materially undervalues Qualcomm and falls well short of the firm
15 regulatory commitment the Board would demand given the significant
16 downside risk of a failed transaction. However, *the Board is committed*
17 *to exploring all options for maximizing shareholder value, and so we*
18 *would be prepared to meet with you to allow you to explain how you*
19 *would attempt to bridge these gaps in both value and deal certainty* and
20 to better understand the significant issues that remain unaddressed in
21 your proposal.

22 In the meeting, we would expect that you will be prepared to provide
23 clear, specific and detailed answers to the questions below.

- 24 ○ *What is the true highest price at which you would be prepared to*
25 *acquire Qualcomm? Is it \$82 per share or is it higher? Your*
26 *current proposal is inadequate as it materially undervalues*
27 *Qualcomm. Your proposal ascribes no value to our accretive NXP*
28 *acquisition, no value for the expected resolution of our current*
licensing disputes and no value for the significant opportunity in
5G. Your proposal is inferior relative to our prospects as an
independent company and is significantly below both trading and
transaction multiples in our sector.
- Is Broadcom willing to commit to take whatever actions are necessary to ensure the proposed transaction closes? This is extremely important to value preservation for our shareholders. The differences in our business models expose the Company to

1 significant customer and licensee risk between signing and closing
 2 an agreement. It is indisputable that there are significant regulatory
 3 hurdles in your proposed transaction. It is also indisputable that if
 4 Qualcomm entered into a merger agreement and, after an extended
 5 regulatory review period the transaction did not close, Qualcomm
 6 would be enormously and irreparably damaged. If you are not
 7 willing to agree to do whatever is necessary to ensure a transaction
 8 closes, we will need you to be extremely clear and specific about
 9 exactly what actions you would refuse to take, so that we can
 10 properly evaluate the risk to Qualcomm's shareholders.

11 We have a number of other important questions, which we can discuss at
 12 our meeting. We will reach out to you to schedule the meeting.

13 (Some emphasis in original.) These statements were highly misleading. While telling
 14 shareholders that Qualcomm was willing to meet with Broadcom to explore a
 15 negotiated solution, Defendants were secretly undertaking defensive measures to
 16 scuttle the deal. Moreover, while asking whether Broadcom was willing to commit to
 17 whatever actions were necessary to obtain regulatory approval, Qualcomm failed to
 18 disclose to its own shareholders that Defendants were taking actions meant to ensure
 19 that the deal never obtained CFIUS approval. As a result, shareholders were misled
 20 about the likelihood of a negotiated solution and the risks associated with a CFIUS
 21 review.

22 134. Analysts reacted positively to Qualcomm's stated willingness to engage.
 23 For example, a February 9, 2018 RBC analyst report stated:

24 After the close today, QCOM announced that its *Board unanimously*
 25 *rejected AVGO's revised unsolicited proposal*. QCOM's Board believes
 26 the \$82 bid significantly undervalues the company and comes with
 27 significant regulatory uncertainty. **Positively, QCOM has offered to meet**
 28 **with AVGO** to discuss two major issues: 1) *Is \$82 AVGO's best and final*
offer? QCOM believes \$82/share is inadequate and assigns no value to
 the NXP acquisition, potential resolution of licensing disputes and
 QCOM's meaningful opportunity in 5G. 2) *Is AVGO willing to do*
whatever it takes to ensure the successful close of QCOM acquisition?
 as QCOM believes there are significant regulatory risks associated with
 the proposed transaction. . . . **Net/net:** Despite the rejection from QCOM
 board, **we are encouraged to see a potential meeting between AVGO**
and QCOM and looking forward to incremental updates. We are
 maintaining our Outperform rating on QCOM and price target of \$80.

1 (Some emphasis in original.)

2 135. On February 8, 2018, Broadcom sent a letter to Qualcomm regarding its
3 attempts to schedule a meeting regarding its improved offer. The letter stated, in part:

4 Broadcom has long sought a meeting to discuss Broadcom's acquisition
5 of Qualcomm. Following Qualcomm's announcement today that it is
6 willing to meet with us, we offered to meet with Qualcomm on Friday,
7 Saturday or Sunday. I was astonished to hear that Qualcomm is not
8 willing to meet until Tuesday – only after Qualcomm's and Broadcom's
9 respective meetings with Glass Lewis and ISS. We hope that your
10 willingness to meet with us reflects Qualcomm's genuine intent to reach
11 an agreement with respect to our February 5 proposal. After having met
12 with most of your largest stockholders this past week, we have no doubt
13 that this is their strong desire as well.

14 To further demonstrate its seriousness, Broadcom's letter also attached its proposed
15 merger agreement, which provided for an \$8 billion regulatory reverse termination fee
16 and a 6% per annum regulatory ticking fee on the cash portion of the merger
17 consideration (net of dividends). Broadcom also publicly filed a copy of the draft
18 merger agreement with the SEC and issued a press release regarding the same.

19 136. While Broadcom was making efforts to move negotiations with
20 Qualcomm forward, Defendants issued a series of misleading statements regarding the
21 regulatory risk associated with Broadcom's proposal. First, on February 9, 2018,
22 Qualcomm filed an investor presentation with the SEC on Schedule 14A entitled
23 *Qualcomm Sets the Record Straight on Regulatory Challenges Faced by Broadcom*,
24 which discussed at length the regulatory risks associated with a potential transaction,
25 including "potentially serious national security concerns."

26 137. In a second investor presentation filed with the SEC on Schedule 14A on
27 the same day, Qualcomm told shareholders that Broadcom's offer "Poses Unacceptable
28 Regulatory Risks" and "significant regulatory uncertainty," and that "Regulatory
approval [was] highly uncertain; at least 18 month process." The presentation also
continued to mislead investors about Qualcomm's willingness to constructively engage
with Broadcom, telling investors that while Broadcom's initial proposal "so

1 dramatically undervalued the business and carried such regulatory uncertainty that
2 engagement was not warranted,” its improved February 5 proposal, “while not
3 sufficient, . . . warranted engagement.” Nowhere in either of these lengthy
4 presentations, however, did Qualcomm disclose that it had unilaterally filed a voluntary
5 notice with CFIUS in an attempt to stop any Broadcom transaction from occurring and
6 to entrench the incumbent Board and management.

7 138. On February 11, 2018, to address Qualcomm’s stated concerns about its
8 lack of committed funding, Broadcom entered into a commitment letter with a group
9 of 12 financial institutions for up to \$100 billion in debt financing, including a
10 \$5 billion revolving credit facility and bridge financing. Broadcom also secured
11 \$6 billion of convertible note financing from investment funds affiliated with Silver
12 Lake, Kohlberg Kravis Roberts & Co. L.P., and CVC Capital Partners Advisory (U.S.)
13 Inc.

14 139. The following day, Broadcom issued a press release entitled *Broadcom*
15 *and Financing Sources Sign Binding Financing Commitments to Fund Cash*
16 *Component of Qualcomm Acquisition*, announcing that it had secured financing
17 commitments to fully fund the cash component of its \$82 per share offer.

18 140. That same day, Broadcom filed a Schedule 14A with a Latham & Watkins
19 “Point of View” entitled *Qualcomm’s ‘Fact Sheet’ About Closing Risk, A Conversation*
20 *with Daniel M. Wall, Latham & Watkins LLP, Antitrust Counsel to Broadcom Limited*,
21 which responded in detail to Qualcomm’s February 9 “Fact Sheet” regarding
22 regulatory risk. The main message of Broadcom’s presentation was that “objectively,
23 there is no real risk that regulators refuse to approve the deal on any terms.” The
24 document stated:

25 Qualcomm’s management is trying to hide behind a smokescreen of
26 unspecified “regulatory risk.” It consists mostly of general statements
27 about antitrust risks inherent in *any* deal between competitors, not about
28 *this* deal in *these* markets. . . . The most important point anyone needs to
know about antitrust risk in this deal is that the vast majority of

1 Broadcom’s and Qualcomm’s businesses do not raise any antitrust issues
2 at all[.]

3 (Emphasis in original.)

4 141. Broadcom also made another same-day filing intended to address
5 Qualcomm’s statements regarding antitrust risk, lodging with the SEC, on
6 Schedule 14A, an article published on Morning Consult authored by David Balto, a
7 former policy director of the FTC. The article, entitled *Broadcom’s Acquisition of*
8 *Qualcomm: Redeeming the Unredeemable*, explained that because of Qualcomm’s
9 poor management and “record of antitrust mischief,” “Broadcom’s takeover bid for
10 Qualcomm should be welcomed by all.” The article concluded:

11 Given Qualcomm’s past bad behavior and current legal struggles,
12 Broadcom’s acquisition may be the rare deal that solves significant
13 antitrust problems, by replacing its leadership and changing its corporate
14 culture. Broadcom already has indicated that it does not support
15 Qualcomm’s patent licensing practices. Moreover, the operations of the
16 two companies are largely complementary, and any routine concerns that
17 typically arise in mergers of large companies can be satisfactorily
18 resolved during the merger clearance process. Significantly, Broadcom
19 has a successful track record of completing antitrust merger reviews.

20 Bottom line: Competition advocates, global regulators and customers
21 around the world should all be cheering for Broadcom. Consumers
22 deserve quality smartphones and tablets at fair prices. Broadcom’s
23 takeover should be approved, especially when the combined company
24 would end Qualcomm’s excessive price squeezes and bullying tactics
25 that have driven consumer prices unsustainably higher.

26 142. The following day, February 13, 2018, after meeting with proxy advisory
27 firm ISS, Broadcom announced that it was scaling back its challenge to Qualcomm’s
28 Board by cutting the number of board seats it was trying to win from 11 to six.
29 Broadcom explained in a press release that day that it reduced the number of its
30 nominees in recognition of Qualcomm stockholders’ desire “for appropriate continuity
31 on the Qualcomm board[.]”

1 **4. Following a Meeting with Broadcom, Qualcomm Falsely**
2 **Maintains Its Willingness to Negotiate**

3 143. On February 14, 2018, Qualcomm and Broadcom held a meeting
4 regarding Broadcom's improved proposal. Two days later, on February 16, 2018,
5 Qualcomm issued a press release providing an update on the meeting. In the press
6 release, Qualcomm continued to mislead investors about its willingness to engage
7 constructively with Broadcom, its commitment to resolve regulatory concerns, and the
8 regulatory risks associated with the deal, stating:

9 [O]ur Board found the meeting to be constructive in that the Broadcom
10 representatives expressed a willingness to agree to certain potential
11 antitrust-related divestitures beyond those contained in your publicly filed
12 merger agreement. At the same time, Broadcom continued to resist
13 agreeing to other commitments that could be expected to be required by
14 the FTC, the European Commission, MOFCOM and other government
15 regulatory bodies. Broadcom also declined to respond to any questions
16 about its intentions for the future of Qualcomm's licensing business,
17 which makes it very difficult to predict the antitrust-related remedies that
18 might be required. In addition, Broadcom insists on controlling all
19 material decisions regarding our valuable licensing business during the
20 extended period between signing and a potential closing, which would be
21 problematic and not permitted under antitrust laws.

22 Our Board is highly cognizant of the need to protect Qualcomm's
23 stockholders from the considerable risks of agreeing to a transaction that
24 does not close. A breakup fee in the range proposed by Broadcom does
25 not come close to compensating for those risks.

26 144. By focusing on the antitrust risks associated with the deal while again
27 failing to disclose that Qualcomm had initiated a CFIUS review before Broadcom
28 could redomicile to the U.S., Defendants misled investors about the regulatory risks
associated with the deal. Moreover, Qualcomm's statements misrepresented that it was
willing to engage constructively with Broadcom's offer—which included an agreement
to work cooperatively to obtain regulatory approval—when behind the scenes it was
operating to ensure that the deal with Broadcom would never happen.

 145. That same day, ISS issued a report stating that Qualcomm "should
negotiate with [Broadcom] in good faith" and that "[r]egulatory concerns from a

1 [Broadcom/Qualcomm] merger appear manageable[.]” On the regulatory front, ISS
2 also agreed that Broadcom’s 12-month timeline seemed reasonable:

3 Broadcom’s more extensive experience with regulatory proceedings
4 would seem to provide a better reference point for timing than
5 Qualcomm’s own lengthy process with NXP. Based on the frequency
6 and complexity of Broadcom’s acquisitions, and the two companies’
7 historical relationship with regulators, a timeline for regulatory approval
8 of one year does not seem unreasonable.

9 If Qualcomm’s Board did not negotiate a deal, ISS recommended that Qualcomm’s
10 shareholders vote them out: “The election of four Broadcom nominees to the 11-
11 member board seems to offer a reasonable path to a negotiated deal, which is likely to
12 be the most beneficial path for shareholders.”

13 146. In a February 16, 2018 analyst report discussing the ISS report, Credit
14 Suisse wrote: “We would highlight . . . Regulatory Approval Achievable. ISS noted
15 that it appeared more likely than not that AVGO and QCOM, with their collective
16 experience and resources, could find a reasonable path to regulatory approval.” In
17 other words, the market’s view of regulatory risk was informed by its understanding
18 that Qualcomm and Broadcom would work cooperatively to obtain regulatory
19 clearance once a deal was finalized.

20 **5. Broadcom Lowers Its Offer in Response to Qualcomm Action 21 but Continues to Try to Move the Deal Forward**

22 147. On February 20, 2018, Qualcomm announced that it had entered into an
23 amendment to its purchase agreement with NXP to increase the consideration from
24 \$110 per share to \$127.50 per share and reduce the minimum number of NXP shares
25 required to tender in order to consummate the transaction to 70% of outstanding shares.

26 148. That same day, Broadcom issued a statement criticizing Qualcomm for
27 overpaying for NXP but confirming its commitment to the deal:

28 Broadcom believes that a responsible Qualcomm board could have
preserved value by following ISS’s clear recommendation to work with
Broadcom on the NXP transaction and negotiate the sale of Qualcomm
to Broadcom. Instead Qualcomm’s board acted against the best interests

1 of its stockholders by unilaterally transferring excessive value to NXP’s
2 activist stockholders. Despite this direct value transfer, Broadcom
3 remains committed to delivering a value-maximizing offer to Qualcomm
4 stockholders.

5 149. Also on February 20, another leading proxy advisory service, Glass
6 Lewis, issued a recommendation that Qualcomm stockholders vote “AGAINST” the
7 Qualcomm directors and “FOR” all of Broadcom’s Independent Nominees at the
8 Annual Meeting. Glass Lewis explained that the Board’s behavior “should concern
9 shareholders” and that “a change in the composition of the board is warranted.” Glass
10 Lewis further reasoned: “Reconstituting the Qualcomm board would go a long way to
11 ensuring shareholders have a fully informed opinion regarding the prospects of the
12 Company as compared to the attractiveness and risks of a potential Broadcom deal, in
13 our view.”

14 150. The following day, February 21, 2018, Broadcom re-affirmed its
15 commitment to acquire Qualcomm but, in light of the new NXP terms, lowered its
16 acquisition proposal to \$79 per Qualcomm share (\$57 in cash; \$22 in Broadcom stock).
17 The new proposal, however, called for an automatic increase of \$3 in cash per
18 Qualcomm share, back to \$82 per Qualcomm share, if the NXP deal was not
19 consummated. Broadcom’s other proposed terms remained the same.

20 151. Broadcom also continued to take steps to obtain regulatory clearance for
21 its proposed transaction, and on February 22, 2018, it filed a Schedule 14A with the
22 SEC reporting that, as of that date, Broadcom (i) had committed to divest two business
23 areas to address the potential antitrust concerns Qualcomm had raised—its WiFi
24 Networking Processors and RF Front End (RFFE) chip businesses; (ii) had agreed to
25 take any other actions required by regulatory agencies with respect to Qualcomm’s
26 other businesses and assets subject to the “Material Adverse Effect” standard; (iii) was
27 working on an anticipated second request from the U.S. Federal Trade Commission;
28 and (iv) had met with MOFCOM in China and started a pre-filing consultation process.

1 Broadcom reiterated that it remained confident in its ability to complete the transaction
2 within approximately twelve months following the signing of a definitive agreement.

3 152. Meanwhile, Qualcomm continued to make misleading statements
4 regarding the regulatory risk associated with the deal. On February 22, 2018,
5 Qualcomm shared with its stockholders its “takeaways” from an article published in
6 the Competition Policy International on the antitrust risks posed by Broadcom’s
7 proposed takeover of Qualcomm. For example, Qualcomm stated that “[b]ased on
8 similar complex cross-border deals, the expected regulatory approval process is likely
9 to take 18+ months and may require significant and material divestitures and/or
10 conduct remedies.” While discussing what it saw as “significant” regulatory risks
11 associated with a Broadcom transaction, however, Qualcomm did not disclose to its
12 shareholders that had taken affirmative steps to block regulatory approval of the deal.

13 **6. The Parties Meet Once Again and Qualcomm Continues to** 14 **Misrepresent Its Actual Level of Engagement**

15 153. The following day, February 23, 2018, Qualcomm and Broadcom again
16 met to discuss Broadcom’s proposal. Following up on the parties’ meeting, on
17 February 26, 2018, Defendant Jacobs sent a letter to Broadcom’s CEO Tan. Jacobs’
18 letter represented that the parties had made progress toward a negotiated solution and
19 that the major sticking point was price. For example, Jacobs’ letter stated:

20 We appreciate the movement you have made from the draft merger
21 agreement you publicly released on February 9. We have attached our
22 mark-up of that document, which is intended to provide a comprehensive
23 path forward on regulatory and deal certainty issues. The path forward
24 does not require a “hell or high water” commitment on the regulatory
25 front, but still provides the appropriate level of protection to Qualcomm
26 stockholders commensurate with the high degree of regulatory risk
27 associated with this potential transaction. If acceptable to Broadcom, *this*
28 *would resolve all issues between the two companies other than price.*

154. Jacobs also represented that “[t]he Qualcomm Board and management
team are committed to exploring fully with Broadcom whether a negotiated transaction
that is in the best interests of Qualcomm stockholders is achievable.” As a result,

1 Jacobs proposed that the parties move forward with “the following next steps.” First,
2 Jacobs proposed that the parties “[f]inalize non-price terms” stating, “[w]e welcome
3 your review of the mark-up of the merger agreement we have provided you and propose
4 that we or our representatives meet to address any remaining issues and finalize the
5 language.” Qualcomm also proposed that the parties “[e]xecute NDA [non-disclosure
6 agreement] and begin bilateral due diligence.” Qualcomm reasoned that “[m]utual due
7 diligence will inform our discussions on price.” It concluded that “[w]e are delivering
8 a proposed NDA to your counsel.”

9 155. As a fourth and final step, Qualcomm proposed that the parties “[a]rrange
10 [a] meeting focused on price.” More specifically, Jacobs wrote that “[h]aving now
11 addressed the regulatory and certainty issues in principle, we propose arranging a
12 meeting—as soon as mutually convenient for both parties—focused on price, should
13 Broadcom be willing to engage on the topic.” The letter concluded: “Tom Horton, in
14 his capacity as Presiding Director (lead independent Director), will continue to lead
15 Qualcomm in negotiations with Broadcom, with the goal of determining whether there
16 is a mutually beneficial transaction to be done between our two companies. We look
17 forward to your reply.”

18 156. In response, later that day, Broadcom issued a statement that criticized
19 Qualcomm’s “comprehensive proposal” as an effort to delay the March 6, 2018 Annual
20 Meeting, stating that its offer:

21 [H]as never been conditioned on due diligence and Broadcom continues
22 to be prepared to move forward immediately, without diligence. In short,
23 there is no cause to delay the Qualcomm annual meeting. Broadcom
24 would be happy to provide confirmatory reverse due diligence upon an
agreement on all material terms, including price, as is customary.

25 157. That same day, Qualcomm issued a statement in response:

26 The latest statement issued by Broadcom is disingenuous and clearly
27 intended to create a false impression about Qualcomm’s level of
28 engagement. In fact, Qualcomm has repeatedly attempted to engage with
Broadcom on issues including price, including at meetings on February

1 14 and February 23. In each of those meetings, Broadcom has refused to
2 engage on price.

3 Earlier today, Qualcomm made a comprehensive proposal that addresses
4 regulatory and other merger agreement issues in order to clear the way for
5 a price discussion with Broadcom. The ball is in Broadcom's court to let
6 us know whether it is willing to engage with us.

7 158. Qualcomm also accused Broadcom of lying about its attempts to postpone
8 the Annual Meeting: "Broadcom's statements about Qualcomm considering moving
9 the date of its annual meeting are false. Qualcomm has no intention of delaying the
10 annual meeting and made that clear to Broadcom during our February 23 meeting."

11 159. Also on February 26, Qualcomm issued a statement regarding the
12 meeting, again confirming that progress had been made toward a negotiated transaction
13 with Broadcom: "The Qualcomm Board believes the meeting led to further progress
14 toward a possible negotiated transaction on key issues other than price."

15 160. Defendants' February 26, 2018 statements created the misleading
16 impression that Qualcomm was diligently working to resolve any regulatory concerns
17 to reach a negotiated deal with Broadcom.

18 161. News media reported positively on Qualcomm's apparent engagement in
19 the proposed acquisition when, in reality, it was secretly feeding information to CFIUS
20 in an attempt to thwart the will of its shareholders and prevent any Broadcom deal from
21 ever occurring. In a February 26, 2018 article entitled *Qualcomm Warms to Broadcom*
22 *Bid, but Price Is Sticking Point; The two companies have made progress on many*
23 *fronts, but are still split on a price*, The Wall Street Journal reported that "Qualcomm
24 Inc. appeared to take a cooperative turn in its talks with Broadcom Ltd., saying the two
25 sides made progress toward a deal during a recent sit-down and that price could remain
26 one of the few sticking points."

27 162. CNBC, in a same-day article entitled *Qualcomm Proposes Further Price*
28 *Talks With Broadcom*, reported that "Chipmaker Qualcomm on Monday urged
Broadcom to enter into price negotiations on its \$117 billion offer for the company,

1 saying the two sides had made progress on regulatory issues but were yet to agree on
2 the deal value.”

3 163. After the market closed on February 26, 2018, Reuters reported that:

4 [CFIUS] has begun looking at Singapore-based chipmaker Broadcom
5 Ltd’s plan to take over rival Qualcomm Inc. . . . Senator John Cornyn, the
6 No. 2 Republican in the Senate, urged Treasury Secretary Steven Mnuchin
7 on Monday to have the Committee on Foreign Investment in the United
8 States, or CFIUS, officially review the proposed transaction before a key
9 shareholder vote expected on March 6, according to a letter seen by
10 Reuters. The pre-deal discussions by CFIUS—which are extremely rare
11 —suggest Broadcom’s plans to move its headquarters to the United States
12 before it completes its proposed purchase of Qualcomm may not be
13 enough to sidestep a national security review that could threaten the deal.

14 Although the Reuters article raised the prospect that CFIUS might be informally
15 looking at the deal, it did not disclose that a formal review was underway or mention
16 Qualcomm’s efforts to persuade CFIUS to kill Broadcom’s hostile takeover attempt
17 before it could redomicile.

18 164. Moreover, soon thereafter, contradictory reports surfaced of an internal
19 dispute at CFIUS over whether the Committee had jurisdiction to review Broadcom’s
20 proposal. As reported by The Wall Street Journal on March 2, 2018:

21 In a meeting Tuesday [February 27, 2018], members of . . . CFIUS,
22 debated whether the panel has the right to weigh in on Singapore-based
23 Broadcom Ltd.’s bid of \$117 billion for Qualcomm before a deal is
24 struck, according to people briefed on the matter.

25

26 ***Mr. Mnuchin [Treasury Secretary and Chair of CFIUS] . . . told his
27 colleagues he wasn't sure the panel had jurisdiction to commence a
28 review yet because the deal hasn't happened.***

165. Defendants’ misrepresentations continued unabated on March 1, 2018,
when Qualcomm sent a letter to shareholders (filed with the SEC on Schedule 14A),
representing that, “Qualcomm has repeatedly and genuinely attempted to engage with
Broadcom on issues including price, regulatory and other closing certainties, including
most recently at meetings on February 14 and February 23.” Defendants also touted

1 their “attempts to find a path to a deal.” The letter concluded that “[t]he Qualcomm
2 Board of Directors remains ready to engage with Broadcom on these issues both before
3 and after the March 6 stockholder meeting.”

4 166. The following day, March 2, 2018, Telecommunications Reports reported
5 that:

6 Qualcomm, Inc., has suggested to Broadcom Limited that the two
7 companies engage in due diligence and price negotiation of Broadcom’s
8 bid for Qualcomm. . . . In a statement, Broadcom replied that . . .
9 “Qualcomm’s sudden request to enter into an NDA is a result of
Qualcomm finally beginning to recognize the will of its stockholders.”

10 167. In sum, based on Qualcomm’s Class Period statements, investors were
11 misled to believe that Defendants were engaged in good faith negotiations to secure
12 better terms in a deal with Broadcom, when, in fact, they had been engaged in a lengthy
13 campaign to have U.S. regulators scuttle any chances for the deal. Moreover, as a
14 result of Defendants’ misleading statements, Qualcomm’s shareholders were under the
15 impression that Qualcomm was working to address regulatory concerns, and willing to
16 cooperate with Broadcom to obtain regulatory clearances when, in reality, they were
17 affirmatively campaigning regulators to block the deal.

18 **J. The Relevant Truth Is Revealed in a Series of Disclosures**

19 168. On March 5, 2018, the relevant truth began to leak to the market when
20 Broadcom accused Qualcomm of secretly filing a voluntary request with CFIUS to
21 initiate a review. In particular, in a press release published before the close of trading
22 entitled *Broadcom Disappointed Will of Qualcomm Stockholders to be Deferred*,
23 Broadcom stated:

24 Broadcom was informed on Sunday night that on January 29, 2018,
25 ***Qualcomm secretly filed a voluntary request with CFIUS to initiate an***
26 ***investigation***, resulting in a delay of Qualcomm’s Annual Meeting 48
27 hours before it was to take place. This was a ***blatant, desperate act by***
28 ***Qualcomm to entrench its incumbent board of directors and prevent its***
own stockholders from voting for Broadcom’s independent director
nominees. It is critical that Qualcomm stockholders know that Qualcomm
did not once mention submitting a voluntary notice to CFIUS in any of its

1 interactions with Broadcom to date, including in the two meetings on
2 February 14, 2018 and on February 23, 2018. This can only be seen as an
3 *intentional lack of disclosure - both to Broadcom and to its own
stockholders.*

4 169. That same day, also before the market closed, Qualcomm filed a Current
5 Report on Form 8-K with the SEC disclosing that it had “received an Interim Order”
6 from CFIUS (the “March 4 Interim Order”). The March 4 Interim Order, which
7 Qualcomm attached as an exhibit to the Form 8-K, directed that: (i) Qualcomm’s
8 Annual Meeting, scheduled for March 6, 2018, would be delayed by 30 days and, in
9 the meantime, “Qualcomm shall hold in abeyance the acceptance or count of any votes
10 or proxies for directors, and shall take no action to complete the election of directors”;
11 and (ii) while the March 4 Interim Order was in effect, Qualcomm was prohibited from
12 “accepting, or taking any action in furtherance of accepting, Broadcom’s proposed
13 merger agreement or any other proposed merger, acquisition, or takeover agreement
14 with Broadcom.” The March 4 Interim Order also made clear that it could be modified
15 in writing by CFIUS, including upon written request from Qualcomm. In response to
16 the March 4 Interim Order, later that day, Qualcomm announced that it would delay its
17 Annual Meeting to April 5, 2018.

18 170. On March 6, 2018, Qualcomm filed a Current Report on Form 8-K with
19 the SEC disclosing that it had (i) “received a letter, addressed to both Broadcom
20 Limited and Qualcomm, from the U.S. Department of Treasury” (the “March 5
21 Letter”); and (ii) “received a Modification of Interim Order” from CFIUS (the
22 “Modification Order”). Copies of the March 5 Letter and the Modification Order were
23 attached to the Current Report on Form 8-K as exhibits.

24 171. The March 5 Letter made clear that CFIUS’s conclusions were driven by
25 the voluntary notice and additional information that Qualcomm had secretly submitted
26 during the Class Period:

27 During the time between Qualcomm’s unilateral filing and Treasury’s
28 agency filing, CFIUS has been communicating with both parties to obtain

1 additional information to inform its decision on the appropriate path
2 forward in regards to this matter. It was during this time, and ***as a result***
3 ***of these communications and additional information***, that CFIUS has
4 come to believe that Broadcom's successful hostile takeover attempt of
5 Qualcomm, including the related stock purchase, proxy contest for the
6 election of six directors to Qualcomm's Board as proposed and selected
7 by Broadcom, Proposed Agreement and Plan of Merger, and any other
8 potential merger between Broadcom and Qualcomm, could pose a risk to
9 the national security of the United States.

10

11 CFIUS's assessment thus far includes its review of the information
12 submitted by Qualcomm in its unilateral voluntary notice on January 29,
13 2018, the parties' responses to questions posed about the potential
14 transaction during the interim period, and the information provided in our
15 multiple phone calls, emails, and meetings with representatives of both
16 Qualcomm and Broadcom. In addition, our assessment includes the
17 review of letters to CFIUS submitted by Broadcom on February 21, 2018
18 and March 2, 2018.

19 172. News reports captured the market's shock at Qualcomm's behind the
20 scenes maneuvering in the face of its public statements. For example, The Wall Street
21 Journal, in a March 6, 2018 article entitled *U.S. Government Intervenes in Broadcom's*
22 *Bid for Qualcomm; Move represents a highly unusual intervention by Washington*,
23 noted that "[l]ate last month, Qualcomm appeared to be coming around to the idea of
24 a deal. It said the two sides had been talking and making progress."

25 173. In a March 6, 2018 article entitled *Qualcomm's Appeal to CFIUS Risks*
26 *Alienating Shareholders*, Dow Jones Institutional News criticized Defendants for their
27 efforts to secretly disenfranchise Qualcomm's shareholders, writing:

28 As things play out, this latest gambit in Broadcom's hostile bid for
Qualcomm could end up creating more votes to change directors and
undermining the credibility of Qualcomm management with any new
director who is ultimately elected. . . . By appearing to encourage the
extraordinary order from [CFIUS], to postpone the shareholder vote on
directors, Qualcomm could be seen as attacking its own investors' voting
rights.

174. Market commentators also expressed surprise about the timing of
CFIUS's review, noting that Qualcomm's actions had resulted in an unprecedented

1 early review of a deal before it was even agreed. For example, the New York Times,
2 in a March 6, 2018 article reported that:

3 In most cases, the panel operates in secret and weighs in after a deal is
4 announced. In this instance, Cfius, which is made up of representatives
5 from multiple federal agencies, is taking a proactive role and
6 investigating before an acquisition agreement has even been signed. . . .
7 But Qualcomm, which is based in San Diego, pushed the government to
8 intervene.

9 175. In a same-day article the New York Times reported that “[e]xperts said
10 they couldn’t recall another instance of the committee’s intervening in a transaction
11 that hadn’t been completed, much less one that is as fluid and bitterly contested as this
12 one.” The article further explained that:

13 Broadcom had sought to pave the way for its bid by changing its
14 headquarters to the United States, an announcement that the company’s
15 chief executive, Hock Tan, made alongside Mr. Trump at the White
16 House last year. . . . Broadcom argued that its status as a soon-to-be-
17 American company meant the Qualcomm deal should not be subject to
18 review by Cfius. Qualcomm nonetheless appealed to regulators to get
19 involved.

20 176. In a March 7, 2018 article entitled *Qualcomm’s Spending Buys the Right*
21 *Friends*, The Wall Street Journal also noted that CFIUS’s rationale was nearly identical
22 to Qualcomm’s talking points: “In language that closely mimics Qualcomm’s talking
23 points against the deal, the committee describes the company as ‘well-known’ and
24 ‘trusted’ by the U.S. government. The letter also lauded the company’s ‘unmatched
25 expertise and R&D expenditure’—particularly as it relates to the coming wireless
26 technology standard known as 5G.”

27 177. In sum, these disclosures revealed to investors that Defendants’ repeated
28 claims that they were diligently working to negotiate a transaction in the best interest
of shareholders were materially misleading when made. In fact, as these disclosures
revealed, Defendants were furiously working to kill the deal outright.

178. As a result of the March 5 and March 6 disclosures, the price of the
Company’s common stock declined 4.02%, from a closing price of \$64.74 on March 2,

1 2018, to a closing price of \$62.14 on March 6, 2018. By contrast, the S&P 500
2 increased by 1.35% between March 2 and 6, 2018.

3 179. On March 7, 2018, media outlets began reporting rumors that, in an
4 attempt to salvage its bid, Broadcom was accelerating its plans to redomicile to the
5 United States. For instance, a March 7, 2018 New York Post article disclosed that:

6 Advisers for Singapore-based Broadcom told a Qualcomm shareholder
7 that the company is accelerating its plans to re-domicile to the US, *The*
8 *Post* has learned. . . . Broadcom, to get around a CFIUS review, had
9 promised earlier to become a US company by mid-May. But in light of
the heat this week from Washington, Broadcom is now aiming to
complete the move to the US in April.

10 180. On March 9, 2018, Broadcom disclosed that it had moved up its
11 shareholder vote on redomiciliation to March 23. As The Wall Street Journal reported
12 in a March 10, 2018 article entitled *Broadcom Vote Plan May Set Stage for Battle With*
13 *U.S. National Security Panel; If move to become U.S. firm is approved, Singapore*
14 *company could argue hostile bid for Qualcomm is outside of CFIUS's jurisdiction:*

15 Singapore-based Broadcom Ltd. said Friday it will ask shareholders to
16 vote on March 23 to approve its plan to redomicile to the U.S., potentially
17 setting the stage for a showdown with the U.S. national security panel
18 reviewing its \$117 billion hostile bid for Qualcomm Inc. The vote is now
19 set to take place in the middle of a review of the proposed bid by [CFIUS].
If Broadcom were considered a U.S. company, it could argue that its deal
falls outside of the panel's jurisdiction.

20 181. Then, after market close on March 12, 2018, Defendants' secret campaign
21 to kill Broadcom's bid by instigating government intervention culminated in
22 President Trump's issuance of an executive order blocking Broadcom from acquiring
23 Qualcomm.

24 182. This action by CFIUS and President Trump effectively endorsed
25 Qualcomm's position regarding the national security concerns of the proposed
26 acquisition and, in particular, the need to intervene prior to Broadcom's
27 redomiciliation. And, news reports directly connected CFIUS's recommendation to
28 Qualcomm's secret campaign to stymie Broadcom's bid. For instance, *The Deal*

1 Pipeline, in a March 13, 2018 article entitled *Qualcomm's PR and Lobbying Savvy May*
2 *Have Helped It Fight Off Broadcom*, reported that "Qualcomm had requested a Cfius
3 review of Broadcom's bid on Jan. 29, and ***some of the objections publicly voiced by***
4 ***the committee sound like Qualcomm talking points.***"

5 183. In a March 12, 2018 article, Mondaq Business Briefing wrote, "Although
6 traditional takeover defenses such as the Poison Pill and White Knight have long
7 histories in the corporate M&A world, it is possible we are seeing now for the first time
8 the (potentially successful) use of CFIUS as a takeover defense against a hostile offer."

9 184. In response to this news, the price of the Company's common stock
10 declined an additional \$3.11 per share, or 4.95%, to close at \$59.70 per share on
11 March 13, 2018. By comparison, the S&P 500 dropped only 0.67%.

12 185. Even after Qualcomm managed to kill the deal, market commentators
13 continued to report that if Broadcom had been allowed to complete its redomiciliation,
14 it would have avoided CFIUS review altogether. For example, The Wall Street Journal,
15 in an article entitled *Broadcom Affirms Plan to Assume U.S. Address*, reported that
16 "Broadcom earlier this week said it expected to complete the process in April, about a
17 month earlier than originally planned. Redomiciling would have allowed Broadcom's
18 bid for Qualcomm to skip a review by [CFIUS]."

19 186. On March 14, 2018, Broadcom announced that it had withdrawn and
20 terminated its offer to acquire Qualcomm.

21 187. Through their tactics and campaign of misleading shareholders regarding
22 their true intentions, Defendants were able to effectively thwart the will of Qualcomm's
23 shareholders and entrench themselves in their management and board positions. In
24 fact, numerous news sources reported that, before CFIUS's intervention at Defendants'
25 behest, Broadcom's nominees were on track to oust Qualcomm's incumbent directors.
26 For example, a March 5, 2018 Bloomberg article reported that Broadcom "is on course
27 to win all six of the seats it's seeking on Qualcomm Inc.'s board, giving it a majority
28 to push forward with its hostile takeover even as a U.S. government panel forced a

1 delay of the final tally amid concerns about the deal’s threats to national security.” The
2 article further explained that:

3 Based on a count of more than half of the votes already cast, Broadcom
4 would win a majority of Qualcomm’s board seats, according to
5 information obtained by *Bloomberg*. If that result holds up when the final
6 vote takes place, Broadcom would have a mandate to overturn
7 Qualcomm management’s opposition to the \$117 billion deal.”

7 188. A March 7, 2018 MarketWatch article entitled *Qualcomm was losing in*
8 *takeover battle with Broadcom, then the government stepped in*, similarly reported that
9 “Early returns were reportedly in Broadcom’s favor after two of the big shareholder
10 advisory firms recommended investors vote for some or all of Broadcom’s slate to gain
11 a majority vote on the entrenched Qualcomm board.” On March 8, 2018, analyst
12 Oppenheimer confirmed that “Recent reports . . . indicate AVGO is on track to win a
13 majority of QCOM’s board seats in a shareholder vote delayed until 4/5/18, pending
14 CFIUS’ somewhat puzzling review.” As Bloomberg later reported, as of March 4,
15 defendants Mollenkopf and Jacobs were among the lowest votegetters and were on
16 course to lose their seats.

17 189. Although Defendants were able to avoid the embarrassment of being
18 ousted by their own shareholders, on March 9, 2018, Qualcomm announced that while
19 Defendant Jacobs would be allowed to retain his Board seat, he would step down as
20 Executive Chairman. The New York Times reported that “[t]he change was widely
21 seen as a move to placate shareholders who had been voicing their displeasure by
22 voting for a slate of six candidates proposed by Broadcom for the 11-seat board as part
23 of its bid to acquire the company.” A March 9, 2018 VentureBeat article entitled *Battle*
24 *of Broadcom claims its first victim: Paul Jacobs out as Qualcomm’s executive chair*,
25 explained that in announcing the move:

26 [t]he company hinted that the move was in part an effort [to] ensure that
27 its handling of Broadcom’s unwanted overtures is above reproach. . . .
28 While it’s unclear how much Jacobs’ personal history with the company
may have affected Qualcomm’s stance toward Broadcom, the board

1 clearly felt it needed to avoid any suggestion that it is putting emotions
2 ahead of business.

3 190. Meanwhile, investors and market commentators continued to voice their
4 displeasure with Qualcomm's Board. On March 15, 2018, The Wall Street Journal, in
5 an article entitled *Qualcomm Investors Urged to Vote for Broadcom Board Picks in*
6 *Protest*, wrote that:

7 Institutional Shareholder Services Inc., an influential proxy-advisory
8 firm, recommended Qualcomm Inc. shareholders make a symbolic vote
9 in protest against the chip giant's moves to block Broadcom Ltd.'s
10 \$117 billion takeover bid. ISS, in a note to investors late Wednesday,
11 stood by its original recommendation that shareholders vote for four of
12 Broadcom's six nominees for Qualcomm's 11-person board, even
13 though the votes won't count. . . . ISS's decision underscores the
14 frustration of Qualcomm shareholders at how the company's board
15 handled the bid and earlier perceived missteps that have weighed on the
16 stock."

14 On March 17, 2018, the Los Angeles Times reported that "Qualcomm's board
15 nominees are on course to get only 16% of the votes cast at its forthcoming shareholder
16 meeting, even though they're now unopposed."

17 191. Ultimately, after all of the votes were counted, the majority of
18 Qualcomm's unopposed incumbent directors *failed* to receive a majority of
19 shareholders' votes. As The Wall Street Journal reported in a March 24, 2018 article
20 entitled *Qualcomm Investors Register Protest—Six board members get tepid support*
21 *in holder vote following Broadcom ordeal*, "[s]ix of Qualcomm Inc.'s directors,
22 including Chief Executive Steve Mollenkopf, failed to win support from a majority of
23 the company's shares on Friday, *a significant protest vote that signals investor*
24 *discontent* after the chip-making giant successfully rebuffed a hostile takeover from
25 Broadcom Ltd." Nevertheless, "[a]ll the directors will remain on the board since they
26 were running unopposed after the U.S. government blocked Broadcom's bid, and by
27 extension its six-member slate of nominees."

1 192. Despite Defendants' repeated arguments that Broadcom's \$82 offer
 2 substantially undervalued the Company, and that it would perform far better under their
 3 stewardship, Qualcomm's stock has spent the majority of its time since then hovering
 4 in the \$50s. Today, it trades at \$56.83 per share, over \$25 below Broadcom's bid price.

5 **V. DEFENDANTS' MATERIALLY FALSE AND MISLEADING**
 6 **STATEMENTS AND OMISSIONS OF MATERIAL FACT**

7 193. The Class Period begins on January 29, 2018. On that date, unbeknownst
 8 to its shareholders, Qualcomm secretly and unilaterally filed a voluntary request for
 9 CFIUS to initiate a review prior to Broadcom's redomiciliation, in a brazen attempt to
 10 frustrate Broadcom's attempt to acquire the Company and for the Individual
 11 Defendants to simultaneously entrench themselves in their executive leadership
 12 positions at Qualcomm.

13 194. On the same date, Qualcomm filed a Schedule 14A with the SEC that
 14 included a transcript of a video entitled *Creating Stockholder Value*. The transcript
 15 included the following statement by Defendant Mollenkopf:

16 We received an unsolicited bid from Broadcom that the Board evaluated
 17 carefully, concluded that it undervalues the company, ***there are some***
 18 ***questions about deal certainty and regulatory approval.***⁷ We've had
 19 some feedback from customers that have voiced some concerns. Quite
 20 frankly, the Board concluded this deal is not in the best interest of
 21 shareholders.

22 195. The transcript included in the January 29, 2018 Schedule 14A also
 23 included the following statement by Defendant Rosenberg:

24 ***The Broadcom-proposed acquisition will be subjected to very, very close***
 25 ***scrutiny by well over a dozen potential agencies. We believe that this is***
 26 ***probably going to take something in the range of 18 months or more***
 27 ***even, because of the complexity of the two companies' businesses,***
 28 ***because of the enormous overlap in the two companies' technologies***
and businesses, and because of the global nature of our businesses.

7 Each of Defendants' statements in Section V that is alleged to be false and misleading is highlighted in ***bold and italics***.

1 196. Also on January 29, 2018, Qualcomm filed with the SEC on
2 Schedule 14A a copy of its White Proxy Card sent to shareholders. Qualcomm’s White
3 Proxy Card stated, “***Broadcom’s Low-Value, High Risk Proposal Would Steal Value***
4 ***From You***” and listed as reasons “***High-risk regulatory process***” and “***Cannot deliver***
5 ***anything to you for at least 18 months, if ever.***”

6 197. Each of Defendants’ statements set forth in ¶¶ 194-196 was materially
7 false or misleading when made, or omitted material facts necessary to make the
8 statements made not misleading, because: by generically referencing regulatory risks
9 that could delay or impact the deal and alluding to antitrust concerns while withholding
10 the fact that Qualcomm had taken affirmative steps to prevent regulatory approval by
11 filing a unilateral voluntary notice with CFIUS before Broadcom could redomicile to
12 the U.S., Defendants misled investors about the true risks associated with the deal.

13 198. On February 5, 2018, Qualcomm issued a press release, which it filed with
14 the SEC on Schedule 14A, confirming that it had received Broadcom’s revised
15 proposal and stating: “***Consistent with its fiduciary duties, the Qualcomm Board of***
16 ***Directors, in consultation with its financial and legal advisors, will review the revised***
17 ***proposal to determine the course of action it believes is in the best interests of the***
18 ***Company and its stockholders.***” Qualcomm also reiterated that it had rejected
19 Broadcom’s previous proposal because it “***comes with significant regulatory***
20 ***uncertainty.***”

21 199. On February 8, 2018, Qualcomm issued a press release entitled ***Proposal***
22 ***Materially Undervalues Qualcomm and Falls Well Short of Firm Regulatory***
23 ***Commitment Necessary Given Significant Downside Risk of a Failed Transaction***
24 ***Qualcomm Offers to Meet to See If Broadcom Can Address Serious Deficiencies in***
25 ***Value and Certainty***, which it filed with the SEC on Schedule 14A, which stated:

26 The Qualcomm Board, assisted by its financial and legal advisors,
27 determined that ***the Broadcom proposal materially undervalues***
28 ***Qualcomm and falls well short of the firm regulatory commitment the***
Board would demand given the significant downside risk of a failed

1 *transaction. However, Qualcomm has offered to meet with Broadcom to*
2 *see if it can address the serious deficiencies in value and certainty in its*
3 *proposal.*

4 200. Qualcomm attached to its February 8, 2018 press release a copy of a letter
5 from Defendant Jacobs, addressed to Broadcom CEO Tan, which stated the following:

6 *The Board has unanimously determined that your amended offer*
7 *materially undervalues Qualcomm and falls well short of the firm*
8 *regulatory commitment the Board would demand given the significant*
9 *downside risk of a failed transaction. However, the Board is committed*
10 *to exploring all options for maximizing shareholder value, and so we*
11 *would be prepared to meet with you to allow you to explain how you*
12 *would attempt to bridge these gaps in both value and deal certainty and*
13 *to better understand the significant issues that remain unaddressed in*
14 *your proposal.*

15 *In the meeting, we would expect that you will be prepared to provide*
16 *clear, specific and detailed answers to the questions below.*

- 17 ○ *What is the true highest price at which you would be prepared to*
18 *acquire Qualcomm? Is it \$82 per share or is it higher? Your*
19 *current proposal is inadequate as it materially undervalues*
20 *Qualcomm. Your proposal ascribes no value to our accretive*
21 *NXP acquisition, no value for the expected resolution of our*
22 *current licensing disputes and no value for the significant*
23 *opportunity in 5G. Your proposal is inferior relative to our*
24 *prospects as an independent company and is significantly below*
25 *both trading and transaction multiples in our sector.*
- 26 ○ *Is Broadcom willing to commit to take whatever actions are*
27 *necessary to ensure the proposed transaction closes? This is*
28 *extremely important to value preservation for our shareholders.*
 The differences in our business models expose the Company to
 significant customer and licensee risk between signing and
 closing an agreement. It is indisputable that there are significant
 regulatory hurdles in your proposed transaction. It is also
 indisputable that if Qualcomm entered into a merger agreement
 and, after an extended regulatory review period the transaction
 did not close, Qualcomm would be enormously and irreparably
 damaged. If you are not willing to agree to do whatever is
 necessary to ensure a transaction closes, we will need you to be
 extremely clear and specific about exactly what actions you
 would refuse to take, so that we can properly evaluate the risk to
 Qualcomm's shareholders.

We have a number of other important questions, which we can discuss
 at our meeting. We will reach out to you to schedule the meeting.

1 201. That same day, Qualcomm filed a Schedule 14A with the SEC, which
2 included a copy of a letter from Mollenkopf to Qualcomm employees, discussing
3 Qualcomm’s rejection of Broadcom’s February 5, 2018 improved \$82 per share
4 proposal:

5 Today we issued a press release announcing that our Board of Directors
6 unanimously rejected Broadcom’s revised proposal *after determining*
7 *that it materially undervalues Qualcomm. This proposal also falls well*
8 *short of the regulatory commitment we would demand given the*
9 *significant downside risk of a failed transaction.*

10 *The Board has offered to meet with Broadcom to see if it can address*
11 *the serious deficiencies in value and certainty in its proposal. It’s*
12 *important to note that this does not mean that a transaction will occur.*
13 *The Board has a commitment to exploring all options for maximizing*
14 *stockholder value—this is the purpose of offering to meet with*
15 *Broadcom.*

16 202. The following day, February 9, 2018, Qualcomm sent an email to its
17 shareholders, which it also filed with the SEC on Schedule 14A, which stated:

18 Today we announced that Qualcomm’s Board of Directors, *after a*
19 *thorough review process with its financial and legal advisors,*
20 *unanimously rejected Broadcom’s revised proposal to acquire*
21 *Qualcomm after determining that the proposal materially undervalues*
22 *Qualcomm and falls well short of the firm regulatory commitment the*
23 *Board would demand given the significant downside risk of a failed*
24 *transaction. . . . The Qualcomm Board is committed to exploring all*
25 *options for maximizing stockholder value and has offered to meet with*
26 *Broadcom to see if it can address the serious deficiencies in value and*
27 *certainty in its proposal.*

28 203. That same day, Qualcomm filed an Investor Presentation with the SEC on
Schedule 14A, wherein it represented to shareholders that Broadcom’s offer “*Poses*
Unacceptable Regulatory Risks” and “*Significant regulatory uncertainty,*” and that
“*Regulatory approval [was] highly uncertain; at least 18 month process.*” The
presentation also continued to mislead investors about Qualcomm’s willingness to
constructively engage with Broadcom, telling investors that while Broadcom’s initial
proposal “*so dramatically undervalued the business and carried such regulatory*

1 *uncertainty that engagement was not warranted,”* its improved February 5 proposal,
2 *“while not sufficient, . . . warranted engagement.”*

3 204. Each of Defendants’ statements set forth in ¶¶ 198-203 was materially
4 false or misleading when made, or omitted material facts necessary to make the
5 statements made not misleading, because:

6 • Defendants’ statements misled investors to believe that Qualcomm was
7 willing to engage constructively with Broadcom’s offer, and that Broadcom’s
8 actions (or lack thereof) were the main reason a negotiated solution had not been
9 reached, when behind the scenes it was working to ensure that the deal with
10 Broadcom would never happen.

11 • Defendants’ statements that price was a major barrier to a negotiated
12 transaction misled investors to believe that the Company was willing to engage
13 at the right price when, in fact, it was actively attempting to kill the deal
14 regardless of price.

15 • By generically referencing regulatory risks that could delay or impact the
16 deal and alluding to antitrust concerns while withholding the fact that Qualcomm
17 had taken affirmative steps to prevent regulatory approval by filing a unilateral
18 voluntary notice with CFIUS before Broadcom could redomicile to the U.S.,
19 Defendants misled investors about the true risks associated with the deal.

20 • Qualcomm’s request that Broadcom “agree to do whatever is necessary to
21 ensure a transaction closes” or “be extremely clear and specific about exactly
22 what actions you would refuse to take, so that we can properly evaluate the risk
23 to Qualcomm’s shareholders” was misleading given that Qualcomm itself was
24 secretly taking action to ensure that the deal never closed. By failing to disclose
25 the Company’s actions to its shareholders, it deprived them of the opportunity
26 to “properly evaluate the risks.”

27 205. On February 9, 2018, Qualcomm filed an investor presentation with the
28 SEC on Schedule 14A entitled *Qualcomm Sets the Record Straight on Regulatory*

1 ***Challenges Faced by Broadcom***, which discussed at length the purported regulatory
2 risks associated with the potential Broadcom transaction. While the majority of the
3 presentation focused on antitrust concerns, the presentation noted “***potentially serious***
4 ***national security concerns***,” and, in the context of potential divestitures to address
5 antitrust concerns, stated that:

6 ***Adding to the uncertainty, Broadcom would have to identify a suitable***
7 ***buyer that could compete in the market with equal strength to***
8 ***Qualcomm—a challenging and potentially impossible task. In addition,***
9 ***any divestiture to a non-U.S. buyer must be approved by the Committee***
10 ***on Foreign Investment in the United States (CFIUS). The universe of***
11 ***companies that can satisfy the concerns of both antitrust regulators and***
12 ***CFIUS is small, if it exists at all. Broadcom’s list of potential buyers***
13 ***excludes Chinese firms in an attempt to address CFIUS obstacles.***
14 ***However, even with assets divested elsewhere, China may require***
15 ***licensing commitments that will raise CFIUS concerns.***

16 206. That same day, Defendants posted material to Qualcomm’s dedicated deal
17 website, www.qcomvalue.com, stating: “Broadcom’s opportunistic proposal
18 dramatically undervalues Qualcomm and ***there is significant doubt about whether it***
19 ***can ever be completed.***”

20 207. Each of Defendants’ statements set forth in ¶¶ 205-206 was materially
21 false or misleading when made, or omitted material facts necessary to make the
22 statements made not misleading, because: by generically referencing regulatory risks
23 that could delay or impact the deal, focusing on antitrust concerns, generally referring
24 to national security concerns, and addressing CFIUS risk in the context of antitrust
25 divestitures—all while withholding the fact that Qualcomm had taken affirmative steps
26 to prevent regulatory approval by filing a unilateral voluntary notice with CFIUS
27 before Broadcom could redomicile to the U.S.—Defendants misled investors about the
28 true risks associated with the deal.

29 208. On February 14, 2018, Qualcomm issued a press release entitled
30 ***Qualcomm Issues Statement on Meeting with Broadcom***, which it also filed with the
31 SEC on Schedule 14A, which stated:

1 Qualcomm Incorporated (NASDAQ: QCOM) issued the following
2 statement after members of Qualcomm’s Board and its senior
3 management team met today with Broadcom Limited (NASDAQ:
4 AVGO) to discuss Broadcom’s proposal to acquire Qualcomm: ***“We met
5 with representatives of Broadcom for two hours earlier today, and
6 listened carefully to what they had to say. The Qualcomm Board will
7 promptly meet to discuss the meeting and to determine next steps.”***

8 209. On February 16, 2018, Qualcomm issued a press release entitled
9 *Qualcomm Provides Update on Meeting with Broadcom*, which it filed with the SEC
10 on Schedule 14A, including a February 16, 2018 letter that Defendant Jacobs sent to
11 Broadcom’s CEO Tan following up on Qualcomm’s February 14, 2018 meeting with
12 Broadcom. In the letter, Jacobs stated:

13 ***The Board remains unanimously of the view that this proposal
14 materially undervalues Qualcomm and has an unacceptably high level
15 of risk, and therefore is not in the best interests of Qualcomm
16 stockholders.***

17 ***That said, our Board found the meeting to be constructive in that the
18 Broadcom representatives expressed a willingness to agree to certain
19 potential antitrust-related divestitures beyond those contained in your
20 publicly filed merger agreement. At the same time, Broadcom continued
21 to resist agreeing to other commitments that could be expected to be
22 required by the FTC, the European Commission, MOFCOM and other
23 government regulatory bodies. Broadcom also declined to respond to
24 any questions about its intentions for the future of Qualcomm’s
25 licensing business, which makes it very difficult to predict the antitrust-
26 related remedies that might be required. In addition, Broadcom insists
27 on controlling all material decisions regarding our valuable licensing
28 business during the extended period between signing and a potential
closing, which would be problematic and not permitted under antitrust
laws.***

***Our Board is highly cognizant of the need to protect Qualcomm’s
stockholders from the considerable risks of agreeing to a transaction
that does not close. A breakup fee in the range proposed by Broadcom
does not come close to compensating for those risks.***

***While the current Broadcom proposal is unacceptable, our Board is
intensely focused on maximizing value for Qualcomm stockholders,
whether through executing on its growth strategy or by selling the
Company. Our Board is open to further discussions with Broadcom to
see if a proposal that appropriately reflects the true value of Qualcomm
shares, and ensures an appropriate level of deal certainty, can be***

1 ***obtained. If such a proposal cannot be obtained from Broadcom, our***
2 ***Board is highly confident in Qualcomm’s ability to deliver superior***
3 ***near- and long-term value to its stockholders by continuing to execute***
4 ***its growth strategy.***

5 210. That same day, Qualcomm sent an email to its shareholders, which it filed
6 with the SEC on Schedule 14A, which stated, “***Consistent with its commitment to***
7 ***explore all options to maximize stockholder value, members of Qualcomm’s Board***
8 ***and senior management team met with Broadcom on February 14, 2018, to discuss***
9 ***whether Broadcom could address the serious deficiencies in its proposal to acquire***
10 ***Qualcomm.***”

11 211. Also on February 16, Defendant Mollenkopf sent an email to Qualcomm
12 employees, which the Company filed with the SEC on Schedule 14A, stating:

13 ***As you know, last week our Board unanimously rejected Broadcom’s***
14 ***revised proposal, but agreed to meet with members of their senior***
15 ***management team to see if they could address the proposal’s serious***
16 ***deficiencies—both in terms of value and deal certainty. During the***
17 ***meeting, which took place on Wednesday, Broadcom addressed some of***
18 ***our regulatory concerns, but would not agree to certain commitments***
19 ***that could be required to satisfy regulators around the world. Broadcom***
20 ***also reiterated that \$82.00 per share is its best and final proposal, which***
21 ***our Board continues to believe materially undervalues Qualcomm and***
22 ***presents unacceptable risk for our stockholders. We sent a letter to***
23 ***Broadcom earlier today articulating that position and that our Board is***
24 ***open to further discussions to address our ongoing and legitimate***
25 ***concerns.***

26 212. Each of Defendants’ statements set forth in ¶¶ 208-211 was materially
27 false or misleading when made, or omitted material facts necessary to make the
28 statements made not misleading, because:

- Defendants’ statements misled investors to believe that Qualcomm was willing to engage constructively with Broadcom’s offer, and that Broadcom’s actions (or lack thereof) were the main reason a negotiated solution had not been reached, when behind the scenes it was working to ensure that the deal with Broadcom would never happen.

1 • Defendants' statements that price was a major barrier to a negotiated
2 transaction misled investors to believe that the Company was willing to engage
3 at the right price when, in fact, it was actively attempting to kill the deal
4 regardless of price.

5 • By generically referencing regulatory risks that could delay or impact the
6 deal and focusing on antitrust concerns while withholding the fact that
7 Qualcomm had taken affirmative steps to prevent regulatory approval by filing
8 a unilateral voluntary notice with CFIUS before Broadcom could redomicile to
9 the U.S., Defendants misled investors about the true risks associated with the
10 deal.

11 213. On February 21, 2018, Qualcomm issued a press release entitled
12 *Qualcomm Issues Statement On Reduced Broadcom Proposal*, which it filed with the
13 SEC on Schedule 14A, which stated:

14 Qualcomm Incorporated (NASDAQ: QCOM) today issued the following
15 statement in response to today's reduced proposal by Broadcom Limited
16 (NASDAQ: AVGO) to acquire all outstanding shares of Qualcomm for
17 \$79.00 per share (\$57.00 in cash and \$22.00 in Broadcom stock):
18 ***“Broadcom’s reduced proposal has made an inadequate offer even
19 worse despite the clear increase in value to Qualcomm stockholders
20 from providing certainty around the NXP acquisition. Broadcom has
21 refused and continues to refuse to engage with Qualcomm on price. . . .
22 The Qualcomm Board is committed to maximizing value for Qualcomm
23 stockholders, whether that be through executing its growth strategy or
24 selling the company. Broadcom’s revised \$79.00 per share proposal
25 materially undervalues Qualcomm, fails to take into account the
26 strategic and financial benefits of acquiring NXP, and continues to face
27 a long and highly uncertain path to regulatory approvals.”***

23 214. On February 22, 2018, Qualcomm issued a press release, filed with the
24 SEC on Schedule 14A, including a February 22, 2018 letter that the Board sent to its
25 shareholders. The letter stated:

26 ***The members of the Qualcomm Board of Directors are firmly
27 committed to maximizing value for Qualcomm stockholders. We are
28 highly confident in Qualcomm’s strategic plan and its multiple value
drivers. At the same time, we have seriously evaluated Broadcom’s***

1 *proposals and explained to Broadcom—including during our meeting*
2 *with them on February 14—why their proposals are inadequate. We*
3 *remain open to continued discussions if a suitable proposal is*
4 *presented. To date, no such proposal has been made.*

5

6 *By lowering its proposal to \$79.00 per share, Broadcom has made an*
7 *inadequate proposal even worse despite the indisputable increase in*
8 *value and certainty that Qualcomm stockholders will receive from the*
9 *compelling and highly accretive acquisition of NXP. Importantly,*
10 *Broadcom has refused and continues to refuse to engage with*
11 *Qualcomm on price.*

12 *The Board unanimously believes that Broadcom’s current \$79.00 per*
13 *share proposal undervalues Qualcomm, fails to take into account the*
14 *strategic and financial benefits of acquiring NXP, and continues to*
15 *face a long and highly uncertain path to regulatory approvals.*

16 *Members of this Board and management met with Broadcom earlier*
17 *this month to discuss a path to a transaction that both appropriately*
18 *valued Qualcomm and provided a sufficient level of certainty around*
19 *the regulatory issues. We entered the meeting with Broadcom in a*
20 *constructive manner, seeking a price increase and engagement on*
21 *issues related to transaction certainty. However, Broadcom did not*
22 *engage on the topic of price —repeatedly stating that \$82 per share was*
23 *“best-and-final.”*

24 *Broadcom also insisted it had to control all material decisions*
25 *regarding our licensing business, one that has realized annual*
26 *revenues exceeding \$7 billion, during a lengthy regulatory process,*
27 *despite the fact that this is not permitted under antitrust laws.*
28 *Additionally, Broadcom was unwilling to agree to commitments that*
could be expected to be required by the FTC, European Commission,
MOFCOM and other government regulatory bodies. Their proposed \$8
billion reverse termination fee—which equates to only \$5.40 per
share—does not come close to compensating our stockholders for the
substantial value destruction likely to result if the transaction were to
fail to close due to regulatory issues.

. . . .

**THE QUALCOMM BOARD IS SQUARELY FOCUSED ON
MAXIMIZING THE VALUE OF YOUR INVESTMENT**

Qualcomm is well positioned to create value for stockholders over the
near- and long-term, particularly with a clear path to completing the
NXP transaction. At the same time, should Broadcom present a

1 *proposal that delivers superior value and sufficiently protects downside*
2 *risk to you, we will pursue a sale. Thus far, Broadcom has done neither.*

3 215. Each of Defendants’ statements set forth in ¶¶ 213-214 was materially
4 false or misleading when made, or omitted material facts necessary to make the
5 statements made not misleading, because:

6 • Defendants’ statements misled investors to believe that Qualcomm was
7 willing to engage constructively with Broadcom’s offer, and that Broadcom’s
8 actions (or lack thereof) were the main reason a negotiated solution had not been
9 reached, when behind the scenes it was working to ensure that the deal with
10 Broadcom would never happen.

11 • Defendants’ statements that price was a major barrier to a negotiated
12 transaction and that “should Broadcom present a proposal that delivers superior
13 value and sufficiently protects downside risk to you, we will pursue a sale,”
14 misled investors to believe that the Company was willing to engage at the right
15 price when, in fact, it was actively attempting to kill the deal regardless of price.

16 • By generically referencing regulatory risks that could delay or impact the
17 deal and focusing on antitrust concerns while withholding the fact that
18 Qualcomm had taken affirmative steps to prevent regulatory approval by filing
19 a unilateral voluntary notice with CFIUS before Broadcom could redomicile to
20 the U.S., Defendants misled investors about the true risks associated with the
21 deal.

22 216. On February 22, 2018, Qualcomm shared with its stockholders an article
23 published in the Competition Policy International by former senior antitrust enforcers
24 and leading antitrust experts from China, Korea, the European Union, and the United
25 States on the significant antitrust risks posed by Broadcom’s proposed takeover of
26 Qualcomm.

27 217. On February 22, 2018, Qualcomm issued a press release entitled,
28 ***FORMER SENIOR GOVERNMENT OFFICIALS AND LEADING ANTITRUST***

1 **EXPERTS FROM AROUND THE WORLD DESCRIBE THE ‘MATERIAL**
 2 **RISKS’ ASSOCIATED WITH BROADCOM’S EFFORT TO ACQUIRE**
 3 **QUALCOMM**, filed with the SEC on Schedule 14A, which stated,

4 *Qualcomm Incorporated (NASDAQ: QCOM) (“Qualcomm”) today*
 5 *shared with its stockholders an article published in the Competition*
 6 *Policy International by former senior antitrust enforcers and leading*
 7 *antitrust experts from China, Korea, the European Union, and the*
 8 *United States (“the experts”) on the significant antitrust risks posed by*
 9 *Broadcom’s proposed takeover of Qualcomm.*

10 The press release went on to highlight Qualcomm’s key “takeaways” from the article,
 11 including:

- 12 ○ *Any combination between Broadcom and Qualcomm faces*
 13 *significant antitrust risks due to their competitive positions in WiFi*
 14 *and RFFE products (among others), the potential complex and*
 15 *difficult divestiture process with regards to separating the*
 16 *businesses and finding an acceptable buyer, and the potential for*
 17 *anti-trust agencies demanding significant restrictions on*
 18 *Broadcom’s post-merger licensing and distribution practices.*
- 19 ○ *There are countless examples of regulators imposing substantial*
 20 *conduct remedies and the real risk posed by these conduct remedies*
 21 *generally requires deal protection for the target and its*
 22 *shareholders—such as a “hell-or-high-water clause”—to ensure*
 23 *that “a buyer cannot walk away from the deal at any point during*
 24 *or after a protracted regulatory review period, particularly given the*
 25 *likely disruption caused to targets (here, Qualcomm) during such a*
 26 *review period.”*
- 27 ○ *Based on similar complex cross-border deals, the expected*
 28 *regulatory approval process is likely to take 18+ months and may*
 require significant and material divestitures and/or conduct remedies.
- *The proposed limitations on Qualcomm by Broadcom on how*
Qualcomm can operate its business during a potential regulatory
review period likely violates antitrust “gun-jumping” rules, and
could be subject to an investigation by the U.S. FTC.

218. Each of Defendants’ statements set forth in ¶¶ 216-217 was materially false or misleading when made, or omitted material facts necessary to make the statements made not misleading, because: by generically referencing regulatory risks

1 that could delay or impact the deal and focusing on antitrust concerns, all while
2 withholding the fact that Qualcomm had taken affirmative steps to prevent regulatory
3 approval by filing a unilateral voluntary notice with CFIUS before Broadcom could
4 redomicile to the U.S., Defendants misled investors about the true risks associated with
5 the deal.

6 219. The following day, February 23, 2018, Qualcomm and Broadcom again
7 met to discuss Broadcom's proposal.

8 220. On February 26, 2018, Qualcomm issued a press release entitled
9 *Qualcomm Proposes Further Engagement with Broadcom on Price and Terms of*
10 *Possible Transaction Delivers Revised Merger Agreement That Would Provide*
11 *Comprehensive Path Forward on Regulatory and Closing Certainty for Qualcomm*
12 *Stockholders Suggests Path for Continued Engagement and Calls on Broadcom to*
13 *Engage in Mutual Due Diligence and Price Negotiation*, filed with the SEC on
14 Schedule 14A, which stated:

15 *Qualcomm Incorporated (NASDAQ: QCOM) today announced that*
16 *Chairman of the Board Dr. Paul E. Jacobs sent a letter on behalf of*
17 *the Qualcomm Board of Directors to Hock Tan, Chief Executive*
18 *Officer of Broadcom Limited (NASDAQ: AVGO), providing*
Qualcomm's response to the second meeting between the two
companies, which was held on February 23.

19 *The Qualcomm Board believes the meeting led to further progress*
20 *toward a possible negotiated transaction on key issues other than price.*
21 *The Board authorized providing Broadcom with a mark-up of*
22 *Broadcom's previously released draft merger agreement that, if agreed*
to by Broadcom, would resolve all issues between the two companies
other than price.

23 *Broadcom reiterated in the February 23 meeting that its reduced*
24 *\$79.00 per share proposal is its best and final proposal. The Qualcomm*
25 *Board is unanimous in its view that each of Broadcom's proposals,*
26 *including its prior \$82.00 per share proposal, materially undervalues*
Qualcomm, and the Board encourages Broadcom to enter into mutual
due diligence and price negotiations.

27 221. The press release included a copy of Defendant Jacobs' letter to
28 Broadcom CEO Tan. In the letter, Jacobs wrote:

1 *As we are all aware, a combination of Broadcom and Qualcomm would*
2 *represent the largest technology transaction in history and one of the*
3 *largest M&A transactions overall. This represents uncharted territory*
4 *and our Board and management are taking great care to incorporate*
an appropriate level of protections for Qualcomm stockholders in a
potential transaction with Broadcom.

5 *We have briefed the full Board on the meeting and the current state of*
6 *our discussions. As they have done at previous Board meetings, our*
7 *independent directors also met separately in an executive session,*
along with the Board’s financial and legal advisors.

8 *We appreciate the movement you have made from the draft merger*
9 *agreement you publicly released on February 9. We have attached our*
10 *mark-up of that document, which is intended to provide a*
11 *comprehensive path forward on regulatory and deal certainty issues.*
12 *The path forward does not require a “hell or high water” commitment*
13 *on the regulatory front, but still provides the appropriate level of*
protection to Qualcomm stockholders commensurate with the high
degree of regulatory risk associated with this potential transaction. If
acceptable to Broadcom, this would resolve all issues between the two
companies other than price.

14 *While we have made progress on regulatory and other deal certainty*
15 *issues, you have continued to insist that your current \$79.00 per share*
16 *proposal is your best and final proposal. For the reasons we have stated*
17 *publicly to our stockholders, and privately to you in our meetings, the*
18 *Qualcomm Board continues to be of the unanimous belief that each of*
your proposals, including your prior \$82.00 per share proposal,
materially undervalues Qualcomm. This conclusion is based on
substantial and thorough analysis.

19

20 *It is the Board’s responsibility to critically analyze all of the external*
21 *and internal information available to us, challenge assumptions and*
22 *utilize our collective experience to arrive at thoughtful and independent*
23 *conclusions on the future value of Qualcomm. With the support of*
24 *management and our external advisors, we have concluded*
25 *unanimously that an acquisition price materially higher than any of*
Broadcom’s proposals is warranted based upon our evaluation of
Qualcomm’s near-term prospects and the risk-adjusted present value
of our long-term forecasts.

26

27 *In our previous meeting on February 14, you agreed to drop your prior*
28 *objection to divesting any Broadcom (as opposed to only Qualcomm)*
businesses and assets as a way to facilitate regulatory approval.

1 *However, to reduce regulatory risk to an appropriate level, we made*
2 *two additional proposals in our February 23 meeting:*

- 3 • *We asked Broadcom to agree to any conduct remedies and other*
4 *remedies that may be imposed by regulators that would not have a*
5 *material adverse effect on the combined company (after*
6 *divestitures).*
- 7 • *We proposed a reverse termination fee of 9% of enterprise value,*
8 *payable if a potential transaction is terminated other than due to a*
9 *breach of the agreement by Qualcomm or our failure to obtain*
10 *stockholder approval. . . .*

11 *We believe these commitments and our other changes to the merger*
12 *agreement would provide acceptable risk protection to Qualcomm*
13 *stockholders, and we therefore would no longer ask Broadcom to make*
14 *a “hell or high water” commitment.”*

15

16 *The Qualcomm Board and management team are committed to*
17 *exploring fully with Broadcom whether a negotiated transaction that is*
18 *in the best interests of Qualcomm stockholders is achievable.*
19 *Accordingly, we propose the following next steps:*

20 1. *Finalize non-price terms: We welcome your review of the mark-*
21 *up of the merger agreement we have provided you and propose that we*
22 *or our representatives meet to address any remaining issues and*
23 *finalize the language.*

24 2. *Execute NDA and begin bilateral due diligence: Mutual due*
25 *diligence will inform our discussions on price. We appreciate that we*
26 *have differences in our views on value and that ours is based upon*
27 *significantly more information than the public data you now have at*
28 *your disposal. Therefore, we propose entering into a non-disclosure*
 agreement and beginning bilateral due diligence, given the large
 amount of Broadcom stock included in your proposal and to provide
 more granular details on our views on value. We are delivering a
 proposed NDA to your counsel.

 3. *Agree on approach to provide information on licensing business:*
 You have repeatedly declined to disclose your plan to change
 Qualcomm’s licensing business because you think such disclosure
 could pose issues under antitrust laws. Although we believe Broadcom
 is free to disclose this information, we are willing to jointly select a law
 firm with antitrust expertise that you would fully brief on your licensing
 plans. This firm would then provide Qualcomm the information which
 it considers permissible under antitrust law.

1 ***4. Arrange meeting focused on price: Having now addressed the***
2 ***regulatory and certainty issues in principle, we propose arranging a***
3 ***meeting—as soon as mutually convenient for both parties—focused on***
4 ***price, should Broadcom be willing to engage on the topic.***

5 ***Tom Horton, in his capacity as Presiding Director (lead independent***
6 ***Director), will continue to lead Qualcomm in negotiations with***
7 ***Broadcom, with the goal of determining whether there is a mutually***
8 ***beneficial transaction to be done between our two companies. We look***
9 ***forward to your reply.***

10 Qualcomm also attached to the press release its proposed markup of Broadcom's
11 proposed agreement and plan of merger.

12 222. Qualcomm filed a same-day Schedule 14A with the SEC including an
13 email from Defendant Mollenkopf to Qualcomm's employees. In the email,
14 Mollenkopf stated:

15 ***Last Friday, members of Qualcomm's Board and management team***
16 ***met again with representatives from Broadcom to discuss Broadcom's***
17 ***takeover proposal. After Friday's meeting, Qualcomm's Board,***
18 ***consistent with its commitment and obligation to explore all***
19 ***opportunities to maximize value for stockholders, discussed the***
20 ***meeting and the current state of our engagement with Broadcom.***

21 223. Also on February 26, Qualcomm issued a press release entitled
22 ***Qualcomm Calls on Broadcom to Stop Misleading Stockholders and Negotiate in***
23 ***Good Faith***, filed with the SEC on Schedule 14A, which responded to a same-day
24 Broadcom press release as follows:

25 ***Qualcomm Incorporated (NASDAQ: QCOM) today responded to***
26 ***Broadcom Limited's (NASDAQ: AVGO) misleading comments***
27 ***regarding Qualcomm's engagement with Broadcom in connection with***
28 ***its proposal to acquire Qualcomm:***

"The latest statement issued by Broadcom is disingenuous and clearly
 intended to create a false impression about Qualcomm's level of
 engagement. In fact, Qualcomm has repeatedly attempted to engage
 with Broadcom on issues including price, including at meetings on
 February 14 and February 23. In each of those meetings, Broadcom
 has refused to engage on price.

Earlier today, Qualcomm made a comprehensive proposal that
 addresses regulatory and other merger agreement issues in order to
 clear the way for a price discussion with Broadcom. The ball is in

1 *Broadcom's court to let us know whether it is willing to engage with*
2 *us. Qualcomm's Board remains unanimous in its view that*
3 *Broadcom's current offer of \$79.00 per share, as well as the previous*
4 *offer of \$82.00 per share, materially undervalues the company.*

5 *Broadcom's statements about Qualcomm considering moving the date*
6 *of its annual meeting are false. Qualcomm has no intention of delaying*
7 *the annual meeting and made that clear to Broadcom during our*
8 *February 23 meeting."*

9 224. The following day, February 27, 2018, Qualcomm provided Broadcom a
10 proposed non-disclosure agreement, which it filed with the SEC on Schedule 14A.

11 225. That same day, Qualcomm filed with the SEC on Schedule 14A a White
12 Proxy Card vote reminder, which stated, "*Qualcomm's Board of Directors is*
13 *committed to evaluating ALL opportunities to maximize value for stockholders—*
14 *whether through continued execution of our growth strategy or by selling the*
15 *Company. To that end, we are open to constructively engaging with Broadcom and*
16 *will continue to act in your best interests."*

17 226. Each of Defendants' statements set forth in ¶¶ 220-225 was materially
18 false or misleading when made, or omitted material facts necessary to make the
19 statements made not misleading, because:

- 20 • Defendants' statements misled investors to believe that Qualcomm was
21 willing to engage constructively with Broadcom's offer, and that Broadcom's
22 actions (or lack thereof) were the main reason a negotiated solution had not been
23 reached, when behind the scenes it was working to ensure that the deal with
24 Broadcom would never happen.
- 25 • Defendants' statements that price was a major barrier to a negotiated
26 transaction misled investors to believe that the Company was willing to engage
27 at the right price when, in fact, it was actively attempting to kill the deal
28 regardless of price.
- By generically referencing regulatory risks that could delay or impact the
deal and focusing on antitrust concerns while withholding the fact that

1 Qualcomm had taken affirmative steps to prevent regulatory approval by filing
2 a unilateral voluntary notice with CFIUS before Broadcom could redomicile to
3 the U.S., Defendants misled investors about the true risks associated with the
4 deal.

- 5 • Qualcomm’s statement that it “has no intention of delaying the annual
6 meeting” was misleading, given that it had asked CFIUS to stop the vote from
7 occurring altogether.

8 227. In a Schedule 14A filed with the SEC on March 1, 2018, Qualcomm
9 included a same-day letter from the Board to the Company’s shareholders. The letter
10 included the following statements:

11 *Qualcomm’s Board remains unanimous in its view that Broadcom’s*
12 *current offer of \$79.00 per share, as well as the previous offer of \$82.00*
13 *per share, materially undervalues the company. Similarly, Broadcom’s*
14 *initial offer of \$70.00 per share was so low that it did not merit*
15 *engagement. We determined it was in the best interests of stockholders*
16 *to wait for a substantially improved offer—which after several months*
17 *did eventually come on February 5. The Board undertook a thorough*
18 *and in-depth process in reviewing the offers and did so through the lens*
19 *of maximizing long-term stockholder value. . . . Since evaluating and*
20 *subsequently rejecting the \$82 per share offer on February 8,*
21 *Qualcomm has repeatedly and genuinely attempted to engage with*
22 *Broadcom on issues including price, regulatory and other closing*
23 *certainties, including most recently at meetings on February 14 and*
24 *February 23. In each of those meetings, Broadcom refused to engage*
25 *in good faith. It instead reiterated its “best and final” stance which it*
26 *established prior to our first meeting, despite our attempts to find a path*
27 *to a deal that makes sense for Qualcomm stockholders. Broadcom’s*
28 *refusal to outline its proposal and the future direction of Qualcomm’s*
licensing business also raises significant issues from a value and
regulatory perspective.

All three items—price, closing certainty and the licensing business—
are critical to the Board’s evaluation of Broadcom’s proposal, and
without a meaningful discussion or an agreement on these items, the
Qualcomm Board believes it is not in the best interest of Qualcomm’s
stockholders to elect Broadcom’s nominees. The Qualcomm Board of
Directors remains ready to engage with Broadcom on these issues both
before and after the March 6 stockholder meeting.

1 228. Each of Defendants' statements set forth in ¶ 227 was materially false or
2 misleading when made, or omitted material facts necessary to make the statements
3 made not misleading, because:

4 • Defendants' statements misled investors to believe that Qualcomm was
5 willing to engage constructively with Broadcom's offer, and that Broadcom's
6 actions (or lack thereof) were the main reason a negotiated solution had not been
7 reached, when behind the scenes it was working to ensure that the deal with
8 Broadcom would never happen.

9 • Defendants' statements that price was a major barrier to a negotiated
10 transaction misled investors to believe that the Company was willing to engage
11 at the right price when, in fact, it was actively attempting to kill the deal
12 regardless of price.

13 • By generically referencing regulatory risks that could delay or impact the
14 deal and focusing on antitrust concerns while withholding the fact that
15 Qualcomm had taken affirmative steps to prevent regulatory approval by filing
16 a unilateral voluntary notice with CFIUS before Broadcom could redomicile to
17 the U.S., Defendants misled investors about the true risks associated with the
18 deal.

19 **VI. LOSS CAUSATION/ECONOMIC LOSS**

20 229. Defendants' alleged unlawful conduct caused the losses incurred by
21 Plaintiffs and the Class. The market for Qualcomm's common stock was open, well-
22 developed, and efficient at all relevant times. Throughout the Class Period,
23 Qualcomm's common stock traded at artificially inflated prices as a direct result of
24 Defendants' materially misleading statements and omissions of material fact, which
25 were widely disseminated to the securities market, investment analysts, and the
26 investing public. Plaintiffs and other members of the Class purchased or otherwise
27 acquired Qualcomm common stock relying upon the integrity of the market price for
28

1 Qualcomm's common stock and market information relating to Qualcomm, and have
2 been damaged thereby.

3 230. When the relevant truth became known and/or the materialization of the
4 risk that had been concealed by Defendants occurred, the price of Qualcomm's
5 common stock declined immediately and precipitously as the artificial inflation was
6 removed from the market price of the stock, causing substantial damage to Plaintiffs
7 and the Class. The economic loss, i.e., damage, suffered by Plaintiffs and other
8 members of the Class was a direct result of: (i) Defendants' misleading statements
9 regarding the regulatory risk associated with the Broadcom deal and its willingness to
10 negotiate with Broadcom, as well as its failure to disclose its affirmative efforts to
11 prevent regulatory approval for the deal; and (ii) the subsequent decline in the value of
12 Qualcomm's common stock price as the relevant truth was revealed and/or the
13 concealed risks materialized in a series of partial adverse disclosures on March 5,
14 March 6, and March 12, 2018.

15 **A. March 5 and March 6, 2018**

16 231. On March 5, 2018, before the close of trading, Broadcom issued press
17 releases accusing Qualcomm of secretly and unilaterally initiating a CFIUS
18 investigation based on Qualcomm's assertions of a national security risk from the
19 Broadcom bid:

20 Broadcom was informed on Sunday night that on January 29, 2018,
21 *Qualcomm secretly filed a voluntary request with CFIUS to initiate an*
22 *investigation, resulting in a delay of Qualcomm's Annual Meeting*
23 *48 hours before it was to take place. This was a blatant, desperate act*
24 *by Qualcomm to entrench its incumbent board of directors and prevent*
its own stockholders from voting for Broadcom's independent director
nominees.

25 It is critical that Qualcomm stockholders know that *Qualcomm did not*
26 *once mention submitting a voluntary notice to CFIUS in any of its*
interactions with Broadcom to date, including in the two meetings on
27 February 14, 2018 and on February 23, 2018.

28

1 ***Broadcom reiterates that Qualcomm failed to disclose to its own***
2 ***stockholders and to Broadcom that it secretly filed a voluntary***
3 ***unilateral request for CFIUS review on January 29, 2018.*** Broadcom’s
4 only correspondence with CFIUS was in response to CFIUS inquiries
5 about Broadcom’s nomination of directors to the Qualcomm board of
6 directors, and such requests ***did not reveal that Qualcomm filed to***
7 ***initiate the CFIUS review on January 29, 2018.***

6 232. The revelation of the fact that Qualcomm had requested on January 29,
7 2018, that CFIUS investigate Broadcom’s bid revealed to the market that Qualcomm
8 was actively seeking to terminate any potential transaction. That same day, also before
9 the market closed, Qualcomm sent a communication to its shareholders, which it
10 included in a Schedule 14A filed with the SEC, advising that:

11 Last night we received an Interim Order from the Committee on Foreign
12 Investment in the United States (CFIUS)—an independent governmental
13 body charged with protecting U.S. national security—requiring
14 Qualcomm to delay our Annual Meeting of Stockholders, originally
15 scheduled for tomorrow, March 6.

15 CFIUS has instructed Qualcomm to delay our meeting and the election
16 of directors to our Board to allow the agency “the ability to investigate
17 fully Broadcom’s proposed acquisition of Qualcomm.”

17 More specifically, Qualcomm announced that to implement the March 4, 2018 Order:
18 “the 2018 Annual Meeting of Stockholders will be opened on March 6, 2018 at
19 8:00 a.m. Pacific Time and immediately adjourned to April 5, 2018. There will be no
20 voting or other matters conducted at the meeting.”

21 233. Qualcomm also filed a same-day Current Report on Form 8-K, disclosing
22 that it had “received an Interim Order” from CFIUS and attaching the March 4 Interim
23 Order. The March 4 Interim Order confirmed Broadcom’s statement that Qualcomm
24 had secretly filed a voluntary notice with CFIUS on January 29, 2018, and thus was
25 seeking a way to terminate the transaction rather than negotiate for a fair price with
26 Broadcom:

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INTERIM ORDER

Regarding the Proposed Acquisition of Qualcomm, Inc. by Broadcom Limited

WHEREAS *the Committee on Foreign Investment in the United States (“CFIUS”) has received written notification and has initiated a review* and investigation, pursuant to section 721 of the Defense Production Act of 1950, as amended, 50 U.S.C. § 4565 (“section 721”), of a transaction (“Transaction”) involving the takeover of Qualcomm, Inc. (“Qualcomm”), a company organized under the laws of Delaware, by Broadcom Limited (“Broadcom”), a company organized under the laws of Singapore;

WHEREAS Broadcom, pursuant to the Transaction, is engaged in a concerted effort to complete a hostile takeover of Qualcomm, including acquiring proxies to elect six new Directors (a majority) to the Board of Qualcomm in order to approve a Proposed Agreement and Plan of Merger (the “Proposed Agreement”) that Broadcom filed with the Securities and Exchange Commission (the “SEC”) on February 9, 2018, between Broadcom and Qualcomm;

WHEREAS CFIUS has determined that the Transaction, *as described in the notice that Qualcomm submitted to CFIUS dated January 29, 2018*, and the agency notice submitted by the Department of the Treasury dated March 4, 2018 (together, the “Notice”), including the Proposed Agreement or any other potential merger, acquisition, or takeover agreement between Broadcom and Qualcomm constitutes a “covered transaction” for purposes of section 721;

WHEREAS CFIUS is undertaking a review and investigation of the effects of the Transaction on the national security interests of the United States, as required by section 721;

CFIUS has determined, based on information provided to, and analyses by CFIUS agencies to date, that there are national security risks to the United States that arise as a result of, and in connection with the Transaction, and CFIUS seeks to take necessary actions to provide interim protection and impose conditions that mitigate those risks pending any further action by the President, or by CFIUS, 50 U.S.C. §§ 4565(b)(2)(A), (D)(1)(A)[.]

(Some emphasis in original.)

1 234. Among other things, the March 4 Interim Order directed that:

2 1.1 Qualcomm’s annual stockholder meeting, including the election of
3 its Board of Directors, shall be delayed from its current scheduled date
4 of March 6, 2018, for a period of 30 (thirty) days. Qualcomm shall hold
5 in abeyance the acceptance or count of any votes or proxies for directors,
6 and shall take no action to complete the election of directors.

7 1.2 Qualcomm and Qualcomm’s Board of Directors, executives, and
8 agents are, while this Order is in effect, hereby prohibited from accepting,
9 or taking any action in furtherance of accepting, Broadcom’s proposed
10 merger agreement or any other proposed merger, acquisition, or takeover
11 agreement with Broadcom.

12 235. Section 2.4 of the Interim Order provided that the Order could be modified
13 in writing by CFIUS, including upon written request from Qualcomm. The Interim
14 Order also required Broadcom to provide CFIUS with “five business days’ notice
15 before taking any action toward redomiciliation[.]” This provision partially revealed
16 the risk that CFIUS could render a decision on Broadcom’s bid before it could
17 redomicile and take the transaction out of CFIUS’s jurisdiction.

18 236. On March 6, 2018, Qualcomm filed a Current Report on Form 8-K, which
19 disclosed the March 5 Letter that Broadcom and Qualcomm had received from the
20 U.S. Department of Treasury. The March 5 Letter provided additional information
21 about Qualcomm’s involvement in CFIUS’s investigation, as well as CFIUS’s
22 rationale for delaying the shareholder vote:

23 *On January 29, 2018, Qualcomm Incorporated (“Qualcomm”) filed a*
24 *unilateral notice with the Committee on Foreign Investment in the*
25 *United States (“CFIUS”), seeking review of Broadcom Limited’s*
26 *(“Broadcom”) solicitation of proxies for the purposes of electing a*
27 *majority of the directors of Qualcomm.*

28

During the time between Qualcomm’s unilateral filing and Treasury’s
agency filing, CFIUS has been communicating with both parties to
obtain additional information to inform its decision on the appropriate
path forward in regards to this matter. It was during this time, and as a
result of these communications and additional information, that CFIUS
has come to believe that Broadcom’s successful hostile takeover attempt
of Qualcomm, including the related stock purchase, proxy contest for the

1 election of six directors to Qualcomm’s Board as proposed and selected
2 by Broadcom, Proposed Agreement and Plan of Merger, and any other
3 potential merger between Broadcom and Qualcomm, *could pose a risk to*
4 *the national security of the United States.*

5 *CFIUS’s assessment thus far includes its review of the information*
6 *submitted by Qualcomm in its unilateral voluntary notice on January*
7 *29, 2018, the parties’ responses to questions posed about the potential*
8 *transaction during the interim period, and the information provided in*
9 *our multiple phone calls, emails, and meetings with representatives of*
10 *both Qualcomm and Broadcom.* In addition, our assessment includes the
11 review of letters to CFIUS submitted by Broadcom on February 21, 2018,
12 and March 2, 2018.

13 237. The March 5 Letter also discussed Qualcomm in glowing terms that,
14 market commentators later noted, “closely mimics Qualcomm’s talking points against
15 the deal[.]”

16 238. Further demonstrating how closely CFIUS was hewing to Qualcomm’s
17 interests, on March 5, 2018, CFIUS issued the Modification Order that altered its
18 March 4 Interim Order to conform to Qualcomm’s disclosures. Specifically, the March
19 4 Interim Order required Qualcomm’s Annual Meeting to be delayed by 30 days.
20 Qualcomm, however, announced that in contravention of the March 4 Initial Order it
21 would still open its March 6 meeting, but then would immediately adjourn the meeting
22 until April 5, 2018, without any action. By doing so, Qualcomm was able to maintain
23 the current record date, thus preventing turnover in the shareholders permitted to vote.
24 Presumably at Qualcomm’s urging, CFIUS promptly modified the March 4 Interim
25 Order to require that the March 6, 2018 Annual Meeting be opened but then adjourned
26 for 30 days without any substantive action. In doing so, CFIUS provided Qualcomm’s
27 incumbent directors—who, as discussed below, were significantly behind in the voting
28 count—with 30 additional days to solicit proxies from additional shareholders and to
change the minds of shareholders who had already entered votes against them.

239. As a direct and proximate result of these partial corrective disclosures
and/or materialization of the foreseeable risks concealed by Defendants’ fraud, shares
of the Company’s stock fell 1.13%, from a closing price of \$64.74 on March 2, 2018,

1 to a closing price of \$64.01 on March 5, 2018. By contrast, the S&P 500 actually
2 increased by 1.1% between March 2 and 5, 2018. The Company's stock fell an
3 additional 2.92% on March 6, 2018, from a closing price of \$64.01 on March 5, 2018,
4 to a closing price of \$62.14 on March 6, 2018. Meanwhile, the S&P 500 increased by
5 0.27% on March 6, 2018.

6 240. Media coverage from March 6, 2018, expressed surprise at the unexpected
7 nature of CFIUS's actions and the resulting delay. The Deal Pipeline referred to the
8 intervention as "quite unprecedented, given that no deal has been inked yet between
9 Broadcom and Qualcomm . . . and the fact that Broadcom [would] soon be a U.S.-
10 based company." Bloomberg also reported that the "order for a delay by the
11 government panel is unusual, since CFIUS doesn't usually investigate before a merger
12 is agreed upon." The New York Times reported that "[i]t appears to be the first time
13 the committee has intervened on a deal before it has been finalized[.]"

14 241. Several news sources additionally reported statements from experts on
15 CFIUS review, who agreed that the review was highly unusual. The Wall Street
16 Journal quoted a former CFIUS member, Mario Mancuso, who called it "Halley's
17 comet unusual." The New York Times reported it spoke to experts who had
18 "acknowledged that the national security panel's review of Broadcom's bid for
19 Qualcomm was extraordinary." The Deal Pipeline reported that "the move was met by
20 lawyers specializing in CFIUS issues with shock and surprise . . ." and quoted Clif
21 Burns, an attorney at Bryan Cave in Washington, that he had "never seen [CFIUS] ask
22 a company to postpone an annual meeting to conduct a review."

23 242. The New York Times stated the approach seen here "reflect[ed] a newly
24 aggressive stance by [CFIUS]," further highlighting that the market would not have
25 anticipated this news and additionally indicating that Qualcomm's secret request was
26 responsible. The article stated that "[i]n this instance, [CFIUS] . . . is taking a proactive
27 role and investigating before an acquisition agreement has even been signed. **But**
28 ***Qualcomm, which is based in San Diego, pushed the government to intervene.***"

1 243. In another article, the New York Times reported that:

2 Experts said they couldn't recall another instance of the committee's
3 intervening in a transaction that hadn't been completed, much less one
4 that is as fluid and bitterly contested as this one.

4

5 Broadcom had sought to pave the way for its bid by changing its
6 headquarters to the United States . . . [and that] Broadcom argued that its
7 status as a soon-to-be-American company meant the Qualcomm deal
8 should not be subject to review by [CFIUS].

8 ***Qualcomm nonetheless appealed to regulators to get involved.***

9 244. A report by The Wall Street Journal also addressed the unexpected nature
10 of this news given Defendants' misleading statements over the past month that they
11 were diligently negotiating with Qualcomm: in late February, "Qualcomm appeared to
12 be coming around to the idea of a deal. It said the two sides had been talking and
13 making progress." Indeed, in addition to revealing to the market the steps that
14 Qualcomm had taken to scuttle the deal, these disclosures also made clear that
15 Defendants' repeated statements that they were negotiating in good faith with
16 Broadcom were highly misleading.

17 245. Dow Jones Institutional News, in a March 6, 2018 article, focused on
18 Qualcomm's actions and the potential backlash:

19 As things play out, this latest gambit in Broadcom's hostile bid for
20 Qualcomm could end up creating more votes to change directors and
21 undermining the credibility of Qualcomm management with any new
22 director who is ultimately elected.

22 The problem is that this action undercuts Qualcomm's best argument to
23 shareholders in the proxy contest: The \$79 per Qualcomm share offered
24 by Broadcom is inadequate, the current board has done a good job
25 pressuring Broadcom to improve its terms and current directors are in the
26 best position to negotiate a deal if Broadcom can be convinced to make
27 a better offer.

26 ***By appearing to encourage the extraordinary order from the
27 Committee on Foreign Investment in the United States, known as
28 CFIUS, to postpone the shareholder vote on directors, Qualcomm
 could be seen as attacking its own investors' voting rights.*** Among other

1 things, that implies the company doesn't have confidence that its
2 arguments will win the day.

3 246. Despite these additional disclosures, the price of Qualcomm's shares
4 remained artificially inflated, as it was still not yet clear how Qualcomm's acceleration
5 of the CFIUS review would ultimately undermine Broadcom's bid and the risks
6 concealed by Defendants' misleading statements and omissions had not fully
7 materialized. Moreover, shareholders continued to believe that they would be given
8 an opportunity to exercise their right to vote on the board nominees.

9 247. Some analysts still believed that the proposed merger could proceed. On
10 March 8, 2018, Oppenheimer wrote:

11 We believe the potential QCOM acquisition remains in play, a significant
12 upside call option with combined EPS power approaching \$25 on
conservative assumptions.

13

14 We continue to see obvious financial/strategic merit in combining
15 QCOM/AVGO's leading back-end and front-end handset portfolios.
16 Recent reports (Bloomberg 3/5/18) indicate AVGO is on track to win a
majority of QCOM's board seats in a shareholder vote delayed until
17 4/5/18, pending CFIUS'[s] somewhat puzzling review.

18 248. Dow Jones Institutional News, in the same article in which it criticized
19 Qualcomm's actions as risking the alienation of its shareholders, did not anticipate this
20 being the end of the deal:

21 Meanwhile, it seems unlikely CFIUS will prevent shareholders from
22 voting for long. A deal with Broadcom isn't on the ballot and no
agreement to sell the company has been signed.

23 It is hard to argue that shareholders replacing existing Qualcomm
24 directors with independent businessmen—and who, with one exception
(a Canadian), are U.S. citizens—would threaten the U.S., even if a
25 combined Broadcom-Qualcomm would.

26 CFIUS investigations generally focus on whether acquisitions should be
27 completed, not director elections.

28 Plus CFIUS regulates foreign investment in the U.S. For months
Broadcom, which moved its incorporation to Singapore from the U.S. in

1 a 2015 “tax inversion,” has been working on moving back to this country.
2 Broadcom predicts that will be done in May.

3 Once completed, it is hard to see how Broadcom—whose chief executive
4 and most of its directors are also U.S. citizens—would be viewed as
foreign.

5 249. And statements issued by Broadcom at the time of the March 5 Letter,
6 also continued to tout Broadcom’s imminent redomiciliation from Singapore to the
7 United States. In a Form 8-K filed on March 6, 2018, Broadcom described the process
8 by which it was “restructur[ing] its corporate group to cause the parent company of the
9 group to be a Delaware corporation.” The next day, on March 7, Broadcom released
10 the following statement:

11 *Our Pledge to Creating a Stronger Combined American Company*

12 Broadcom is in every important respect an American company, with a
13 lineage of great American technology icons like Hewlett-Packard,
14 AT&T, Broadcom Corp., and Brocade Communications Systems, Inc.
15 ***We are now in the final stages of redomiciling to the United States, and***
16 ***that process will be complete no later than May 6, 2018. When we***
17 ***complete our acquisition of Qualcomm, we expect to have more than***
25,000 employees in the U.S., working to make Broadcom the leading
communication semiconductor company in the world.

18 (Some emphasis in original.)

19 250. News reports also confirmed that Broadcom was speeding up its efforts
20 to redomicile to the U.S. and that CFIUS intervention may be avoided. On March 7,
21 2018, the New York Post reported that Broadcom “in light of the heat this week from
22 Washington,” was “aiming to complete its move to the US in April,” rather than the
23 originally-announced mid-May, “to get around a CFIUS review.” On March 10, 2018,
24 The Wall Street Journal reported that if it redomiciled as a U.S. company, Broadcom
25 “could argue that its deal falls outside of [CFIUS’s] jurisdiction. CFIUS, though, could
26 say it still has jurisdiction to review the bid since it began the review while Broadcom
27 was a Singapore company,” and this speed-up was “potentially setting the stage for a
28 showdown[.]”

1 251. The Wall Street Journal on March 13, 2018, reported that Broadcom’s
2 failure to “provide [CFIUS] with five days’ notice before taking any action on its
3 redomiciliation plan” violated the March 4 Interim Order issued by CFIUS. Several
4 additional news sources, including Dow Jones Institutional News, Agence France
5 Presse, and BGR, reported Broadcom’s violations and referred to them as attempts to
6 avoid CFIUS intervention.

7 **B. March 12 and March 13, 2018**

8 252. On March 12, 2018, after the market had closed, President Trump issued
9 an Order blocking Broadcom from taking further action regarding its proposed
10 acquisition of Qualcomm. The Order found, “[t]here is credible evidence that leads
11 me to believe that Broadcom . . . through exercising control of Qualcomm . . . might
12 take action that threatens to impair the national security of the United States[.]” Thus,
13 per the Order, “[t]he proposed takeover of Qualcomm by [Broadcom] is prohibited,
14 and any substantially equivalent merger, acquisition, or takeover, whether effected
15 directly or indirectly, is also prohibited.”

16 253. A CFIUS letter released earlier that same day made clear that both the
17 Committee and the administration had adopted Qualcomm’s position regarding the
18 national security concerns of the proposed acquisition and the need to expedite
19 intervention prior to Broadcom’s redomiciliation. More specifically, on March 12,
20 2018, Qualcomm filed a Current Report on Form 8-K with the SEC disclosing that it
21 had “received a letter, addressed to both Broadcom Limited and Qualcomm, from the
22 U.S. Department of Treasury” the previous day. This letter from March 11, 2018, was
23 attached to the Form 8-K filing as Exhibit No. 99.1, and stated, in relevant part:

24 The purpose of this letter is to inform the parties of the status of the
25 investigation being conducted by [CFIUS]

26 Through [the] March 5, 2018 letter, CFIUS informed you that it had
27 identified potential national security concerns that warrant a full
28 investigation of the attempted hostile takeover by Broadcom Limited
 (“Broadcom”) of Qualcomm Incorporated (“Qualcomm”), through a
 stock purchase, proxy contest, and Proposed Agreement and Plan of

1 Merger (the “Proposed Agreement”) or other merger. *That determination*
2 *was based on CFIUS’s review of the information submitted by*
3 *Qualcomm in its unilateral voluntary notice on January 29, 2018, the*
4 *parties’ responses to questions posed about the potential transaction*
5 *during the interim period, and the information provided in our multiple*
6 *phone calls, emails, and meetings with representatives of both*
7 *Qualcomm and Broadcom.*

8

9 Following issuance of the Interim Order, Broadcom took a series of
10 actions in violation of the Interim Order. Specifically, Broadcom, on at
11 least three separate occasions, took action toward redomiciliation in the
12 United States without providing five business days’ notice to CFIUS as
13 required under Article 1.3. Those actions include filing an ex parte
14 originating summons with a court in Singapore on March 6, 2018, seeking
15 and participating in a court proceeding in Singapore on March 9, 2018,
16 and filing a definitive proxy statement with the U.S. Securities and
17 Exchange Commission and sending that proxy statement to its
18 shareholders on March 9, 2018.

19 Since transmitting the letter to you on March 5, 2018, CFIUS has
20 conducted an investigation of the transaction and its associated national
21 security risk. That investigation has so far *confirmed the national*
22 *security concerns that CFIUS identified to you in its letter on March 5,*
23 *2018.* That investigation is expected to close soon. In light of the actions
24 that Broadcom has taken in violation of the Interim Order to shorten the
25 time period for CFIUS investigation, CFIUS requests that Broadcom
26 provide any information responsive to the March 5, 2018 letter as soon as
27 possible. *In the absence of information that changes CFIUS’s*
28 *assessment of the national security risks posed by this transaction,*
CFIUS would consider taking further action, including but not limited
to referring the transaction to the President for decision.

254. News coverage from March 12, 2018, described Qualcomm as having
used CFIUS as an undisclosed “poison pill.” Mondaq Business Briefing reported that
“it is possible we are seeing now for the first time the (potentially successful) use of
CFIUS as a takeover defense against a hostile offer,” comparing it to “traditional
takeover defenses such as the Poison Pill and White Knight [which] have long histories
in the corporate M&A world.” Additional reporting on March 13, 2018, in
Computerworld Australia agreed with this characterization, quoting Jim Lewis, a
CFIUS expert at the Center for Strategic and International Studies, as “obviously a
poison pill.”

1 255. In an article published on March 12, 2018, the New York Times made
2 clear that President Trump’s Order was not expected. Quoting attorney John P.
3 Kabealo, who specializes in foreign investment matters, the article called it
4 “‘extraordinary’ that Mr. Trump would intervene in the transaction before a full
5 investigation by the government panel was complete.” The article further reported that
6 according to law firm Ropes & Gray, “[a] presidential action against foreign
7 investment in an American company is rare and ha[d] only taken place four times in
8 the past 30 years.”

9 256. As a direct and proximate result of these disclosures and/or
10 materialization of the foreseeable risks concealed by Defendants’ fraud, the
11 Company’s share price fell an additional 4.95%, from a closing price of \$62.81 on
12 March 12, 2018, to a closing price of \$59.70 on March 13, 2018. By comparison, the
13 S&P 500 dropped only 0.67%.

14 257. In sum, from January 29, 2018, to March 13, 2018, the price of
15 Qualcomm’s common stock fell from \$67.32 per share to \$59.70 per share as the
16 undisclosed risks relating to Qualcomm’s lobbying for the deal to be terminated were
17 revealed.

18 258. It was foreseeable to Qualcomm and the Individual Defendants that
19 issuing false and misleading statements and/or omissions of material fact concerning
20 the Company’s willingness to negotiate with Broadcom and the regulatory risks
21 associated with Broadcom’s proposal, while failing to disclose the efforts Defendants
22 had taken to frustrate the deal by seeking CFIUS’s intervention, would artificially
23 inflate the price of Qualcomm common stock during the Class Period. It was similarly
24 foreseeable that the ultimate disclosure of the concealed information and/or the
25 materialization of the risks concealed by Defendants’ false and misleading statements
26 and omissions would cause the price of Qualcomm common stock to drop significantly
27 as the inflation caused by earlier misleading statements and omissions was removed
28 from the stock by the corrective disclosures and/or materialization of the risk set forth

1 herein. Accordingly, the conduct of these Defendants as alleged herein proximately
2 caused foreseeable losses under the Exchange Act to Plaintiffs and members of the
3 Class.

4 **VII. THE STATUTORY SAFE HARBOR AND BESPEAKS CAUTION**
5 **DOCTRINE ARE INAPPLICABLE**

6 259. The statutory safe harbor and the bespeaks caution doctrine applicable to
7 forward-looking statements under the Private Securities Litigation Reform Act of 1995
8 do not apply to the misleading statements and omissions alleged in this Complaint.

9 260. None of Defendants' historic or present-tense statements alleged herein
10 was a forward-looking statement because none was an assumption underlying or
11 relating to any plan, projection, or statement of future economic performance, as they
12 were not stated to be such assumptions underlying or relating to any projection or
13 statement of future economic performance when made, nor were any of the projections
14 or forecasts made by Defendants expressly related to, or stated to be dependent on,
15 those historic or present-tense statements when made.

16 261. To the extent that any of the materially false or misleading statements
17 alleged herein, or any portions thereof, can be construed as forward-looking, these
18 statements were not accompanied by meaningful cautionary language identifying
19 important facts that could cause actual results to differ materially from those in the
20 statements. As set forth above in detail, given the then-existing facts contradicting
21 Defendants' statements, the generalized risk disclosures made by Defendants were not
22 sufficient to insulate Defendants from liability for their materially false and misleading
23 statements.

24 262. Defendants are also liable for any false or misleading forward-looking
25 statement alleged herein, or portion thereof, because at the time each forward-looking
26 statement was made, the speaker knew the forward-looking statement was false or
27 misleading, or the forward-looking statement was authorized and approved by an
28

1 executive officer of Qualcomm who knew that the forward-looking statement was false
2 or misleading.

3 **VIII. CONTROLLING PERSON ALLEGATIONS**

4 263. By virtue of the Individual Defendants' positions of management and
5 control within the Company, they had access to undisclosed adverse information about
6 Qualcomm's response to Broadcom's takeover bid, including information regarding
7 Qualcomm's undisclosed, unilateral voluntary notice to CFIUS and other
8 communications with and other information provided to CFIUS, as particularized
9 herein. The Individual Defendants ascertained such information through Qualcomm's
10 internal corporate documents, conversations, and connections with each other and with
11 corporate officers and employees, attendance at Board of Directors meetings, including
12 committees thereof, and through reports and other information provided to them in
13 connection with their roles and duties as Qualcomm officers, directors, and managers.

14 264. The Individual Defendants participated in the drafting, preparation, and/or
15 approval of the various public, shareholder, and investor reports and other
16 communications complained of herein, and knew or recklessly disregarded that there
17 were materially misleading statements and omissions contained therein. Because of
18 their Board, executive, or managerial positions with Qualcomm, each of the Individual
19 Defendants had access to the adverse undisclosed information about Qualcomm's
20 response to Broadcom's takeover bid, as particularized herein, and knew (or were
21 deliberately reckless in not knowing) that this information rendered the representations
22 made by or about Qualcomm and its business, or adopted by the Company, materially
23 false and misleading.

24 265. The Individual Defendants, because of their positions of control and
25 authority as officers or directors of the Company, were able to and did control the
26 content of the various SEC filings, press releases, and other public statements
27 pertaining to the Company during the Class Period. Each Individual Defendant was
28 provided with copies of the documents alleged herein to be misleading before or shortly

1 after their issuance, and had the ability and opportunity to prevent their issuance or
2 cause them to be corrected. Accordingly, each of the Individual Defendants is
3 responsible for the accuracy of the public reports and releases detailed herein, and is
4 therefore primarily liable for the representations therein.

5 266. As officers, directors, and controlling persons of a publicly held company
6 whose common stock is registered with the SEC pursuant to the Exchange Act, and is
7 traded on the NASDAQ, and governed by the provisions of the federal securities laws,
8 the Individual Defendants each had a duty to promptly disseminate accurate and
9 truthful information with respect to the Company's response to Broadcom's takeover
10 bid, as particularized herein, and to correct any previously issued statements that had
11 become materially misleading or untrue, so that the market price of the Company's
12 publicly-traded securities would be based on truthful and accurate information. The
13 Individual Defendants' materially misleading statements and omissions during the
14 Class Period violated these specific requirements and obligations.

15 **IX. CLASS ACTION ALLEGATIONS**

16 267. Plaintiffs bring this action on behalf of themselves and as a class action,
17 pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure, on behalf
18 of a Class consisting of all persons and entities that, during the Class Period, purchased
19 or otherwise acquired the publicly traded common stock of Qualcomm and were
20 damaged thereby. Excluded from the Class are Defendants, members of Defendants'
21 immediate families (as defined in 17 C.F.R. § 229.404, Instructions (1)(a)(iii) and
22 (1)(b)(ii)), any person, firm, trust, corporation, officer, director, or other individual or
23 entity in which any Defendant has a controlling interest, or which is related to or
24 affiliated with any of the Defendants, and the legal representatives, agents, affiliates,
25 heirs, successors-in-interest, or assigns of any such excluded party.

26 268. The members of the Class are so numerous and geographically dispersed
27 that joinder of all members is impracticable. While the exact number of Class members
28 is unknown to Plaintiffs at this time and can only be ascertained through appropriate

1 discovery, Plaintiffs believe that there are at least thousands of members of the
2 proposed Class. At the end of the Class Period, Qualcomm had more than 1.48 billion
3 shares of common stock issued and outstanding, owned by thousands of persons, and
4 actively traded on the NASDAQ. The disposition of their claims in a class action will
5 provide substantial benefits to the parties and the Court. Record owners and other
6 members of the Class may be identified from records maintained by Qualcomm or its
7 transfer agent, and may be notified of the pendency of this action by a combination of
8 published notice and first-class mail, using the techniques and form of notice similar
9 to that customarily used in class actions arising under the federal securities laws.

10 269. There is a well-defined commonality of interest in the questions of law
11 and fact involved in this case. Questions of law and fact common to the members of
12 the Class that predominate over questions that may affect individual Class members
13 include:

14 (a) whether Defendants' actions as alleged herein violated the federal
15 securities laws;

16 (b) whether Defendants' statements and/or omissions issued during the
17 Class Period were materially false and misleading;

18 (c) whether Defendants knew or were deliberately reckless in not
19 knowing that their statements were false and misleading;

20 (d) whether and to what extent the market prices of Qualcomm publicly
21 traded common stock were artificially inflated and/or distorted before and/or
22 during the Class Period due to the misrepresentations and/or omissions of
23 material fact alleged herein; and

24 (e) whether and to what extent Class members sustained damages as a
25 result of the conduct alleged herein, and the appropriate measure of damages.

26 270. Plaintiffs' claims are typical of the claims of the other members of the
27 Class, as all members of the Class, including Plaintiffs, purchased or otherwise
28

1 acquired Qualcomm publicly traded securities during the Class Period and similarly
2 sustained damages as a result of Defendants' wrongful conduct as alleged herein.

3 271. Plaintiffs will fairly and adequately protect the interests of the members
4 of the Class. Plaintiffs have retained counsel competent and experienced in class action
5 securities litigation to further ensure such protection, and intends to prosecute this
6 action vigorously. Plaintiffs have no interests that are adverse or antagonistic to those
7 of the Class.

8 272. A class action is superior to other available methods for the fair and
9 efficient adjudication of this controversy. Because the damages suffered by each
10 individual member of the Class may be relatively small, the expense and burden of
11 individual litigation make it impracticable for Class members to seek redress for the
12 wrongful conduct alleged herein. Plaintiffs know of no difficulty that will be
13 encountered in the management of this litigation that would preclude its maintenance
14 as a class action.

15 **X. PLAINTIFFS AND CLASS MEMBERS ARE ENTITLED TO A**
16 **PRESUMPTION OF RELIANCE**

17 273. Plaintiffs and members of the Class are entitled to rely upon the
18 presumption of reliance established by the fraud-on-the-market doctrine in that, among
19 other things:

20 (a) Defendants made public misrepresentations and failed to disclose
21 material facts during the Class Period;

22 (b) the omissions and misrepresentations were material;

23 (c) Qualcomm common stock traded in efficient markets;

24 (d) the material misrepresentations and omissions alleged herein would
25 tend to induce a reasonable investor to misjudge the value of Qualcomm
26 common stock; and

27 (e) without knowledge of the misrepresented or omitted facts,
28 Plaintiffs and other members of the Class purchased or otherwise acquired

1 Qualcomm common stock between the time that Defendants made material
2 misrepresentation and omissions and the time the concealed risks materialized
3 or the true facts were disclosed.

4 274. At all relevant times, the market for Qualcomm common stock was open
5 and efficient for the following reasons, among others:

6 (a) as a registered and regulated issuer of securities, Qualcomm filed
7 periodic public reports with the SEC, in addition to the Company's frequent
8 voluntary dissemination of information;

9 (b) Qualcomm regularly communicated with public investors via
10 established market communication mechanisms, including through regular
11 disseminations of press releases on the national circuits of major newswire
12 services and through other wide-ranging public disclosures, such as
13 communications with the financial press, securities analysts, and other similar
14 reporting services;

15 (c) Qualcomm was followed by numerous securities analysts
16 employed by major brokerage firms who wrote reports that were distributed to
17 the sales force and certain customers of their respective brokerage firms and that
18 were publicly available and entered the public marketplace; and

19 (d) Qualcomm common stock met the requirements for listing, and was
20 listed and actively traded on highly efficient markets, including NASDAQ,
21 where the Company's common stock trades under the ticker symbol "QCOM."

22 275. As a result of the foregoing, the markets for Qualcomm common stock
23 promptly digested current information regarding Qualcomm from all publicly available
24 sources, and the prices of Qualcomm's stock reflected such information.

25 276. Based upon the materially false and misleading statements and omissions
26 of material fact alleged herein, Qualcomm common stock traded at artificially inflated
27 prices during the Class Period. Plaintiffs and the other members of the Class purchased
28

1 Qualcomm common stock relying upon the integrity of the market price of Qualcomm
2 common stock and other market information relating to Qualcomm.

3 277. Under these circumstances, all purchasers of Qualcomm common stock
4 during the Class Period suffered similar injuries through their purchases at artificially
5 inflated prices, and a presumption of reliance applies.

6 278. Further, at all relevant times, Plaintiffs and other members of the Class
7 reasonably relied upon Defendants to disclose material information as required by law
8 and in the Company's SEC filings. Plaintiffs and the other members of the Class would
9 not have purchased or otherwise acquired Qualcomm common stock at artificially
10 inflated prices if Defendants had disclosed all material information as required. Thus,
11 to the extent that Defendants concealed or improperly failed to disclose material facts
12 with regard to the Company and its business, Plaintiffs are entitled to a presumption of
13 reliance in accordance with *Affiliated Ute Citizens of Utah v. United States*, 406 U.S.
14 128, 153 (1972).

15 **XI. CAUSES OF ACTION**

16 **COUNT I**

17 **Asserted Against All Defendants for**
18 **Violations of Section 10(b) of the Securities Exchange**
19 **Act of 1934 and SEC Rule 10b-5 Promulgated Thereunder**

20 279. Plaintiffs repeat and reallege each and every allegation contained above
21 as if fully set forth herein. This Count is brought pursuant to Section 10(b) of the
22 Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the SEC,
23 17 C.F.R. § 240.10b-5, on behalf of Plaintiffs and all other members of the Class
24 against Qualcomm and the Individual Defendants.

25 280. During the Class Period, Defendants carried out a plan, scheme, and
26 course of conduct which was intended to and, throughout the Class Period, did:
27 (i) deceive the investing public, including Plaintiffs and other Class members, as
28 alleged herein; (ii) artificially inflate the price of Qualcomm common stock; and

1 (iii) cause Plaintiffs and other members of the Class to purchase Qualcomm common
2 stock at artificially inflated prices that did not reflect their true value. In furtherance
3 of this unlawful scheme, plan, and course of conduct, Defendants took the actions set
4 forth herein.

5 281. Defendants directly and indirectly, by the use of means and
6 instrumentalities of interstate commerce, the mails, and/or the facilities of a national
7 securities exchange: (i) employed devices, schemes, and artifices to defraud; (ii) made
8 untrue statements of material fact and/or omitted material facts necessary to make the
9 statements not misleading; and (iii) engaged in acts, practices, and a course of business
10 that operated as a fraud and deceit upon the purchasers of the Company's common
11 stock in an effort to maintain the artificially inflated price of Qualcomm common stock
12 in violation of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated
13 thereunder.

14 282. Defendants employed devices, schemes, and artifices to defraud while in
15 possession of material adverse nonpublic information and engaged in acts, practices,
16 and a course of conduct as alleged herein in an effort to assure investors of Qualcomm's
17 value and performance, which included the making of untrue statements of material
18 facts and omitting material facts necessary in order to make their statements, in light
19 of the circumstances under which they were made, not misleading, as set forth more
20 particularly herein. Defendants did not have a reasonable basis for their alleged false
21 statements and engaged in transactions, practices, and a course of business which
22 operated as a fraud and deceit upon the purchasers of Qualcomm common stock during
23 the Class Period.

24 283. Defendants are liable for all materially false and misleading statements
25 and omissions made during the Class Period, as alleged above, including the false and
26 misleading statements and omissions included in press releases, conference calls, SEC
27 filings, news media, blogs, and Qualcomm's websites.

1 284. Defendants are further liable for the false and misleading statements made
2 by Qualcomm’s officers, management, and agents in press releases, conference calls,
3 conferences with investors and analysts, news media, blog reports, and Qualcomm’s
4 websites, as alleged above, as they either made or controlled such statements and had
5 ultimate authority and responsibility for the contents thereof.

6 285. Defendants’ material misrepresentations and/or omissions were done
7 knowingly or with recklessness, and without a reasonable basis, for the purpose and
8 effect of concealing from the investing public the relevant truth. By concealing
9 material facts from investors, Defendants maintained the Company’s artificially
10 inflated common stock prices throughout the Class Period.

11 286. Without knowledge of the fact that the price of Qualcomm common stock
12 was artificially inflated, and relying directly or indirectly on the false and misleading
13 statements and omissions made by Defendants, or upon the integrity of the market in
14 which the common stock trades, and/or on the absence of material adverse information
15 that was known to or recklessly disregarded by Qualcomm but not disclosed in public
16 statements by Qualcomm during the Class Period, Plaintiffs and the other members of
17 the Class purchased or acquired Qualcomm common stock during the Class Period at
18 artificially high prices and were damaged when that artificial inflation was removed
19 from the price of Qualcomm common stock.

20 287. At the time of said misrepresentations and omissions, Plaintiffs and other
21 members of the Class were ignorant of their falsity. Had Plaintiffs, the other members
22 of the Class, and the marketplace known of the truth concerning the Company’s
23 conduct and the true value of Qualcomm’s common stock, Plaintiffs and other
24 members of the Class would not have purchased or acquired their Qualcomm common
25 stock, or, if they had purchased or acquired such common stock during the Class
26 Period, they would not have done so at the artificially inflated prices they paid.

27 288. By virtue of the foregoing, Defendants have violated Section 10(b) of the
28 Exchange Act and Rule 10b-5 promulgated thereunder.

1 influence and control, and did influence and control, directly or indirectly, the decision-
2 making of the Company and its executives, including the content and dissemination of
3 the various statements that Plaintiffs contend are false and misleading.

4 293. The Individual Defendants were provided with or had unlimited access to
5 copies of the Company's reports, press releases, public filings, and other statements
6 alleged by Plaintiffs to be misleading prior to and/or shortly after these statements were
7 issued and had the ability to prevent the issuance of the statements or cause the
8 statements to be corrected.

9 294. In particular, each of these Individual Defendants had direct and
10 supervisory involvement in and control of the day-to-day operations of the Company
11 and, therefore, is presumed to have had the power to control or influence the particular
12 conduct and transactions giving rise to the securities violations as alleged herein, and
13 exercised the same.

14 295. As set forth above, Qualcomm and the Individual Defendants each
15 violated Section 10(b) and Rule 10b-5 by their acts, statements, and omissions as
16 alleged in this Complaint. By virtue of their positions as controlling persons, the
17 Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a
18 direct and proximate result of Defendants' wrongful conduct, Plaintiffs and other
19 members of the Class suffered damages in connection with their purchases of
20 Qualcomm common stock during the Class Period.

21 **XII. PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs pray for judgment as follows:

23 A. Declaring this action to be a proper class action pursuant to Rule 23 of the
24 Federal Rules of Civil Procedure;

25 B. Awarding Plaintiffs and the members of the Class damages and interest
26 thereon;

27 C. Awarding Plaintiffs' and the Class's reasonable costs, including
28 attorneys' and experts' fees; and

1 D. Awarding such equitable, injunctive or other relief that the Court may
2 deem just and proper.

3 **XIII. JURY DEMAND**

4 Plaintiffs demand a trial by jury.

5
6 DATED: March 18, 2019

**KESSLER TOPAZ
MELTZER & CHECK, LLP**

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28 *Lead Counsel for the Class and
Lead Plaintiff Gatubhai Mistry and Plaintiff
Gerald L. Koenig*

DATED: March 18, 2019

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*Lead Counsel for the Class and
Lead Plaintiff Gatubhai Mistry and Plaintiff
Gerald L. Koenig*

SIGNATURE CERTIFICATION

Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I hereby certify that the content of this document is acceptable and I have obtained authorization of all signatories to affix the above-electronic signature(s).

s/Sharan Nirmul
Sharan Nirmul

EXHIBIT A

CERTIFICATION

I, Gatubhai Mistry, declare that:

1. I have reviewed the facts and allegations of a complaint filed in this action and have authorized the filing of the CONSOLIDATED AMENDED CLASS ACTION COMPLAINT FOR VIOLATION OF THE FEDERAL SECURITIES LAWS.

2. I did not purchase and/or acquire the security that is the subject of this action at the direction of my counsel nor in order to participate in any private action under the federal securities laws.

3. I am willing to serve as a representative party on behalf of the class, including giving testimony at deposition and trial, if necessary. I understand that this is not a claim form, and that my ability to share in any recovery as a member of the class is not dependent upon execution of this Certification.

4. My Class Period purchase and sale transaction(s) in QUALCOMM Incorporated securities that are the subject of this action are attached in Schedule A. I have complete authority to bring a suit to recover for investment losses for all securities set forth in Schedule A.

5. During the three years prior to the date of this Certification, I have not sought to serve nor served as a representative party for a class in an action filed under the federal securities laws.

6. I will not accept any payment for serving as a representative party on behalf of the class beyond my pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the Court.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 3/13/2019

Gary Mistry
Gatubhai Mistry

SCHEDULE A

<u>Security</u>	<u>Buy/Sell</u>	<u>Date</u>	<u>Quantity</u>	<u>Price</u>
Com Stk	Buy	2/5/2018	100	\$66.14
Com Stk	Buy	2/5/2018	100	\$66.21
Com Stk	Buy	2/5/2018	100	\$66.14
Com Stk	Buy	2/5/2018	100	\$66.21
Com Stk	Buy	2/5/2018	100	\$66.14
Com Stk	Buy	2/5/2018	100	\$66.14
Com Stk	Buy	2/5/2018	100	\$66.14
Com Stk	Buy	2/5/2018	100	\$66.14
Com Stk	Buy	2/5/2018	63	\$66.15
Com Stk	Buy	2/5/2018	37	\$66.15
Com Stk	Buy	2/5/2018	2,600	\$64.62
Com Stk	Buy	2/5/2018	130	\$62.94
Com Stk	Buy	2/5/2018	100	\$66.14
Com Stk	Buy	2/5/2018	100	\$66.21
Com Stk	Buy	2/5/2018	100	\$66.14
Com Stk	Buy	2/5/2018	100	\$66.21
Com Stk	Buy	2/5/2018	100	\$66.14
Com Stk	Buy	2/5/2018	100	\$66.21
Com Stk	Buy	2/9/2018	70	\$61.62
Com Stk	Buy	2/12/2018	2,200	\$65.41
Com Stk	Buy	2/12/2018	1,300	\$65.47
Com Stk	Buy	2/12/2018	80	\$65.57
Com Stk	Buy	2/12/2018	170	\$65.45

EXHIBIT B

CERTIFICATION

I, Gerald L. Koenig¹, declare that:

1. I have reviewed the facts and allegations of a complaint filed in this action and have authorized the filing of the CONSOLIDATED AMENDED CLASS ACTION COMPLAINT FOR VIOLATION OF THE FEDERAL SECURITIES LAWS.

2. I did not purchase and/or acquire the security that is the subject of this action at the direction of my counsel nor in order to participate in any private action under the federal securities laws.

3. I am willing to serve as a representative party on behalf of the class, including giving testimony at deposition and trial, if necessary. I understand that this is not a claim form, and that my ability to share in any recovery as a member of the class is not dependent upon execution of this Certification.

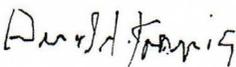
4. My Class Period purchase and sale transaction(s) in QUALCOMM Incorporated securities that are the subject of this action are attached in Schedule A. I have complete authority to bring a suit to recover for investment losses for all securities set forth in Schedule A.

5. During the three years prior to the date of this Certification, I have not sought to serve nor served as a representative party for a class in an action filed under the federal securities laws.

6. I will not accept any payment for serving as a representative party on behalf of the class beyond my pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the Court.

I declare under penalty of perjury that the foregoing is true and correct.

3/13/2019
Dated: _____



Gerald L. Koenig

¹ Gerald L. Koenig is asserting claims for losses that occurred in an account owned jointly by him and his wife, Alyce Koenig. Mr. Koenig is fully authorized by Alyce Koenig to assert such claims for all transactions executed through the account.

SCHEDULE A

<u>Security</u>	<u>Buy/Sell</u>	<u>Date</u>	<u>Quantity</u>	<u>Price</u>
Com Stk	Buy	2/6/2018	1,500	\$64.22