

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

KAREN DUTTON, individually and on behalf of all  
others similarly situated,

Plaintiff,

vs.

HARRIS STRATEX NETWORKS, INC.; GUY M.  
CAMPBELL; HARALD J. BRAUN; SARAH A.  
DUDASH; HOWARD L. LANCE, and SCOTT T.  
MIKUEN,

Defendants.

Case No.: 1:08-cv-00755-JFF

**CONSOLIDATED CLASS ACTION COMPLAINT**

Plaintiffs allege the following based upon the investigation by Plaintiffs' counsel, which included, among other things, a review of the defendants' public documents, conference calls and announcements made by defendants, United States Securities and Exchange Commission ("SEC") filings, wire and press releases published by and regarding Harris Stratex Networks, Inc. ("Harris Stratex" or the "Company"), securities analysts' reports and advisories about the Company, and information readily available on the Internet, and Plaintiffs believe that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

**NATURE OF THE ACTION AND SUMMARY OF ALLEGATIONS**

1. This is a federal securities class action on behalf of a class (the "Class")

comprised of all persons and entities that acquired the common stock of Harris Stratex between January 29, 2007 and July 30, 2008, inclusive (the “Class Period”), including former shareholders of Stratex Networks, Inc. (“Stratex Networks”), who acquired shares of Harris Stratex pursuant or traceable to the Company’s Registration Statement and Prospectus that became effective on January 8, 2007 (collectively referred to as the “Registration Statement”), seeking to pursue remedies under the Securities Act of 1933 (the “Securities Act”) and the Securities Exchange Act of 1934 (the “Exchange Act”).

2. Harris Stratex designs, manufactures, and sells a range of wireless networking products, solutions and services to mobile and fixed telephone service providers, private network operators, government agencies, transportation and utility companies, public safety agencies and broadcast system operators. The Company’s products primarily consist of licensed point-to-point microwave radios. In addition, the Company offers network management product families.

3. On September 5, 2006, Harris Corporation (“Harris Corp.”) and Stratex Networks signed a definitive agreement under which Harris Corp.’s Microwave Communications Division (“MCD”) and Stratex Networks would combine to form a company called Harris Stratex Networks, Inc. (the “Merger”). Under the terms of the Merger, Harris Corp. was to contribute the MCD and \$25 million in cash in exchange for 56% ownership of the combined company. Stratex Networks shareholders were to exchange their existing stock for 44% ownership of Harris Stratex.

4. On January 8, 2007, the Registration Statement filed in connection with the Merger was declared effective by the SEC. The Registration Statement was mailed out to Stratex Networks shareholders prior to the Merger vote on January 25, 2007.

5. Stratex Networks shareholders approved the Merger on January 26, 2007. The new Harris Stratex shares commenced trading on the NASDAQ Stock Market on January 29, 2007.

6. On July 30, 2008, after the market closed, the Company revealed that its reported financial statements for the fiscal years 2005 through 2007 and the first three quarters of fiscal 2008, ended March 28, 2008, were inaccurate because they materially inflated the Company's income and that such financial statements "should no longer be relied upon" and would have to be restated. Specifically, the Company understated cost of sales and selling and administrative expenses and overstated inventory and accounts receivable. The total cumulative effect of these errors was to decrease previously reported pre-tax income by an amount estimated by management at the time to range from \$18 million to \$25 million. On the conference call following the disclosure, Chief Financial Officer ("CFO") defendant Sarah Dudash stated that the restatement for periods after the Merger were for the combined Company's earnings, and the periods prior to the Merger only affected the MCD's financials.<sup>1</sup> Harris Stratex also acknowledged that there were material weaknesses in its system of internal controls.

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<sup>1</sup>As noted in the Registration Statement, the MCD was "the accounting predecessor of Harris Stratex."

7. This disclosure caused the Company's stock to plummet from its closing price of \$11.24 per share on July 30, 2008 to a closing price of \$7.35 per share on July 31, 2008, a one-day drop of nearly 35%, on much higher than usual trading volume.

8. On September 18, 2008, Harris Stratex released restated financial statements correcting the accounting misstatements announced in its July 30, 2008 press release. As reported by the Company, the effect of the restated items decreased shareholders' equity by \$15.3 million as of March 28, 2008 and reduced the Company's net income and increased net loss by a total of \$13.4 million over the course of fiscal year 2005 through the first three quarters of fiscal 2008. Total restatement adjustments were \$20.8 million.

#### **JURISDICTION AND VENUE**

9. The claims asserted herein arise under and pursuant to Sections 11 and 15 of Securities Act [15 U.S.C. §§77k and 77(o)] and Sections 10(b) and 20(a) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78t(a)] and Rule 10b-5 promulgated thereunder by the SEC [17 C.F.R. § 240, 10b-5].

10. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1337 and Section 27 of the Exchange Act [15 U.S.C. §78aa], and 28 U.S.C. §1331 and Section 22(a) of the Securities Act [15 U.S.C. §77v(a)].

11. Venue is proper in this District pursuant to Section 22(a) of the Securities Act, Section 27 of the Exchange Act and 28 U.S.C. §1391(b), as Harris Stratex is incorporated in the District of Delaware.

12. In connection with the acts alleged in this Complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications and the facilities of the national securities markets.

### **PARTIES**

13. Plaintiff Errol M. Rudman (“Rudman”) acquired Harris Stratex common stock for his personal securities account and IRA accounts. Plaintiff Rudman is also the General Partner and Investment Manager of Plaintiff Rudman Partners, L.P, the Managing Member and Investment Manager for Plaintiffs Rudman Partners II, L.P. and Rudman International Fund, Ltd. Rudman is also the General Partner, Chief Executive Officer and Investment Manager of Rudman Capital Management LLC, which serves as the management company for Plaintiffs Rudman International and Rudman Partners.

14. Plaintiff Rudman also serves as the Investment Manager of Missner Capital Associates, L.P. and for the personal securities account of Plaintiff Phil Missner.

15. Plaintiff Rudman is also the administrator and primary beneficiary of Plaintiffs the Errol M. Rudman Profit Sharing and 401K Plan and the Errol M. Rudman Defined Benefit Plan.

16. Plaintiff Rudman is also custodian of the securities account of his son Plaintiff Nicholas Rudman, a minor.

17. Plaintiff Rudman controls the investment decisions of each of the Plaintiffs listed above (collectively, including Rudman himself, the “Rudman Investors Group”).

18. The Rudman Investors Group acquired shares of Harris Stratex through both the exchange of its shares of Stratex Network in the Merger and through purchases in the open market during the Class Period. The Rudman Investors Group acquired Harris Stratex shares at prices that were inflated by the misleading prospectus statements alleged herein (as reflected in sworn certifications previously filed with the Court) and in reliance on other publicly available false and misleading statements and omissions complained of and have been injured thereby. Like all class members, Rudman Investors Group seeks to recover damages incurred by the acquisition of Harris Stratex securities at artificially inflated prices. By order dated June 5, 2009 (D.I. 48), the Court appointed the Rudman Investors Group as Lead Plaintiff in this action.

19. Plaintiff Duluth Teachers’ Retirement Fund Association (“DTRFA”) administers a defined benefit pension plan and a tax deferred defined contribution plan for its 3,369 members, all of whom are active, deferred or retired public school educators in Duluth, Minnesota, educators at Lake Superior College or employees of the association. The DTRFA acquired shares of Harris Stratex through both the exchange of its shares of Stratex Networks in the Merger and through purchases in the open market. DTRFA acquired Harris Stratex shares at a price inflated by the misleading Registration Statement alleged herein (as reflected in sworn certifications previously filed with the court) and in reliance on other

publicly available false and misleading statements and omissions complained of herein and has been injured thereby. Like all class members, DTRFA seeks to recover damages incurred by the acquisition of Harris Stratex securities at artificially inflated prices.

20. Defendant Harris Stratex is a Delaware corporation, headquartered in Morrisville, North Carolina.

21. Defendant Harris Corp. is a Delaware corporation, headquartered in Melbourne, Florida. Harris Corp., as a result of the Merger, owns 56% of Harris Stratex. Harris Corp. appointed five of nine members of Harris Stratex's board of directors.

22. Defendant Guy M. Campbell ("Campbell") was, from the completion of the Merger until April 8, 2008, the President and Chief Executive Officer ("CEO") of Harris Stratex. Campbell was President of Harris Corp.'s MCD from 2003 until the Merger. Campbell signed the Registration Statement and is currently a director of Harris Stratex. Campbell also signed the Company's quarterly reports on Form 10-Q for the third quarter of 2007, first quarter of 2008 and the second quarter of 2008.

23. Defendant Harald J. Braun ("Braun") was, beginning on April 8, 2008, the President and CEO of Harris Stratex. Braun signed a certification pursuant to Sarbanes-Oxley which was attached to the Company's quarterly report on Form 10-Q for the third quarter of 2008.

24. Defendant Sarah A. "Sally" Dudash ("Dudash") was, during the Class Period, Vice-President and CFO of Harris Stratex. Prior to the Merger, from 2003 until September

2006, Dudash was division controller of Harris Corp.'s MCD. From September 2006 until the Merger, Dudash was Vice President and Controller of Harris Corp.'s MCD. Throughout the Class Period, Dudash was a licensed CPA. Dudash signed the Registration Statement, and the Company's quarterly reports on Form 10-Q for the second quarter of 2007, the third quarter of 2007, the first quarter of 2008, the second quarter of 2008 and the third quarter of 2008, as well as the annual report on Form 10-K for the fiscal year 2007.

25. Defendant Howard L. Lance ("Lance") was, during the Class Period, a director of Harris Stratex. Lance is currently President, CEO, and Chairman of the Board of Harris Corp. He became President and CEO of Harris Corp., in January 2003, and was appointed Chairman of the Board in June 2003. Lance signed the Registration Statement.

26. Defendant Scott T. Mikuen ("Mikuen") was Secretary of Harris Stratex at the time the Registration Statement issued. Mikuen joined Harris Corp.'s legal department in 1996. From that time until October 2004, Mikuen served as Vice President's Counsel. From October 2004 until October 2006, Mikuen was Vice President – Associate General Counsel and Corporate Secretary of Harris Corp. Throughout the Class Period, Mikuen was admitted to practice law in New York and Florida. Mikuen signed the Registration Statement.

27. Defendant Ernst & Young LLP ("Ernst & Young") has served as Harris Stratex outside auditor since the Merger and was the auditor of MCD before the Merger. Ernst & Young provided audit, audit-related, tax and other services to Harris Stratex during the Class Period, which included the issuance of unqualified opinions on the Company's financial

statements for the three years ended June 29, 2007. Ernst & Young consented to the incorporation by reference of its unqualified opinions on MCD's financial statements for each of the three years in the period ended June 30, 2006, in a Harris Stratex Proxy/Prospectus dated January 8, 2007, in a Registration Statement dated October 13, 2006, and Amended Registration Statements dated January 2, 2007, December 19, 2006, and November 24, 2006.

28. Except where otherwise indicated, defendants Campbell, Braun, Dudash, Lance, and Mikuen are collectively referred to as the "Individual Defendants" and, along with Harris Stratex, Harris Corp. and Ernst & Young, as the "Defendants".

29. The Individual Defendants, because of their positions within the Company, possessed the power and authority to control the content of Harris Stratex reports to the SEC, press releases and presentations to securities analysts, money and portfolio managers and institutional investors, i.e., the market. Each Individual Defendant was provided with copies of the Company's reports and press releases alleged herein to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. The Individual Defendants are liable for the false statements pleaded herein, as those statements were each "group-published" information, the result of the collective actions of the Individual Defendants.

30. It is appropriate to treat the Individual Defendants as a group for pleading purposes and to presume that the false, misleading and incomplete information conveyed in

the Company's public filings, press releases and other publications as alleged herein are the collective actions of the narrowly defined group of Individual Defendants identified above. Each of the above officers and/or directors of Harris Stratex, by virtue of their high-level positions with the Company, directly participated in the management of the Company, was directly involved in the day-to-day operations of the Company at the highest levels and was privy to confidential proprietary information concerning the Company and its business, operations, growth, financial statements, and financial condition, as alleged herein. Said Individual Defendants were involved in drafting, producing, reviewing and/or disseminating the false and misleading statements and information alleged herein, and approved or ratified these statements, in violation of the federal securities laws.

#### **PLAINTIFFS' CLASS ACTION ALLEGATIONS**

31. Plaintiffs bring this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class consisting of all persons and entities that acquired shares of Harris Stratex between January 29, 2007 and July 30, 2008, inclusive, including shareholders of Stratex Networks who exchanged shares of Stratex Networks for shares of Harris Stratex pursuant to the Registration Statement that became effective on January 8, 2007, and who were damaged when the truth about Harris Stratex's financial statements was disclosed. Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal

representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

32. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Harris Stratex had more than 58 million shares of common stock outstanding that traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by Harris Stratex or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

33. Plaintiffs' claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

34. Plaintiffs will fairly and adequately protect the interests of the members of the Class and have retained counsel competent and experienced in class and securities litigation.

35. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- (a) whether the federal securities laws were violated by Defendants' acts as alleged herein;
- (b) whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the business, operations and managements of Harris Stratex; and
- (c) to what extent the members of the Class have sustained damages and the proper measure of damages.

36. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by the individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

### **SUBSTANTIVE ALLEGATIONS**

#### **False and Misleading Statements Made in the Registration Statement**

37. The Registration Statement, declared effective by the SEC on January 8, 2007, contained the combined statement of operations of Harris Corp.'s Microwave Communications Division (MCD) for the fiscal years ended June 30, 2006 and July 1, 2005. Regarding the operations of MCD for fiscal years ended June 30, 2006 and July 1, 2005, the Registration Statement, in relevant part, reported the following critical figures:

	<u>Fiscal Year Ended</u>	
	<u>June 30, 2006</u>	<u>July 1, 2005</u>
Loss before income taxes	\$29,089,000	\$3,533,000
Net loss	\$35,848,000	\$3,778,000

38. However, the above reported losses for the fiscal years ended 2006 and 2005 were materially understated due primarily to the understatement of total cost of product sales and services, as well as the understatement of selling and administrative expenses. As admitted by the Company in its Form 10-K/A for the fiscal year ended June 29, 2007 ("2007 Form 10-K/A"), filed with the SEC on or about September 25, 2008, and, as illustrated below, the financial results of the MCD as originally reported in the Registration Statement, were materially misstated as follows:

	<u>Fiscal Year Ended</u>	
	<u>June 30, 2006</u>	<u>July 1, 2005</u>
Loss before income taxes (as originally reported in Registration Statement)	\$29,089,000	\$3,533,000
Loss before income taxes (as restated)	\$31,889,000	\$6,533,000
Understated Loss %	9.63%	84.91%
Net loss (as originally reported in Registration Statement/Prospectus)	\$35,800,000	\$3,800,000
Net loss (as restated)	\$38,600,000	\$6,800,000
Understated Loss %	7.8%	78.95

39. Additionally, the Company's assets as reported on its Balance Sheet as of June 30, 2006 were materially misstated because reported inventories of \$71.9 million were overstated by \$5.5 million or 7.6%.

40. Because of the above described accounting misstatements, the Registration Statement was materially false and misleading. The Registration Statement was also materially false and misleading because Defendants represented that the financial data contained therein "[i]ncludes all adjustments, consisting of only normal recurring adjustments, necessary to present fairly the results of operations and financial position of MCD for the periods and dates presented." In fact, as illustrated above, the results of operations and financial position of MCD for the fiscal years ended 2005 and 2006 were materially misstated. Defendants Campbell, Dudash, Lance, and Mikuen signed the Registration Statement.

41. Defendant Ernst & Young was the auditor for Harris Stratex during the Class Period and the MCD prior to the merger and consented to being named in the Company's Registration Statement as a party that certified the audited financial statements contained or incorporated by reference therein. Ernst & Young's audit report dated November 21, 2006, incorrectly stated that its audits were performed in accordance with the standards of the Public Company Accounting Oversight Board (United States) and that the Company's (or MCD's) financial statements presented "fairly, in all material respects the combined financial position of the Microwave Communications Division of Harris Corporation and subsidiaries

at June 30, 2006 and July 1, 2005 and the combined results of their operations and their cash flows for each of the three years in the period ended June 30, 2006, in conformity with U.S. general accepted accounting principles [“GAAP”].”

The Truth is Partially Disclosed

42. On January 30, 2008, Harris Stratex released its second quarter 2008 earnings and announced that it substantially cut its 2008 profit forecast. Despite increased revenue guidance, a Company press release, filed in a Form 8-K, stated that “[n]on-GAAP earnings guidance was reduced to a new range of \$0.85 to \$0.95 per share.”

43. In a January 30, 2008 conference call, CFO Dudash, explained the factors contributing to the unexpected cut in guidance:

[W]e have seen an increase in G&A [general and administrative expenses] related primarily to ensuring SOX [Sarbanes Oxley] readiness for the new company [Harris Stratex] that was not previously anticipated at the levels we have experienced.

44. The first analyst to pose questions during the earnings call asked for more information concerning these unexpected compliance expenses, in response to which, Dudash provided additional detail:

I think I will say that SOX compliance, as you might imagine, is an expensive endeavor for any company. And consistent with our merger plans, we have streamlined, moved, combined, and created *new processes* at our various locations, all of which prompted the need for new documentation and testing. This is a cost that we will get behind us *in the next several quarters* and our -my rough estimate is that it will cost our company approximately *\$3 million* for the fiscal year. (emphasis added).

45. The day following this announcement, Harris Stratex stock declined \$3.44, or 24%, from \$14.33 to \$10.89 per share.

46. What was not disclosed until months later was that the unexpected SOX compliance expenses that required a reduction in earnings guidance were in fact related to faulty accounting practices that would necessitate a restatement of the Company's financial statements.

Defendants Admit to Inaccuracies in the Company's Financial Reporting

47. As Dudash predicted in her January 30, 2008 comments, it was within the "next several quarters", that the need for implementing the "new processes" made itself apparent. On July 30, 2008, the full scope of the accounting misstatements was disclosed and it dealt with the very same accounting and compliance issues alluded to by Dudash and that contributed to Harris Stratex' stock decline, following the January 30, 2008 reduction in projected earnings.

48. On July 30, 2008, after the market closed, Harris Stratex admitted that its previously reported financial results, including the results for MCD's fiscal years 2004 through 2006 that were set forth in the Registration Statement, were materially misstated, and that the Company would restate earnings over four fiscal years – from 2005 through 2008.

The Company's Form 8-K, filed with the SEC, stated:

During the course of the fiscal 2008 year-end close, accounting errors were identified by the company, which caused previously reported financial statements, including fiscal years 2005 through 2007 and the first three quarters in fiscal 2008 to be incorrect. On July 27, 2008, the Company's

management concluded and informed the board of directors that the Company's interim consolidated financial statements for the first three fiscal quarters of fiscal 2008 (the quarters ended March 28, 2008, December 28, 2007 and September 28, 2007) and the fiscal years ended June 29, 2007, June 30, 2006, and July 1, 2005 should no longer be relied upon because of errors in such financial statements. On July 28, 2008, the Audit Committee of the board of directors concluded, based on management's recommendation, that as a result of these errors, the Company shall restate the financial statements for these periods.

The majority of these non-cash adjustments related to project work in process accounts within a cost accounting system at one location and were caused by project cost variances that were recorded on the balance sheet and not recorded to cost of sales in a timely manner or in the period to which they related. In addition, the Company identified errors in balancing intercompany accounts which resulted in an overstatement of accounts receivable in prior years. The total cumulative effect of these errors is to decrease previously reported pre-tax income by an amount currently estimated by management to range from \$18 million to \$25 million. The Company is currently working to determine the financial impact on each of the periods mentioned above. The Company's independent registered public accounting firm has not reviewed or audited these estimates or ranges.

The Company currently is working to complete the restatement analysis and, in order to correct the errors described above, intends to file such amendments to its previously filed SEC reports as may be required as soon as practicable.

As a result of identifying the accounting errors described above, the Company believes ***there are one or more material weaknesses in its system of internal control over financial reporting that led to the need to restate its financial statements***. To date, management has not completed its review and assessment of internal control, which upon completion will be disclosed in the Company's Annual Report on Form 10-K for fiscal year 2008. ***New processes are being adopted*** and operational controls are being strengthened to address these issues ***going forward***. Moreover, the Company's independent registered public accounting firm has not reviewed management's determination regarding such material weakness or provided an attestation report or other opinion on the Company's system of internal control over financial reporting. (Emphasis added).

49. During the July 30 conference call following the filing of the Form 8-K, defendant Dudash further explained the restatement:

**Greg Weaver, Invicta Capital Management-Analyst:**

Okay. And in terms of the build up of the 18 to 25 million, is it I mean to get that big, you had to take it all right, so is it fair to assume that it happened reasonably linearly over the last - almost four years?

**Sally Dudash, Harris Stratex - VP, CFO:**

Well, we are in the process of quantifying the impact by period and by year. I can say that this is a combination of process breakdowns and tool breakdowns happening at the same time within a very complex environment, and we had - we were - we had issues with identifying the costs as they closed out on projects - getting the projects closed in time and having the financial controls to detect that these breakdowns were occurring in a timely fashion. So, that is what's happened, we've got it identified - we have quantified it, we are going to correct it and move on.

50. In reaction to this news, Harris Stratex stock fell approximately 35% on extremely heavy volume, from \$11.24 per share to \$7.35 per share, wiping out \$227 million in market capitalization.

51. As revealed in the Company's July 30, 2008 conference call, the restatement was purportedly necessitated by a faulty cost-accounting system at one of its U.S. locations that was uncovered in the course of its migration to the "new processes" referred to by Dudash:

**Analyst:** And that system [the faulty cost accounting system] has been integrated into the systems that are working or is it going to be or what?

**Dudash:** It is a stand-alone system and it had been scheduled , as Harald [Braun] mentioned , we had - it was on our road map to migrate away from

that system during our integration process and that migration did not occur, and now it has become one of our priority items.

**Braun:** Yeah. And James, as we mentioned before, it's the US manufacturing location, right. So, I really wanted to distinguish that from the system. So, it is really a system situation, right. And that's what I am taking on, we need to – it was on the list to be migrated to the *new processes*, and to the new tool. ... so we need to consolidate and to migrate much faster, and therefore I said, let's focus on the system. (Emphasis added)

52. Both the January 30, 2008 partial corrective disclosure and the July 30, 2008 complete corrective disclosure dealt with errors in accounting reportedly uncovered by the implementation of “new processes” following the merger.

### COUNT I

#### **Violations of Section 11 of the Securities Act Against the Company, Ernst & Young , Campbell, Dudash, Lance and Mikuen (the “Section 11 Defendants”)**

53. Plaintiffs repeat and reallege each and every allegation contained above, except that in pleading this claim Plaintiffs expressly exclude any of the above mentioned allegations insofar as they allege any defendant knowingly or with severe recklessness made material misrepresentations or omissions. This Count is not based on and does not in any way sound in fraud.

### LIABILITY UNDER SECTION 11

54. Defendants owed to the purchasers of the stock obtained through the Registration Statement the duty to make a reasonable and diligent investigation of the statements contained in the Registration Statement at the time it became effective to ensure

that such statements were true and correct and that there was no omission of material facts required to be stated in order to make statements contained therein not misleading.

55. None of the Section 11 Defendants made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the Registration Statement were true or that there was no omission of material facts necessary to make the statements made therein not misleading.

56. Defendant Ernst & Young, which consented to the inclusion of its opinions in the Registration Statement, negligently failed to perform its audits of MCD in a reasonable manner and, thus, its audits did not constitute a reasonable investigation of whether MCD's financial statements were presented in compliance with GAAP.

57. The Section 11 Defendants issued and disseminated, caused to be issued and disseminated, and participated in the issuance and dissemination of, material misstatements to the investing public which were contained in the Registration Statement, which misrepresented or failed to disclose, inter alia, the facts set forth above. By reason of the conduct herein alleged, each Section 11 Defendant violated and/or controlled a person who violated Section 11 of the Securities Act.

58. Harris Stratex is the issuer of the stocks acquired by the Class pursuant to the Registration Statement. As issuer of the stock, the Company is strictly liable to Plaintiffs and the Class for the material misstatements and omissions therein.

59. At the times they obtained their shares of Harris Stratex, Plaintiffs and members of the Class did so without knowledge of the facts concerning the misstatements or omissions alleged herein.

60. Plaintiffs acquired Harris Stratex common stock traceable to the Registration Statement.

61. This action is brought within one year after discovery of the untrue statements and omissions in and from the Registration Statement should have been made through the exercise of reasonable diligence, and within three years of the effective date of the Registration Statement.

62. By virtue of the foregoing, Plaintiffs and the other members of the class are entitled to damages under Section 11 as measured by the provisions of Section 11(e), from the Section 11 Defendants and each of them, jointly and severally.

## **COUNT II**

### **Violations of Section 15 of the Securities Act Against Defendants Harris Corp., Campbell, Dudash, Lance and Mikuen**

63. Plaintiffs repeat and reallege each and every allegation contained above, excluding all allegations above that contain facts necessary to prove any elements not required to state a Section 15 claim, including without limitation, scienter. This Count is not based on and does not in any way sound in fraud.

64. This claim is asserted against defendants Harris Corp., Campbell, Dudash, Lance, and Mikuen, each of whom was a control person of Harris Stratex during the relevant period.

65. For all the reasons set forth in Count One, above, Harris Stratex is liable to Plaintiffs pursuant to Section 11 of the Securities Act, and the members of the class who purchased Harris Stratex common stock based on the untrue statements and omissions of material fact contained in the Registration Statement, and were damaged thereby.

66. Harris Corp., as owner of the MCD prior to the Merger and by virtue of its majority ownership of Harris Stratex, and its appointment of a majority of the directors of the Company, was in a position to control, and did control the false and misleading statements and omissions contained in the Registration Statement.

67. Defendants Campbell, Dudash, Lance, and Mikuen were control persons of Harris Stratex by virtue of, among other things, their positions as senior officers of Harris Stratex, and they were in positions to control and did control the false and misleading statements and omissions contained in the Registration Statement.

68. Defendants Harris Corp., Campbell, Dudash, Lance and Mikuen failed to make a reasonable investigation and did not possess reasonable grounds for the belief that the statements contained in the Registration Statement were accurate and complete in all material respects. Had they exercised reasonable care, they could have known of the material misstatements and omissions alleged herein.

69. This claim was brought within one year after the discovery of the untrue statements and omissions in the Registration Statement and within three years after the Harris Stratex common stock was sold to the Class in connection with the Merger.

70. By reason of the misconduct alleged herein, for which Harris Stratex is primarily liable, as set forth above, defendants Harris Corp., Campbell, Dudash, Lance and Mikuen are jointly and severally liable with and to the same extent as Harris Stratex, pursuant to Section 15 of the Securities Act.

### **COUNT III**

#### **Violation of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder Against the Company and All Individual Defendants (or the “Section 10(b) Defendants”)**

71. Plaintiffs repeat and reallege the allegations contained above at ¶¶1-52, 54-62, 64-70 as if fully set forth herein.

#### **False and Misleading Statements Incorporated Into the Registration Statement**

72. As more fully set forth at ¶¶37-41 above, the Registration Statement contained material accounting misstatements concerning Harris Stratex’s net loss and net loss before income taxes for fiscal years 2005 and 2006.

#### **Harris Stratex’s Fiscal Year 2007 False and Misleading Statements**

73. On January 30, 2007, Harris Stratex issued a press release reporting financial results for Stratex Networks and the MCD for the pre-merger fiscal quarter ended December

29, 2006. In the release, the Company reported that “GAAP net income for MCD in the December quarter was \$5.8 million.”

74. On February 16, 2007, Harris Stratex filed its quarterly report with the SEC on Form 10-Q for the second quarter 2007, the quarterly period ended December 29, 2006,<sup>2</sup> which was signed by defendant Dudash and reaffirmed the Company’s previously announced financial results for MCD. Additionally, pursuant to Sarbanes Oxley, the Form 10-Q included certifications signed by defendants Campbell and Dudash stating that:

1. I have reviewed this Quarterly Report on Form 10-Q for the fiscal quarter ended December 29, 2006, of Harris Stratex Networks, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial conditions, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made

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<sup>2</sup>Harris Stratex’s fiscal year ends on June 30.

known to us by others within those entities, particularly during the period in which this report is being prepared;

- (b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
- (c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

- (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
- (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

75. On May 1, 2007 Harris Stratex issued a press release entitled "Harris Stratex Networks Reports Q3 Fiscal 2007 Financial Results." Therein the Company, in relevant part, stated:

Research Triangle Park, NC, — May 1, 2007 - Harris Stratex Networks, Inc. (NASDAQ: HSTX), the leading independent supplier of turnkey wireless

network solutions, today reported financial results for the third quarter of fiscal 2007, which ended March 30, 2007.

On January 26, 2007, the Harris Microwave Communications Division (“MCD”) was combined with Stratex Networks (“Stratex”) to create a new company — Harris Stratex Networks, Inc. The company’s third quarter results exclude the January 2007 results of Stratex, which preceded the date of the merger.

Revenue for the third quarter of fiscal 2007 was \$139.0 million, compared with \$73.6 million for MCD in the third quarter of fiscal 2006. Net loss in the third quarter of fiscal 2007, as reported in accordance with U.S. generally accepted accounting principles (GAAP), was \$23.2 million, or \$0.58 per share, which includes \$28.9 million in pre-tax charges associated with the combination.

76. On May 8, 2007, Harris Stratex filed its quarterly report with the SEC on Form 10-Q for the third quarter 2007, the quarterly period ended March 30, 2007, which was signed by defendant Dudash and reaffirmed the Company’s previously announced financial results. Additionally, pursuant to Sarbanes-Oxley, the Form 10-Q included certifications signed by defendants Campbell and Dudash substantially in the form of the certification set forth in ¶74.

77. On August 7, 2007, Harris Stratex issued a press release entitled “Harris Stratex Networks Reports Q4 and Year-End Fiscal 2007 Financial Results; Fourth quarter revenue increased to \$174 million driven by strength in North America and International markets.” Therein the Company, in relevant part, stated:

Research Triangle Park, NC, – August 7, 2007 – Harris Stratex Networks, Inc. (NASDAQ: HSTX), the leading independent supplier of turnkey wireless network solutions, today reported financial results for the fourth quarter and full year of fiscal 2007, which ended June 29, 2007.

On January 26, 2007, the Harris Microwave Communications Division was combined with Stratex Networks, Inc. to create a new company – Harris Stratex Networks, Inc.

Revenue for the fourth quarter of fiscal 2007 was \$174.1 million. GAAP net loss was \$5.3 million or \$0.09 per share, which includes \$23.9 million in pre-tax charges associated with the merger transaction, integration and stock compensation expense.

78. In the August 7, 2007 press release, the Company also stated that revenue for the fiscal year ended June 29, 2007 was \$507.9 million, operating loss was \$21.4 million and net loss was \$17.9 million.

79. On August 27, 2007, Harris Stratex filed its annual report with the SEC on Form 10-K for the fiscal year 2007, and the period ended June 29, 2007, which was signed by defendant Dudash and reaffirmed the Company's previously announced financial results. Moreover, the Form 10-K stated that as of June 29, 2007 the Company had inventories (a key component of its balance sheet) of \$135.7 million. Additionally, pursuant to Sarbanes-Oxley, the Form 10-K included certifications signed by defendants Campbell and Dudash substantially in the form of the certification set forth in ¶74.

80. The representation contained in Harris Stratex's press releases, SEC filings, conference calls, presentations for its fiscal year 2007 were materially false and misleading because they contained accounting misstatements in project work in process accounts, caused by project cost variances that were recorded on the balance sheet as an asset and not recorded to cost of sales in a timely manner or in the period to which they related, in contravention of

GAAP set forth at ¶¶88-91 below. As a result of these misstatements, and because the Section 10(b) Defendants failed to reconcile inventory and intercompany accounts, not only was the Company's reported inventories as of June 29, 2007 overstated by \$11.5 million (or 8.5%) but the net loss for fiscal year end 2007, which was reported as \$17.9 million, was materially understated by \$3.9 million, or 22%. And, contrary to the Section 10(b) Defendants' repeated representations in their SOX certifications, defendants did not establish, design or maintain appropriate internal accounting controls, which the Section 10(b) Defendants were forced to admit in the form 10-K/A filed with the SEC September 25, 2008 (the "2007 Form 10-K/A") which revealed that the Company hid material weaknesses in its internal controls over financial reporting.

#### Harris Stratex's Fiscal Year 2008 False and Misleading Statements

81. On November 1, 2007, Harris Stratex issued a press release entitled "Harris Stratex Networks Reports Q1 Fiscal 2008 Financial Results; Orders increase for third consecutive quarter." Therein the Company stated in relevant part:

Research Triangle Park, NC – November 1, 2007 – Harris Stratex Networks, Inc. (NASDAQ: HSTX), the leading independent supplier of turnkey wireless transmission solutions, today reported financial results for the first quarter of fiscal 2008, which ended September 28, 2007.

Revenue for the first quarter of fiscal 2008 was \$172.3 million. GAAP net loss was \$800,000 or \$0.01 per share, which includes \$14.3 million in pre-tax charges associated with the merger transaction, integration, and stock compensation expense.

82. On November 6, 2007, Harris Stratex filed its quarterly report with the SEC on Form 10-Q for the first quarter 2008, the quarterly period ended September 30, 2007, which was signed by defendant Dudash and reaffirmed the Company's previously announced financial results. Additionally, pursuant to Sarbanes-Oxley, the Form 10-Q included certifications signed by defendants Campbell and Dudash substantially in the form of the certification as set forth in ¶74.

83. On January 30, 2008, Harris Stratex, issued a press release entitled "Harris Stratex Networks Reports Q2 Fiscal 2008 Financial Results." Therein the Company stated in relevant part:

Research Triangle Park, NC – January 30, 2008 – Harris Stratex Networks, Inc. (NASDAQ: HSTX), the leading independent supplier of turnkey wireless transmission solutions, today reported financial results for the second quarter of fiscal 2008, which ended December 28, 2007.

Revenue for the second quarter of fiscal 2008 was \$181.1 million. GAAP net loss was \$1.0 million or \$0.02 per share, which includes \$17.6 million in pre-tax charges associated with the merger transaction, integration, asset impairment and stock compensation expense.

84. On February 5, 2008, Harris Stratex filed its quarterly report with the SEC on Form 10-Q for its second fiscal quarter 2008, the quarterly period ended December 31, 2007, which was signed by defendant Dudash and reaffirmed the Company's previously announced financial results. Additionally, pursuant to Sarbanes-Oxley, the Form 10-Q included certifications signed by defendants Campbell and Dudash substantially in the form of the certification as set forth in ¶74.

85. On April 29, 2008, Harris Stratex issued a press release entitled “Harris Stratex Networks Reports Q3 Fiscal 2008 Financial Results.” Therein the Company stated in relevant part:

Research Triangle Park, NC — April 29, 2008 - Harris Stratex Networks, Inc. (NASDAQ: HSTX), the leading independent supplier of turnkey wireless transmission solutions, today reported financial results for the third quarter of fiscal 2008, which ended March 28, 2008.

Revenue for the third quarter of fiscal 2008 was \$178.2 million. GAAP net income was \$7.3 million or \$0.09 per diluted share, which includes \$7.3 million in pre-tax charges associated with the merger transaction, integration and stock compensation expense.

86. On May 6, 2008, Harris Stratex filed its quarterly report with the SEC on Form 10-Q for the third quarter 2008, the quarterly period ended March 31, 2008, which was signed by defendant Dudash and reaffirmed the Company’s previously announced financial results. Moreover, the Form 10-Q falsely represented that for the three quarters ended March 28, 2008, the Company had achieved income from operations of \$7.4 million and net income of \$5.5 million, an apparently significant achievement given the Company’s previously reported losses. The Company also reported inventories on its Balance Sheet as of March 28, 2008 of \$125.3 million. Additionally, pursuant to Sarbanes-Oxley, the Form 10-Q included certifications signed by defendants Braun and Dudash substantially in the form of the certification as set forth in ¶74.

87. However, the representations contained in Harris Stratex’s press releases, SEC filings, conference calls and presentations during fiscal year 2008 were materially false and

misleading because they contained accounting misstatements in project work in process accounts, caused by project cost variances that were recorded on balance sheet as an asset and not recorded to cost of sales in a timely manner or in the period to which they related, in contravention of GAAP, as set forth at ¶¶88-91 below. Indeed, although the Company had reported income from operations and net income for the first three fiscal quarters of 2008 of \$7.4 million and \$5.5 million, respectively, its actual income from operations and net income for those quarters was only \$1.4 million and \$1.8 million, respectively, meaning that Defendants overstated the Company's reported income from operations and net income for the first three fiscal quarters of 2008 by an astounding **429% and 205%**, respectively. Additionally, the Company's reported inventories of \$125.3 million as of March 28, 2008 was materially overstated by \$16.6 million or 15.3%. Finally, contrary to Defendants' repeated representations in their SOX certifications, defendants did not establish, design or maintain appropriate internal accounting controls as was ultimately admitted to in the 2007 Form 10-K/A.

#### **ADDITIONAL VIOLATIONS OF GAAP**

88. By restating the aforementioned financial statements the Company has admitted that such financial statements, as originally issued, were materially false and misleading and failed to comply with GAAP. At all relevant times during the Class Period, the Company and the Individual Defendants falsely represented that the Company's financial statements were prepared in accordance with GAAP. GAAP are those principles recognized by the

accounting profession as the conventions, rules and procedures necessary to define accepted accounting practice at a particular time. Regulation S-X [17 C.F.R. §210.4-01(a)(1)] states that financial statements filed with the SEC that are not prepared in conformity with GAAP are presumed to be misleading and inaccurate, despite footnote or other disclosure. Regulation S-X requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include disclosure which would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. §210.10-01(a).

89. The representations by the Section 10(b) Defendants that Harris Stratex's financial statements were prepared in accordance with GAAP were materially false and misleading because these defendants engaged in a fraudulent accounting practice that materially understated the Company's reported operating and net loss for fiscal 2007 by 28% and 22%, respectively, and overstated the Company's reported operating and net income for the first three quarters of fiscal 2008 by 429% and 205%, respectively.

90. The fact that the Company restated its financial statements is an admission that the financial statements as originally issued were false and that the misstatement of income was material. Furthermore, by restating the Company's financial statements, the Section 10(b) Defendants admit that the facts and circumstances giving rise to the errors contained in the originally issued financial statements were known or should have been known to them at the time the statements were publicly disseminated. Pursuant to GAAP, as set forth in

Statement of Financial Accounting Standards (“SFAS”) No. 154, the type of restatement announced by Harris Stratex was to correct for material errors in its previously issued financial statements. *See* SFAS No. 154 ¶¶2, 25-26. The restatement of past financial statements is not a process to be taken lightly, as it dilutes confidence by investors in financial reporting and makes it difficult to compare financial statements issued by a company. Thus, GAAP provides that financial statements should only be restated in limited circumstances, including the material misstatement of facts that existed at the time the financial statements were issued.

91. Due to these accounting improprieties, the Company presented its financial results and statements in a manner which violated GAAP, including the following fundamental accounting principles:

- a. The principle that interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements was violated (APB No. 28, ¶10);
- b. The principle that financial reporting should provide information that is useful to present and potential investors and creditors and other users in making rational investment, credit and similar decisions was violated (FASB Statement of Concepts No. 1, ¶34);
- c. The principle that financial reporting should provide information about the economic resources of an enterprise, the claims to those resources,

and effects of transactions, events and circumstances that change resources and claims to those resources was violated (FASB Statement of Concepts No. 1, ¶40);

- d. The principle that financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it was violated. To the extent that management offers securities of the enterprise to the public, it voluntarily accepts wider responsibilities for accountability to prospective investors and to the public in general (FASB Statement of Concepts No. 1, ¶50);
- e. The principle that financial reporting should provide information about an enterprise's financial performance during a period was violated. Investors and creditors often use information about the past to help in assessing the prospects of an enterprise. Thus, although investment and credit decisions reflect investors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance (FASB Statement of Concepts No. 1, ¶42);
- f. The principle that financial reporting should be reliable in that it represents what it purports to represent was violated. That information

should be reliable as well as relevant is a notion that is central to accounting (FASB Statement of Concepts No. 2, ¶¶58-59);

- g. The principle of completeness, which means that nothing is left out of the information that may be necessary to insure that it validly represents underlying events and conditions was violated (FASB Statement of Concepts No. 2, ¶79); and
- h. The principle that conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered was violated. (FASB Statement of Concepts No. 2, ¶¶95, 97).
- i. Accounting Research Bulletin No. 43 (ARB 43") which requires that; "the primary basis of accounting for inventories is cost, which has been defined generally as the price paid or consideration given to acquire an asset. As applied to inventories, cost means in principle the sum of the applicable expenditures and charges directly or indirectly incurred in bringing an article to its existing condition and location."

**LOSS CAUSATION/ECONOMIC LOSS**

92. Defendants' wrongful conduct, as alleged herein, directly and proximately caused the damages suffered by plaintiffs and the Class.

93. On January 30, 2008, Harris Stratex released its second quarter 2008 earnings and announced that it substantially cut its 2008 profit forecast. Despite increased revenue guidance, a Company press release, filed in a Form 8-K, stated that “[n]on-GAAP earnings guidance was reduced to a new range of \$0.85 to \$0.95 per share.”

94. As set forth more fully above at ¶¶49-52, Defendant Dudash explained the factors contributing to the unexpected cut in guidance included general and administrative expenses “related primarily to ensuring SOX [Sarbanes Oxley] readiness for the new company” and further estimated that these costs would continue for several quarters and total approximately \$3 million.

95. The day following this announcement, Harris Stratex stock declined \$3.44, or 24%, from \$14.33 to \$10.89 per share.

96. On January 30, 2008, Harris Stratex released its second quarter 2008 earnings and announced that it substantially cut its 2008 profit forecast. Despite increased revenue guidance, a Company press release, filed in a Form 8-K, stated that “[n]on-GAAP earnings guidance was reduced to a new range of \$0.85 to \$0.95 per share.”

97. As alleged more fully above, in a January 30, 2008 conference call, CFO Dudash, explained the factors contributing to the unexpected cut in guidance included an increase in Sarbanes-Oxley compliance expenses resulting from the introduction of new accounting processes.

98. The day following January 30, 2008 announcement, Harris Stratex stock declined \$3.44, or 24%, from \$14.33 to \$10.89 per share.

99. What was not disclosed until months later was that the unexpected SOX compliance expenses that required a reduction in earnings guidance were in fact related to faulty accounting practices that would necessitate a restatement of the Company's financial results.

100. On July 30, 2008 the full scope of the accounting irregularities was disclosed and it dealt with the very same accounting and compliance issues alluded to by Dudash and that contributed to Harris Stratex's stock decline following the January 30, 2008 reduction in projected earnings.

101. As alleged more fully above, on July 30, 2008, after the market closed, Harris Stratex admitted that its previously reported financial results, including the results for the Company's fiscal year 2007 and the first three quarters of fiscal 2008 ending March 28, 2008, which were incorporated into the Company's Form 10-Q's and 2007 Form 10-K filed during the Class Period, were inaccurate and that it would restate earnings over four fiscal years – from 2005 through 2008.

102. In reaction to this news, Harris Stratex stock fell approximately 35% on extremely heavy volume, from \$11.24 per share to \$7.35 per share, wiping out \$227 million in market capitalization.

103. As revealed in the Company's July 30, 2008 conference call, the restatement was necessitated by a faulty cost-accounting system at one of its U.S. locations that was uncovered in the course of its migration to the "new processes" referred to by Dudash.

104. Both the January 30, 2008 partial corrective disclosure and the July 30, 2008 complete corrective disclosure dealt with accounting irregularities purportedly uncovered by the implementation of "new processes" following the merger.

105. During the Class Period, Plaintiff and the Class purchased securities of Harris Stratex at artificially inflated prices. The price of Harris Stratex common stock declined when the misrepresentations made to the market, and/or the information alleged herein to have been concealed from the market, and/or the effects thereof, were revealed, causing investors' losses as alleged above.

**APPLICABILITY OF PRESUMPTION OF RELIANCE:  
FRAUD ON THE MARKET DOCTRINE**

106. At all relevant times, the market for Harris Stratex's common stock was an efficient market for the following reasons, among others:

- (a) Harris Stratex stock met the requirements for listing, and was listed and actively traded on the NASDAQ, a highly efficient and automated market, with more than 59 million shares issued and outstanding, a public trading float of 57 million shares, and average daily trading volume of approximately 165,000 shares;

- (b) As a regulated issuer, Harris Stratex filed periodic public reports with the SEC and the NASDAQ;
- (c) Harris Stratex regularly communicated with public investors via established market communication mechanisms, including through regular disseminations of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services.
- (d) Harris Stratex was followed by several securities analysts employed by major brokerage firms including Needham & Co., D.A. Davidson, Stephen Inc., FTN Equity Capital Markets, Morgan Joseph & Co., Pacific Crest Securities and Ferris Baker Watts, who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered into the marketplace.

107. As a result of the foregoing, the market from Harris Stratex stock promptly digested current information regarding Harris Stratex from all publicly available sources and reflected such information in Harris Stratex's stock price. Under these circumstances, all purchasers of Harris Stratex's stock during the Class Period suffered similar injury through

their purchase of Harris Stratex's stock at artificially inflated prices and a presumption of reliance applies.

**NO SAFE HARBOR**

108. The statutory safe harbor provided for some forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this complaint. Many of the specific statements pleaded herein were not identified as "forward-looking statements" when made. To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements that was made, the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of Harris Stratex who knew that those statements were false when made.

**SCIENTER**

109. As alleged in this Count, the Section 10(b) Defendants acted with scienter in that they knew that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements

or documents as primary violations of the federal securities laws. By virtue of their receipt and/or modification of Harris Stratex's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning Harris Stratex, the Section 10(b) Defendants participated in the fraudulent scheme alleged herein.

110. The Section 10(b) Defendants' desire to consummate the Merger and to do so as cheaply as possible by driving the exchange price down provided a motive for these Defendants to conceal and to fail to disclose the true state of MCD's financial results.

111. The Company's January 30, 2008 announcement adjusting earnings guidance downwards on account of SOX compliance and the implementation of "new processes", evidences the Section 10(b) Defendants' awareness of the accounting irregularities encountered during the implementation of the "new processes" referred to in that announcement. Despite these defendants' awareness of these accounting irregularities defendants failed to disclose their existence or their extent until two fiscal quarters later, on July 30, 2008.

112. The Section 10(b) Defendants admitted that they were aware of the existence of the faulty accounting system during the Merger process. In a July 30, 2008 conference call, CFO defendant Dudash plainly stated that management knew the accounting system at issue needed to be reformed:

**Analyst:** And that system [the faulty cost accounting system] has been integrated into the systems that are working or is it going to be or what?

**Dudash:** It is a stand-alone system and it had been scheduled, as Harald [Braun] mentioned, we had – it was on our road map to migrate away from that system during our integration process and that migration did not occur, and now it has become one of our priority items.

113. Despite the Section 10(b) Defendants' attempts to paint the accounting failure as a bureaucratic oversight involving non-descript "systems" and integration into "new processes", at bottom, it was a result of misconduct by Harris Stratex personnel. Defendant Lance, CEO, Chairman and President of Harris Corporation, 56% owner of Harris Stratex, described the accounting foul-up in an August 5, 2008, Harris Corp. conference call:

This was not an IT system error, or problem. This was a process problem with people in finance and accounting not doing reconciliations that had previously been done. So the IT system they are using was functioning; it's not world class, but it functions the way it's been functioning for the 20 years it's been used, before and after the merger. So nothing changed there. What changed was people not following the process, and it is somewhat a manual process to reconcile lots of account and lots of work-in-process project orders. So that's what wasn't done. Nothing with the system changed.

114. This explanation is in stark contrast to defendant CEO Braun's explanation of the error, given in the July 30, 2008 Harris Stratex conference call:

So, I really wanted to distinguish that [the idea that the errors emanated from a particular location] from the system. So, it is really a system situation, right. And that's what I am taking on, we need to - it was on the list to be migrated to the new processes, and to the new tool. So we just actually active also, so we need to consolidate and to migrate much faster, and therefore I said, let's focus on the system. Let's get that done and over with.

115. The conflicting accounts on the cause of the accounting errors, defendants Dudash and Braun on one hand invoking nebulous systems and processes as the cause on the Harris Stratex conference call, and defendant Lance defending the old system and claiming

human error on the Harris Corporation conference call suggests that defendants are continuing to be evasive in their disclosures concerning these accounting errors. Scienter can be inferred from this evasiveness.

116. Scienter can further be inferred not only from the magnitude of the accounting misstatements, but also by their very nature. Indeed, the accounting misstatements were the result of improprieties concerning basic accounting procedures, including the reconciliation of intercompany accounts and improper capitalization of project cost variances. The very nature of intercompany account reconciliations is to ensure that transactions by and between related affiliates are recorded in the same amount and period on each set of books. This basic accounting concept does not involve judgment nor is it subject to interpretation. It is a bookkeeping entry that is easily tested and reviewable since by its very nature “intercompany” implies that management has access to both sets of books to ensure that the transactions match. Accordingly, there is a strong inference that these “errors” were the result of intentional manipulation or reckless disregard of basic accounting principles. Similarly, with respect to the improper capitalization of project cost variances (meaning costs incurred in excess of amounts recoverable from the sale of the product), that too is another basic accounting procedure that is critical to reporting inventory valuation in accordance with GAAP. And, as a result of violating this most basic of accounting procedures, the Company’s reported inventories and financial results were materially overstated as described above.

**LIABILITY UNDER SECTION 10(b)**

117. During the Class Period, the Section 10(b) Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public regarding Harris Stratex's business, operations, management and intrinsic value of Harris Stratex common stock; and (ii) cause Plaintiffs and other members of the Class to purchase Harris Stratex common stock at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, each of the Section 10(b) Defendants took the actions set forth herein.

118. The Section 10(b) Defendants (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's common stock in an effort to maintain artificially high market prices for Harris Stratex securities in violation of Section 10(b) of the Exchange Act and rule 10b-5. All defendants in this Count are sued either as primary participants in wrongful and illegal conduct charged herein and/or as controlling persons as alleged below.

119. The Section 10(b) Defendants, individually and in concert, directly and indirectly, by the use means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about the business and operations of Harris Stratex as specified herein.

120. The Section 10(b) Defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information, and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of Harris Stratex's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and omitting to state material facts necessary in order to make the statements made about Harris Stratex and its business operations in the light of the circumstances under which they were made not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of Harris Stratex common stock during the Class Period.

121. Each of the Individual Defendants' primary liability and controlling person liability arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of the Individual Defendants, by virtue of his responsibilities and activities as a senior officer and/or director of the Company was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of the Individual Defendants enjoyed significant personal contact and familiarity with the other Defendants and was advised of and had access to other members of the Company's management team, internal reports and other data and information about the Company's finances, operations,

and sales at all relevant times; and (iv) each of the Individual Defendants was aware of the Company's dissemination of information to the investing public which they knew or were recklessly disregarded was materially false and misleading.

122. As alleged in this Count, the Section 10(b) Defendants acted with scienter in that they knew that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, the Section 10(b) Defendants, by virtue of their receipt of information reflecting the true facts regarding Harris Stratex, their control over, and/or receipt and/or modification of Harris Stratex's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning Harris Stratex, participated in the fraudulent scheme alleged herein.

123. The Section 10(b) Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. The Section 10(b) Defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing Harris Stratex's operating condition from the investing public and supporting the artificially

inflated price of its common stock. As demonstrated by their overstatements and misstatements of the Company's business, operations and earnings throughout the Class Period, the Section 10(b) Defendants, if they did not have actual knowledge of the misrepresentations and omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

124. Because of their positions in the Company, the Individual Defendants at all times had the opportunity to, and did, commit the wrongdoing alleged herein.

125. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Harris Stratex securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of Harris Stratex's publicly-traded securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by the Section 10(b) Defendants, or upon the integrity of the market in which the common stock trades, and/or on the absence of material adverse information that was known to or recklessly disregarded by the Section 10(b) Defendants but not disclosed in public statements by these defendants during the Class Period, Plaintiffs and the other members of the Class acquired Harris Stratex securities during the Class Period at artificially high prices and were damaged when the value of their securities declined upon disclosure of the truth about the Section 10(b) Defendants false and misleading statements.

126. At the time of the said misrepresentations and omissions, Plaintiffs and other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiffs and the other members of the Class and the marketplace known the truth regarding Harris Stratex's financial results, which were not disclosed by the Section 10(b) Defendants, Plaintiffs and other members of the Class would not have purchased or otherwise acquired their Harris Stratex securities, or if they had acquired such common stock during the Class Period, they would not have done so at the artificially inflated prices which they paid.

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

128. As a direct and proximate result of the Section 10(b) Defendants's wrongful conduct, Plaintiffs and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

#### **COUNT IV**

##### **Violation of Section 20(a) of the Exchange Act Against Defendants Campbell, Braun and Dudash**

129. Plaintiffs repeat and reallege the allegations contained above in paragraphs at ¶¶1-52, 54-62, 64-128 as if fully set forth herein.

130. The defendants named in this Count acted as controlling persons of Harris Stratex within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high level positions, and their ownership and contractual rights, culpable participation in and/or awareness of the Company's operations and/or intimate knowledge

of the false financial statements filed by the Company with the SEC and disseminated to the investing public, the defendants named in this Count had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiffs contend are false and misleading. The defendants named in this Count were provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements alleged by Plaintiffs to be misleading prior to and/or shortly after their statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

131. In particular, the defendants named in this Count had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, are presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

132. As set forth above, Harris Stratex and the Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their positions as controlling persons of the Company, Harris Corp., Campbell, Braun and Dudash are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of the wrongful conduct of the Defendants named in this Count, Plaintiffs and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

**WHEREFORE**, Plaintiffs pray for relief and judgment, as follows:

- (a) Determining that this action is a proper class action, certifying Plaintiffs as class representatives and the undersigned as class counsel under Rule 23 of the Federal Rules of Civil Procedure;
- (b) Awarding compensatory damages in favor of Plaintiffs and the other Class members against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;
- (c) Awarding Plaintiffs and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
- (d) Such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMAND**

Plaintiffs hereby demand a trial by jury in this action for all claims against all defendants.

Respectfully submitted,

/s/ Joel Friedlander

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